



## Interpreters for Deaf Patients

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Physicians are well aware of the central role clear communication plays in the physician-patient relationship. Patients who are deaf present special challenges to effective interactions. Ophthalmologists often have questions about how to obtain and reimburse interpreters, and whether family members can fulfill this role. This document will provide some basic information on federal rules on these topics, and present risk management recommendations on how to meet the needs of these patients and the practice.

### **COMMUNICATING WITH HEARING-DISABLED PATIENTS**

The Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.* prohibits discrimination based on disability. It requires those who own, lease, or operate a place of public accommodation, such as a physician's office, to make reasonable accommodations to meet the needs of patients with disabilities, unless "an undue burden or a fundamental alteration would result" ("ADA Title III Technical Assistance Manual," <http://www.usdoj.gov/crt/ada/taman3.html>, accessed 1/10/06).

Actions, standards, and policies that either intentionally discriminate or have the effect of discrimination against persons with disabilities are prohibited. Moreover, failure to take steps that may be necessary to ensure access, such as providing auxiliary aids and services, could be seen as discriminatory.

### **Medical group or physician's responsibility**

Although the law has been interpreted "by some as creating a requirement that the physician provide and pay for the cost of hearing interpreters for their patients who are hearing disabled," The American Medical Association has noted that there is "no hard and fast requirement for the provision of such services" and that the ADA "does not mandate the use of interpreters in every instance" ("AMA Legal

Issues: Americans with Disabilities Act and Hearing Interpreters” <http://www.ama-assn.org/ana/pub/category/print/4616.html>, accessed 11/21/05, no longer available). The Supreme Court ruled in an education suit, for example, that American Sign Language (ASL) interpreters are not required when lip reading or other accommodations are sufficient. In the medical arena, physicians often rely upon note pads to communicate with deaf patients. At times, such as before major surgery, or when initiating a treatment plan for a complex condition, an interpreter may be necessary.

The medical group or physician is responsible for deciding what particular aid or service will be provided, based in part upon an analysis of the length and/or complexity of the medical service, treatment, or procedure. A patient’s request for a sign language interpreter should be a significant factor in the decision. Medical groups need to evaluate whether providing such a service would result in an undue burden on the overall practice.

### **RISK MANAGEMENT RECOMMENDATIONS**

- Conduct an analysis of your obligations
  - It is prudent to keep a file of the documents from federal agencies and your analysis of your obligations, as well as the policies and procedures you implement based upon them (your compliance plan).
  - If you have questions about the validity of your analysis or compliance plan, contact the Department of Justice.
- Train staff to recognize when a deaf patient is calling (i.e., when the telephone call is received through TDD—telecommunication device for the deaf—equipment or relay services). Staff should document the patient’s questions and answers.
- Assess the patient’s needs before providing a particular auxiliary aid or service.
  - Ask the referring physician how he or she usually communicates with the patient.
  - Consult with the patient about his or her needs when the appointment is scheduled, and document the discussion.
  - If a patient requests an interpreter, ask staff to acknowledge the request and gather more information about the patient’s concerns/expectations for the visit so that the physician can determine the best way to meet them.
  - Document the decision and the assistance provided.
    - For many routine office visits, a notepad may be sufficient to ensure good communication.
    - Office visits before major surgery or for a new, complex treatment plan may require an interpreter.
    - If the physician and patient disagree, reconsider the decision.
  - Maintain a list of qualified sign language and oral interpreters.
- Payment issues
  - The costs of the aids cannot be passed onto the patient.
  - The patient’s employer, health plan, Medicare, or a local hospital may be able to help provide or pay for an ASL interpreter.

**OMIC’s Risk Management Department can be an important source of information and support for policyholders engaged in these evaluations and discussions. Please call 1.800.562.6642, option 4 or email us at [riskmanagement@omic.com](mailto:riskmanagement@omic.com).**