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**DEPARTMENT OF SOCIAL SERVICES**  
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ARNOLD SCHWARZENEGGER  
GOVERNOR

December 31, 2008

ALL COUNTY LETTER NO. 08-65

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY CIVIL RIGHTS COORDINATORS

SUBJECT: DOCUMENTATION OF INTERPRETIVE SERVICES

REFERENCE: ALL COUNTY INFORMATION NOTICE (ACIN) I-09-06  
ALL COUNTY INFORMATION NOTICE (ACIN) I-02-08  
ALL COUNTY LETTER (ACL) 03-56  
ALL COUNTY LETTER (ACL) 06-20

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

The purpose of this All County Letter (ACL) is to replace ACIN I-02-08, dated January 22, 2008 and to provide additional clarification of the interpretive services documentation requirements in response to a number of different concerns raised by counties. This ACL supplements, but does not replace ACIN I-09-06 and ACLs 03-56 and 06-20. The “each contact” requirements in ACL 06-20 are superseded by the revised language in this ACL. This ACL serves to clarify when, and to what degree, counties must document that interpretive services were offered and provided to non-English speaking or Limited English Proficient (LEP) clients.

All local agencies receiving federal financial assistance must take reasonable steps to ensure free, meaningful and prompt access to the information and services they provide, in the client’s primary or chosen language for oral and written communications. A county’s compliance with this requirement is established through documentation of the offer and provision of bilingual/interpretive services in the client’s case record. The documentation should be “in sufficient detail to permit a reviewer to determine the agency’s compliance with the requirements of Division 21” (Manual of Policies and Procedures Section 21-116.1).

### Required Documentation

The following level of documentation will be deemed to be sufficient to allow a reviewer to determine that appropriate language services were provided to LEP clients. The county must document the following when a case file is initially started (initial contact, when application received, or at intake), at reverification (or yearly if reverification is not required), and any time the client requests a change in either his/her oral or written language preference. Any information not documented at the inception of case file must be documented at the next contact.

1. That the client was offered free language services, in the client's primary language, for oral and written communications. If state or county translated documents are not available in the client's primary language, the county must explain how it will provide oral interpretations of those documents.
2. The LEP client's self-selected preferred language for both oral and written communications (these will not necessarily be the same).
3. The acceptance or denial of language services by the client.
4. What language the services were provided in, and
5. Who provided the interpretive services (department interpreter, bilingual worker, telephone interpreter, client-provided interpreter, etc.). If the client is assigned to a worker or unit that provided the services, the name of the worker or the bilingual unit should be documented as well.

The documentation entry does not require a lengthy detailed narrative. It can consist of short phrases such as "client prefers Spanish for written and oral communications", "conducted in Farsi by MSW Jones #456", "client offered free interpretive services/accepted", etc.

A county can elect to use a form for the purpose of documenting the above information. A completed form signed and dated by both worker and client, in the client's primary language for written communications, can be used. The county must notify a reviewer that it uses such a form in lieu of an entry in the case record. A notation in the case record referencing this form is optional.

### Client-Provided Interpreters

If the client chooses to provide his/her own interpreter, counties are required to inform the client when the case file is initially started and at reverification, in his/her primary language, and document in the case record, that the client was informed of:

1. The right to free interpretive services without undue delay.

2. Potential problems of using the client's own interpreter, including the possibility of ineffective communication, conflict of interest, and inaccurate interpretation.
3. The need to disclose private/confidential information to the interpreter.
4. The availability of county-provided interpretive services when the client's interpreter is not available, and
5. The right of the client to switch from a client-provided interpreter to a county-provided interpreter at anytime.

Once the client has been informed of the above and the case record documented, the county does not have to inform the client again until reverification.

If the client elects to use his/her own interpreter or when individuals other than county employees are used as interpreters, the county must obtain a signed consent for release of information from the client. The county should also obtain a signed confidentiality agreement from the interpreter stating that the interpreter agrees to keep information confidential. While this is not required by Division 21, it is a good business practice and provides the client with a measure of protection that his/her information will be protected. The consent for release of information and the confidentiality agreement (if obtained) must be maintained in the case file.

If the client uses the same client-provided interpreter during subsequent contacts, new consent for release of information forms and confidentiality agreements are not needed. If the client uses a new client-provided interpreter for which a signed consent for release of information form and signed confidentiality agreement are not on file, the county must obtain a signed consent for release of information form and should obtain a signed confidentiality agreement. The forms must be maintained in the case file.

When a client-provided interpreter is used, the county may want to consider the following suggestions set forth in the Federal Health and Human Services LEP guidelines:

1. Counties should take reasonable steps to ascertain that self-provided interpreters are not only competent in the circumstances, but are also appropriate in light of the circumstances and subject matter.
2. That if, at anytime, a non-departmental interpreter is used, a department interpreter should ensure they are capable of interpreting the information.
3. That if the worker is uncertain that the client-provided interpreter is accurately and effectively translating the conversation, or is an appropriate interpreter, given the circumstances of the interview, the worker should arrange for a departmental qualified interpreter to assist.

Documentation that a client-provided interpreter was used or that the client was offered interpretive services is not required for non-substantive contacts such as asking for directions, greetings, etc.

#### Contracted Language Services Providers

If the county contracts with a language services provider for interpretive and/or translation services, consent for release of information or confidentiality agreements are not required if the contract includes language protecting the client's privacy and confidentiality. The County's Annual Civil Rights Plan should contain this information. A copy of the contract must be made available to the reviewer if requested.

