



## **CENTER FOR MEDICARE**

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**DATE:** October 28, 2016

**TO:** Medicare Advantage (MA) Organizations, Prescription Drug Plan (PDP) Sponsors, Medicare-Medicaid Plans, and Medicare Cost Contractors (excluding PACE and Employer Group/800 series only contracts)

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**SUBJECT:** Contract Year 2017 Translated Materials Requirements and Methodology

### Background

Medicare Part C plans and Part D sponsors (sponsors) are required to translate the materials described below into any non-English language that is the primary language of at least 5 percent of the individuals in a plan benefit package (PBP) service area.<sup>1</sup> Pursuant to the Medicare Marketing Guidelines (MMG), sponsors that have service areas that meet the 5% threshold must provide specific translated materials on their websites and in hard-copy upon beneficiary request.<sup>2</sup> Translation requirements for Medicare Medicaid Plans (MMPs) are detailed in the three-way contracts as well as in each State-specific marketing guidance document on the CMS website.<sup>3</sup>

In the HPMS Memo titled “Guidance regarding implementation of the procedural requirements under the regulation implementing Section 1557 of the Affordable Care Act of 2010 – Nondiscrimination Communication Requirements and Grievance Procedures” dated August 8, 2016, CMS noted that the memo did not address similar, but independent, requirements applicable to Plans/Part D Sponsors under other applicable law or the regulations of the Medicare Advantage, PACE, Part D, Cost Plan, or Medicaid programs. These Part C and D organizations must continue to comply with the requirements of their respective programs in addition to complying with Section 1557 and the implementing regulation. As part of the Section 1557 requirements, sponsors are required to post taglines on websites and critical documents in

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<sup>1</sup> 42 C.F.R. §§ 422.2264(e), 423.2264(e) (2012).

<sup>2</sup> Medicare Marketing Guidelines, Section 30.5 (June 10, 2016).

<sup>3</sup> <http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>.

the top 15 non-English languages in the States they operate in advising enrollees of the availability of language assistance services. The top 15 non-English languages by State can be found on the Office for Civil Rights’ website. <https://www.hhs.gov/sites/default/files/resources-for-covered-entities-top-15-languages-list.pdf>

CMS Translations of Model Materials

CMS has translated several of the Part C and D contract year (CY) 2017 model materials to alleviate some of the translation burden on sponsors and provide consistency among translated materials. The specific Part C and D materials CMS translated are listed in Table 1. Sponsors must update the CMS-provided translations consistent with the May 10, 2016 HPMS memo entitled *Contract Year 2017 Annual Notice of Change/Evidence of Coverage Submission Requirements and Yearly Assessment*. Sponsors are free to continue to develop their own translations and, as needed, adapt the translations to accommodate the particular language needs of their members (e.g., Spanish speaking beneficiaries in Puerto Rico may be familiar with certain translations of health care terminology that may differ from how those terms are typically translated for Spanish speakers in the United States). Please be aware that we did not translate all model materials that must be translated.

The translated materials listed in Table 1 are available on the CMS website at the following locations:

- For Managed Care ANOC/EOC materials (including the PDP ANOC/EOC): <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial.html> Click on the zip file named “2017 Model Materials-Translations”
- For Part D model marketing materials: <http://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Part-D-Model-Marketing-Materials.html> Click on the zip file named “2017 Part D Models Translated”
- For enrollment forms: <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial.html> Click on the zip file named “CY2012 Translated Enrollment Forms”. Enrollment forms have not changed since CY2012.

