

ADMINISTRATIVE COMPLAINT

February 09, 2024

Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, S.W., Room 509F
Washington, D.C. 20201

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, Maryland 21244

Re: Complaint Alleging At Least Thirteen States Are Failing to Provide Meaningful Language Access to Individuals with LEP During the Medicaid Unwinding Process

The National Immigration Law Center (“NILC”) is a nonprofit organization that, for decades, has sought to advance laws and policies that promote the health and well-being of low-income immigrant families.¹ NILC files this complaint pursuant to 45 C.F.R. § 80.7(b), notifying the U.S. Department of Health and Human Services (“HHS”) and its sub-agencies, the Office for Civil Rights (“OCR”) and the Centers for Medicare and Medicaid Services (“CMS”), that based upon information provided by advocates and direct service providers in 13 states,² these states are systematically failing to provide individuals with Limited English Proficiency (“LEP”) the reasonable language assistance they need to participate in redeterminations of their Medicaid eligibility. Their reporting highlights the following pervasive issues:

- At least 12 states are failing to provide individuals with LEP timely and reliable call center support. LEP callers experience significantly longer than average wait times and more frequent dropped calls. Interactive Voice Response (“IVR”) systems generally provide limited language options.³
- At least 11 states are not supplying notices, renewal forms, and other vital documents to Medicaid beneficiaries with LEP in their primary languages.
- At least eight states have no or limited translated resources. Several states have translated materials that are difficult to access or poorly translated. Many states do not offer information about Medicaid renewals and redeterminations on their websites in

¹ To learn more about the National Immigration Law Center (“NILC”), please visit our website, <https://www.nilc.org/>.

² NILC distributed a survey to health advocates and direct service providers between October 20, 2023 and December 8, 2023. In total, we received 48 responses. Several sources are listed in the Appendix. Others asked to remain anonymous.

³ See Waqas and Ben D’Avanzo, *States Need to Improve Language Access for Medicaid Renewals*, NILC (Aug. 9, 2023), <https://www.nilc.org/2023/08/09/states-need-to-improve-language-access-for-medicaid-renewals/>.

languages other than English and Spanish. Several rely on machine translation tools like Google Translate,⁴ although the federal government has “strongly discouraged” the use of such tools.⁵

Medicaid is an entitlement program. All eligible individuals a right to continued coverage.⁶ Yet, due to state health agencies’ failure to provide equitable access to individuals with LEP, many eligible beneficiaries with LEP are being denied a reasonable opportunity to demonstrate their continued Medicaid eligibility, thereby losing essential health coverage. The widespread language access issues documented in this complaint indicate that multiple states are failing to meet their legal obligations to individuals with LEP. We urge OCR to take immediate enforcement action to remedy this situation and mitigate the ongoing harm to eligible individuals who are being wrongly terminated from health coverage.

I. BACKGROUND AND LEGAL FRAMEWORK

A. Background

The Families First Coronavirus Response Act provided states with an enhanced Federal Medical Assistance Percentage (“FMAP”) for their Medicaid programs for the duration of the COVID-19 Public Health Emergency (“PHE”) and, in exchange, required states to maintain continuous coverage for Medicaid enrollees throughout the PHE. With states generally prohibited from involuntarily disenrolling Medicaid beneficiaries, Medicaid enrollment increased by 30.6%,⁷ and the uninsured rate for children and adults declined significantly.⁸ These gains marked considerable progress towards the federal government’s objective of “mak[ing] high-quality healthcare accessible and affordable for every American.”⁹

The Consolidated Appropriations Act, 2023 (“CAA”) ended the continuous coverage requirement, effective March 31, 2023,¹⁰ paving the way for states to redetermine Medicaid eligibility and terminate coverage. During the unwinding of continuous coverage (colloquially, “the unwinding process”), states have disenrolled upwards of 15.75 million individuals from Medicaid.¹¹ Based on available data, 71% of those disenrolled had their coverage terminated for

⁴ *Id.*

⁵ U.S. Dep’t of Just., Civ. Rts. Div., *Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs* 13 (Aug. 2011), https://www.lep.gov/sites/lep/files/resources/081511_Language_Access_CAQ_TA_Guidance.pdf.

⁶ See Medicaid and CHIP Payment and Access Commission, Medicaid 101, <https://www.macpac.gov/medicaid-101/>

⁷ Ctrs. for Medicare and Medicaid Servs., August 2022 Medicaid and CHIP Enrollment Trend Snapshot (Aug. 2022), <https://www.medicaid.gov/sites/default/files/2022-11/august-2022-medicaid-chip-enrollment-trend-snapshot.pdf>;

⁸ See *id.*; Joan Alker et al., *Number of Uninsured Children Stabilized and Improved Slightly During the Pandemic*, Geo. U. Ctr. for Child. and Fams. (Dec. 7, 2022), <https://ccf.georgetown.edu/2022/12/07/number-of-uninsured-children-stabilized-and-improved-slightly-during-the-pandemic-2/>.

⁹ Exec. Order No. 14,009, 86 Fed. Reg. 7,793, 7,793 (Feb. 2, 2021).

