

# CHAPTER 4:

## Cultural Competency

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Reviewed/Revised: 10/1/18

Steward Health Choice Arizona is committed to providing access to high quality services delivered in a culturally responsive manner. Cultural competency in health refers to the ability to respect and appreciate the values, beliefs, and practices of all individuals regardless of race, ethnicity, or any other factors associated with other minority groups. Provision of high quality care involves taking steps to apply that knowledge to ensure better communication with patients and their families as well as to improve health outcomes and patient satisfaction.

The delivery of culturally responsive health care and services requires health care providers and/or employees to possess a set of attitudes, skills, behaviors, and policies which enable the organization and staff to work effectively in cross-cultural situations<sup>1</sup>. It reflects an understanding of the need for acquiring and using knowledge of the unique health-related beliefs, attitudes, practices, and communication patterns to improve services, strengthen programs, increase community participation, and eliminate disparities in health status among diverse population groups.

<sup>1</sup> A mental impairment is defined by the ADA as "any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."

### 4.0 CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS) IN HEALTHCARE - STANDARDS AND OBJECTIVES

#### ***Required Culturally and Linguistically Appropriate Services (CLAS) Standards:***

The enhanced National CLAS Standards are intended to advance health equity, improve quality, and help eliminate health care disparities by establishing a blueprint for individuals as well as health and health care organizations to implement culturally and linguistically appropriate services. The enhanced Standards are a comprehensive series of guidelines that inform, guide, and facilitate practices related to culturally and linguistically appropriate health services.

**Principal Standard (Standard 1):** Provide effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs. **Governance, Leadership, and Workforce (Standards 2-4):** Provide greater clarity on the specific locus of action for each of these Standards and emphasizes the importance of the implementation of CLAS as a systemic responsibility, requiring the investment, support, and training of all individuals within an

organization. **Communication and Language Assistance (Standards 5-8):** Provides a broader understanding and application of appropriate services to include all communication needs and services, including sign language, Braille, oral interpretation, and written translation.

**Engagement, Continuous Improvement, and Accountability (Standards 9-15):** Underscores the importance of establishing individual responsibility in ensuring that CLAS is supported, while retaining the understanding that effective delivery of CLAS demands actions across an organization. This revision focuses on the supports necessary for adoption, implementation, and maintenance of culturally and linguistically appropriate policies and services regardless of one’s role within an organization or practice. All individuals are responsible for upholding the values and intent of the National CLAS Standards.

Health Choice adopts goals and objectives that align with the CLAS standards<sup>2</sup> listed below:

STANDARD	DESCRIPTION
<b>Principle Standard:</b>	
1	Provide effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs
<b>Governance, Leadership and Workforce:</b>	
2	Advance and sustain organizational governance and leadership that promote CLAS and health equity through policy, practices, and allocated resources.
3	Recruit, promote, and support a culturally and linguistic diverse governance, leadership, and workforce that are responsive to the population in the service
4	Educate and train governance, leadership, and workforce in culturally and linguistically appropriate policies and practices on an ongoing basis.
<b>Communication and Language Assistance:</b>	
5	Offer language assistance to individuals who have limited English proficiency and/or other communication needs, at no cost to them, to facilitate timely access
6	Inform all individuals of the availability of language assistance services clearly and in their preferred language, verbally and in writing.
7	Ensure the competence of individuals providing language assistance, recognizing that the use of untrained individuals and/or minors as interpreters should be
8	Provide easy-to-understand print and multimedia materials and signage in the languages commonly used by the populations in the service area.
<b>Engagement, Continuous Improvement, and Accountability:</b>	
9	Establish culturally and linguistically appropriate goals, and management accountability, and infuse them throughout the organization’s planning and
10	Conduct ongoing assessments of the organization’s CLAS-related activities and integrate CLAS-related measures into measurement and continuous quality improvement activities.

11	Collect and maintain accurate and reliable demographic data to monitor and evaluate the impact of CLAS on health equity and outcomes and to inform service delivery.
12	Conduct regular assessments of community health assets and needs and use the results to plan and implement services that respond to the cultural and linguistic diversity of populations in the service area.
13	Partner with the community to design, implement, and evaluate policies, practices, and services to ensure cultural and linguistic appropriateness.
14	Create conflict and grievance resolution processes that are culturally and linguistically appropriate to identify, prevent, and resolve conflicts or complaints.
15	Communicate the organization's progress in implementing and sustaining CLAS to all stakeholders, constituents, and the general public.