**Table 1: CY2017 Part C and D Materials Translated by CMS**

<b>CY2017 Material Translated by CMS</b>	<b>Version</b>	<b>Language(s)</b>
<b>ANOC/EOC</b>	MA-PD (HMO)	Spanish and Chinese
	PDP	Spanish and Chinese
	PFFS	Spanish and Chinese
	PPO	Spanish and Chinese

	MA-only (PPO)	Spanish and Chinese
<b>Enrollment forms</b>	MA & MA-PD	Spanish and Chinese*
	PFFS	Spanish and Chinese*
	PDP	Spanish*
<b>Formulary</b>	Abridge and Comprehensive combined document	Spanish and Chinese
<b>Pharmacy Directory</b>	Part D	Spanish and Chinese
<b>Provider Directory</b>	Part C	Spanish and Chinese
<b>Transition Letter</b>	Part D	Spanish and Chinese
<b>Low Income Subsidy (LIS) Rider</b>	Part D	Spanish and Chinese

\* These documents have remained unchanged since contract year 2012.

Spanish translations of MMP materials can be found on the Financial Alignment Initiative web page.<sup>4</sup> CY 2017 Spanish translations of the Member/Participant Handbook (Evidence of Coverage), formulary, Summary of Benefits, ANOC and provider and pharmacy directory for California, Illinois, New York, Ohio, Rhode Island, South Carolina, Texas, and Massachusetts MMPs are posted to the webpage.

#### Material Language Lookup Module

To aid sponsors and MMPs in determining which languages they need to produce marketing materials for, CMS recently updated the Health Plan Management System (HPMS) Material Language Lookup module with language translation data for each of the 2017 plan benefit packages (PBPs), including MMPs. We determined which 2017 PBPs needed to provide translated materials by using the U.S. Census Bureau’s American Community Survey (ACS) data. Appendix A contains the step-by-step methodology we used to identify the percentage of non-English speakers in each PBP’s service area. With the exception of PBPs that include Puerto Rico in their service area, only those PBPs listed in the module are required to produce translated materials. Any plan operating in Puerto Rico must provide materials in Spanish.

The data in the Material Language Lookup module is based upon the service area data CMS displayed in HPMS for a PBP as of June 20, 2016. (Including “pending” counties.) If changes to your plan’s service area were reflected in HPMS after June 20, 2016, then your organization cannot rely on the data in the Material Language Lookup module and must conduct its own analysis using the methodology in Appendix A.

For MMPs, the Material Language Lookup module reflects the translation information for the more stringent of the Medicare or Medicaid translation standard, as applicable. MMPs should refer to their state-specific MMP marketing guidance document for more information about their specific translation requirements.

<sup>4</sup> <http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>

If you cannot find your organization's data, try using the multi-contract entity (MCE) ID associated with the contract. PACE, and Employer group contracts (i.e., "E" contracts) are not included in the Material Language Lookup module. A result of "NA" indicates that a PBP does not need to provide translated materials.

To access the HPMS Material Language Lookup module, please follow this path: HPMS Home Page > Monitoring > Marketing Review > Material Language Lookup > Select a contract ID or MCE number. The Material Language Lookup results display the contract ID, PBP (plan) ID, and non-English language(s) needed for marketing materials.

### Translated Materials Monitoring

Periodically throughout the year, CMS will be monitoring whether 2017 PBPs that meet the 5% threshold provide translated materials on their websites and whether sponsors have uploaded translated materials into HPMS.

### Upload Translated Materials into HPMS

As a reminder, sponsors must upload the requisite translated materials into HPMS consistent with the Medicare Marketing Guidelines.<sup>5</sup>

If you have any questions about this memo, please contact Keely Ireland at [Keely.Ireland@cms.hhs.gov](mailto:Keely.Ireland@cms.hhs.gov) or (410) 786-7160.

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<sup>5</sup> Medicare Marketing Guidelines, Section 90.2.1 (June 10, 2016).

## **Appendix A: Methodology to Identify Plan Benefit Packages (PBPs) With Limited-English-Proficient (LEP) Populations**

The purpose of this document is to help Medicare Part C and D plan sponsors verify the language use and translation requirements for each plan benefit package (PBP) service area. Plan sponsors must translate specific marketing materials into any language that is the primary language of at least 5% of the individuals in a PBP service area. These steps assume that you will be downloading data and working with them in a program of your choice (Excel, SPSS, STATA, SAS, etc.). Specific instructions for using those programs are not given.

