

# Kaiser Permanente

## Notice of Regulation Adherence Requirement

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### California Law Knox Keene Act:

Health and  
Safety Code  
§1367.04

“Language  
Assistance  
Programs”  
(formerly, SB-853)  
and

California Code of  
Regulations, Title  
28, §1300.67.04.

Effective January 1, 2009, Kaiser Foundation Health Plan, Inc. (or “Kaiser Permanente” or “KP”) and its contracted providers are required to comply with the Language Assistance Program (“LAP”) regulations for health plan enrollees who are Limited English Proficient (“LEP”), including enrollees who require sign language services.

The California legislature in 2003 amended the Knox-Keene Health Care Services Plan Act of 1975 (“Knox-Keene Act”) by enacting Senate Bill 853, which mandates that all California health plans provide language translation and interpretation services to their LEP enrollees. This legislation was deemed necessary to address the significant and growing language barriers encountered in the health care system by limited English proficient enrollees, defined as “enrollee[s] who [have] an inability or limited ability to speak, read, write, or understand the English language at a level that permits that individual to interact effectively with health care providers or plan employees.”<sup>1</sup>

Furthermore, the law requires proactive translation of certain health plan “vital” documents, translating certain documents upon an enrollee’s request and offering qualified interpretation services in a timely manner.

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### Compliance What you really need to know

All KP contracted providers will need to cooperate and comply with KP’s Language Assistance Program by providing access to KP’s language assistance program services to enrollees who are limited English proficient (LEP).

As a KP contracted provider, you must ensure that all KP members treated by you receive effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs, practices, and preferred language. Established provider contracts may reference this obligation explicitly, by reference generally to compliance with the law, and/or compliance with KP’s policies and procedures.

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### Training What your staff need to know

All KP contracted providers need to make sure clinical and office staff are aware of the following:

- ✓ KP will inform the contracted provider if a referred KP member needs language assistance and in which language, in writing, together with the authorization
- ✓ How to access the KP language vendor for interpreter/language assistance services
- ✓ How to report any problems you have accessing the KP language vendor, including unreasonable delays
- ✓ The need to document in the medical record when interpreter services are offered, the use of these services, and an enrollee’s refusal to use interpreter services
- ✓ Only qualified contracted interpreters or office staff meeting interpreter

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<sup>1</sup> DMHC Regulations, Title 28, Division 1, Chapter 2, Article 7, California Code of Regulations Section 1300.67.04: Language Assistance Programs (hereinafter, the “DMHC Regulations”), subsection (b)(3).

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standards (see FAQ's) should be used to provide interpreter services to KP LEP enrollees

- ✓ If a member requests an enrollee-specific nonstandard vital document to be translated, the member must receive the translated document within 21 days from their request
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### **Monitoring What you need to know about tracking complaints, interpreter use and/or refusal and translation requests**

Health plans, including KP, will be monitored for compliance with these regulations. KP's reporting and monitoring will rely heavily on the tracking of member complaints regarding their experiences with all KP providers; including KP contracted providers.

KP and all KP contracted providers will be required to track and respond to various language assistance issues including:

- ✓ Problems related to use of various interpreter services
  - ✓ Lack of an offering of interpreter services
  - ✓ Delays in care/appointments due to language issues
  - ✓ Requesting/requiring members to bring in their own interpreter
  - ✓ The use and refusal of language assistance services, the type of interpreter services used and if none used, why
  - ✓ The enrollee's request for a translated document and the time frame for which the requested translated document was issued
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### **Next Steps**

- ✓ Review the attached FAQs
- ✓ Provide the FAQs and this KP training material to your staff who have contact with KP's enrollees
- ✓ Review any additional information provided by KP regarding language assistance services
- ✓ Submit to KP, upon request, tracking logs, invoices, and any other documentation regarding KP enrollees' access to, use or refusal of language assistance services
- ✓ Submit to KP, upon request, evidence of clinical and office staff review of training materials

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## KAISER PERMANENTE LANGUAGE ASSISTANCE PROGRAM - CONTRACTED PROVIDER FAQs

### 1. What are the DMHC Language Assistance regulations?

Effective January 1, 2009, the California Department of Managed Health Care (“DMHC”) regulations require that health plans establish a Language Assistance Program (“LAP”) for enrollees who are Limited English Proficient (“LEP”). The program includes, but is not limited to, providing interpreter services at no charge to enrollees, in any language, at all points of contact, both administrative and clinical. Interpreting refers to the transfer of the spoken word from one language to another, including sign language.