**U.S. Department of Health and Human Services; Office of Minority Health**  
<https://www.thinkculturalhealth.hhs.gov>

#### **4.1 PROVIDER RESPONSIBILITIES**

Culture plays an important role in the health and behaviors of our members, so provision of culturally and linguistically appropriate services is essential to reducing health disparities among our members. Steward Health Choice Arizona providers are required to:

1. Require all staff receive training in cultural competence and culturally and linguistically appropriate services during new employee orientation (within the first 90 days) and annually thereafter;
2. Ensure all staff have access to resources for members with diverse cultural needs;
3. Provide culturally welcoming environments
4. Guarantee a member’s right to be treated fairly without regard to age, ethnicity, race, sex (gender), religion, national origin, creed, tribal affiliation, ancestry, gender identity, sexual orientation, marital status, genetic information, socio-economic status, physical or intellectual disability, ability to pay, mental illness, and/or cultural and linguistic need; and
5. Deliver services with consideration for the member’s preferred language, English proficiency and literacy, visual and auditory abilities.
6. Deliver services so that they are readily accessible to persons with a disability and ensure that people with disabilities get the same access and benefits as other people.
7. Inform members of the availability of language assistance and other services clearly, in their preferred language, verbally and in writing;
8. Ensure the competence of individuals providing language assistance. Steward Health Choice Arizona encourages members to request translation services, instead of relying only on family members, in order for the member to have the best opportunity to understand their health care.
9. Provide easy-to-understand print and multimedia materials as well as signage in the languages commonly used by the populations in the service area.

10. Ensure information disseminated to members meets cultural competence and LEP requirements and make written translated materials available. Print, multimedia materials, and signage should be easy-to-understand and in the languages commonly used by the members in the service area.
11. Provide documents to members in their primary/preferred language when requested by the member or guardian. Providers must also maintain documentation of the member service plan in both the preferred/primary language as well as in English.
12. Document services and assessment in English while making available copies in the member's preferred/primary language when requested.

## **4.2 PROVIDER EDUCATION /TRAINING:**

Steward Health Choice's Provider Relations and Network Services Department educates providers (including subcontractor) regarding the CCP through the Provider Manual, the Steward Health Choice Provider Portal, and as part of routine site visits with contracted provider offices. Provider Performance Representatives distribute summary information of the CCP to network providers through provider orientation, which includes details on how the provider can request a hard copy of the CCP at no charge to the provider. Provider offices have varying needs when serving their patients in a cultural competent manner.

### Other Tools for Provider Education

- Steward Health Choice Arizona Provider Manual, Chapter 4
- The Ask Me 3 program, which is approved by AHCCCS, is a national program with the focus on helping patients communicate with their healthcare providers. Provider materials are provided to Steward Health Choice subcontractors, and member materials are distributed to members in case management. The Ask Me 3 website link is accessible through our website. <http://www.hrsa.gov/culturalcompetence/index.html>

## **4.3 LANGUAGE ACCESS SERVICES (LAS):**

Steward Health Choice Arizona (Health Choice) and subcontracted providers must make oral interpretation services available to persons with Limited English Proficiency (LEP) at all points of contact. Oral interpretation and sign language services are provided at no charge. To coordinate linguistic services for a member, please contact the Member Services Department. Steward Health Choice Arizona offers over the phone interpretation, onsite face to face interpretation, and video remote interpretation services (see Exhibit 4 .1 AHCCCS Contracts Interpreter guide).

To comply with the LAS requirements, Steward Health Choice Arizona and subcontracted providers must:

- Offer language assistance to individuals who have limited English proficiency and/or other communication needs, at no cost to them, to facilitate timely access to all health care and services;

