

**OFFICE OF MEDICARE
HEARINGS AND APPEALS
LANGUAGE ACCESS PLAN**

April 2024

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GENERAL POLICY STATEMENT

The Office of Medicare Hearings and Appeals (OMHA) will provide individuals with Limited English Proficiency (LEP) meaningful access to OMHA-conducted programs and activities. This will contribute to improved access to timely adjudication of Medicare claims appeals, leading to improved health outcomes and reduced health disparities for underserved communities identified in Title VI of the Civil Rights Act and Section 1557 of the Affordable Care Act, Executive Order (EO) 13985. OMHA encourages staff and contractors to adhere to the principles and requirements described in this Language Access Plan (LAP).

PURPOSE STATEMENT, LEGAL AUTHORITY AND SCOPE OF POLICY

This LAP is designed to ensure meaningful access to programs and activities administered by OMHA in accordance with EO 13166, 13985, 13995, 14031, and 14091, and the HHS Equity Action Plan issued in April 2022. Collectively, these authorities set overarching goals for HHS and OMHA to improve access for persons with LEP.

This plan is primarily focused on meaningful access for individuals with LEP, however, OMHA recognizes the requirements for effective communication with persons with disabilities under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act. While this plan does not primarily focus on effective communication

with individuals with disability, many aspects of this plan also apply to ensuring that OMHA is communicating effectively with persons with disabilities and, and, therefore, the plan does make reference to some, but certainly not all, effective communication requirements.

The LAP applies to all OMHA offices, and it is vital for OMHA employees to take action to deliver on its promise.

CRITICAL ELEMENTS

ELEMENT 1: ASSESSMENT AND NEEDS CAPACITY

Summary: *HHS agencies are expected to annually assess the extent that language assistance or in-language material was requested and/or accessed or otherwise needed by their customers, including beneficiaries and/or other health care and human services partners. HHS Agencies are also expected to develop a budget request to meet anticipated language assistance needs for the coming year.*

In March of each year, OMHA will assess the extent that language assistance or in-language material was requested and/or accessed or otherwise needed by customers, including beneficiaries, and/or other health care and human services partners, and develop a budget request to meet anticipated language assistance needs for the coming year.

OMHA will, on an ongoing basis, assess the language assistance needs of current and potential customers to inform policy, processes, and budgeting necessary to increase awareness of and implement language assistance services for persons with LEP.

This assessment will include 1) identifying the non-English languages, including American Sign Language (ASL) or other sign languages, used by the population in need of and eligible for the agency's services, and 2) the barriers – including resource barriers – that hinder provision of effective interpretation and written communication with individuals with LEP.

Action Steps:

- a. Each year, OMHA's Division of Financial and Administrative Management (DFAM) and Appeals Policy and Operations Division (APOD) or their equivalents, will participate in at least one listening session, hosted by HHS as a whole, to learn about challenges and opportunities for improvement in the agency's language access efforts, and consult subject matter experts to determine whether the agency's current language access program is effective and complies with Section 1557 of the Affordable Care Act, as well as this Language Access Plan.
- b. Representatives of OMHA's DFAM and APOD Divisions will regularly participate on at least one inter-agency or intra-agency language access working group to identify methods for improving agency proficiency in providing language assistance services,

ensuring the availability and effective use of contract interpretation and translation services.

- c. OMHA will take specific steps, as needed, to develop or amend policies or practices that ensure the agency's language assistance services are adequate to meet customer needs.

OMHA staff should not make assumptions about an individual's primary language based on race, color, national origin, or disability status.

ELEMENT 2: INTERPRETATION LANGUAGE ASSISTANCE SERVICES

Summary: *HHS agencies are expected to take steps to provide appropriate interpretation language assistance services (e.g., face-to-face, virtual (video/webinars), and/or telephone encounters), free of charge, that address the needs identified in Element 1.*

Interpretation language assistance services are essential to ensure meaningful access to and an equal opportunity to participate fully in the services, activities, programs, or other benefits administered or funded by OMHA. Staff or contractors must ensure that all interpreters are qualified to provide the service and understand and apply interpreter ethics and client confidentiality needs. The definition of a qualified interpreter is in the Appendix.