### 2. How does the Language Assistance regulation impact contracted providers?

There are three main areas of impact:

- a) *Contractual*: Current KP provider contracts reference obligations under the Language Assistance regulation explicitly, by reference generally to compliance the law, and/or compliance with KP’s policies and procedures.
- b) *Information*: Contracted providers must be aware that informational notices explaining how enrollees may contact their plan, file a complaint with their plan, obtain assistance from the DMHC and seek an independent medical review are available in non-English languages through the DMHC’s web site.

Upon request by enrollees, providers should inform enrollees that the above referenced notice and translation thereof can be obtained online at [www.hmohelp.ca.gov](http://www.hmohelp.ca.gov) for downloading and printing. In addition, hard copies may be requested by submitting a written request to: Department of Managed Health Care, Attention: HMO Help Notices, 980 9th Street, Suite 500, Sacramento, CA 95814-2725.

#### c) *Operations*:

- i. Contracted providers should become familiar with KP’s standards and mechanisms for providing language assistance services at no charge to their health plan enrollees.
- ii. Contracted providers will need to document the following in the medical record:
  - a) that language assistance was offered to an LEP enrollee and how it was provided (i.e. name of interpreter and agency, employee name and ID, over the phone, in-person, etc.)
  - b) if the language assistance was refused by the enrollee, specifically why it was refused, (i.e. patient preferred to use own English skills, etc.)
- iii. Contracted providers must capture information necessary for KP to assess compliance, and cooperate with KP by providing access to that information upon reasonable request

### 3. What is the contracted provider’s role and responsibility regarding KP’s Language Assistance Program?

Contracted providers will need to cooperate and comply with KP’s LAP by facilitating an LEP enrollee’s access to LAP services - *particularly oral interpreter and sign language services in the clinical setting*. Contracted providers should offer language assistance

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to KP members who appear to need it even if they do not ask for it or if their language preference was not indicated on the referral form. However, if the service is refused, the contracted provider can elect to have an interpreter present to ensure effective communication occurs.

### **4. As a contracted provider am I required to translate any documents used in the office setting?**

No. Only written material produced by Kaiser Foundation Health Plan is included within the regulatory scope of proactive translation. Examples of provider documents that are **not required** to be proactively translated:

- a) Consent to treat or admit
- b) Discharge instructions
- c) Appointment card
- d) Educational material available in your office

### **5. How do I access interpreter services for a KP member in the event that I do not have a qualified bilingual staff at the time of service?**

Our expectation is that you will provide interpreter services in-person using your own qualified bilingual staff if you have them. In the event that you do not have qualified bilingual staff at the time services are needed, proceed to utilize:

- a) Phone interpretation: KP has contracted the services of United Language Group, a company with the capability to provide telephonic interpreter services in 200 different languages. Phone interpreter services are available 24 hours per day, 7 days per week through United Language Group by calling: 1-855-701-8100. This phone number is dedicated to the interpreter needs of KFHP enrollees. While no lead time is needed to engage an interpreter through this service, contracted providers must have the following data elements available before placing the call:
  1. The KP Client ID number. This number will be provided to you, in writing, together with your authorization.
  2. KP referral or authorization number
  3. Enrollee's KP Medical Record Number (MRN)
- b) American Sign Language: KP has contracted the services of Interpreters Unlimited, a company with the capability to provide in-person interpreter services for enrollees requiring American Sign Language (ASL). At least two week's advance notification of need for an ASL interpreter is recommended to help ensure interpreter is available. Please provide as much advance notice as possible when requesting an ASL interpreter. Services are available by calling 1-844-855-0249, 24 hours per day, 7 days per week. Contracted providers may arrange in-person interpreter services for multiple dates of service with one call, but must have the following data elements available before placing the call to schedule:
  1. KP client ID number. This number will be provided to you, in writing, together with your authorization.