- Inform all individuals of the availability of language assistance services clearly and in their preferred language, verbally and in writing;
- Ensure the competence of qualified bilingual staff or trained interpreters providing language assistance, recognizing that family, friends and/or minors should not interpret for the individual
- Ensure providers identify the prevalent non-English language within provider service areas to ensure service capacity meets those needs;
- Provide easy-to-understand print and multimedia materials and signage in the languages commonly used by the populations in the service area. Have services provided in a culturally responsive manner, with consideration for members with limited English proficiency or reading skills, and those with diverse cultural and ethnic backgrounds as well as members with visual or auditory limitations. Options include access to a language interpreter, a person proficient in sign language for the hearing impaired and written materials available in Braille for the blind or in different formats, as appropriate;
- Ensure qualified oral interpreters and bilingual staff as well as licensed sign language interpreters provide access to oral interpretation, translation, sign language and disability-related services, and provide auxiliary aids and alternative formats on request. Oral interpretation and sign language services are provided at no charge to AHCCCS eligible members and members determined to have a Serious Mental Illness (SMI); and
- Steward Health Choice Arizona will conduct evaluations of the primary non-English languages spoken within the Geographical Service Areas (GSAs) and programs that affect cultural competence, access and quality of care.
- Steward Health Choice Arizona will ensure bilingual staff are qualified to provide oral interpretation and translation services (qualified staff members must pass a language proficiency exam and attend interpreter training in order to interpret and bill the T1013 HCPCS code), recognizing that the use of unqualified/untrained individuals and/or minors as interpreters should be avoided. The availability of oral translation services is further supported through our certified translation service vendor, TransPerfect, CyraCom and ALTA.

To access telephone interpretation service to assist members who speak a language other than English, please call TransPerfect and follow the prompts at:

**TransPerfect Phone Number**

If calling in from N. America, dial: 855-866-2901

When calling outside of N. America, dial: 480-961-5379

**Enter 7 digit client ID number:**

Steward Health Choice Arizona has an ID code (BHH will have their respective code)

**Language Selection**

Use telephone keypad to select language. i.e. Spanish, French, Italian

**Accessing Oral Interpretation Services** In accordance with [Title VI of the Civil Rights Act](#), Prohibition against National Origin Discrimination, and [President’s Executive Order 13166](#), T/RBHAs and their subcontracted providers must make oral interpretation services available to persons with Limited English Proficiency (LEP) at all points of contact. Oral interpretation services

are provided at no charge to AHCCCS eligible persons and Non-Title XIX/XXI persons determined to have a Serious Mental Illness (SMI). Members must be provided with information instructing them how to access these services:

- All Steward Health Choice Arizona providers are required to provide interpretation services for any member that requests or needs the service. (See 42 CFR 438.10, Section 601 of the Title VI of the Civil Rights Act).
- Steward Health Choice Arizona providers will contract with an interpretation vendor approved by Steward Health Choice Arizona to provide over the phone, video remote interpreting, face to face interpreting and translation services for members.
- The interpretation vendor will bill the Steward Health Choice Arizona provider for the service.
- The Steward Health Choice Arizona provider will pay the interpretation vendor directly for their service.
- Steward Health Choice Arizona providers may submit a claim to Steward Health Choice Arizona for reimbursement of this service.
- Interpretive services must be billed using the following criteria:

**Interpretive Services Billing**

When billing Interpretive Services, the provider must bill as follows:

HCPCS Code	Modifier	Description
T1013		Qualified Staff delivering services is also interpreting.
T1013	Q6	Separate but employed staff is interpreting.
T1013	CR	External vendor used.

Steward Health Choice Arizona adheres to the rules established by the Arizona Commission for the Deaf and Hard of Hearing, in accordance with A.R.S. § 36- 1946, which cover the following:

- a. Classification of interpreters for the Deaf and the Hard of Hearing based on the level of interpreting skills acquired by that person;
- b. Establishment of standards and procedures for the qualification and licensure of each classification of interpreters;
- c. Utilizing licensed interpreters for the Deaf and the Hard of Hearing; and
- d. Providing auxiliary aids or licensed sign language interpreters that meet the needs of the individual upon request. Auxiliary aids include computer-aided transcriptions, written materials, assistive listening devices or systems, closed and open captioning, and other effective methods of making aurally delivered materials available to persons with hearing loss.

The Arizona Commission for the Deaf and Hard of Hearing provides a listing of licensed interpreters, information on auxiliary aids and the complete rules and regulations regarding the profession of interpreters in the State of Arizona. (Arizona Commission for the Deaf and the Hard of Hearing <http://www.acdhh.org> or (602) 542-3323 (V/TTY)). Steward Health Choice Arizona also informs members who are hearing impaired of the option to call (TTY/TDD) 711.

