



## **CENTER FOR MEDICARE**

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**DATE:** August 17, 2012

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

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**SUBJECT:** Contract Year 2013 Translated Marketing Materials Requirements and Methodology

### Background

Medicare Part C and Part D sponsors (plan sponsors), “must translate marketing materials 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, plan sponsors that have service areas which meet the 5% threshold must provide the translated marketing materials listed in Table 1 on their websites and in hard-copy upon beneficiary request.<sup>2</sup> Plan sponsors may, but are not required to, translate other types of materials and/or translate documents into languages that do not meet the 5% threshold. Please note that guidance related to Financial Alignment Demonstration contracts’ translation requirements will be provided separately.

### CMS Translations of Model Marketing Materials

As discussed in the preamble to the final rule, CMS has translated specific 2013 model marketing materials.<sup>3</sup> This alleviates some of the translation burden on plan sponsors and will provide consistency among translated materials. The specific translated materials and languages are listed in Table 1. These materials were released through an August 1, 2012 HPMS email and are available on the CMS website at the following locations.

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<sup>1</sup> 42 C.F.R. §§ 422.2264(e), 423.2264(e) (2011).

<sup>2</sup> Prescription Drug Benefit Manual, Chapter 2, Medicare Marketing Guidelines and Managed Care Manual, Chapter 3, Medicare Marketing Guidelines, Section 30.7 (June 7, 2012).

<sup>3</sup> 76 Fed. Reg. 21513 (April 15, 2011).

Managed Care marketing materials: <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/index.html?redirect=/ManagedCareMarketing>;

Part D model marketing materials: <http://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Part-D-Model-Marketing-Materials.html>.

Part C and D Enrollment forms: See the August 31, 2011 Health Plan Management System (HPMS) E-mail and attachments.

**Table 1: 2013 Marketing Material Translations**

<b>2013 Required Translated Marketing Material</b>	<b>Version</b>	<b>Language(s)</b>
<b>ANOC/EOC</b>	MA-PD (HMO)	Spanish and Chinese
	PDP	Spanish
	PFFS	Spanish and Chinese
	PPO	Spanish and Chinese
	MA-only	Spanish and Chinese
<b>Enrollment forms</b>	MA & MA-PD	Spanish and Chinese*
	PFFS	Spanish and Chinese*
	PDP	Spanish*
<b>Formulary</b>	Comprehensive	Spanish
	Abridged	Spanish
<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

\* The document remained unchanged from contract year 2012.

#### Update of Material Language Lookup Module Data

To aid plan sponsors in determining for which languages they need to produce marketing materials, CMS recently updated the Health Plan Management System (HPMS) Material Language Lookup module with language translation data for each 2013 plan benefit package (PBP). CMS' contractor, Fu and Associates (Fu), determined which 2013 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 Fu used to identify the percentage of non-English speakers in each PBP's service area. Please be aware that the data in the Material Language Lookup module is based upon the service area data CMS displayed in HPMS for a PBP as of May 18, 2012. If changes to your plan's service area were reflected in HPMS after May 18, 2012, 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. CMS will not update the Material Language Lookup module with more recent 2013 service area data.

Plan sponsors should visit the Material Language Lookup module and review the data for each 2013 contract and PBP to determine whether they need to translate marketing materials and upload the requisite translated materials into HPMS consistent with the Medicare Marketing Guidelines.<sup>4</sup> 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. “NA” indicates that a PBP does not need to provide translated materials. Any plan operating in Puerto Rico must provide materials in Spanish. If you cannot find your organization’s data by contract ID, try using the multi-contract entity (MCE) ID associated with the contract.

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. PACE, Employer group contracts (i.e., “E” contracts) and employer group PBPs (i.e., 800 series) are not included in the Material Language Lookup module.

### Translated Materials Monitoring

CMS will be monitoring whether 2013 PBPs that meet the 5% threshold provide translated materials on their websites during the annual enrollment period (AEP) and whether plan sponsors have uploaded translated marketing materials into HPMS.

### Frequently Asked Questions and answers

**Question 1:** Are sponsors required to use the CMS-produced translations of the models, or may they arrange for their own translations of the models?

**Answer 1:** Sponsors may certainly continue to produce their own translations of the model documents, if they so choose.

**Question 2:** If sponsors use the CMS-produced translations of the models, may they modify certain word choices? For instance, 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 50 states.

**Answer 2:** Yes, sponsors should adapt the translations to accommodate the particular language needs of their members.

**Question 3:** Did CMS’ language analysis conducted to determine translation requirements include 2013 “pending” counties that were in the system as of May 18, 2012?

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<sup>4</sup> Prescription Drug Benefit Manual, Chapter 2, Medicare Marketing Guidelines and Managed Care Manual, Chapter 3, Medicare Marketing Guidelines, 90.2.1 (June 7, 2012).

