

Please note: pursuant to decisions by various district courts regarding the 2024 Final Rule implementing Section 1557, entitled Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 (May 6, 2024) (“2024 Final Rule”), certain provisions regarding gender identity are stayed nationwide. Other provisions are stayed or enjoined as indicated at www.hhs.gov/1557.

SAMPLE EFFECTIVE COMMUNICATION PROCEDURES:

[Insert name of covered entity] will take appropriate steps to ensure that communications with individuals with disabilities, including persons who are deaf, hard of hearing, blind, have low vision, or who have other sensory or manual disabilities, are as effective as communications with others. The procedures outlined below are intended to ensure [insert name of covered entity] staff effectively communicate with individuals (including companions with disabilities) regarding their medical conditions, treatment, and participation or potential participation in our programs, activities, services, and other benefits.

These procedures also apply to, among other types of communication, verbal or written communication of important information, including information contained in documents such as waivers of rights, consent to treatment forms, financial and insurance benefits forms, etc. [include those documents applicable to your covered entity]. [Insert name of covered entity] shall furnish appropriate auxiliary aids and services, where they are necessary, to allow individuals with disabilities an equal opportunity to participate in and benefit from our programs, activities, services, and other benefits. When auxiliary aids and services are necessary for an equal opportunity to participate and benefit, they will be provided in a timely manner without cost to the individual(s) being served. Auxiliary aids and services include, but are not limited to, qualified interpreters, large print materials, acquisition or modification of equipment or devices, or other similar services or actions.

[Insert name of covered entity] is not required to take any action that would result in a fundamental alteration in the nature of the health program and activity or undue financial and administrative burdens.

[Insert name of covered entity] shall take appropriate steps to ensure that staff who may have direct contact with individuals with disabilities effectively communicate with individuals with disabilities, including through the effective use of interpreters and other appropriate auxiliary aids or services.

Contact information for [if applicable: the Section 1557 Coordinator and/or] the staff member(s) responsible for coordinating the effective communication procedures set forth in this document is:

[insert contact information for effective communication point(s) of contact].

1. IDENTIFICATION AND ASSESSMENT OF NEED:

[Insert name of covered entity] staff members must identify individuals with disabilities who need appropriate auxiliary aids and services to communicate with individuals with disabilities effectively. [Insert name of covered entity] staff may identify individuals with disabilities

through observation, inquiries to the individuals, and/or by consulting an individual's existing medical record to see whether it indicates the individual has a disability and needs auxiliary aids or services to ensure effective communication. Individuals with disabilities may self-identify their need for effective communication via appropriate auxiliary aids and services. Staff will consult with the individual to determine what auxiliary aids and services may be necessary to communicate with them effectively.

Staff will document the individual's preferred auxiliary aid or service in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)], including any auxiliary aids and services necessary to communicate with companions, and such documentation will identify the individual's or their companion's preferred auxiliary aids and services, the actual aids and services provided if different from preferred aids and services.

2. PROVISION OF AUXILIARY AIDS AND SERVICES:

[Insert name of covered entity] shall provide, free of charge, the appropriate auxiliary aids or services when necessary to afford individuals with disabilities an equal opportunity to enjoy the program, activities, services, and other benefits:

[List available auxiliary aids and services, including but not limited to contact information for available sign language interpreter services here]

2A. FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

To ensure effective communication with individuals who are deaf or hard of hearing, [insert name of covered entity] [select appropriate option for specific covered entity: has staff interpreters; a contract with an interpreter service; both; or describe some other available method of ensuring communication with individuals with disabilities are as effective as communications with others].

(i) [If the covered entity has qualified interpreters on staff] For persons who are deaf/hard of hearing and who use sign language, and need an interpreter to provide effective communication, [insert name of covered entity] will provide one. [Insert name of covered entity] utilizes qualified interpreter staff members or contractors who appear via a dedicated, virtual connection or on-site and interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

The following is an accurate and current list (including the name, language, phone number, and hours of availability) of our sign language [likely ASL] qualified interpreter staff members or contractors who have demonstrated their ability to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary:

[insert list of qualified interpreter staff members, if any, here].

