



HEALTH CARE PROVIDERS' OBLIGATIONS TO PROVIDE SIGN LANGUAGE INTERPRETERS

A PATIENT REQUESTED A SIGN LANGUAGE INTERPRETER. DO I HAVE TO PROVIDE ONE?

Yes. Both Americans with Disabilities Act (ADA), (42 U.S.C. § 12132, 42 U.S.C. § 12182(b)(2)(A)(iii), 28 C.F.R. § 35.160(b)) and the New York State Human Rights Law (HRL) (Exec. Law § 296(2)(a)) require health care providers such as doctors' offices, clinics, and hospitals, to provide free sign language interpreters to people who need them for effective communication. New York State regulations also govern the provision of sign language interpreters in hospitals, (10 NYCRR 405.7(a)(7)). Failure to do so may constitute discrimination.

The ADA and the HRL require health care providers to provide free auxiliary aids and services to patients and their family members who need them. An auxiliary aid and service is something that makes aural information available to individuals with hearing impairments. Under federal regulations, auxiliary aids and services include sign language interpreters, note takers, transcription services, closed captioning, and assistive listening devices.¹ Qualified sign language interpreters also constitute auxiliary aids and services under the HRL.²

Not all patients who are Deaf³ use sign language. Providers should ask whether a patient, or authorized family member, needs an interpreter and discuss alternative means of communication with people who do not use sign language.

WHEN DO I NEED TO PROVIDE AN INTERPRETER?

Patients or authorized representatives who are Deaf should have an interpreter whenever they have an important conversation with a health care provider, such as taking a medical history or

¹ 28 CFR § 36.303(c).

² N.Y. Exec. Law. §§ 296.2(a)(ii), 296.2(d)(iii).

³ Disability Rights New York recognizes that people use many terms to describe their hearing-related disabilities. DRNY uses "Deaf" in this Fact Sheet for brevity, with no intent at offending or excluding those who prefer, require, and use other terms.

discussing a serious diagnosis or treatment options. Interpreters may not be needed for short conversations with administrative staff, prescription pick-up, or other non-substantive matters. However, some people who are Deaf may only be able to communicate in sign language and will therefore need interpreters for many services.

WHY IS PROVIDING AN INTERPRETER NECESSARY?

Ineffective communication between medical providers and hearing-impaired patients and their families may prevent patients from making informed medical decisions and potentially result in inadequate medical care. Providers may misdiagnose patients who cannot communicate all of their symptoms, treat patients based on visible symptoms rather than on underlying causes, and inadequately explain treatment options to patients.

WHY CAN'T A FAMILY MEMBER OR FRIEND WHO KNOWS SOME SIGN LANGUAGE INTERPRET?

Asking a patient who is Deaf to use a non-professional interpreter is generally insufficient for two reasons. First, professional interpreters are highly trained to translate sign language into English and English into sign language.⁴ A person who knows sign language less formally may not be able to interpret and provide effective communication, especially when conveying complex medical information. Second, medical information is confidential and often highly sensitive. A Deaf patient may not speak truthfully in the presence of a family member, potentially compromising patient care. If a patient who is Deaf is given the choice of whether to have a sign language interpreter, or use a family member or friend, the patient's choice to use a family member or friend should be honored, unless you believe the communication is ineffective.

DO I NEED TO PROVIDE AN INTERPRETER TO AN INDIVIDUAL WHO IS NOT THE PATIENT?

Yes. Health care providers are also required to provide an interpreter, or other appropriate auxiliary aid and service, to a patient's companion with a disability if that individual is authorized to participate in the patient's healthcare.

Health care providers are encouraged to use live interpreters whenever possible, but should consider making VRI available for use in emergency situations, or for shorter appointments or meetings. Patients who are deaf have varying needs of communication, and technology is constantly evolving, so it is important to consider other auxiliary aids and services that might be suggested by a patient who is Deaf.

⁴ There are many sign languages other than American Sign Language, including Signed English, Signed Exact English, vernacular sign, and international sign languages such as British Sign Language or Persian Sign Language. Medical providers should not assume that all patients who are Deaf use ASL to communicate, and ask patients who are Deaf what kind of interpreter they require.

WHAT ARE OTHER OPTIONS FOR INTERPRETIVE SERVICES?

COMMUNICATION ACCESS REAL-TIME TRANSLATION (CART)

Communication Access Realtime Translation (CART) is a service that is commonly requested and may be necessary for individuals who are Deaf and who do not use sign language. CART is a speech-to-text interpreting service in which spoken words are typed and displayed on a tablet, computer, television, or projection screen. CART may facilitate more effective communication than exchanging notes.

VIDEO REMOTE INTERPRETING (VRI)

Video Remote Interpreting (VRI) is a common alternative to the use of in-person interpreters. VRI uses devices such as web cameras or video phones to provide sign language interpreting via a remote or off-site interpreter. However, VRI requires a strong and consistent internet connection as well as placement of the screen so the patient or family member and the interpreter can see each other clearly. For these reasons, VRI often does not work well in health care settings, or for many patients, and should not be relied upon solely or consistently.

CAN I CHARGE THE PATIENT FOR THE INTERPRETER?

No. Controlling law mandates that a healthcare provider cannot pass the cost of interpreter services on to the patient or the patient's family. Generally, healthcare providers should consider the cost of interpreter services, and other reasonable accommodations, as part of the overall budget for managing a healthcare facility. You may be entitled to seek reimbursement from Medicaid or other health insurance providers for a portion of the cost of interpretive services.

More information on Medicaid reimbursement is available at

https://www.health.ny.gov/health_care/medicaid/program/update/2012/2012-10.htm.

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