People with disabilities are entitled to appropriate auxiliary aids and services where necessary to afford them an equal opportunity to benefit from OMHA's programs and activities. Auxiliary aids and services include, but are not limited to, qualified sign language interpreters on-site or through video remote interpreting (VRI) services. Language assistance may be provided through a variety of means, including qualified bilingual and multilingual staff, and qualified interpreters providing in-person, telephonic, remote voice, and video or any other type of interpreting. OMHA shall not require a person with a disability, or a person with LEP, to bring another person to interpret for them. It is also imperative that the public knows that the agency will provide interpreting services, free of charge. Although appropriateness of an interpreter will vary by performance need, context, and setting, generally, the interpreter should have subject matter competence in the topic(s) that will be interpreted by demonstrating relevant educational background or professional experience in those topics. Qualified interpreters are also needed to ensure culturally appropriate and accurate interpreting. Notably, interpreters do not have to be certified to be qualified, as not all languages have certification available. OMHA will develop procedures for the agency to provide interpretation language assistance services and develop or otherwise provide staff training to ensure all employees with public contact can provide interpretation language assistance services as needed and in a timely manner. If members of the public require language assistance, they may contact an OMHA representative for assistance at (844) 419-3358.

Action Steps:

- a. Within 180 days of issuance of this Language Access Plan, designate an office or official responsible for establishing agency-wide procedures for providing interpreting services in a manner that ensures timely communication between persons with LEP and people with disabilities and OMHA. Procedures must address the various methods for providing interpreter services, including procedures that ensure provision of effective remote voice and video interpreter services.
- b. Agency POCs must develop methods and mechanisms for ensuring LEP communities are aware that OMHA will provide them with interpretation services at no cost and provide information on how to obtain interpreting services.
- c. Agency POCs must develop methods for tracking and reporting the number of requests for interpretation services, the type of interpretation requested, the languages requested, and the response time in which interpretation was provided. This also includes, but is not limited to number of cases, matters, or outreach initiatives where language assistance was provided, the primary language(s) requested or provided, the type of language assistance services provided, or the cost of any language assistance services provided.
- d. Establish a list of all contacts and other resources available to the agency and qualified in providing on-site interpreting (OSI), over-the-phone interpreting (OPI), and VRI to LEP individuals and people with disabilities who require sign language interpretation seeking information on or access to agency programs and activities.
- e. Develop a mechanism for monitoring and evaluating interpretation services.
- f. Agency POCs will serve on at least one inter- and/or intra-agency working group to learn and share effective practices for enhancing interpretation language assistance and make recommendations to their respective agency head for improving their interpretation language assistance program.

OMHA will consider including provisions for ensuring that interpretation services are accessible to individuals with disabilities, including those who are deaf or hard of hearing or who have other communication-related disabilities. This may include providing sign language interpreting, captioning, or additional accessible communication support. Some examples of common visual communication modes are found in the following source: [ADA Business Brief: Communicating with People Who Are Deaf or Hard of Hearing in Hospital Settings](#)

ELEMENT 3: WRITTEN TRANSLATIONS

Summary: *HHS agencies are expected to identify, translate, and make accessible in various formats, including print, online, and electronic media, vital documents, including important*

consumer/patient information, in an accessible format, in languages other than English in accordance with assessments of needs and capacity conducted under Element 1.

For purposes of this Language Access Plan, the Appendix lists examples of vital documents, which include important program information, documents that are essential for obtaining consent, complaint forms, applications for participation in a program or activity or to receive services or benefits, written notices of language assistance services, eligibility criteria, and notices of rights or notices of denial, loss, or decrease of services or benefits. At minimum, notice of rights to nondiscrimination and availability of free language and any appropriate auxiliary services shall be provided in the top 15 languages spoken by persons with LEP, as determined by HHS Office of Civil Rights.

OMHA must take reasonable steps to provide accurate written translations to ensure meaningful access and an equal opportunity to receive timely public health and social services information and participate fully in the services, activities, programs, or other benefits administered by the agency as described in Element 1. A universal threshold has not been established, except regarding notices of nondiscrimination that may potentially be required to be translated in the top 15 languages spoken by persons with LEP, as determined by HHS Office of Civil Rights. Translated documents should be easy to understand by intended audiences. Matters of plain language, cultural communication, and health literacy should be considered for all documents, including when originally composing in English. Materials that are translated should be easily accessible on the agency's website.

