EFFECTIVE COMMUNICATION IN MEDICAL SETTINGS

HEALTH CARE PROVIDERS MUST ENSURE EFFECTIVE COMMUNICATION WITH PATIENTS AND THEIR COMPANIONS
The Americans with Disabilities Act ("ADA") is the primary law which prohibits discrimination against individuals with disabilities. People who are deaf, hard of hearing, blind, have low vision, or deaf-blind are considered disabled.

The ADA applies to physicians, hospitals, and other medical providers.

Most medical settings accept federal funds (Medicare, Medicare). This receipt of federal funds result in those medical settings being covered by Section 504 of the Rehabilitation Act of 1973 ("Section 504").

Section 1557 of the Affordable Care Act ("Section 1557") prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health care programs and activities.

The ADA, Section 504, Section 1557, and other related laws require health care providers to ensure effective communication with patients and their companions. This requirement includes providing auxiliary aids and services at no cost to their patients and companions with disabilities.

“Companion” means a person who is a family member, friend, or associate of the patient, and who, along with the patient, is an appropriate person with whom the provider should communicate.

People who are deaf, hard of hearing, blind, have low vision, or deaf-blind should be asked about their communication needs in order to determine the most effective auxiliary aids and services.
WHAT IS EFFECTIVE COMMUNICATION?

• The ADA makes clear that providing effective communication to individuals with disabilities, due to being deaf, hard of hearing, blind, having low vision, or deaf-blind means providing written or spoken communication that is as effective as communication to others without such disabilities.

• Essentially, effective communication means EQUAL COMMUNICATION.
ENSURING EFFECTIVE COMMUNICATION

• ADA, Section 504 and Section 1557 require hospitals, medical providers, and their staff members to provide auxiliary aids or services to a person with a disability (whether patients or companions of patients) if necessary to ensure effective communication.

• Section 1557 also requires covered entities to provide reasonable language assistance, free of charge, to persons of limited English proficiency ("LEP"). Medical providers must put patients, and members of the public on notice of compliance with Section 1557. These notices, in part, must be published in at least the top 15 non-English languages spoken by persons with LEP in the State.

• Medical providers must provide auxiliary aids/services unless doing so will be a fundamental alteration in the program/service or constitute an undue financial burden (taking into account all of the provider’s financial resources).
EXAMPLES OF AUXILIARY AIDS AND SERVICES

- Qualified Sign Language Interpreter (in person and on site)
- Video Remote Interpreting Services (“VRI”)
- Instant or Text Messaging (for short simple information)
- Exchange of Written Notes (for short simple information)
- Open or Closed Captioning for TV
- Video Phone, Text Phone
- Note Taker
- Braille display or embosser
- Magnification devices
- Written materials in an accessible format, such as large print, Braille, or in a recorded format
- Service animals
- An individual to assist in reading printed or handwritten materials
For the majority of people who are born deaf or became deaf as children, American Sign Language ("ASL") is their primary language and English their second language.

Another type of sign language used is Signed English ("SE").

Other sign languages vary based on culture or country of origin.

When arranging for an interpreter, it is important to confirm which type of sign language a person uses.
Non-Inclusive Examples of When Qualified Sign Language Interpreters May Be Needed

- Obtaining patient history and symptoms
- Discussion of medical tests or medications
- Discussion to obtain informed consent
- Discussion of diagnosis and treatment plan
- Discussion related to any patient concerns
Use of On-Site or Video-Remote Interpreters

- Qualified sign language interpreter services can be provided via an on-site appearance or by video remote interpreting (“VRI”). However, VRI does not work for every patient/companion or situation.

- Short written notes may be effective for simple communications such as when a patient is dropping off a lab sample or getting a weekly allergy shot.

- But, as noted previously, communications about more complex medical issues may require use of an interpreter.
VIDEO REMOTE INTERPRETING MUST MEET Department of Justice Requirements

• These requirements include:

• Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry or grainy images, or irregular pauses in communication.