¹⁰ Pub. L. No. 117-328, § 5131(a), 136 Stat. 4459, 5949 (2023).

¹¹ See Kaiser Fam. Found., *Medicaid Enrollment and Unwinding Tracker*, <https://www.kff.org/report-section/medicaid-enrollment-and-unwinding-tracker-overview/> (last updated Jan. 22, 2024) [hereinafter *KFF Unwinding Tracker*].

procedural reasons, such as not receiving renewal notices or otherwise facing barriers to completing the redetermination process, including insufficient language access.¹² An estimated 21% of those who lose Medicaid coverage during the unwinding process are projected to become uninsured.¹³

B. Legal Framework

1. Executive Order 14091

Executive Order (“EO”) 14091 requires HHS and other federal agencies to “comprehensively use their respective civil rights authorities and offices to prevent and address discrimination and advance equity for all.”¹⁴ OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (“Title VI”) and Section 1557 of the Affordable Care Act (“Section 1557”), as well as Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (“ADA”).¹⁵ States must separately comply with Medicaid and Children’s Health Insurance Program (“CHIP”) regulations implemented and enforced by CMS. Pursuant to the CAA, and as discussed below, HHS has expanded authority to enforce compliance with federal reporting and eligibility redetermination requirements during the unwinding process.

2. Title VI, Section 1557, Implementing Regulations, and OCR Guidance

Title VI provides, “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”¹⁶ The U.S. Supreme Court has long held that Title VI’s prohibition on national origin discrimination requires regulated entities to provide individuals with LEP a meaningful opportunity to participate in federally conducted and assisted programs through the provision of language services.¹⁷ In order to improve access to covered programs, EO 13166 directed federal agencies to draft and implement Title VI guidance advising federal funds recipients of their obligations to provide meaningful access to persons with LEP.¹⁸

¹² *Id.*

¹³ Matthew Buettgens and Andrew Green, *The Impact of the COVID-19 Public Health Emergency Expiration on All Types of Health Coverage*, Urban Institute (Dec. 5, 2022), <https://www.urban.org/research/publication/impact-covid-19-public-health-emergency-expiration-all-types-health-coverage> (estimating that 18 million people will lose Medicaid coverage during the unwinding process, with 3.8 million people becoming uninsured).

¹⁴ Exec. Order No. 14,091, 88 Fed. Reg. 10,825, 10,831 (Feb. 22, 2023).

¹⁵ 42 U.S.C. §§ 18116, 12132, 2000d; 29 U.S.C. § 794a. Although this complaint does not directly address discrimination against people with disabilities, we recognize that many of the language access issues discussed herein can be co-occurring with accessibility barriers faced by people with disabilities. See Mason Smith, *Crossroads: Disability X Language Access, An Injustice!* (Sept. 13, 2023), <https://aninjusticemag.com/crossroads-disability-x-language-access-d883b10c7eb5>.

¹⁶ 42 U.S.C. § 2000d.

¹⁷ See *Lau v. Nichols*, 414 U.S. 563, 568 (1974), *abrogated on other grounds by Alexander v. Sandoval*, 532 U.S. 275 (2001).

¹⁸ Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 16, 2000).

HHS regulations implementing Title VI explicitly prohibit recipients of federal funding, including state Medicaid agencies, from “using criteria or methods of administration which . . . have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.”¹⁹ Consistent with EO 13166, HHS guidance similarly recommends that state Medicaid agencies and other regulated entities receiving HHS funding develop and implement written plans that ensure quality language services for commonly-encountered LEP groups.²⁰

Section 1557 extended the protections of Title VI, among other federal anti-discrimination statutes, to “any health program or activity, any part of which is receiving Federal financial assistance . . .”²¹ HHS regulations implementing Section 1557 explicitly require regulated entities to “take reasonable steps to ensure meaningful access to such programs or activities by [LEP] individuals.”²² Proposed HHS regulations would require regulated entities to implement specific language access procedures.²³

OCR has reminded states of their Title VI and Section 1557 obligations to individuals with LEP and the importance of language access during the unwinding process. In an April 2023 letter to state health officials, the agency stressed that states must pay “careful attention to language access and effective communication obligations so that people of color and individuals with LEP or disabilities are not [improperly] disenrolled.”²⁴ The agency also encouraged states to adopt best practices to help ensure meaningful access, including the following proactive steps:²⁵

- Adequately fund and staff call centers to ensure they are accessible without prolonged delays.
- Provide notices and other vital documents pertaining to unwinding in the top 15 non-English languages spoken by individuals with LEP.
- Avoid using complex language on essential forms or notices so that persons with low literacy skills, who are disproportionately represented in protected classes of persons, are not left without this important information.
- Provide notices informing individuals of the availability of language assistance services, that they will be provided free of charge, and how to request those services.
- Ensure that eligibility and call center staff know how to obtain interpreter services and that individuals serving as interpreters and translators are qualified. Interpreters utilized for unwinding should understand the intricacies of and key terminology pertinent to Medicaid, CHIP, and, if applicable, Basic Health Program enrollment.

¹⁹ 45 C.F.R. § 80.3(b)(2).