To improve cultural appropriateness and accuracy of translations, qualified translators and reviewers should be used.

Machine translation or other artificial intelligence applications, or software designed to convert written text from one language to another, should not be utilized without the involvement of a qualified human translator before the text reaches the intended audience.

Individuals with LEP and/or who have certain communication disabilities who want to access Department services may not be literate in their country of origin's prevalent written language, or their languages might not have a written form such that translated material will not be an effective way of communicating with them. For such individuals with LEP, components may want to consider sight translation, interpretation, or audio/video communication. For individuals with disabilities that affect communication, components should inquire about the preferred method to deliver information that is typically available in written form.

Action Steps:

- a. Designate an office or official responsible for developing a program that ensures individuals participating or attempting to participate in programs and activities funded or administered by OMHA are provided written language assistance services in accordance with the agency's needs, capacity, assessment, and this plan.

- b. All online translated content shall comply with Section 508 of the Rehabilitation Act.

ELEMENT 4: POLICIES, PROCEDURES, PRACTICES

Summary: *HHS agencies are expected to annually review and, as necessary, update, and implement its written policies and procedures to ensure it is taking reasonable steps to provide individuals with LEP meaningful access to agency programs and activities.*

OMHA must establish and maintain an infrastructure designed to implement and improve language assistance services within the agency. The results of the assessment from Element 1 should be used to inform the development of policies, procedures, and practices appropriate for the agency to promote accessibility for individuals with LEP they serve or are likely to serve.

Action Steps:

- a. Designate an office or official responsible for developing and implementing written language access policies and procedures to ensure each element of the HHS Language Access Plan is implemented in OMHA's respective programs and activities, including during public health emergencies.
- b. The designated office or official will participate on at least one inter- and/or intra-agency working group that is focused, at least in part, on identifying and implementing effective practices for improving access for persons with LEP. The designated office or official will propose effective practices to the agency head to ensure policies and procedures are effectively administered.
- c. Develop policies and procedures for receiving and addressing language assistance concerns or complaints from customers with LEP and customers with disabilities who require auxiliary aids or services for effective communication of programs and activities that are funded or administered by OMHA and establish policies and procedures to improve services.
- d. Ensure policies, procedures, and all language assistance activities are developed and implemented in alignment with DEIA principles and Departmental guidance.
- e. Share policies and procedures with the HHS Language Access Steering Committee, highlighting those that might be more effective or efficient if adopted on a Department- or government-wide basis so the Language Access Steering Committee can include the information in the annual progress report.
- f. Continually collect and share metrics to monitor implementation and efficacy of the plan. This may include, but is not limited to: conducting an inventory of languages most frequently encountered, identifying the primary channels of contact with LEP community members (whether telephonic, in person, correspondence, web-based,

etc.), reviewing component programs and activities for language accessibility, maintaining an inventory of who attended language access training (including topics discussed), reviewing the annual cost of translation and interpretation services, and consulting with outside partners or health care and human services partners.

ELEMENT 5: NOTIFICATION OF THE AVAILABILITY OF LANGUAGE ASSISTANCE AT NO COST

Summary: *HHS agencies are expected to proactively inform individuals with LEP that language assistance is available at no cost through HHS or entities funded by HHS*

OMHA must take reasonable steps to ensure meaningful access to programs and activities by persons with LEP, including notifying persons with LEP who are current or potential customers about the availability of language assistance at no cost. Notification methods should include statements or taglines on English written application forms and other informational material distributed to the public, including electronic forms such as on agency websites. The results from the Element 1 assessment should be used to inform OMHA on the languages in which the notifications should be translated, but HHS health programs and activities should provide some information in the 15 most commonly spoken languages, as determined by HHS Office of Civil Rights according to the most recent relevant data and vital information from the U.S. Census Bureau, to the end user. At minimum, OMHA must provide information about rights to nondiscrimination and the availability of language assistance and auxiliary aids in the 15 most commonly spoken languages. OMHA will notify people with disabilities that they are entitled to communication with the agency that is as effective as communication with others, including through the free and timely provision of vital information through appropriate auxiliary aids and services.

