



North Carolina
Department of Health and Human Services
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James B. Hunt Jr., Governor

H. David Bruton, M.D., Secretary

January 25, 1999

MEMORANDUM

TO: Local Health Directors

FROM: A. Dennis McBride, M.D., M.P.H.
State Health Director

SUBJECT: ADVISORY ON INTERPRETER SERVICES

This is an advisory to all contractors that receive federal funds from the Division of Women's and Children's Health, the Division of Community Health or the Division of Epidemiology. The State Health Director's Office recently received guidance (see attached) from the U.S. Department of Health and Human Services – Office of the General Counsel. This guidance states that Title VI of the Civil Rights Act requires programs and services supported in whole or in part with federal funds to provide interpreter services at no-cost to non-English speaking clients. Although the guidance specifically refers to Title V (Maternal and Child Health Block Grant), we received clarification from the Office of the General Counsel that it was issued by the Civil Rights Division and is applicable to all federal grant programs (WIC, Family Planning, Immunization, Preventive Health Services Block Grant, etc.). Therefore, only programs and services funded entirely out of state and/or local funds – unless prohibited by State law or rule – may charge non-English speaking clients for interpreter services.

If your agency is currently charging for interpreter services in programs funded directly or indirectly with federal funds, please discontinue the practice immediately. Local agencies that continue to charge for interpreter services in federally funded programs face potential legal action by non-English speaking clients and are in violation of State contractual requirements which mandate compliance with the Title VI of the Civil Rights Act.

Should you have questions about whether your contract is supported in whole or in part with federal funds, please call the appropriate Division Office and speak to your State Contract Administrator. Thank you.

ADM:rpp

Attachment

c: PHMT

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North Carolina: Host of the 1999 Special Olympics World Summer Games



May 12, 1998

NOTE TO BRAD PERRY, OFFICE OF STATE AND COMMUNITY HEALTH (MCHB):

Re: Responsibility of Title V Grantee to Pay for Interpreters

Facts:

Earlier this year the Title V grantee in North Carolina asked you whether a patient with limited English skills/proficiency (LEP) could be billed for the cost of an interpreter, who would translate for both the patient and the health care provider. In March, we advised you that the grantee could not charge the patient for the service. This opinion was based upon our reading of the case law, the context of written guidance prepared by the Office of Civil Rights (OCR), DHHS, and the oral opinion of the Office of the General Counsel, Civil Rights Division. (See Note dated March 19, 1998.) Now, the grantee asks whether it may charge a patient with limited English skills if the patient's income is greater than 100 percent of the Federal poverty level.

Issue:

Whether the State may charge the limited English skills patient for the cost associated with providing an interpreter where that patient's income is greater than 100 percent of the Federal poverty level.

Conclusion & Discussion:

Again, the State block grantee may not charge the costs of the interpreter to an individual patient with LEP, irrespective of the individual's financial status. Here, the obligation is for the grantee-health care provider to furnish equal access to health care for all patients, without regard to a patient's language skills. The recipient of care may not be asked to pay a greater amount than others in order to obtain the degree of access which should be provided by the grantee. The grantee may be able to cover the cost of an interpreter with the block grant or some other source of third-party payment.

We repeat the discussion. Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d (Title VI)] applies to the Title V block grant [42 U.S.C. § 708 (a)], and the financial obligations attendant to complying with Title VI fall upon the grantee, not the individual patient. This obligation is not affected by the income of a patient. This conclusion is based upon the same factors as the conclusion expressed in our earlier Note. First, where an actor discriminates in violation of Title VI, the discriminator must correct the discriminatory situation. See, Davis v. Spanish Coalitions for Jobs, Inc., 676 F. Supp. 171 (N.D. Ill 1988). Jackson v. Conway, 476 F. Supp. 896, affirmed