²⁰ Dep’t of Health and Hum. Servs., *Guidance Federal Financial Assistance Recipients Regarding Title VI Prohibitions Against National Origin Discrimination Affecting Limited English Proficient Persons*, 68 Fed. Reg. 47,311 (Aug. 8, 2003).

²¹ 42 U.S.C. § 18116.

²² 42 C.F.R. § 92.101(a).

²³ Dep’t of Health and Hum. Servs., *Nondiscrimination in Health Programs and Activities*, 87 Fed. Reg. 47,824, 47,847 (Aug. 4, 2022).

²⁴ Letter from Melanie Fontes Rainer, Dir. of Off. for Civ. Rts., Dep’t of Health and Hum. Servs., to State Health Officials 5 (Apr. 4, 2023), <https://www.hhs.gov/sites/default/files/medicaid-unwinding-letter.pdf>.

²⁵ *Id.* at 5-6.

- Have translated materials drafted, reviewed, proofread, and edited by qualified translators rather than machine translation applications or software, which are unreliable and can generate inaccurate results.²⁶

3. Title XIX, CMS Regulations, and the CAA

Title XIX of the Social Security Act requires participating states to administer the Medicaid program pursuant to certain federal requirements.²⁷ Among the requirements, states must provide “safeguards as may be necessary to assure that eligibility . . . will be determined in a manner consistent with . . . the best interests of the recipients.”²⁸ CMS regulations further require state Medicaid agencies to make the Medicaid application and redetermination process available and accessible to all individuals, including those with LEP.²⁹ State Medicaid agencies must:

- Employ language assistance services to inform individuals with LEP about eligibility requirements, available Medicaid services, and the rights and responsibilities of applicants and beneficiaries.³⁰ This information must be provided in plain language, in an accessible and timely manner, and at no cost to the individual.³¹
- Provide assistance to any individual seeking help with the application or renewal process in person, by telephone, and online in a manner that is accessible to people with LEP.³²
- Provide all applicants and beneficiaries timely and adequate notice, written in plain language and accessible to persons with LEP.³³
- Ensure that any renewal forms or notices are accessible to persons with LEP.³⁴
- Make a website available to current and prospective Medicaid applicants and beneficiaries that supports applicant and beneficiary activities, and ensure that such web sites, and other information systems, are in plain language and accessible to persons with LEP.³⁵
- Afford individuals the opportunity to apply for and renew Medicaid without delay and provide beneficiaries the option to apply or renew coverage online, by telephone, via mail, and in person.³⁶

The CCA introduced new enforcement authorities to ensure state compliance with federal requirements, including existing non-discrimination protections.³⁷ CMS has adopted an interim

²⁶ See also Richard Salame, *Limited English Skills Can Mean Limited Access to COVID-19 Vaccine*, Slate (Apr. 30, 2021), <https://slate.com/news-and-politics/2021/04/covid-19-vaccine-for-non-english-speakers.html>.

²⁷ 42 U.S.C. § 1396a.

²⁸ *Id.* § 1396a(a)(19).

²⁹ 42 C.F.R. § 435

³⁰ *Id.* § 435.905.

³¹ *Id.*

³² *Id.* § 435.908.

³³ *Id.* § 435.917(a).

³⁴ *Id.* § 435.916(g).

³⁵ *Id.* § 435.1200(f).

³⁶ *Id.* §§ 435.906, 435.907

³⁷ Pub. L. No. 117-328, § 5131(a)(4), 136 Stat. 4459, 5950 (2023).

final rule (“IFR”) implementing these new provisions.³⁸ Under the IFR, if CMS determines that a state is not in compliance with federal redetermination and reporting requirements, the agency has authority to require that states submit and implement a Corrective Action Plan (“CAP”).³⁹ If the state fails to submit a CAP, CMS can require states to suspend some or all disenrollments for procedural reasons until the state takes appropriate corrective action.⁴⁰

II. STATEMENT OF PROBLEMS BY STATE

C. California

In California, individuals with LEP comprise a substantial proportion of Medicaid beneficiaries, with nearly one in three adults in Medicaid households having LEP.⁴¹ Statewide, California has an estimated 6,449,300 people with LEP, including 4,017,360 Spanish speakers, 669,536 Chinese⁴² speakers, 330,882 Vietnamese speakers, 249,922 Tagalog speakers, and 195,175 Korean speakers.⁴³ Approximately 10,381,445 Medicaid recipients in the state have LEP.⁴⁴

A high proportion of enrollees in California’s Medicaid program, Medi-Cal, have had their coverage terminated for procedural reasons during the unwinding process. Of the more than 1.1 million beneficiaries whose Medi-Cal coverage was terminated as of January 22, 2024, nearly 90% lost coverage for procedural reasons,⁴⁵ the fourth highest rate nationwide.⁴⁶ Indeed, recent findings from a series of focus groups with Medi-Cal families indicate that, for enrollees with LEP, poor interpretation quality, incorrect translation, and long wait times for in-language assistance were common hurdles to renewing Medi-Cal.⁴⁷

Health advocates and direct service providers report that the California Department of Health Care Services (“DHCS”), which administers the state’s Medi-Cal program, is not

³⁸ Ctrs. For Medicare and Medicaid Svcs., *CMS Enforcement of State Compliance With Reporting and Federal Medicaid Renewal Requirements Under Section 1902(tt) of the Social Security Act*, 88 Fed. Reg. 84,713 (Dec. 6, 2023).