Action Steps:

- a. Designate an office or official responsible for developing and implementing an agency strategy for notifying individuals with LEP and people with disabilities who contact the agency or are being contacted by the agency that language assistance is available to them at no cost.
- b. Provide ongoing training and technical assistance necessary to make entities funded by HHS aware that language assistance services provided to comply with Title VI and Section 1557 must be provided at no cost to those in need of language assistance services.
- c. Utilize various methods and networks, to ensure that LEP communities served by the agency are aware that language assistance services are provided at no cost to them.

- d. Highlight the availability of consumer-oriented materials in plain language and languages other than English on Department websites and ensure such materials inform individuals with LEP about available language assistance services.

ELEMENT 6: STAFF TRAINING

Summary: *HHS agencies are expected to commit resources and provide employee training as necessary to ensure management and staff understand and can implement the policies and procedures of this plan and their respective agency LAP.*

OMHA will provide employees training, as necessary, to ensure management and staff understand and can implement the policies and procedures of this plan and the HHS Language Access Plan. HHS and agency-designed training should also ensure all HHS employees have access to performative information and training opportunities that support their capacity and capability to provide meaningful communication to individuals with LEP.

The staff training should include the following components:

- a. The Department and agency's legal obligations to provide language assistance services.
- b. Department and agency language access resources and designated points of contact.
- c. Identifying the language needs of an LEP individual.
- d. Working with an interpreter in person or on the telephone.
- e. Requesting documents for translation.
- f. Accessing and providing language assistance services through multilingual employees, in-house interpreters and translators, or contracted personnel.
- g. Duties of professional responsibility with respect to LEP individuals.
- h. Tracking the use of language assistance services.
- i. Tips on providing meaningful assistance to LEP individuals.
- j. How to request translation and interpretation services.
- k. How the public can request services or file a complaint.

Online training should be available to all employees via LMS on a regular basis. To ensure that OMHA employees understand the importance of and are capable of providing both interpretation and written translation language assistance services in all their programs and activities to individuals with LEP, managers and public facing employees complete training on

how to provide language assistance services to their customers in a timely manner. OMHA will designate an office or official to regularly monitor the efficacy of language assistance training provided to managers and public facing staff.

Action Steps:

- a. Designate an office or official responsible for developing, implementing, and committing resources necessary to train agency-designated employees to implement elements of this plan that address delivery of language assistance services.
- b. Develop a process that ensures overall employee awareness of the OMHA Language Access Plan.
- c. Determine which staff members should receive training in the provision of language assistance services and related policies, procedures, and effective practices.
- d. Work with the agency's management and communications offices to notify employees that OMHA provides language assistance and informs employees on how to provide assistance or otherwise contact the office or official responsible for ensuring the provision of language assistance services.
- e. Disseminate training materials, whether newly developed or pre-existing, that assist management and staff in procuring and providing meaningful communication for individuals with LEP. The federal learning management system (LMS) could be a useful resource to consult for training materials regarding, for example, Section 508 and CLAS standards.
- f. Develop a dedicated resource webpage in the intranet that can serve as a repository of Standard Operating Procedures, guidance documents, materials, training opportunities, etc.

ELEMENT 7: DIGITAL INFORMATION

Summary: *HHS agencies are expected to develop and implement written policies and procedures to ensure that, in accordance with assessments of LEP needs, the needs of people with disabilities, and agency capacity, digital information is appropriate, available, and accessible in languages other than English.*

To help ensure individuals with LEP have digital/online access to in-language program information and services, and to help ensure they are aware of and can obtain language assistance needed to access important program information and services, OMHA will provide information online about accessing language assistance services. OMHA is encouraged to work with its internal web content staff and the Office of the Chief Information Officer (OCIO) to periodically assess and monitor translated digital content to improve meaningful access for

persons with LEP. OMHA must also comply with Section 508 of the Rehabilitation Act of 1973 (Section 508), which requires federal agencies to ensure that their information and communication technology, including websites, electronic documents, and software applications, are accessible to individuals with disabilities. In addition to the requirements of Section 508, Section 504 requires that HHS take appropriate steps to ensure effective communication with people with disabilities, including through the provision of appropriate auxiliary aids, application of plain language principles, and services such as sign language interpreters.