## 4.4 TRANSLATION OF WRITTEN MATERIAL

Steward Health Choice Arizona and our subcontracted providers will make written translated materials available, when Health Choice is aware that a language is spoken by 3,000 or 10% (whichever is less) of Health Choice's members, to the commonly encountered LEP groups who are AHCCCS eligible and to persons determined to have a Serious Mental Illness (SMI).

All vital materials will be translated when Steward Health Choice Arizona is aware that a language is spoken by 1,000 or 5% (whichever is less) of the Steward Health Choice Arizona's members who also have LEP. Vital materials must include at a minimum but not limited to:

- Notice for denials, reductions, suspensions or termination of services;
- Service plans;
- Consent forms;
- Communications requiring a response from the healthcare recipient;
- Grievance notices; and
- Member Handbooks.

All written notices informing members of their right to interpretation and translation services must be translated when Steward Health Choice Arizona is aware that 1000 or 5% (whichever is less) of the Steward Health Choice Arizona's members speak that language and have LEP.

Members with LEP, whose languages are not considered commonly encountered, will be provided written notice in their primary or preferred language of the right to receive competent translation of written material.

Steward Health Choice Arizona provides member materials in other formats to meet specific member needs. Providers must also deliver information in a manner that is understood by the member.

## 4.5 CULTURALLY COMPETENT CARE

To comply with the Culturally Competent Care requirements, Steward Health Choice Arizona and subcontracted providers must:

- Recruit, promote, and support culturally and linguistically diverse representation within governance, leadership, and the workforce that are responsive to the population in the service area.
- Educate and train representatives within governance, leadership, and the workforce in culturally and linguistically appropriate policies and practices on an ongoing basis. Providers with direct care responsibilities must complete mandated Cultural Competency training (see Chapter 18, Section 18.19 Training Requirements).
- Guarantee a member's right to be treated fairly without regard to age, ethnicity, race, sex (gender), religion, national origin, creed, tribal affiliation, ancestry, gender identify, sexual orientation, marital status, genetic information, socio-economic status, physical or intellectual disability, ability to pay, mental illness, and/or cultural and linguistic needs; and

- Provide culturally relevant and appropriate services for members of various populations including but not limited to: age groups, gender and sexual minorities, person with disabilities, racial and ethnic groups, religious affiliations, socio-economic statuses, tribal nations, etc.

### ***Assessment***

If the behavioral health recipient requests a copy of the assessment, those documents must be provided to the behavioral health recipient in his/her primary/preferred language. Documentation in the assessment must also be made in English; both versions must be maintained in the recipient's record. This will ensure that if any persons, who must review the member's record for purposes such as coordination of care, emergency services, auditing and data validation, have an English version available.

### ***Individual Service Plan (ISP) and Inpatient Treatment and Discharge Plan (ITDP)***

The Steward Health Choice Arizona contracted provider Individual Service Plan (ISP) is intended to fulfill several functions, which include identification of necessary behavioral health services (as evaluated during the assessment and through participation from the person and his/her team), documentation of the person's agreement or disagreement with the plan, and notification of the person's right to a Notice of Action (see **Title XIX/XXI Notice and Appeal Requirements, under Chapter 15, Section 15.4.1**) or the appeal process for members determined to have a SMI described in **SMI and Non-SMI/Non-Title XIX/XXI, under Chapter 15, Section 15.4.2**, if the person does not agree with the plan. ADHS/DBHS provides the service plan templates in both English and Spanish or the individual's preferred/primary language. The individual service plan is a vital document as defined in the AHCCCS/Steward Health Choice Arizona.

Service plans specifically incorporate a person's rights to disagree with services identified on the plan. If the plan is not in the person's preferred language, the person has not been appropriately informed of services he/she will be provided and afforded the opportunity to exercise his/her rights when there is a disagreement.

In general, any document that requires the signature of the member, and that contains vital information such as the treatment, medications, notices, or service plans must be translated into their preferred/primary language. If the member or his/her guardian declines the translation, documentation of this decision must be in the member's medical record.

If the primary/preferred language of the behavioral health recipient is other than English and any of the service plans have been completed in English, the **provider must** ensure the service plans are translated into the behavioral health recipient's primary/preferred language for his/her signature. Steward Health Choice Arizona and subcontracted providers must also maintain documentation of the ISP in both the preferred/primary language as well as in English. If the member declines to have their service plan in their preferred language, the **provider must** document this decision in the member's medical record.

