JUSTICE IN AGING
FIGHTING SENIOR POVERTY THROUGH LAW

DIVERSE ELDERS COALITION

May 20, 2024

Office of Minority Health
US Department of Health and Human Services
1101 Wootton Parkway
Rockville, MD 20852

Submitted electronically via regulations.gov

**RE: Request for Information; Development of a Universal Symbol for Language Assistance Services in Health Settings**

Justice in Aging and the Diverse Elders Coalition (DEC) submit these comments in response to the request for information from the US Department of Health and Human Services (HHS) Office for Minority Health (OMH) on the development of a universal symbol for language assistance in health settings.

Justice in Aging uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. We have decades of experience with Health and Human Services' (HHS's) systems, with a focus on Medicaid, Medicare, long-term care services and supports, and the particular need of those dually eligible for Medicare and Medicaid coverage. Our advocacy focuses on populations of older adults who have historically faced discrimination, including women, LGBTQ+ people, people of color, people who have limited English proficiency (LEP), and people with disabilities. Ensuring that programs and services fully and fairly serve these communities in an equitable manner is at the heart of our work.

Founded in 2010, the DEC advocates for policies and programs that improve aging in our communities as racially and ethnically diverse people; American Indians and Alaska Natives; and lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ+) people. Our member organizations—National Asian Pacific Center on Aging (NAPCA), National Caucus and Center on Black Aging, Inc. (NCBA), National Hispanic Council on Aging (NHCOA), National Indian Council on Aging (NICOA), SAGE (Advocacy and Services for LGBTQ+ Elders), and Southeast Asia Resource Action Center (SEARAC)—are experts in the distinctive needs of the racial, ethnic, political, and cultural communities they represent. Through their actions in their respective communities, they are viewed as trusted advocates who provide services and resources for diverse caregivers and their aging loved ones.

Justice in Aging and the DEC believe that advancing equity in health care is crucial to meeting the needs of low-income older adults, particularly those who face discrimination or systemic inequities due to their race, ethnicity, immigration status, and/or dominant language proficiency. More than 6.5 million people over age 60 living in the U.S. have LEP, many of whom experience discrimination and barriers to quality health care.[1] We appreciate HHS's thoughtful approach to bolstering language access services in health care settings and addressing the unmet needs of older adults and others with LEP. In particular, we

[1] U.S. Census Bureau, 2019: ACS 1-Year Estimates Subject Tables, Population 60 Years And Over In The United States, https://data.census.gov/cedsci/table?q=S0102&tid=ACSST1Y2019.S0102; The Commonwealth Fund, What an Ideal Health Care System Might Look Like: Perspectives from Older Black and Latinx Adults (Jul. 21, 2022), www.commonwealthfund.org/publications/2022/jul/what-ideal-health-care-system-might-look-like.

support HHS's proactiveness in considering potential challenges to developing and implementing a universal language access symbol and encourage the agency to prioritize cultural appropriateness, responding to various language communities' needs and preferences, trust building, and interagency collaboration in its efforts.

1. What methods do you or your organizations currently use to inform individuals with LEP about the availability of services in their preferred language? How effective are these methods?

The DEC Member organizations use a variety of methods to both inform individuals of the availability of services and to provide services. For example, organizations have bilingual staff, hotlines that serve specific language communities, and translated websites. In-language taglines on documents and signage in physical spaces are also often used to provide notice of the availability of services in multiple languages. In addition, bilingual resources (English side-by-side with another language) can better equip caregivers to navigate complicated services and programs, since caregivers are often assisting older adults access services, and these bilingual resources send an important welcoming signal that other language assistance services may be available.

2. What are the challenges to implementing these methods? Do you believe a new graphic symbol informing people about the availability of language assistance services would increase the rate at which people request language assistance services and thereby increase access to information about health services, programs, and/or products?

Despite existing requirements mandating meaningful access for individuals with LEP and the efforts of community organizations, bilingual caregivers, and others, many older adults with LEP do not access much-needed language assistance services. We believe a new graphic symbol would increase requests for language assistance and access to information as well as high-quality health care. We frequently hear from advocates that older adults with LEP do not know that they have a right to language access services and/or do not know how to request such services. Currently, information about language access rights and services—if it is provided at all—is buried at the bottom of a webpage or document. Another challenge is that this information is stated in English and at best Spanish and a handful of other commonly spoken languages. The same issues exist on 1-800-Medicare and many other helplines. The prompts are only in English and Spanish, and we have heard from advocates that people with LEP have difficulty getting connected to an interpreter even if they say the name of their language or the word "interpreter" in English. These gaps mean that people from particularly marginalized language communities are not aware that language services are available or how to access them without the help of an English speaker. A universal graphic symbol would alleviate many of these barriers for accessing in-person or web-based services because it could be placed prominently and understood widely without additional translation or interpretation.

3. Are you aware of any previous or existing symbols used to inform people about the availability of language assistance services (e.g., used in the health sector or other sectors)?