Action Steps:

- a. Notify customers with LEP about HHS webpages that language assistance is available at no cost in alignment with the action steps outlined in Element 5, including multilingual technical support and alternatives for individuals who cannot navigate digital spaces.
- b. Use and promote the resources on www.lep.gov by providing links to the LEP.gov website on agency and program websites.

APPENDIX

INCLUDE COPIES OF RELEVANT LANGUAGE ACCESS POLICIES AND PROCEDURES

[OMHA's Case Processing Manual \(Chapter 10\)](#)

DEFINITIONS

Note: Any related definitions that may be issued under Section 1557 will complement or supersede the broad working definitions set forth below.

Key word or phrase	Definition
Agency	Agency refers to HHS Operating Divisions (such as CDC, FDA or NIH) and Staff Divisions (such as the Office for Civil Rights or the Office of the Assistant Secretary for Public Affairs). Operating Divisions focus on specific programs and activities as authorized by Congress. Staff Divisions are part of the Office of the Secretary and serve in a coordinating role for the Department.

Key word or phrase	Definition
Applicant	Any person who inquires about, or submits an application for public assistance benefits under any program or service.
Beneficiary	Anyone who has applied for and is receiving Medicare, Medicaid, or other health benefit.
Bilingual/Multilingual Staff	<p>A staff member who has advanced proficiency (e.g., proficiency at or above the Federal Interagency Language Roundtable (https://www.govtilr.org/) level 3 in listening, reading, and speaking or above the American Council on the Teaching of Foreign Languages “Superior” level in listening, reading, and speaking)) in English and at least one other language and has knowledge of and experience with specialized terminology necessary for meaningful communication. A staff member who only has a rudimentary familiarity with a language other than English shall not be considered Bilingual/Multilingual Staff.</p> <p>Bilingual/Multilingual Staff should not interpret or translate unless they have separately met the requirements of being a qualified interpreter or translator. Bilingual/Multilingual Staff must be given clear roles and expectations regarding whether they are performing their job duties in-language or serving as qualified interpreters or translators.</p> <p>A distinction should be made between Bilingual/Multilingual Staff who provide services directly in a non-English language (e.g., call center staff) and those who interpret, as the assessment and skills required for each differ.</p>

Key word or phrase	Definition
Certificate	An academic recognition demonstrating the successful completion of a program of study, usually based on amount of instructional time and a minimum grade.
Certification	Institutional recognition demonstrating successful passing of an examination that tests knowledge, skills, and abilities related to an occupation.
Contractor	Any entity that performs work or provides services on behalf of an agency or division under a contractual agreement with reimbursement.
Customer	Individuals, businesses, and organizations that interact with an HHS agency or program. The term customer is inclusive of beneficiaries and interested parties.
Digital Information	Information, as defined in OMB Circular A-130, which the government produces and provides digitally to help individuals access HHS conducted programs and activities for which they are individually eligible to participate. OMB Circular A-130 defines digital information as any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.
Direct “in-language” communication	Monolingual communication in a language other than English between a multilingual staff and a person with LEP (e.g., Korean to Korean).

Key word or phrase	Definition
Disaggregated Data	Data that separates out subgroups to provide the most descriptive and detailed information possible; for example, rather than using data about “Asian languages” or “Native American languages,” disaggregated data would indicate which specific languages are spoken by an individual or at the community level. Disaggregated data may also include information about varied dialects, as well as more specific national origin information.
Effective Communication	For communication disabilities, it refers to aids and services to ensure that communication with people with disabilities, such as people who are deaf or hard of hearing, is as effective as communication for people without disabilities.
Interested Party	Beneficiaries, including recipients of federal financial assistance, vendors, advocacy groups, non-governmental organizations, and representatives from a broad cross-section of the language access community, individuals with disabilities, etc.
Interpretation	The act of listening, understanding, analyzing, and processing a spoken communication in one language (source language) and then faithfully orally rendering it into another spoken language (target language) while retaining the same meaning. For individuals with certain disabilities that affect communication, this can include understanding, analyzing, and processing a spoken or signed communication in the source language and faithfully conveying that information into a spoken or signed target language while retaining the same meaning.