These requirements also apply to the ITDP (Inpatient Treatment and Discharge Plan), in

accordance with the [9 A.A.C. 21, Article 3](#).

#### **4.6 ORGANIZATIONAL SUPPORTS FOR CULTURAL AND LINGUISTIC NEED**

Under AHCCCS guidance, and to comply with the Organizational Supports for Cultural Competence, Steward Health Choice Arizona and subcontracted providers must:

- Establish culturally and linguistically appropriate goals, policies, and management accountability and infuse them throughout the organization's planning and operations.
- Conduct ongoing assessments of the organization's CLAS-related activities and integrate CLAS-related measures into measurement and continuous quality improvement activities.
- Partner with the community to design, implement, and evaluate policies, practices, and services to ensure cultural and linguistic appropriateness.
- Conduct **regular** assessments of community health assets and needs and use the results to plan and implement services that respond to the cultural and linguistic diversity of populations in the service area.
- Create conflict and grievance resolution processes that are culturally and linguistically appropriate to identify, prevent, and resolve conflicts or complaints.
- Communicate the organization's progress in implementing and sustaining CLAS to all stakeholders, constituents, and the general public.
- Ensure the use of multi-faceted approaches to assess satisfaction of diverse individuals, families, and communities, including the identification of minority responses in the analysis of client satisfaction surveys, the monitoring of service outcomes, member complaints, grievances, provider feedback and/or employee surveys;
- Include prevention strategies by analyzing data to evaluate the impact on the network and service delivery system, with the goal of minimizing disparities in access to services and improving quality; and
- Consult with diverse groups to develop relevant communications, outreach and marketing strategies that review, evaluate, and improve service delivery to diverse individuals, families, and communities, and address disparities in access and utilization of services.

#### **4.7 DOCUMENTING CLINICAL CULTURAL AND LINGUISTIC NEED**

To advance health literacy, reduce health disparities, and identify the individual's unique needs, Health Choice and subcontractors must:

- Collect and maintain accurate and reliable demographic data to monitor and evaluate the impact of CLAS on health equity and outcomes and to inform service delivery;
- Ensure documentation of the cultural (for example: age, ethnicity, race, national origin, sex (gender), gender identity, sexual orientation, tribal affiliation, disability) and linguistic (for example, primary language, preferred language, language spoken at home, alternative language) needs within the medical records;
- Maintain documentation within the medical record of oral interpretation services provided in a language other than English. Documentation must include the date of service, interpreter name, type of language provided, interpretation duration, and type of interpretation services provided;

- Ensure that the cultural preferences of members and their families are assessed and included in the development of treatment plans; and
- Assess the unique needs of the GSA, as communities' cultural preferences are critical in the development of goals and strategies of prevention within documentation of cultural and linguistic need.

## **4.8 CULTURAL COMPETENCE REPORTING AND ACCOUNTABILITY**

Reporting and accountability measures are intended to track, monitor, and ensure access to quality and effective care. Equity in the access, delivery, and utilization of services is accomplished by Health Choice and subcontracted providers:

- Conducting annually and ongoing strategic planning in Cultural Competency with the inclusion of national level priorities, contractual requirements, stakeholder input, community involvement and initiative development in areas, including but not limited to: Continuing Education, Training, Community Involvement, Health Integration, Outreach, Prevention, Data Analysis/Reporting, Health Literacy, and Policies/Procedures Development.
- Capturing and reporting on language access services which include: linguistic needs (primary language, preferred language, language spoken at home, alternative language); interpretive services; written translation services; and maintaining documentation on how to access qualified/licensed interpreters and translators.
- Assessing and developing reports quarterly, semi-annually, and annually within the areas of cultural competency and workforce development to review the initiatives, activities, and requirements impacting diverse communities, demographics, geographical services areas (GSAs), and the individuals accessing and receiving services.
- Continuous and ongoing reporting provides insight to strengths, gaps, and needs within communities served by Steward Health Choice Arizona subcontracted providers with a goal of health and wellness for all.

### ***Cultural Competence Administrator***

Steward Health Choice Arizona has a Cultural Competence Administrator who acts as a point of contact to implement and oversee compliance requirements as described in the Annual Cultural Competence Plan, Cultural Competence Policy and Procedures and Provider Manual policies, and must participate in Cultural Competence Committees.

