



Date: August 10, 2016

Re: Language Access Tagline Frequently Asked Questions

Q: When may entities subject to 45 C.F.R. § 155.205(c)(2)(iii)(A) and (B) aggregate limited English proficient populations across multiple states to determine the top 15 languages in which they must provide taglines on Web sites and critical documents?

A: We intend to propose amendments to § 155.205(c)(2)(iii) to provide more specificity about when entities subject to § 155.205(c)(2)(iii)(A) and (B) would be permitted to aggregate limited English proficient populations across states to determine the languages in which taglines must be provided, in light of questions that have arisen about this issue since § 155.205(c)(2)(iii)(A) and (B) were finalized.

We intend to propose amendments to § 155.205(c)(2)(iii)(B) to specify that individuals, companies, or corporations that are agents or brokers subject to 45 C.F.R. § 155.220(c)(3)(i) (“web-brokers”), and that are licensed in and serving multiple states, would be permitted to aggregate the limited English proficient populations in the states they serve to determine the top 15 languages in which they must provide taglines under § 155.205(c)(2)(iii)(B). With respect to QHP issuers, we likewise intend to propose amendments to § 155.205(c)(2)(iii)(A) to specify that a QHP issuer would be permitted to aggregate the limited English proficient populations across all states served by the health insurance issuers within its issuer control group, whether or not those health insurance issuers offer plans through the Marketplace in each of those states, to determine the top 15 languages in which it must provide taglines. For example, a QHP issuer that is a subsidiary of a corporate entity or holding company whose subsidiary health insurance issuers serve multiple states would be permitted to meet the tagline requirement by including taglines on Web sites and critical documents in at least the top 15 languages spoken by the aggregated limited English proficient populations of all states served by the corporate entity’s or holding company’s subsidiary health insurance issuers, rather than in the top 15 languages spoken by the limited English proficient population of the individual QHP issuer’s state of licensure or state served. In the meanwhile, we will not take enforcement action against web-brokers or QHP issuers that comply with the rule by providing taglines in accordance with this FAQ.

We also intend to propose amendments to § 155.205(c)(2)(iii)(A) to specify that Marketplaces would be permitted to aggregate the limited English proficient populations of multiple states to

determine the top 15 languages in which taglines are required. In this case, the applicable states would be those states in which an entity operates multiple Marketplaces or an eligibility or enrollment platform for multiple Marketplaces, including the Marketplace subject to the rule.

For more information about language access requirements, see our [Guidance and Population Data for Exchanges, Qualified Health Plan Issuers, and Web-Brokers to Ensure Meaningful Access by Limited-English Proficient Speakers Under 45 CFR §155.205\(c\) and §156.250](#).

Q: When providing the taglines required by 45 C.F.R. § 155.205(c)(2)(iii)(A) and (B) on Web site content, must Marketplaces, QHP issuers, and agents or brokers subject to 45 C.F.R. § 155.220(c)(3)(i) (“web-brokers”) provide taglines on each Web site page?

A: 45 C.F.R. § 155.205(c)(2)(iii)(A) and (B) require Marketplaces, QHP issuers, and web-brokers to include taglines on Web site content and any document that is critical for obtaining health insurance coverage or access to health care services through a QHP for qualified individuals, applicants, qualified employers, qualified employees, or enrollees. 45 C.F.R. § 155.205(c)(2)(iii) also applies to the Basic Health Program (BHP), in accordance with the BHP regulations at 42 C.F.R. § 600.150(a)(4). CMS intends to propose amendments to § 155.205(c)(2)(iii)(A) and (B) that would specify that Marketplaces, QHP issuers, and web-brokers may satisfy tagline requirements with respect to Web site content if they post a Web link prominently on their home page that directs individuals to the full text of the taglines indicating how individuals may obtain language assistance services, and if they also include taglines on any standalone document linked to or embedded in the Web site, such as one in portable document format (PDF) or word processing software format, that is critical within the meaning of the rule. Thus, for example, if a QHP issuer included a link to a PDF of its provider directory or formulary drug list on its Web site, it would be required to provide a link to taglines on its Web site home page and to provide taglines on that PDF document. In the meanwhile, we will not take enforcement action against QHP issuers or web-brokers that comply with § 155.205(c)(2)(iii)(A) and (B) by providing taglines in accordance with this FAQ.