Key word or phrase	Definition
Intersectional Data	Data that combines or otherwise includes information about more than one demographic or other characteristic; for example, intersectional data would include data regarding national origin and LEP status, and/or data regarding Native American women (thus analyzing data about the intersection of race and gender). It may also include data about literacy rates, poverty rates, familial status or other characteristics relevant to social determinants of health.
Language Access	Is achieved when individuals with LEP have meaningful access to and can communicate effectively with HHS employees and contractors and participate in HHS programs and activities.
Language Assistance	All oral, written, and signed language services needed to assist individuals with LEP and people with disabilities to communicate effectively with HHS staff and contractors and gain meaningful access and an equal opportunity to participate in the services, activities, programs, or other benefits administered by HHS.

Key word or phrase	Definition
Limited English Proficiency (LEP)	An individual who does not speak English as his or her preferred language and who has a limited ability to read, write, speak or understand English in a manner that permits him or her to communicate effectively with HHS and have meaningful access to and participate in the services, activities, programs, or other benefits administered by HHS. Individuals with LEP may be competent in English for certain types of communication (e.g., speaking or understanding), but have limited proficiency in English in other areas (e.g., reading or writing). LEP designations are also context-specific; an individual may possess sufficient English language skills to function in one setting (e.g., conversing in English with coworkers), but these skills may be insufficient in other settings (e.g., addressing court proceedings). An individual who is D/HOH may also have limited proficiency in spoken or written English and may not be proficient in ASL or any other recognized sign language.
Machine Translation	Automated translation that is text-based and provides instant translations between various languages, sometimes with an option for audio input or output.
Meaningful Access	Language assistance that results in accurate, timely, and effective communication at no cost to the individual with LEP needing assistance. Meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English-proficient individuals.
Participant	Any person who has applied for and is receiving public assistance benefits or services under any HHS program or service.

Key word or phrase	Definition
Plain Language	Plain language as defined in the Plain Writing Act of 2010 is writing that is “clear, concise and well organized.”
Preferred/Primary Language	The language that LEP individuals identify as the preferred language that they use to communicate effectively. The language that LEP individuals identify as the preferred language that they use to communicate effectively.
Qualified Interpreter or Translator	A bilingual/multilingual person who has the appropriate training and experience or demonstrated ability to fully understand, analyze, and process and then faithfully render a spoken, written, or signed message in one language into a second language and who abides by a code of professional practice and ethics. A child shall not be considered a qualified translator or interpreter, nor shall a family member or employee who does not meet the minimum qualifications specified above.
Sight Translation	The oral or signed rendering of written text into spoken or signed language by an interpreter without change in meaning based on a visual review of the original text or document.
Sign Language	Method of communication for people who are deaf or hard of hearing in which hand movements, gestures, and facial expressions convey grammatical structure and meaning. There is no universal sign language. Different sign languages are used in different countries or regions. For example, British Sign Language (BSL) is a different language from ASL, and Americans who know ASL may not understand BSL.

Key word or phrase	Definition
Sub-recipient	An entity that, on behalf of and in the same manner as a recipient of federal financial assistance, provides services to and has contact with applicants to and participants in a program administered by a recipient of federal financial assistance, but does not include an individual applicant or participant who is a beneficiary of the program.
Taglines	Brief messages that may be included in or attached to a document. Taglines in languages other than English are used on documents (including websites) written in English that describe how individuals with LEP can obtain translation of the document or an interpreter to read or explain the document. Section 1557 and Title VI will prescribe the languages that must be included in such tagline notices but covered entities may also add more languages.
Translation	The process of converting written text from a source language into an equivalent written text in a target language as fully and accurately as possible while maintaining the style, tone, and intent of the text, while considering differences of culture and dialect.

Key word or phrase	Definition
Vital Document	<p>Paper or electronic written material that contains information that is critical for accessing a component’s programs or activities or is required by law. Vital documents include, but are not limited to: critical records and notices as part of emergency preparedness and risk communications; online and paper applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits; letters or notices pertaining to the reduction, denial, or termination of services or benefits that require a response from an individual with LEP; written tests that evaluate competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of language assistance services for individuals with LEP at no cost to them.</p>