Staff will document the use of the qualified interpreter staff members used to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)]. Auxiliary aids and/or services that are provided to an individual when they first contact [insert name of covered entity] should again be made available to that individual if the individual returns to [insert name of covered entity], unless the individual confirms that they no longer require the auxiliary aid and/or service.

(ii) For persons who are deaf/hard of hearing and who use sign language as their primary means of communication, when an interpreter is necessary to provide an equal opportunity to participate in or enjoy our program, activities, services, and other benefits, [insert name of covered entity] will provide one. [Insert name of covered entity] utilizes an interpreter service, which provides qualified interpreters who, via a video remote interpreting service (VRI) or an on-site appearance, can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

The contact information for the interpreter service provider is:

[Name of telephone interpreter service provider and contact information].

[Note: If VRI services are provided via computer, tablet, or other device, your covered entity must include the procedures for accessing the service.]

Staff will document the use of the interpreter service used to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)]. If the individual returns, staff will not require the individual to repeat the request or recall the auxiliary aid and/or service previously utilized. Instead, staff will confirm with the individual whether the auxiliary aid and/or services previously provided are still needed.

(iii) Communicating by Telephone with Persons Who Are Deaf or Hard of Hearing

[If your covered entity communicates with persons who are deaf or hard of hearing by telephone, listed below are three methods for communicating over the telephone which may be utilized to communicate with persons who are deaf/hard of hearing. Select the method(s), or some equally effective alternative, to incorporate in your policy that best applies/apply to covered entity.]

(a) [Method 1: [Insert name of covered entity] utilizes relay services for external telephones with text telephone (TTY) users. We accept and make calls through a relay service. The state relay service number is [insert telephone number for your State Relay]]; OR

(b) [Method 2: [Insert name of covered entity] utilizes a text telephone (TTY) for external communication. The telephone number for the TTY is [insert number]. The TTY and instructions on how to operate it are located at [insert location] in the facility]; OR

(c) [Method 3: [Insert name of covered entity] has arranged to share a text telephone (TTY). When it is determined by staff that a TTY is needed, we contact [identify the entity (e.g., library, school, or university) and provide address and telephone numbers]]; OR

(d) [Method 4: [Insert name of covered entity] communicates with individuals who are deaf or hard of hearing by telephone by utilizing the following method: [describe the equally effective telecommunication system utilized].

If necessary, staff may contact [the staff member(s) responsible for coordinating the language access procedures] for any additional assistance regarding our resources to effectively communicate with individuals with disabilities over the telephone.

Staff will document the use of the method of telephone communication used to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids

and Services Log (attached)]. If the individual returns, staff will not require the individual to repeat the request or recall the auxiliary aid and/or service previously utilized. Instead, staff will confirm with the individual whether the auxiliary aid and/or services previously provided are still needed.

(iv) The following are additional auxiliary aids and services that [name of covered entity] offers and are readily available to ensure that communications with people with disabilities are as effective as communications with others:

[Insert list of available auxiliary aids and services that the covered entity offers; examples include: note-takers; computer-aided transcription services; telephone handset amplifiers; written copies of oral announcements; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning; text telephones (TTYs); videotext displays; email; SMS (text); or other effective methods that help make aurally-delivered materials available to individuals who are deaf or hard of hearing].

If an individual with a disability requires an auxiliary aid or service not listed above, staff will contact [the staff member(s) responsible for coordinating the provision of auxiliary aids and services for individuals with disabilities] to arrange for the provision of the necessary auxiliary aid or service.

Any auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. Staff will document the use of the appropriate auxiliary aids and services used to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)]. [Optional: For additional information on these methods, contact [the staff member(s) responsible for coordinating the effective communication procedures].

(v) Some persons who are deaf or hard of hearing may prefer or request to use an adult that accompanies them to communicate with [insert name of covered entity]. [Insert name of covered entity] may rely upon the adult that accompanies the individuals with a disability to communicate with the individual only after we have effectively communicated to the individual that we are willing to provide them appropriate auxiliary aids and services, including an interpreter, free of charge. Additionally, [Insert name of covered entity] will not rely on an adult accompanying an individual with a disability to interpret or facilitate communication except:

(a) In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available (for example, directly following a natural disaster such as an earthquake); or

(b) Where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

[Optional: When determining appropriateness, staff may want to consider:

(a) competency of interpretation;

(b) confidentiality/privacy;

- (c) whether the presence of the companion raises any safety concerns; and
- (d) whether there is a conflict of interest.]

