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It's the law: California patients can have an interpreter at their side

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Published Saturday, Jan. 03, 2009

Millions of Californians with limited English proficiency now have the right to an interpreter from their commercial health and dental plans – made possible by a first-in-the-nation law aimed at dismantling the language barriers that get in the way of good medicine.

The new regulation – implemented New Year's Day after five years of hearings, delays and wrangling among insurance companies, regulators and consumer advocates – is widely hailed as a milestone in reducing mistakes because of miscommunication.

"This is really huge, especially in California where we're getting more and more diverse," said Martin Martinez, policy director for the California Pan-Ethnic Health Network. "Even if you speak English well, it's really hard to understand what your doctor is saying."

As many as 7 million Californians – about half of them enrolled in health maintenance organizations, or HMOs – lack English fluency and could benefit from the new language service.

Patients rights advocates applaud the new rules but fear non-English speakers won't be told about the help now available to them. To spread the word, the state is launching a publicity drive in the coming weeks.

"This law has been some time coming," said Anthony Wright, executive director of California Health Access. "Our big concern now is whether people have adequate notice about their rights and can actually use them."

Doctors' orders will now have to be translated, at least orally, into Spanish, Mandarin, Hmong, Russian – any spoken language.

The scope and cost of the task – estimated by insurers to be about \$25 million – make it the biggest regulation effort undertaken by the California Department of Managed Health Care, which oversees HMOs.

The law, Senate Bill 853, was signed in 2003 but shelved as part of a moratorium imposed by Gov. Arnold Schwarzenegger when he took office. It was finally dusted off, but insurers balked at the cost.

"Obviously, we know this is a diverse state and people speak many different languages," said Nicole Kasabian Evans, spokeswoman for the California Association of Health Plans. The insurers' concern, she said, was about balancing access and affordability. Some insurers plan to contract out the language services.

Some of the building blocks were already in place because federal law requires health plans to offer interpreters to those enrolled in Medi-Cal or Healthy Families.

For years, larger hospitals have had interpreters standing by. Kaiser Permanente, for instance, has 50 at its Northern California facilities and has 3,400 employees with second-language skills.

But many patients did not have guaranteed access to interpreters.

For that reason, California's law is broad in its sweep. It requires health, dental and specialty insurers to provide subscribers with translators, at least by telephone, while visiting their doctor, pharmacist, ophthalmologist or dentist.

"The intent is that better communication leads to better health care. To the extent we can make that possible, we're going to work to do that," said Ben Singer, a spokesman for Anthem Blue Cross, which provides dental and medical insurance to 8 million Californians.

More than 40 percent of the state's 37 million residents speak a language other than English, according to U.S. census estimates. A fifth of the population say they do not speak English "very well."

The new law could help lift the burden from immigrants such as Natasha Vakulchik of Rancho Cordova, a pre-kindergarten teacher whose Russian-speaking family depends on her to translate.

"My parents use me, my parents-in-law use me. I translate for everybody," said Vakulchik, 30. "It's hard. You can't expect me to know everything.

"I don't know medical terms. Even if I know English well, half the time I didn't even know what they're talking about," she said, referring to doctors. "If they're talking about organs, I wouldn't even know what they are in Russian. Sometimes, they had to show me using pictures."

When her brother, hurt in an accident, couldn't understand why he was receiving letters and bills from the hospital and insurance company, Vakulchik tried to help.

The insurer "would not talk to me," she said. "Sometimes they would even hang up on me. They told me that my brother needed to be on the phone. I told them that he couldn't speak English, so how can he talk to them?"

Cindy Ehnés, director of the state Managed Health Care Department, said she was moved by the testimony at hearings across the state.

"It was an incredible eye-opener to me," she said. "Often these people who can't speak English are told to go home unless they bring somebody who can. It was like being treated by a system as if they had no consequence."

At a Los Angeles hearing in February 2006, Ehnés heard a Spanish-speaking woman describe how her cancer spread after going undetected in 2000 because doctors were examining the wrong breast – and how her request for a translator was ignored. Ehnés herself is a cancer survivor.

The woman returned to the hospital four years later when her cancer was already at an advanced stage. She brought her daughter to translate, but the sobbing child could not bear to tell her mother the severity of the cancer and merely said that things were fine.

"Nobody really tracks all of the errors being done because of language miscommunication and lack of language services," said Ellen Wu, executive director of Pan-Ethnic Health Network.

Meanwhile, the California Healthcare Interpreting Association in Sacramento is pushing for a certification program to ensure that interpreters used by health plans are well-versed in medical lingo and the languages they translate.

The new regulations require interpreters to have demonstrated proficiency but don't "say what that level of proficiency is and how it should be demonstrated," said Don Schinske, the association's executive director.

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