Justice in Aging and the DEC are aware of the following symbols used to indicate language access services:

- Australia's language access symbol
- Canada's communication access symbol (for sign language)

4. What should be considered in the development of the new graphic symbol informing people about the availability of language assistance services in health settings? Please add any specific suggestions you have for the symbol design and usability testing.

The development of a new graphic symbol to indicate language assistance services must be centered in building trust with communities most likely to rely on such a graphic symbol. Trust-building requires meaningful community partnerships in the development and implementation of the symbol, prioritizing cultural responsiveness in the symbol's design and implementation, and support to health entities in providing language services to request it.

We urge HHS to prioritize people with LEP in developing and testing the graphic symbol, considering factors like age, health literacy, cultural appropriateness, and disability. For example, older adults as well as younger adults and children should be included in the usability testing. People from diverse language communities should be consulted, including smaller language communities and people who speak languages that are not typically written (such as Navajo). The symbol and any accompanying language or descriptor should be in plain language, in clear to understand text (such as Ariel), and sufficiently large print (18-point font at a minimum).

We appreciate the HHS Office for Civil Rights (OCR) recognizing the intersection between disability and language access in the recently finalized Section 504 rule and recommend that OMH consult with OCR and, most importantly, disability communities and experts in developing this symbol. One challenge we anticipate is how to extend similar language services accessibility for those with vision impairment. HHS should consider how a symbol will be read by screen readers and other technology, for example. Another challenge is conveying to someone with a hearing impairment that they can access language services. For example, a graphic of someone speaking may be interpreted as only pertaining to auditory services and not visual services. Finally, HHS should consider how both a language access symbol and other communication access symbols will be used together.

*A. Community partnerships*

We appreciate HHS's efforts to receive input on the development and implementation of a language access graphic symbol from the community through this Request for Information. We encourage HHS to further target its efforts to receive feedback by engaging with specific organizations that represent and serve communities of individuals with LEP, such as the Arab American Institute, National Asian Pacific Center on Aging, National Hispanic Council on Aging, National Indian Council on Aging, , and Southeast Asia Resource Action Center. In order to best incorporate the feedback of the advocates who work closest with individuals with LEP and to better build trust with marginalized communities, HHS should build these partnerships and invite their feedback early in and throughout the symbol development process.

Moreover, community partnerships will be essential in implementing the symbol once it is developed. National and state-based organizations, as well as localized community-based organizations, that have a strong connection to marginalized language communities can play an integral role in sharing information about the new symbol. Community partners can help to spread announcement about the new symbol and entitlement to language access services, answer questions, and to vet the availability of these services to individuals who have had negative experiences relating to language access. This successful partnership with community partners has been piloted in outreach efforts around the Affordable Care Act's bilingual navigator grant program, promotion of the Medicare and You handbook, and Affordable Care Act taglines in top 15 languages. Similar strategies and outreach partnerships that include funding can and should be applied here to build community trust.

### *B. Cultural responsiveness*

It is crucial for the language services symbol to culturally resonate with the individuals who need to access translation and interpreter services. While no community of individuals with LEP is a monolith, HHS must consider what symbols, behaviors, and mentalities are likely to be viewed as clear and inviting to all individuals with LEP. Partnerships are also critical in gaining input directly from the communities that are most likely to use language services about the unintended consequences of a symbol (i.e., what might be considered offensive or off-putting in one culture) and what is likely to resonate with people from various cultures.

In addition to the graphic symbol itself, health care settings should signal cultural competency and responsiveness in other ways that will build trust with communities with LEP.[2] This can include depicting people of various racial, ethnic, religious, sexual orientation and gender identity, and cultural backgrounds in any imagery produced by or shown in the health care setting; training all staff, including both direct services and non-direct services providers, on culturally competent health care practices; and prominently displaying information about patient protections and anti-discrimination protections.

## 5. What steps do you recommend for implementing, disseminating, and ensuring effectiveness of a new symbol for language assistance services, including utilization by LEP individuals, healthcare providers, public health departments, and other entities engaged in healthcare?

### *A. Person-centered care and community partnerships.*

Community-driven partnerships will also be important in the implementation of the new language access symbol. Unfortunately, for many systemically marginalized groups, health settings are associated with being highly invasive, impersonal, and unhelpful.[3] For individuals with LEP, these feelings are compounded by the hard-to-navigate barriers in potentially high-risk settings, and possible feelings of embarrassment, lack of trust, or limited health literacy. A new symbol in an already sensitive setting may easily be ignored—or worse, further alienate a marginalized person who is unfamiliar with the symbol or perceives it as "othering," or if their use of the symbol leads to discrimination. Community partnerships can also be valuable in developing culturally appropriate training for healthcare staff—particularly direct services staff—to interact with patients and facilitate requests for language access.