³⁹ *Id.* at 84,716.

⁴⁰ *Id.*

⁴¹ Sweta Haldar et al., *Unwinding the PHE: Maintaining Medicaid for People with Limited English Proficiency*, Kaiser Fam. Found. (March 2, 2022), <https://www.kff.org/medicaid/issue-brief/unwinding-of-the-phe-maintaining-medicaid-for-people-with-limited-english-proficiency/>.

⁴² “Chinese” is a catch-all term for Mandarin, Cantonese, and other dialects used in China. *See* note 43, *infra*.

⁴³ U.S. Census Bureau, 2022 Am. Cmty. Surv. Five Year Data, [https://data.census.gov/table/ACSST5Y2022.B16001?q=b16001&g=010XX00US\\$0400000&moe=false](https://data.census.gov/table/ACSST5Y2022.B16001?q=b16001&g=010XX00US$0400000&moe=false) (last visited Feb. 9, 2024) [hereinafter 2022 Am. Cmty. Surv. Data].

⁴⁴ U.S. Census Bureau, 2021 Am. Cmty. Surv. Five Year Data, https://data.census.gov/mdat/?#/search?ds=ACSPUMS5Y2021&cv=HINS4,ENG_RC1&rv=ucgid&nv=ENG&wt=PWGTP&g=0400000US01,02,04,05,06,08,09,10,11,12,13,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39,40,41,42,44,45,46,47,48,49,50,51,53,54,55,56&ENG_RC1=%7B%22S%22%3A%22Ability%20to%20speak%20English%20recode%22,%22R%22%3A%22ENG%22,%22W%22%3A%22PWGTP%22,%22V%22%3A%5B%5B%220,1%22,%22Not%20LEP%22%5D,%5B%222,3,4%22,%22LEP%22%5D%7D (last visited Feb. 9, 2024) [hereinafter 2021 Am. Cmty. Surv. Data].

⁴⁵ *KFF Unwinding Tracker*, *supra* note 1111.

⁴⁶ *Id.*

⁴⁷ The Children’s Partnership, *Impact of Gaps in Medi-Cal Coverage: Family Focus Group Findings* (Mar. 2023) (on file with author).

translating notices and other vital documents into commonly encountered languages, which disparately impacts the ability of Medi-Cal enrollees with LEP to comply with redetermination requirements. For example, staff at a legal services and advocacy organization that collaborates with state partners to serve 5,000 Medi-Cal recipients annually reported that many Asian American and Pacific Islander (“AAPI”) clients are receiving mailed notices in English, rather than in their primary language. This reporting is echoed by staff at community-based organizations (“CBOs”) serving Southeast Asian refugee and immigrant families in Orange County, South Asian communities in Los Angeles County, and Mixtecs and other indigenous persons in Ventura and Santa Barbara counties. Even when documents have been translated, advocates at these CBOs report that the translations are often highly technical and at a reading level beyond their clients’ comprehension.

We also received consistent reports that DHCS’s Medicaid call centers are inaccessible to most LEP groups. Several factors—among them, hard-to-navigate IVR systems, long wait times, and high disconnection rates—are limiting accessibility. For one, DHCS’s IVR system provides instructions on how to access language services in English—a practice one advocate describes as “paradoxical” and “disorienting for clients [with LEP].” A health worker assisting Mixtecs and other indigenous persons noted that the Spanish prompts are also poorly translated.

In addition to incomprehensible call prompts, individuals with LEP are experiencing long wait times. Advocates in Southern California report that wait times are particularly long for eligibility assistance in Spanish, AAPI languages, and indigenous languages. According to the Chief Executive Officer (“CEO”) of a Federally Qualified Health Center (“FQHC”) providing free and low-cost health care to communities in Los Angeles County, call centers are not providing equitable access to Korean clients, as well as other small, but prominent language populations, including Bengali, Mongolian, and Thai communities. An advocate assisting South Asian community members in Los Angeles County notes that many of their clients have experienced wait times of up to 60 minutes or more. Even when clients connect with a live person, the advocate relays that clients felt that they were treated rudely—in some instances, by being snapped at, and on other occasions, by the call being disconnected altogether.

DHCS’ Medi-Cal website is not accessible for individuals with LEP. The FQHC CEO notes that the clinic’s patient population has trouble navigating the website, including finding language icons to receive in-language assistance. California also relies on Google Translate to automatically translate Medi-Cal web content and does not appear to use a qualified human translator to verify the accuracy of the machine-generated content.

D. Colorado

In Colorado, an estimated 11% of adults in Medicaid households are LEP.⁴⁸ The state has an estimated 297,289 people with LEP, including 207,548 Spanish speakers, 11,240 Chinese speakers, and 10,663 Vietnamese speakers.⁴⁹ Approximately 61,465 Medicaid recipients in the state have LEP.⁵⁰ As of January 22, 2024, Department of Health Care Policy and Financing

⁴⁸ Haldar et al., *supra* note 4141.