#### Minors Used As Interpreters

Minors (someone under age 18) are not to be used as interpreters except under extenuating circumstances. The use of a minor as an interpreter is subject to the documentation requirements listed above and requirements set out in ACL 06-20. The nature of the extenuating circumstances must be documented.

#### Documentation at Reverifications

Language information documented at inception of case file must be verified and updated during any subsequent reverifications of eligibility for services and/or benefits. For programs that do not require periodic reverifications, the client's language information should be reverified/updated at the first client contact following the one-year anniversary of the last verification/update. The case narrative should reflect that the client's language information was reverified/updated.

#### Acceptance or Refusal of Forms or Other Written Material

The county shall also document the client's acceptance or refusal of forms or other written material offered in the individual's primary language at the inception of the case file and at yearly reverification. In the event that an LEP client refuses written translations in the client's primary language, the county should determine and document the reason, to ensure that the client is aware of the availability of the county to interpret notices for clients who are unable to read or need accommodations.

#### Documenting Subsequent Client Contacts without Assigned Bilingual Worker

Once the county has been informed that the client wants an interpreter, the county must offer and provide an interpreter at each substantive client contact. The county shall not conduct substantive program-related conversations with the client until qualified interpretive services are available. Substantive/significant contacts are defined as

contacts in which benefits, services, or rights or responsibilities are discussed. This would include any public contact staff, whether in person or on the phone, who has a substantive contact with the client. Non-substantive contacts are matters such as asking directions, greetings, etc. The setting of appointments is a substantive contact.

Subsequent substantive and/or significant contacts require that the name of the worker providing the services be documented, as well as the language in which the services were provided, and the nature of the information provided.

#### When Bilingual Workers are Assigned

If the county assigns a client to a bilingual worker (or a bilingual unit) who speaks the client's preferred language, no other subsequent documentation is required regarding the provision of interpretive services as long as the assigned bilingual worker (or bilingual unit) continues to handle all transactions involving the provision of information, gathering of information, changes in services and/or benefits, or any other significant action taken that affects the client's rights, benefits, or services. For the purposes of this ACL, designated caseloads used by some counties, such as Supplemental Nutrition Assistance Program Spanish, Medi-Cal Spanish, etc., are considered bilingual "units".

For example, if worker MSW 123 (or the bilingual unit) provided services in Spanish at initial contact and was assigned that case, it will be assumed that any subsequent actions taken on that case were performed by worker MSW 123 (or the bilingual unit) in Spanish, unless otherwise noted. If a worker other than the assigned worker (or a worker outside the assigned bilingual unit) handles any aspect of the case that affects the client's rights, services, or benefits, the case record must indicate that the services were provided in the appropriate language and who provided the interpretive services.

#### Bilingual/Interpretive Services

All bilingual/interpretive services must be provided entirely in the LEP client's preferred language. Workers are not to insert or use English words or phrases, unless there is no corresponding word or phrase in the client's preferred language. Counties are reminded that the use of interpretive services includes contacts with the Fraud Early Detection Program, Income Eligibility & Verification System, Overpayments, Collections and Special Investigative Unit staff (see Division 21-103).

In cases where an interpretive/translation service (telephone or in-person) is used in lieu of bilingual workers or units, the initial use of the service must be documented to include the name of the service provider and a description of the service and the language in which the services were provided. For subsequent contacts, if the same service provider is used, only the name of that service

All County Letter No. 08-65  
Page Six

provider must be documented each time that service is used. The name of the service provider entered in the case record will signify to a reviewer that that service was used and that the contact was conducted using the client's preferred language. If a different service provider or method is used at a subsequent contact, the case record must reflect the service or method used, who provided the service, and in what language the service was provided.

If you have any questions regarding this letter, you may contact your Civil Rights Bureau consultant at (916) 654-2107, or toll free at 1-866-741-6241.

Sincerely,

***Original Document Signed By:***

TOM LEE  
Deputy Director  
Human Rights and Community Services  
Division

Attachment

Documentation required	When documentation is required
Use of bilingual services to select primary language. Division 21-115.1	Inception of case file and reverification, or when requested, at least yearly
Who provided language services. Division 21-116.22	Inception of case file and reverification, or yearly
Preferred language for verbal communication. Division 21-115.2	Inception of case file and reverification, or yearly
Preferred language for written communication. Division 21-115.2	Inception of case file and reverification, or yearly
Acceptance or refusal of oral language services; if accepted, in what language. Division 21-116.21	Inception of case file and reverification, or yearly
Acceptance or refusal of forms in client's primary language (name of person and type of interpretive services provided). Division 21-116.21	Inception of case file and reverification, or yearly
If communication NOT by regular, bilingual worker/unit, narrative should indicate who provided interpretive service (i.e. other worker/unit, volunteer interpreter, contracted interpreter, telephone interpreter, client provided interpreter, etc.). Division 21-116.22	Each and every substantive contact
If communication NOT by regular, bilingual worker/unit, narrative should indicate language in which conversation was conducted. Division 21-116.22	Each and every substantive contact
Narrative should indicate use of minor under 18 and description of extenuating circumstance. Division 21-115.16	Each occurrence
If client provided interpreter is used, narrative should record warning of possible ineffective communication. Division 21-116.23, Tewelde, page 2, B.1.f.	Inception of case file and reverification, or yearly
If client provided interpreter is used, case file must include a signed consent for release of information form signed by applicant/recipient. Division 21-116.24	Only at initial use of that interpreter.
If client provided interpreter is used, case file should include a signed confidentiality agreement signed by interpreter.	Optional.