The initial rollout of a new graphic symbol for language access must reflect HHS's commitment to improving health equity and providing adequate and culturally-appropriate services to patients.[4] HHS and its entities should strengthen and build meaningful community-partnerships during the development of the symbol and continue those partnerships to ensure that the new graphic symbol is introduced by trusted members of various LEP communities across the country. Additionally, the implementation of the symbol should include a regular training and re-training schedule for all direct care workers, and be supported by positive language access results for those who request them.

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[2] *See, e.g.,* SAGE, Inclusive Services for LGBT Older Adults (2018), available at https://www.sageusa.org/wp-content/uploads/2018/05/sageusa-welcoming-agency-guide-inclusive-services-for-lgbt-older-adults.pdf.

[3] *See generally* Timothy Huzar, Medical News Today, *Medical mistrust linked to race/ethnicity and discrimination* (2021), https://www.medicalnewstoday.com/articles/medical-mistrust-linked-to-race-ethnicity-and-discrimination#Tackling-a-structural-problem.

[4] HHS Agency Equity Action Plan: 2023 Update pursuant to Executive Order 14091 on "Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; HHS Language Access Plan (2023).

### *B. Bolstering language access services*

Lastly, a language access graphic symbol is most likely to garner trust with LEP communities when it is supported by adequate, timely, and free interpretation and translation services. HHS should work to ensure that all health settings have sufficient language access services available for the various language communities in each service area, that the language services are culturally appropriate, and that patients do not face additional burdens when accessing language services. Without adequate language service infrastructure, the new graphic symbol may signal that health care systems are not responsive to the needs of the communities they serve, worsening trust among communities with LEP.

HHS can support interpreter and translation services by contracting with a language line and allowing smaller entities to opt in to using that service, which may help defray costs for an entity otherwise negotiating their own contracts. HHS, through its regional offices, could also help connect providers with local community-based organizations who gave qualified interpreters and can translate documents and provide other language services. Relatedly, HHS should consider producing (including by contracting with CBOs) bi-lingual materials that explain Medicare and other programs and technical concepts in English and another language side-by-side. This approach would be especially beneficial for small language communities concentrated in particular geographic areas. Similarly, the regional offices could connect providers with organizations and vendors who may be able to provide materials in plain language, Braille, or other alternative formats. Finally, HHS can support trainings for health entity staff to ensure they are aware of the legal requirements around language assistance services and the available interpretation and translation services to quickly access them for patients. HHS and its healthcare entities should regularly assess, monitor, and plan for language access services using the CLAS Standards as a guide for culturally and linguistically appropriate services.[5]

### *C. Interagency collaboration*

Finally, HHS has an opportunity to initiate interagency collaboration around language access—in health systems and other systems related to social determinants of health—through the development and implementation of a new graphic symbol.

Many low-income older adults and others rely on a suite of services from federal, state and local programs to be able to live with dignity, including healthcare and long-term care provided through Medicare, Medicaid, Older Americans Act programs, and/or Indian Health Services; economic assistance and retirement from the Social Security Administration; housing assistance, legal assistance, transportation, and nutrition assistance. These individuals are frequently forced to interact with multiple agencies in any given month, whether it is to complete an application, annual recertification, or submit requested documents; connect with agency representatives in-person or over the phone; navigate agency websites; and read and respond to mailed notices. Navigating multiple agencies—each of which utilizes different processes and rules—is already a burden for the average individual, and is exponentially more challenging for individuals with LEP.

HHS has an opportunity through this initiative to positively impact the lives of individuals with LEP who interact with federal services and programs by collaborating with other agencies to adopt a universal language access symbol. A universal symbol across agencies and programs would further the goals of the Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust

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[5] U.S. Department of Health & Human Servs., National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (2013), https://thinkculturalhealth.hhs.gov/assets/pdfs/EnhancedCLASStandardsBlueprint.pdf.

in Government[6] and build on the "No Wrong Door" concept that aims to minimize administrative barriers to accessing programs. Therefore, we encourage OMH to consult with the Administration for Community Living, which oversees a variety of health and social services programs for older adults and family caregivers, in developing and implementing this symbol. We also recommend HHS include agencies like the Social Security Administration, the Department of Housing and Urban Development, the Department of Agriculture, Department of Transportation, and other agencies and states that provide essential services benefits to low-income older adults.

6. Are there frameworks or standards that should be considered to support the development, testing, implementation, and dissemination of a new symbol for language access services?

We recommend considering the National Center for Law and Elder Rights Equity Analysis Tool as a guide. This is a flexible framework to guide projects in centering equity and considering the role of intersecting marginalized identities and anticipating unintended consequences.

## Conclusion

Thank you again for the opportunity to comment on the request for information. If any questions arise concerning this submission, please contact Natalie Kean, nkean@justiceinaging.org, Sahar Takshi, stakshi@justiceinaging.org, and Didier Trinh, dtrinh@diverseelders.org.

Sincerely,

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[6] EO 14058 "Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government" (Dec. 13, 2021).