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HEALTH COVERAGE
Filing Guidance Notice 2016-B

TO: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations

FROM: Kevin Patrick Beagan, Deputy Commissioner of the Health Care Access Bureau

DATE: May 13, 2016

RE: Meaningful Access for Limited-English Proficient Speakers

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This Filing Guidance Notice is issued by the Division of Insurance ("Division") to provide guidance for commercial health insurers, Blue Cross and Blue Shield of Massachusetts, Inc. ("BCBSMA") and health maintenance organizations ("HMOs") (collectively "Carriers") planning to offer Qualified Health Plans ("QHP") regarding the filing of forms intended to comply with federal standards established by the Centers for Medicare and Medicaid Services ("CMS") for meaningful access by limited-English proficient ("LEP") speakers.

Pursuant to federal rule 45 CFR § 155.205(c)(2)(iii), QHP coverage materials must provide, "taglines," whether within the coverage or on an attached document, in non-English languages that indicate the availability of language services for individuals who are limited English-proficient. These taglines must be provided in at least the top 15 languages spoken by the LEP population in the Commonwealth of Massachusetts. In addition, section 2719 of the Public Health Service Act and the summary of benefits and coverage and uniform glossary rules implementing section 2715 of the Public Health Service Act require that group health plans and health insurance carriers offering group and individual health insurance coverage provide taglines in a particular non-English language if 10 percent or more of the population residing in the county is literate only in that same non-English language. For those plans whose service area covers multiple states, carriers may aggregate the language spoken among the total populations of the covered states.

The federal rule states that the Secretary of the Department of Health and Human Services (HHS) will annually publish guidance specifying the top 15 languages[1] spoken by the LEP populations of each state, along with sample taglines[2] in all languages triggered by this threshold.

[1] https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Appendix-A-Top-15.pdf
[2] https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Appendix-B-Sample-Translated-Taglines.pdf

The Division notes that 211 CMR 52.13(3)(p) requires that health plan evidences of coverage include " [a] statement detailing what translator and interpretation services are available to assist insureds, including that the carrier will provide, upon request, interpreter and translation services related to administrative procedures. The statement must appear in at least Arabic, Cambodian, Chinese, English, French, Greek, Haitian-Creole, Italian, Lao, Portuguese, Russian and Spanish." This requirement applies to all Carriers, including dental and vision Carriers.

Carriers will be expected to submit materials that include appropriate disclosures as required by Division and federal regulations. Carriers should submit the following essential documents (as defined by CMS) to demonstrate appropriate inclusion of disclosure materials for LEP individuals:

- Applications;
- Consent, grievance, appeal, and complaint forms;
- Correspondence containing information about eligibility and participation criteria;
- Notices pertaining to the denial, reduction, modification, or termination of services, benefits, non-payment, and/or coverage;
- A plan's explanation of benefits or similar claim processing information;
- Rebate notices;
- Notices advising individuals of the availability of free language assistance;
- Summary of benefits and coverage disclosures;
- Formulary drug lists;
- Provider directories;
- Policies, insurance contracts, evidences of coverage, or similar legally-required documents; and
- Documents that require a signature or response from the qualified individual, applicant, qualified employer, qualified employee, or enrollee.

Essential documents that are either new or revised to include language taglines should be submitted via SERFF for any and all QHPs intended for offer both inside and outside the Health Connector by no later than the first day of the individual market open enrollment period for the 2017 benefit year, and any material changes to the document should be submitted via SERFF before the start of the individual market open enrollment period for each year thereafter.

If you have any outstanding questions, please contact bmc@state.ma.us.