⁴⁹ 2022 Am. Cmty. Surv. Data, *supra* note 434343.

⁵⁰ 2021 Am. Cmty. Surv. Data, *supra* note 44.

(“DCPF”), the agency administering the state’s Medicaid program, Health First Colorado, has disenrolled approximately 480,000 beneficiaries, with roughly two-thirds terminated for procedural reasons.⁵¹

A Medicaid enrollment coordinator at a pediatric clinic and school-based health center in Commerce City and Westminster, Colorado reports that language access barriers are preventing Spanish-speaking beneficiaries with LEP from meaningfully accessing the redetermination process. She notes that DCPF regularly sends her clients notices, renewal forms, and other vital documents that are poorly translated. Families are also not being given adequate time to return requested documents, at times receiving requests for information *after* documents are already due. This can be especially confusing for people with LEP. DCPF’s Medicaid website—where most beneficiaries are directed to renew their coverage—is only translated into Spanish. Colorado, like many states, relies on Google Translate for all other language options, which can be inaccurate and unreliable.

Medicaid enrollees with LEP, particularly those living in rural counties, often must turn to DCPF’s call centers to receive the language services needed to navigate the eligibility and redetermination process. However, according to the enrollment coordinator, individuals with LEP encounter numerous challenges with accessing call center support. On several occasions, her clients have had trouble navigating through the IVR prompts to reach a live agent. As she states, “pushing all the buttons can be very frustrating and challenging for certain individuals who are not used to the type of communication system.” Callers can select a menu option to continue in English or Spanish, but there is no option to continue in any other languages. According to the enrollment coordinator, clients with LEP face “impossible” wait times that lead many to abandon their attempts. Indeed, the latest monthly data report indicates that DCPF call centers had an average call abandonment rate of 20%.⁵²

E. Illinois

In Illinois, approximately 16% of adults in Medicaid households have LEP.⁵³ The state has an estimated 1,030,616 people with LEP, including 620,575 Spanish speakers, 74,930 Polish speakers, and 52,826 Chinese speakers.⁵⁴ Approximately 219,271 Medicaid recipients in the state have LEP.⁵⁵

Although Illinois has the highest renewal rate among states and the lowest proportion of procedural terminations,⁵⁶ health advocates express concern that language access issues still prevent significant LEP populations from accessing the redetermination process. An immigrants’ rights organization promoting health access for immigrants has previously flagged for Illinois Healthcare and Family Services (“HFS”) that LEP clients cannot readily access interpretation

⁵¹ *KFF Unwinding Tracker*, *supra* note 1111.

⁵² See Ctrs. for Medicare and Medicaid Servs., *Monthly Data Reports*, Medicaid.gov, <https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/data-reporting/monthly-data-reports/index.html> (last visited Feb. 2, 2024) [hereinafter *Monthly Data Reps.*].

⁵³ Haldar et al., *supra* note 4141.

⁵⁴ 2022 Am. Cmty. Surv. Data, *supra* note 434343.

⁵⁵ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁵⁶ *KFF Unwinding Tracker*, *supra* note 1111.

services for languages beyond Spanish and interpretation through the call centers is often of poor quality. HFS has produced outreach materials and resources in other languages, but a policy manager at the organization reports that those resources are difficult to access. Although HFS told health advocates that they have a system for individuals who need interpretation in languages other than Spanish, HFS' call center hotline does not give people with LEP instructions on how to access the separate system. In addition, the policy manager notes that many clients with LEP are experiencing long wait times, often resulting in dropped calls. Per the latest monthly data report, HFS call centers had an average wait time of 21 minutes and a call abandonment rate of 32.5%, among the highest in the country.⁵⁷

F. Iowa

Iowa has an estimated 103,630 people with LEP, including 49,875 Spanish speakers, 5,855 Vietnamese speakers, and 4,935 speakers of other Asian languages.⁵⁸ Approximately 22,422 Medicaid recipients in the state have LEP.⁵⁹ Of the more than 206,000 Iowans disenrolled from Medicaid as of January 22, 2024, 72% were terminated for procedural reasons.⁶⁰ During the unwinding process, net enrollment in Iowa's Medicaid program has declined by 19.1%, among the highest rates of disenrollment nationwide.⁶¹

An outreach and enrollment coordinator at a FQHC based in southeast Iowa reports that many Medicaid families served by the FQHC have language needs that are not being met by the Iowa Department of Health and Human Services ("IHHS"). Of the 25,000 individuals living in the FQHC's service area, over 15% do not speak English. This includes a large community from Compacts of Free Association ("COFA") nations.⁶² Among the issues the coordinator flagged, IHHS does not translate notices and other correspondence into commonly used languages. With no means of understanding the correspondence, many enrollees with LEP do not respond to notices and requests for information and are terminated from Medicaid.