### **Step 1: Service Areas**

A. Obtain plan's 2017 service area data from the Health Plan Management System, Data Extract Facility, Service Area (e.g. ServiceAreaIndPlanLocalMA.txt). If your service area covers multiple counties, rather than states, you will be calculating percentages at the county level.

B. If your service area covers a partial county, treat it as though it covered the whole county.

### **Step 2: Determine Percentage of LEP Population in Each State or County**

For this step, you will need to download data from one or more of the following three U.S. Census Bureau's American Community Survey datasets:

A. American Community Survey (ACS) 2014 1-year estimates,  
and/or

B. American Community Survey (ACS) 2010-2014 5-year estimates.

All of these datasets are available on the census bureau website: [www.census.gov](http://www.census.gov).

The ACS surveys are conducted on an ongoing basis and have been sent to several hundred thousand people per month. ACS surveys represent more current information than the Decennial Census, though for recent surveys (the 1-year estimates) has been available for counties with populations greater than 65,000; the 3-year estimate was previously (**no longer**) only available for counties with populations greater than 20,000. The 5-year estimate covers all counties in all states (but not territories).

#### **Step 2.1: Obtaining Data**

To obtain the data needed to determine statistics for the populations of language speakers in your service area and the ability to speak English at home follow these steps.

A. Go to [www.census.gov](http://www.census.gov) (the U.S. Census website).

B. To get to the **American FactFinder**, go to the bottom of the page to the heading "**Find Data**" and click on American FactFinder. On the next page that comes up, find the "**What We Provide**" section, and click on American Community Survey "**get data**".

C. In the "**Refine your search results**" box, type in: "**Language Spoken at Home**". View the autofilled choices and click on the **B16001: Language Spoken at Home by Ability to Speak English...** Select **Go**.

D. Click on the **Geographies** box on the left side of the webpage, and under the --select a geographic type— select **County -050-**. Ignore the **select a state** box, and then select **All Counties within United States** in the last box and click on **ADD TO YOUR SELECTIONS**. After the site has done "**....Loading....**," click on **CLOSE X** to close the pop-up box in this **Geographies** section. Select **Go**.

E. Go to the list of resulting tables and after scrolling down, check the three boxes identifying **B16001: Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over**. (The tables downloaded will provide 1, and 5 year estimates of language proficiency by county used for the calculations).

F. At the bottom of the list, click on **Download** and when prompted, click on **OK**.

G. When notified that your file is complete, click **DOWNLOAD** in the resulting selection box.

H. Save the download file (aff\_download.zip) and unzip it. The data files are two .csv files: **ACS\_14\_1YR\_B16001\_with\_ann.csv**, **ACS\_14\_5YR\_B16001\_with\_ann.csv**. There are also two associated .txt files, two "metadata" .csv files, and a Readme file which provides file descriptions and notes. Save the files with your chosen program (Excel, etc.) in a subdirectory that identifies these as **County B** files.

Clear the county-based selections by going to the **Your Selections** box at the top left of the page and click on **clear all selections and start a new search**.

I. Next, download language statistics by **State**, as opposed to **County** by returning to Step C. above and repeating it,

J. Click on the **Geographies** box on the left side of the webpage, and under the --select a geographic type— select **State -40-**. In the next box select **All States within United States, Puerto Rico, and the Island Areas** in the last box and click on **ADD TO YOUR SELECTIONS**. After the site is done "**....Loading....**," Click on the **CLOSE X** selection in this **Geographies** section. Select **Go**.

K. Go to the list of resulting tables and check the two boxes identifying **B16001: Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over (for 2013)**. (The tables downloaded will provide 1, and 5 year estimates of language proficiency by state that can be used for the Regional MA and PDP calculations).