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2. KP referral or authorization number
3. Enrollee's KP Medical Record Number (MRN)
4. Date(s) of enrollee's appointment(s)
5. Time and duration of each appointment
6. Specific address and location of appointment(s)
7. Any access or security measures the interpreter will need to know and plan for to gain entry to the place of service

**\*\*** At least two week's advance notification of need for an ASL interpreter is recommended to help ensure interpreter is available. Please provide as much advance notice as possible when requesting an ASL interpreter.

**Contracted providers are asked to please provide a cancellation notice to Interpreters' Unlimited at least 24 hours in advance of the scheduled appointment.**

- c) KP will directly reimburse the companies above for interpreter services provided to KP enrollees. Neither enrollees nor contracted providers will be billed by these companies for interpreter services.

### **6. What do I do if I have trouble accessing the interpreter vendors?**

Customer service for United Language Group can be reached through email at [customer.care@ulgroup.com](mailto:customer.care@ulgroup.com). You will receive a follow-up response within 48 hours.

Interpreters Unlimited customer service can be reached at 1-800-726-9891, 24 hours per day, 7 days a week.

Please inform KP of any complaints, concerns or questions that you have with the KP provided language assistance service vendors by sending an email to [equity-inclusion-diversity-scal-hi-rgnl@kp.org](mailto:equity-inclusion-diversity-scal-hi-rgnl@kp.org).

### **7. Do I need any special equipment for use with telephonic interpreter services?**

Contracted providers will need availability of a speakerphone or dual handset phone in the administrative and/or clinical areas in which the telephonic interpreter services will be provided. Please comply with all HIPAA and other privacy requirements when providing these services. KP will not be financially responsible for telecom upgrades to a contracted provider's place of service necessary to comply with this regulatory obligation.

### **8. Can I use my own bilingual staff to interpret?**

If a contracted provider chooses to use their bilingual staff as interpreters, they must meet the regulatory standards set out in KP's minimum quality standards for interpreters:

- a) Documented and demonstrated proficiency in both English and the other language
- b) Fundamental knowledge in both languages of health care terminology and concepts
- c) Education and training in interpreting ethics, conduct and confidentiality

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### **9. What do I have to document in the enrollee's medical record with regard to interpreter services?**

Contracted providers need to note the following in the enrollee's medical record:

- a) that language assistance was offered to an LEP enrollee and how it was provided (i.e. name of interpreter and agency, employee name and ID, over the phone, in-person, etc.)
- b) if the language assistance was refused by the enrollee, specifically why was it refused, (i.e. patient preferred to use own English skills, etc.)

### **10. Do these regulations prohibit family members from serving as interpreters for enrollees?**

No. Adult family members are not banned from serving as interpreters for enrollees under this legislation; however, this practice is discouraged. Minor children should not be used as interpreters, except in extraordinary situations such as medical emergencies where any delay could result in harm to a member/patient, and only until a qualified interpreter is available. Contracted providers should remind KP enrollees that KP provides free, quality language assistance services. Should a KP LEP member refuse to access KP's language interpreter services, then the contracted provider must document that refusal in the enrollee's medical record. However, if the service is refused, the contracted provider can elect to have an interpreter present to ensure effective communication occurs.

### **11. Which staff members need training regarding the LAP program?**

To ensure compliance with the law, contracted providers should review this document with any staff that interacts with LEP enrollees on KP's Language Assistance Program and how to access language assistance services for KP members. KP may request proof of review of training materials with staff, at anytime.