• A sharply delineated image that is large enough to display the interpreter’s face, arms, hands, and fingers, and the participating individual’s face, arms, hands, and fingers, regardless of body position.

• A clear, audible transmission of voices.

• Adequate training to users of the equipment so that they may efficiently operate the VRI.
What Is A Qualified Interpreter?

• Conveys communication effectively, accurately and impartially; must sign what is being spoken, and speak what is being signed.

• People who “know some sign language” are NOT qualified interpreters.

• Finger spelling is NOT sign language.

• Even if certified, a sign language interpreter is not qualified to interpret for a particular deaf patient/companion if that person is unable to effectively understand the interpreter. Example: Interpreter is not qualified if they may not be familiar with certain vocabulary or may be hard to follow.

• Minor children are NEVER qualified interpreters. Family members are USUALLY NOT qualified interpreters. Hospitals should not use minor children as interpreters, nor normally rely on family members as interpreters. However, deaf people can CHOOSE to use a family member as an interpreter, but only if appropriate to the situation, and requested by the patient/companion. Hospitals should not ask a family member or companion to serve as an interpreter.
General Assessment for Auxiliary Aids and Services

• MSHA personnel shall determine the need for any auxiliary aids/services and the timing, duration and frequency with which they will be provided, after consultation with the disabled person.

• This assessment, to the extent possible, should be made at the time an appointment is scheduled for the patient or on the arrival of the patient or companion who is deaf, hard of hearing, blind, has low vision, or deaf-blind at a MSHA hospital, whichever is earlier. The results of this assessment shall be documented in the medical chart by the use of a Model Communication Assessment Form, as used by MSHA, which shall be completed.

• After such assessment, MSHA shall provide the patient/companion who is deaf, hard of hearing, blind, has low vision, or deaf-blind with any appropriate auxiliary aid/service that is necessary for effective communication.
PROVIDING SIGN LANGUAGE INTERPRETERS or Other Auxiliary Aid/Service

• If you are in need of a sign language interpreter or other auxiliary aid or service for a patient deaf, hard of hearing, blind, has low vision, or deaf-blind patient or companion, contact the house supervisor, who can assist in answering any questions and provide assistance in access to any auxiliary aids or services.

• Each hospital shall maintain a log, or a master log shall be maintained in MSHA Administration where requests for interpreters, whether on-site or by VRI, or other auxiliary aid or service, are made, shall be documented. It will be the responsibility of the medical professional to appropriately document any request and such other required information, and if such request is not met, including a statement explaining why such auxiliary aid/service was not provided and what MSHA person made such decision.
“Non-scheduled interpreter request” means a request for an interpreter made by a deaf or hard of hearing patient/companion less than 2 hours before the patient arrives to the hospital for examination or treatment. For these requests, MSHA personnel must complete the assessment discussed in this presentation, and provide an interpreter no more than 2 hours from the completion of the assessment if the interpreter is located off-site, or if such interpreter can’t be provided within such 2 hour window, 30 minutes from the completion of the assessment if the service is being provided by VRI.
“Scheduled interpreter requests” means a request for an interpreter made 2 or more hours before the services of the interpreter are needed. For these requests, MSHA personnel must complete the assessment discussed in this presentation in advance of the patient’s first visit, and will make a qualified interpreter available at the time of the scheduled appointment. If the interpreter fails to arrive for the scheduled appointment, MSHA personnel must immediately call for another qualified interpreter.
PROVIDING SIGN LANGUAGE INTERPRETERS
or Other Auxiliary Aid/Service
(CONTINUED)

• As soon as MSHA personnel have determined that a qualified interpreter is needed for effective communication with a deaf or hard of hearing patient/companion, MSHA personnel will inform the patient/companion of the current status of efforts being taken to secure such interpreter, and shall provide periodic updates, as necessary, until the interpreter is secured.