L. At the bottom of the list, click on **Download** and when prompted, click on **OK**.

M. When notified that your file is complete, click **DOWNLOAD**.

N. Save the download file and unzip it. The data files are two .csv files:

**ACS\_14\_1YR\_B16001\_with\_ann.csv and ACS\_14\_5YR\_B16001\_with\_ann.csv**. There are also two associated .txt files, two “metadata” .csv files, and a Readme file which provides file descriptions and notes. Save the files with your chosen program (Excel, etc.) in a subdirectory that identifies these as State files.

O. The information needed to calculate LEP percentages are in the county and state files downloaded above. The files contain the following information for states or counties. The information includes the geographic identifier, the county or state population total (estimate) and the county or state estimates for the numbers of people who can speak English less than well. (Note: Every language variable has a Margin of Error (MOE) estimate after it. You can ignore these. Also note that the individual language estimates are ultimately aggregated according to the documentation in Appendix B.)

Columns 2/3 (Excel: B, C)—Geographic County/State descriptors

Column 4 (Excel: D)—Total population total estimate for geographic area.  
(Denominator)

Column 12 (Excel: L), 18, 24, 30 etc.....Estimate of Spanish, French, French Creole, Italian, etc.) population who can speak English Less than Well. (Numerator).

P. If there are any states/counties in your plan’s service area where the data field was blank or that were not in the 1-year ACS estimate then you will need to use data from the 5 year ACS estimate (**ACS\_14\_5YR\_B16001\_with\_ann.csv**) to obtain data for the missing counties or states.

**Note on Missing States/Counties:**

If you are obtaining data from multiple datasets, you will have to combine the datasets before performing the calculation steps in the next section. When you do this, be careful to only add data for the states/counties that are missing in the more recent datasets. (For instance, 5-Year ACS data would be added to 1-Year ACS data, without replacing any data for the states/counties that are in the 1-Year ACS set.)

**Step 2.2: Calculating the 5% Less Than Very Well (LTVW) Population Percentages**

A. As noted above, the quality of English spoken at home variables (B Series) need to be aggregated, as necessary to the appropriate categories based on the Appendix B crosswalk.

B. Once you have obtained the population and language data for all states and/or counties in your plan’s service area, make sure that you have combined all datasets (ACS 1-Year and/or ACS 5-Year, if applicable).

C. Using the variable “Total Population” (see Obtaining Data step 2.1.K.), sum this variable across all states and/or counties in your plan’s service area to create a **Grand Total Population** for your service area (this will be your denominator for all languages).

D. For each language other than English (see Obtaining Data steps 2.1.K), sum the number of individuals who speak that language and English less than very well in all states and/or counties in your plan’s service area to create a **Grand Total of Individuals Who Speak a Given Language and English Less Than Very Well** for your service area (this will be your numerator for each specific language calculation).

E. For each language, divide the **Grand Total of Individuals Who Speak a Given Language and English Less Than Very Well** in the service area by the **Grand Total Population** in the service area. For every language for which this number is 5% or greater, the plan must provide translated marketing materials.

## Appendix B: Differences in Language Variables between 2000 Census and ACS

This table describes how to combine the language categories in the 2000 Decennial census in order to match the categories in the American Community Surveys

Language Category in 2000 Census	Language Category in ACS
English	English
Spanish or Spanish Creole	Spanish
French (incl. Patois; Cajun) French Creole	French
German Yiddish Other West Germanic Languages	German
Russian Polish Serbo-Croatian Other Slavic Languages	Slavic
Italian Portuguese or Portuguese Creole Scandinavian Languages Greek Armenian Persian Gujarathi Hindi Urdu Other Indic Languages Other Indo-European Languages	Other Indo-European
Korean	Korean
Chinese	Chinese
Vietnamese	Vietnamese
Tagalog	Tagalog
Japanese Mon-Khmer; Cambodian Hmong Thai Laotian Other Asian Languages Other Pacific Island Languages	Other Asian Pacific Island
Navajo Other Native North American Languages Hungarian Arabic Hebrew African Languages Other and unspecified languages	Other