Although state Medicaid websites are a common source of information on redetermination, IHHS's Medicaid website and services portal are only available in English. Taglines in several languages, located in the footer of the services portal, direct people to call a toll-free number for assistance. This means that most Medicaid enrollees with LEP must rely on IHHS call centers to receive in-language eligibility assistance.

Yet, according to the coordinator, IHHS call centers are riddled with accessibility issues. The IVR system is only programmed in two languages, English and Spanish, so many AAPI language speakers cannot understand the prompts and navigate to the language services they require. In addition, IHHS does not offer any assistance in COFA languages. Even when callers

⁵⁷ *Monthly Data Reps.*, *supra* note 5252.

⁵⁸ 2022 Am. Cmty. Surv. Data, *supra* note 434343.

⁵⁹ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁶⁰ *KFF Unwinding Tracker*, *supra* note 1111.

⁶¹ *Id.*

⁶² The Compacts of Free Association nations includes the Federation States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. *See generally* Compacts of Free Association, U.S. Dep't of the Interior, <https://www.doi.gov/oia/compacts-of-free-association> (last visited Feb. 3, 2024).

with LEP successfully navigate the prompts, they regularly experience long wait times of 45 to 60 minutes.

On one occasion, the coordinator called on behalf of a client seeking assistance in Spanish. After waiting on hold for 50 minutes, she abandoned the call and called back in English, relying on a Spanish interpreter in her office to communicate with her client. In effect, four people (the client, the coordinator, the IHHS agent, and an interpreter) had to be involved so that her client could receive basic assistance. The coordinator notes that sometimes IHHS has disenrolled beneficiaries with LEP and then referred them out to the FQHC to “help the client figure it out.” This underscores how under-resourced FQHCs have to compensate for the state’s inability to provide meaningful access to individuals with LEP.

G. Kansas

In Kansas, approximately one in 10 adults in Medicaid households are LEP.⁶³ The state has an estimated 124,916 people with LEP, including 84,423 Spanish speakers, 8,583 Vietnamese speakers, and 5,035 Chinese speakers.⁶⁴ Roughly 13,868 Medicaid recipients in the state have LEP.⁶⁵ During the unwinding process, Kansas has disenrolled an estimated 127,000 people from Medicaid, of which 78% were terminated for procedural reasons.⁶⁶

A community engagement manager providing community health services and enrollment assistance to the Latino community in Kansas City reports that many of his organization’s clients have had difficulty navigating the Medicaid redetermination process because of chronic language access issues.

The state agencies managing Kansas’s Medicaid program, KanCare, have translated the Medicaid renewal form into Spanish. However, according to the manager, the form is lengthy and beyond the literacy skills of most clients, leading many individuals to complete sections unnecessarily or incorrectly. Even when clients indicate that their primary language is Spanish, they receive correspondence in English only. Although Medicaid renewal forms are available in other languages, individuals must call a telephone support line to obtain them.

The KanCare website and self-service enrollment portal are only viewable in English. Although the KanCare enrollment portal contains taglines for several languages, selecting the taglines merely reloads the same page in English. In addition, the manager notes that the website provides no information on how to request information in other languages, even Spanish. A few online resources are translated into Spanish. Regarding outreach, the state agencies rely heavily on CBOs to relay messaging about the Medicaid redetermination process to LEP populations, but the agencies have not provided outreach materials and other resources in commonly encountered languages. Most of the agencies’ social media graphics and posts are in English, with only a handful translated into Spanish.

KanCare call centers—often the only way for individuals with LEP to receive in-language eligibility assistance—have multiple language access deficiencies. The community

⁶³ Haldar et al., *supra* note 4141.

⁶⁴ 2022 Am. Cmty. Surv. Data, *supra* note 434343.

⁶⁵ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁶⁶ *KFF Unwinding Tracker*, *supra* note 1111.

engagement manager states that the IVR system is confusing to navigate, especially for individuals with LEP. It takes three minutes to even reach the menu options because the call prompt begins with several announcements—all in English. Although callers can select a menu option for Spanish, the KanCare representative who answers the Spanish line oftentimes speaks only English. Typically, the representative will ask the caller for their social security number or case number instead of beginning by asking the caller whether they need an interpreter. Only after the case information is verified does the representative connect an interpreter. These needless complications cause substantial confusion for people with LEP and add further delay in obtaining in-language assistance. According to the manager, interpretation is difficult to obtain and of poor quality when received. Interpreters regularly summarize what clients say instead of providing a literal translation. On some occasions, they have also cut clients off when they are speaking. These practices contribute to the frustration and confusion felt by LEP clients. Although language access issues have been brought to KanCare’s attention, the manager states that “there continues to be a huge lag on improvements.”