Staff will document that we permitted an accompanying adult to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)]. Auxiliary aid and/or service that are provided to an individual when they first contact [insert name of covered entity] should again be made available to that individual if the individual returns to [insert name of covered entity], unless the individual confirms that they no longer require the auxiliary aid and/or service.

(vi) [Insert name of covered entity] will not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available (for example, directly following a serious car accident where, due to the nature of the injuries sustained by an individual with a disability, critical care is a priority).

Staff will document the use of a minor child to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)].

If it would be inappropriate to rely on the adult accompanying an individual with a disability for any of these reasons, staff will arrange alternative auxiliary aids and services, including interpreter services, free of charge.

2B. FOR PERSONS WHO ARE BLIND OR WHO HAVE LOW VISION

[Optional: (i) [Insert name of covered entity] staff will ask for the individual's preferred communication method(s).]

(ii) [Insert name of covered entity] staff will assist individuals who are blind or have low vision fill out forms when necessary to afford those individuals an equal opportunity to participate in and benefit from our programs, activities, services, and other benefits.

(iii) [Insert name of covered entity] staff will provide written documents and materials to an individual who is blind or has low vision in a timely manner in an appropriate alternate format, including converting written documents, such as materials concerning treatment, benefits, services, waivers of rights, and consent to treatment forms, to large print, Braille, audio recordings, and/or to an electronic format, when necessary to afford persons an equal opportunity to participate in and benefit from our programs, activities, services, and other benefits unless it would be a fundamental alteration or undue burden. These alternately formatted documents may be obtained by contacting [the staff member(s) responsible for coordinating these Effective Communication Procedures].

[Optional: (iv) Staff are available to communicate the information contained in important written documents, including materials concerning treatment, benefits, services, waivers of rights, and consent to treatment forms by reading aloud and explaining these forms to persons who are blind or have low vision when necessary to ensure effective communication.]

Staff will document the alternate format used to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)].

Auxiliary aid and/or service that are provided to an individual when they first contact [insert name of covered entity] should again be made available to that individual if the individual returns to [insert name of covered entity], unless the individual confirms that they no longer require the auxiliary aid and/or service.

2C. FOR PERSONS WITH SPEECH DISABILITIES

To ensure an individual with speech impairments or disabilities has an equal opportunity to participate in our program, activities, services, and other benefits, staff will confirm which auxiliary aids and services the individual prefers and then provide appropriate auxiliary aids and services, if available, to the individual in a timely manner.

Staff will document the alternate format used to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)].

Auxiliary aid and/or service that are provided to an individual when they first contact [insert name of covered entity] should again be made available to that individual if the individual returns to [insert name of covered entity], unless the individual confirms that they no longer require the auxiliary aid and/or service.

2D. FOR PERSONS WITH OTHER TYPES OF DISABILITIES

[Insert name of covered entity] staff will provide each individual with a disability with necessary auxiliary aids and services sufficient to afford an equal opportunity to participate in our programs, activities, services, and other benefits. Staff will give primary consideration to the request of the individual with a disability in determining which auxiliary aids and services to provide and will provide the necessary auxiliary aids and services to the individual in a timely manner.

If an individual with a disability requires an auxiliary aid or service that is not readily available, staff shall contact [the staff member(s) responsible for coordinating the provision of auxiliary aids and services for individuals with disabilities] to arrange for the timely provision of the necessary auxiliary aid or service.

Staff will document the auxiliary aids and services used to effectively communicate with the individual in the individual's record [optional: and/or the Auxiliary Aids and Services Log (attached)]. Auxiliary aid and/or service that are provided to an individual when they first contact [insert name of covered entity] should again be made available to that individual if the individual returns to [insert name of covered entity], unless the individual confirms that they no longer require the auxiliary aid and/or service.

3. TRAINING

[Insert name of covered entity] will ensure that all relevant staff are trained on the requirements for effective communication as set forth in this document.