### ***Cultural Competence Plan***

Steward Health Choice Arizona has developed and implemented an Annual Cultural Competence Plan based on current initiatives in the field of cultural competence, with a focus on national level priorities, contractual requirements, and initiatives developed by internal and external stakeholders, including providers and experts in cultural competence. The Annual Cultural Competence Plan must be submitted to the AHCCCS Cultural Competence Manager each year as required.

Annually, Steward Health Choice Arizona will develop and/or modify initiatives based on the identified needs of their GSAs, with a goal of eliminating health disparities.

### ***Cultural Competence Reporting***

Steward Health Choice Arizona has developed a comprehensive service structure designed to address the needs of Arizona's diverse populations and underserved/underrepresented populations. The following reports assist in the analysis and evaluation of the system.

- Annual Effectiveness Review of the Cultural Competence Plan Report:
  - Steward Health Choice Arizona will annually evaluate the impact of the annual cultural competence plan's initiatives and activities towards developing a culturally competent service delivery system. The report must be submitted to the AHCCCS Cultural Competence Manager in accordance with Steward Health Choice Arizona's contract.
- Annual Language Services Report: Steward Health Choice Arizona will submit semi-annual reports to the AHCCCS Cultural Competence Manager. The report captures linguistic need (primary language, Deaf and Hard of Hearing, sign language services, interpretive services, translation services, traditional healing services, and mental health services) and provides comprehensive lists of qualified and non-qualified bilingual staff language abilities and billing unit usage.

### ***Workforce Development***

Steward Health Choice Arizona and their subcontracted providers must:

- Ensure all staff receives training in cultural competence and culturally and linguistically appropriate services during new employee orientation;
- Provide annual training to all staff in diversity awareness and culturally relevant topics customized to meet the needs of their GSA;
- Provide continuing education in cultural competence, to include but not limited to: review of CLAS standards, use of oral interpretation and translation services, and alternative formats and services for LEP clients;
- Ensure all staff has access to resources for behavioral health recipients with diverse cultural needs;
- Recruit, retain and promote, at all levels of the organization, a culturally competent, diverse staff and leadership;
- Maintain full compliance with all mandatory trainings; (See Chapter 18, Section 18.19 Training Requirements); and
- Develop and implement cultural-related trainings/curriculums as determined by AHCCCS, Health Choice, Cultural Competence Committees, policies, and contract requirements.

## **4.9 LAWS ADDRESSING DISCRIMINATION AND DIVERSITY**

Members have the right to be treated with respect and dignity. Members must not be discriminated against based on race, ethnicity, national origin, religion, sex, sexual orientation, gender identity, mental, behavioral, or physical disability, genetic information or source of payment.

Steward Health Choice Arizona and provider agencies will abide by the following referenced

federal and state applicable rules, regulations and guidance documents:

- [Title VI of the Civil Rights Act](#) prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
- Department of Health and Human Services -Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination affecting [Limited English Proficient](#) Persons.
- [Title VII of the Civil Rights Act of 1964](#) prohibits employment discrimination based on race, color, religion, sex, or national origin by any employer with 15 or more employees. ([The Civil Rights Act of 1991](#) reverses in whole or in part several Supreme Court decisions interpreting Title VII, strengthening and improving the law and providing for damages in cases of intentional employment discrimination.)
- [President's Executive Order 13166](#) improves access to services for persons with Limited English Proficiency. The Executive Order requires each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency.
- [State Executive Order 99-4](#) and [President's Executive Order 11246](#) mandates that all persons regardless of race, color, sex, age, national origin or political affiliation shall have equal access to employment opportunities.
- [The Age Discrimination in Employment Act \(ADEA\)](#) prohibits employment discrimination against employees and job applicants 40 years of age or older. The ADEA applies to employers with 20 or more employees, including state and local governments. The Older Workers Benefit Protection Act (Pub. L. 101-433) amends the ADEA to prohibit employers from denying benefits to older employees.
- [The Equal Pay Act \(EPA\)](#) and [A.R.S. 23-341](#) prohibit sex-based wage discrimination between men and women in the same establishment who are performing under similar working conditions.
- [Section 503 of the Rehabilitation Act](#) prohibits discrimination in the employment or advancement of qualified persons because of physical or mental disability for employers with federal contracts or subcontracts that exceed \$10,000. All covered contractors and subcontractors must also include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.
- [Section 504 of the Rehabilitation Act](#) prohibits discrimination on the basis of disability in delivering contract services.