H. Kentucky

Kentucky has an estimated 102,685 people with LEP, including 50,573 Spanish speakers, 4,780 Swahili speakers or speakers of other Central, Eastern, and Southern African languages, and 4,613 speakers of other Asian languages.⁶⁷ Approximately 27,377 Medicaid recipients in the state have LEP.⁶⁸ During the unwinding process, Kentucky has disenrolled close to 150,000 people, of whom 57% were terminated for procedural reasons.⁶⁹

A healthcare provider at a women’s health clinic in rural central Kentucky reports that the state’s Medicaid redetermination process has been challenging for Spanish speakers with LEP. Notices, renewal forms, and other essential documents often contain highly technical terms beyond the literacy skills of most clients. In addition, call centers do not provide timely and reliable assistance to LEP clients. The provider states that the wait time for assistance in Spanish is an hour or more. Often, calls drop altogether, and during peak hours, calls do not connect at all. Instead, the caller hears an automated message directing them to call back another time. In-person assistance is just as inaccessible for people with LEP because many clerks do not bother using a language line, instead handing clients with LEP a paper application in English and telling them to complete it without informing them of their right to language services.

I. Missouri

Missouri has an estimated 122,789 people with LEP, including 52,123 Spanish speakers, 9,487 Chinese speakers, and 7,275 Vietnamese speakers.⁷⁰ Approximately 17,715 Medicaid recipients in the state have LEP.⁷¹ During the unwinding process, Missouri has disenrolled an

⁶⁷ 2022 Am. Cmty. Surv. Data, *supra* note 434343.

⁶⁸ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁶⁹ *KFF Unwinding Tracker*, *supra* note 1111.

⁷⁰ 2022 Am. Cmty. Surv. Data, *supra* note 434343.

⁷¹ 2021 Am. Cmty. Surv. Data, *supra* note 44.

estimated 158,800 people from Medicaid coverage, of whom 79% were terminated for procedural reasons.⁷²

Community health workers report that the state agencies administering Missouri’s Medicaid program, MO HealthNet, have categorically failed to meet the language needs of individuals with LEP. Three community health workers based in Missouri City, Kansas City, and Springfield state that the agencies are sending their clients notices, renewal forms, and other documentation in English, not their primary language. The documents are also difficult for people with limited literacy to understand.

Most LEP populations cannot obtain in-language information on the State’s Medicaid website. Although the state has published some resources and outreach materials in Spanish, it otherwise relies on Google Translate to translate web content, with no indication that a qualified human translator has verified the translated information. Most MO HealthNet resources and social media outreach are provided in English only, leaving LEP individuals without any culturally informed or linguistically accurate instructions on navigating the redetermination process and accessing language assistance. In addition, since the online enrollment portal is available in English only, all enrollees with LEP are directed in English to call a translation service line to request language assistance.

Yet another common concern voiced by health advocates and direct service providers across the state is that MO HealthNet enrollees with LEP are not receiving timely and reliable assistance through HealthNet’s call centers. Two community health workers who assist with outreach at a FQHC network in the Missouri City and the city of Nevada report that clients with LEP are experiencing long wait times for assistance in non-English languages because the state does not adequately staff its call centers with qualified interpreters. Indeed, MO HealthNet call centers had an average wait time of 24 minutes and an average call abandonment rate of 46.7%, the second highest nationwide.⁷³ We also found that the translation service line only provides language assistance in three languages—Spanish, Bosnian, and Vietnamese—which noticeably omits Chinese, the state’s second-largest non-English language group, among other prominent language groups. A community health worker assisting refugees in Kansas City with Medicaid enrollment states that her clients are not able to reach anyone when they call the translation service line. Therefore, they are not “given the opportunity or education to exercise their rights to meaningful interpretation.” With her LEP clients unable to adequately obtain language assistance and renew their coverage online or by phone, the community health worker states her clients have had to take time off work to schedule appointments at an agency office, where interpretation in most languages is still limited.

J. Nebraska

Nebraska has an estimated 92,446 people with LEP, including 60,440 Spanish speakers, 4,100 Vietnamese speakers and 4,895 speakers of other Asian languages.⁷⁴ Approximately

⁷² *KFF Unwinding Tracker*, *supra* note 1111.

⁷³ *Monthly Data Repts.*, *supra* note 525252.

⁷⁴ 2022 Am. Cmty. Surv. Data, *supra* note 434343.

16,741 Medicaid recipients in the state have LEP.⁷⁵ During the unwinding process, the state has disenrolled approximately 79,400 individuals from Medicaid coverage, with 46% terminated for procedural reasons.⁷⁶

Nebraska Appleseed, a nonprofit legal services organization serving Nebraskans across the state, has received reports from its partners that Medicaid notices are only available in English and Spanish, and the notices Nebraska Appleseed has reviewed do not include taglines indicating the availability of language assistance for other common languages.

K. North Carolina

North Carolina has an estimated 451,823 people with LEP, including 313,821 Spanish speakers, 15,636 Chinese speakers, and 14,599 Vietnamese speakers.⁷⁷ Approximately 65,745 Medicaid recipients in the state have LEP.⁷⁸ During the unwinding process, the state has terminated approximately 196,200 individuals from Medicaid coverage, of which an alarming 88% were terminated for procedural reasons—the fifth highest rate nationwide.⁷⁹