• Between the time an interpreter is requested and provided, MSHA personnel will continue to try to communicate with the deaf or hard of hearing patient/companion, as best possible, including using sign language pictographs.
Effective Communication Complaint Resolution

• MSHA has established a grievance resolution process for the investigation of disputes regarding effective communication issues with patients/companions.

• MSHA maintain records of all grievances made to any provider and the actions taken with respect to such grievances.

• It is the responsibility of the staff to notify patients/companions who are deaf, hard of hearing, blind, have low vision, or are deaf-blind of the MSHA grievance resolution process, to whom complaints can be made, and of the right to receive a written response to the grievance. This notification shall be given verbally during the assessment of the patient and shall appear on a Communication Assessment Form.

• Copies of all grievances and responses to them are maintained by MSHA.
MSHA POLICY AND NOTIFICATION RELATED TO EFFECTIVE COMMUNICATION

• MSHA has a policy related to effective communication for its team members and affiliated staff and entities. This policy can be accessed through the Policy Manager on the MSHA Intranet.

• MSHA has posted conspicuous signs, related to effective communication rights, in admitting stations, the emergency department, and wherever a patient’s bill of rights sign is posted.

• MSHA has posted on its website and included in the patient handbook, the information related to the provision of effective communication rights for the deaf, hard of hearing, blind, have low vision, or deaf-blind patients/companions.

• All MSHA personnel shall be required to complete mandatory training, on an annual basis, related to the provision of effective communication to the deaf, hard of hearing, blind, visually impaired or deaf-blind patient or companion.
IMPORTANT POINTS FOR HEALTH CARE PROVIDERS

• If any MSHA personnel or staff recognize or has any reason to believe that a patient or a relative, close friend or companion of a patient is deaf, hard of hearing, blind, has low vision, deaf-blind, or a person of LEP, you must advise the person that appropriate auxiliary aids and services will be provided free of charge. You are responsible, as a provider, or MSHA personnel or staff, to ensure that such aids/services are provided when appropriate.

• Hospitals can’t require people who are deaf, hard of hearing, blind, have low vision, deaf-blind or a person of LEP, to bring or utilize another person, such as a family member, to help communicate with them.

• The Hospital is responsible for paying for the cost of qualified auxiliary aids or services.

• Generally, while the patient/companion must request an auxiliary aid or service before the health care provider has an obligation to provide it, if the hospital or health care provider suspects that a patient/companion is having difficulty communicating as a result of being deaf, hard of hearing, blind, has low vision, deaf-blind, or a person of LEP, it is important that the hospital or health care provider offer a sign language interpreter or other auxiliary aid or service which results in effective communication.
The fact that the cost of providing an auxiliary aid or service to one patient/companion may be more than the fees paid by that person is NOT a sufficient reason for a provider to refuse to provide the auxiliary aid or service.

Health care providers should determine whether providing a particular auxiliary aid or service constitutes an undue financial or administrative burden by looking at their overall resources, including the resources of any parent organization.

The auxiliary aid/service the provider chooses MUST result in effective communication. When selecting an auxiliary aid/service for effective communication, hospitals MUST give primary consideration to the request of the person who is deaf, hard of hearing, blind, has low vision, deaf-blind, or person of Limited English Proficiency (LEP). However, hospitals are not required to always provide the exact auxiliary aid/service requested. Keep in mind, the person with the disability is normally the best judge of whether they understand the information being exchanged.
Reminder!

• Should you have any questions about the information contained in this course, or wish to learn more about effective communication by health care providers for patients or their companions who are deaf, hard of hearing, blind, have now vision, deaf-blind, or persons of limited English proficiency, you may contact the:
  • Risk Management Department
  • Legal Department of MSHA
  • MSHA Non-Discrimination Coordinator, Paula Whitehead
Almost finished....

Please close this window and return to TEDS to complete the test for this course.