## THE AMERICANS WITH DISABILITIES ACT

The ADA prohibits business from treating people differently simply because they have a disability.

The definition of disability in the ADA includes people with mental illness who meet **one or more** of these three definitions:

1. A physical or mental impairment<sup>1</sup> that substantially limits one or more major life activities of an individual
2. A record of such an impairment
3. Being regarded as having such an impairment

The ADA protects people with mental disabilities, including people with psychiatric illnesses. The ADA also protects people who have a current mental “impairment” or who are discriminated against because they have a history of such impairment or are regarded as having such an impairment.

Providers who employ less than fifteen persons and who cannot comply with the accessibility requirements without making significant changes to existing facilities may refer the person with a disability to other providers where the services are accessible. Providers who employ fifteen or more persons are required to designate at least one person to coordinate its efforts to comply with federal regulations that govern anti-discrimination laws.

## **SECTION 1557 OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT**

Section 1557 is the nondiscrimination provision of the Affordable Care Act (ACA). The law prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities, and is intended to advance health equity and reduce health care disparities. Physicians that participate in state Medicaid programs are subject to the provisions of this law.

It is the first federal civil rights law to broadly prohibit discrimination on the basis of sex in federally funded health programs. It also includes important protections for individuals with disabilities and enhances language assistance for people with limited English proficiency.

Under Section 1557, providers must comply with the following requirements:

- Post a notice of nondiscrimination and taglines in the top 15 languages spoken by individuals with limited English proficiency.
- Develop and implement a language access plan
- Designate a compliance coordinator and adopt grievance procedures (applicable to group practices with 15 or more employees)
- Submit an assurance of compliance form to Office of Civil Rights at the United States Department of Health and Human Services

For more information regarding the non-discrimination provisions of Section 1557 of the ACA, please see <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>

### **4.10 ADDITIONAL RESOURCES**

The following citations can serve as additional resources for this content area:

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<sup>1</sup> A mental impairment is defined by the ADA as "any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."

- 42 CFR Ch. IV. (2018, June 11). Retrieved from US Department of Health and Human Services: <http://www.gpo.gov/fdsys/pkg/CFR-2004-title42-vol3/pdf/CFR-2004-title42-vol3-sec438-10.pdf>
- 42 U.S.C. § 2000d et seq. . (2018, June 11). Retrieved from Title 42 The Public Health and Welfare: <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap21-subchapV.pdf>
- AHCCCS. (2018, June 11). *AHCCCS Contractor's Interpreter Services Quick Reference*. Retrieved from Steward Health Choice Arizona: <http://www.stewardhealthchoiceaz.com> under the "Provider" section of our website. ProviderManual Exhibit\_04-1\_AHCCCSContractorsInterpreterServicesQuickReference.pdf
- Arizona Commission for the deaf and hard of hearing. (2018, June 11). *Arizona Commission for the deaf and hard of hearing*. Retrieved from Arizona Commission for the deaf and hard of hearing: <http://www.acdhh.org/>
- Arizona Health Care Cost Containment System. (2018, June 11). *Arizona Health Care Cost Containment System*. Retrieved from AHCCCS Contractor Operations Manual: <http://www.azahcccs.gov/shared/Downloads/ACOM/ACOM.pdf>
- Elayne J. Heisler, R. W. (2010). *Indian Health Care Improvement Act Provisions in the Patient Protection and Affordable Care Act (p.L. 111-148)*. Washington, DC: Congressional Research Service.
- IQ Solutions, Inc. (2001). *National Standards for Culturally and Linguistically Appropriate Services in Health Care*. Washington DC: US Department of Health and Human Services Office of Minority Health. Retrieved September 16, 2001, from <http://minorityhealth.hhs.gov/assets/pdf/checked/finalreport.pdf>
- LEP.gov. (2018, June 12). *Executive Order 13166*. Retrieved from Limited English Proficiency (LEP): <http://www.lep.gov/13166/eo13166.html>
- (1999). *Mental Health: Culture, Race, and Ethnicity: A Supplement to Mental Health: A Report of The Surgeon General*. Washington, DC: US Department of Health and Human Services.
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