**Answer 3:** Yes, pending counties were included in the analysis.

**Question 4:** What should sponsors do if they identify any problems with the CMS-produced translations?

**Answer 4:** Plan sponsors should correct any problems with the translations and report the concern to CMS ([Gregory.Bottiani@cms.hhs.gov](mailto:Gregory.Bottiani@cms.hhs.gov)).

If you have any questions about this memo, please contact [Linda.Gousis@cms.hhs.gov](mailto:Linda.Gousis@cms.hhs.gov) or (410) 786-8616.

## **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<sup>5</sup> 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 the programs are not given.

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

A. Obtain plan's 2013 service area data from the Health Plan Management System > Data Extract Facility > Service Area (e.g., ServiceAreaPlanLocalMA.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 three U.S. Census Bureau's American Community Survey (ACS) datasets (listed below). The ACS surveys are conducted on an ongoing basis and represent more current information than the Decennial Census, though the most current survey (the 1-year estimates) is only available for counties with populations greater than 65,000; the 3-year estimate is only available for counties with populations greater than 20,000; and the 5-year estimate covers all counties. Instructions for accessing these datasets are in Step 2.1.

You will be using these files:

- A. American Community Survey (ACS) 2010 1-year estimates
- B. American Community Survey (ACS) 2008-2010 3-year estimates
- C. American Community Survey (ACS) 2006-2010 5-year estimates

#### **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 Bureau website).

B. Click on "American Fact Finder," from the "Data" tab at the top of the website. Click on the "Search" tab.

C. In the "Narrow your search" box. Type in: "Language Spoken at Home" and select "Go."

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<sup>5</sup> See Table 1 in the main body of this memo.

D. Click on the “Geographies” box on the left side of the webpage. From the “Select a geographic type” drop down select “County.” Ignore the “select a state” box, and then select/highlight “All Counties within United States” in the last box and click on “ADD TO YOUR SELECTIONS.” After the site is done “. . .Loading...,” (which may only show for slower connections) click on the “CLOSE X” to close the pop-up box in this “Select Geographies” section.

E. Go to the list of resulting tables and 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, 3, and 5 year estimates of language proficiency by county used for the calculations). The files will be called 2010 ACS 1-year estimates, 2010 ACS 3-year estimates, and 2010 ACS 5-year estimates.

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.”

H. Save the download file and unzip it. The data files are 3 .csv files: **ACS\_10\_1YR\_B16001\_with\_ann.csv**, **ACS\_10\_3YR\_B16001\_with\_ann.csv**, **ACS\_10\_5YR\_B16001\_with\_ann.csv**. There are also three associated .txt files and a Readme file which provide file descriptions and notes. Save the files with your chosen program (Excel, etc.) in a subdirectory that identifies these as County files.

I. Next, download language statistics by state, as opposed to county by following the steps below.

J. Click on the “Geographies” box on the left side of the webpage. From the “Select a geographic type” drop down select “State”. In the next box select/highlight “All States within United States” in the last box and click on “ADD TO YOUR SELECTIONS.” After the site is done “. . .Loading...,” (which may only show for slower connections) click on the “CLOSE X” selection in this “Select Geographies” section.

K. Go to the list of resulting tables and 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, 3, and 5 year estimates of language proficiency by state that can be used for the Regional MA and PDP calculations). The files will be called 2010 ACS 1-year estimates, 2010 ACS 3-year estimates, and 2010 ACS 5-year estimates

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 3 .csv files: **ACS\_10\_1YR\_B16001\_with\_ann.csv**, **ACS\_10\_3YR\_B16001\_with\_ann.csv**, **ACS\_10\_5YR\_B16001\_with\_ann.csv**. There are also three associated .txt files and a Readme

file which provide file descriptions and notes. Save the files with your chosen program (Excel, etc.) in a subdirectory that identifies these as **State** files.

O. Everything you need to calculate LEP percentages are in the county and state files downloaded per the instructions 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 speak an non-English language. (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.)

In all of the downloaded files:

- Columns 2 and 3 (Excel: B, C) are Geographic County/State descriptors
- Column 4 (Excel: D) are total population total estimate for geographic area. (your denominator)
- Column 12 (Excel: L) 18, 24, 30, and etc. are estimates of populations (Spanish, French, French Creole, Italian, etc.) who can speak English Less than Very Well. (your 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 dataset, (e.g. **ACS\_10\_1YR\_B16001\_with\_ann.csv**) then use the 3 Year dataset (**ACS\_10\_3YR\_B16001\_with\_ann.csv**) to obtain the denominator and numerator information.

Q. 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 OR the 3-year ACS estimate, then you will need to use data from the 5 year ACS estimate (**ACS\_10\_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 merge 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, 3-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. Note that 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 merged all datasets (ACS 1-Year, ACS 3-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 Miao; 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