Language access barriers are likely contributing to North Carolina’s high rate of procedural terminations.⁸⁰ A community health worker serving low-income families in Western North Carolina reports that the Department of Health and Human Services (“NCDHHS”), which administers the State’s Medicaid program, has not been providing notices and renewal forms in her clients’ primary languages. The documents generally contain technical language that is inaccessible to her clients. In addition, NCDHHS’s Medicaid website is available only in English and Spanish. It does not contain any taglines to ensure that individuals with other language needs know how to access language services. She also notes that the website is particularly difficult to navigate on a smart phone, which makes it much more difficult for low-income immigrant families with disproportionately less computer access to renew their coverage online.⁸¹

NCDHHS is woefully failing to provide individuals with LEP with meaningful access to its Medicaid call centers. We found that North Carolina is one of several states that do not immediately prompt callers to provide their primary language. Instead, the IVR system begins with a lengthy prompt in English about Medicaid and the unwinding process generally, and only after the general message does the system ask if the caller needs language assistance. This can be very confusing for individuals with LEP. In addition, NCDHHS call centers only provide

⁷⁵ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁷⁶ *KFF Unwinding Tracker*, *supra* note 1111.

⁷⁷ 2022 Am. Cmty. Surv. Data, *supra* note 4343.

⁷⁸ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁷⁹ *KFF Unwinding Tracker*, *supra* note 1111.

⁸⁰ See Jaymie Baxley, *Unwinding update: 5 takeaways from NC’s latest Medicaid data*, NC Health News (Sept. 19, 2023), <https://www.northcarolinahealthnews.org/2023/09/19/medicaid-unwinding-update/> (reporting that the state’s failure to provide notices in an enrollee’s primary language may be leading individuals to not respond and thereby be disenrolled); Hamutal Bernstein, *Supporting North Carolina’s Immigrant Families*, Urban Inst. (Nov. 15, 2023), <https://www.urban.org/research/publication/supporting-north-carolinas-immigrant-families> (citing a lack of language access as a common obstacle for North Carolina’s immigrant families accessing safety net programs such as Medicaid).

⁸¹ See Sara Atske and Andrew Perrin, *Home broadband adoption, computer ownership vary by race, ethnicity in the U.S.*, Pew Rsch. Ctr. (Jul. 16, 2021), <https://www.pewresearch.org/short-reads/2021/07/16/home-broadband-adoption-computer-ownership-vary-by-race-ethnicity-in-the-u-s/>.

language assistance in Spanish. As the community health worker confirms, there are no options for assistance in other languages. She also notes several instances in which interpretation quality had been poor because the interpreter lacked proper training, language proficiency, or cultural awareness. On other occasions, NCDHSS agents have refused to provide her clients with interpreters.

L. Pennsylvania

Pennsylvania has an estimated 558,725 people with LEP, including 264,127 Spanish speakers, 49,359 Chinese speakers, and 21,508 Vietnamese speakers.¹ Approximately 170,997 Medicaid recipients in the state have LEP. During the unwinding process, the state has terminated around 575,300 individuals from Medicaid, with nearly half terminated for procedural reasons.⁸²

Health advocates and direct service providers report that the Department of Human Services (“PA DHS”), which administers the state’s Medicaid program, is not meeting the language needs of most LEP populations. Providers based in Drexel Hill, Pittsburgh, and Philadelphia report that PA DHS sends clients LEP notices and renewal forms in English, not their requested language. Community health workers at a Latino resource center serving Allegheny County, which includes Pittsburgh, state that although notices are available in Spanish, clients do not always receive them.

A supervising attorney at a legal service provider in Philadelphia reports that even though PA DHS has translated its renewal form into various languages, the agency has not proactively sent these documents to beneficiaries with LEP. Instead, individuals seeking translated renewal forms must visit a local office to request paper copies, which can take considerable time. The organization continues to encounter beneficiaries whose language needs are not accurately recorded in the electronic case record system, which defaults to English. The state has refused to remove this default feature. Even when clients receive translated notices, she states that the documents sometimes still include notes and other case-specific information in English. For example, a notice might state in Spanish, “You no longer qualify for Medical Assistance,” but the reason given is stated in English and might say something like “you did not send us bank statements from X bank.” This practice tends to leave recipients with LEP confused about what actions to take to maintain coverage.

PA DHS’s Medicaid website is not accessible for most LEP populations. The agency’s general page on Medicaid relies on Google Translate to generate in-language information. Its Medicaid enrollment portal, Compass, can only be translated into Spanish. An “Other” option pulls up taglines for several other languages, which direct individuals to call for in-language assistance. The agency has produced several general mailings with outreach about Medicaid renewal. All were translated into Spanish, but only one was translated into other non-English languages. At local benefits offices, the attorney notes a recurring issue with LEP clients not being made aware of their right to free interpretation, which often results in the client trying to proceed in English and losing their benefits. On other occasions, clients have requested an interpreter and have not been provided with one.

⁸² *KFF Unwinding Tracker*, *supra* note 1111.

Although PA DHS’s call centers seem to be the only way for LEP individuals to obtain in-language assistance, PA DHS has failed to provide meaningful language access. The attorney notes that PA DHS needlessly made its IVR system more complicated. The state’s main call center once had prompts in the five most prevalent non-English languages, which gave people clear instructions in each of the languages about which number to press to alert the call center representative to their language needs. Yet a few years ago, the state replaced this model system with prompts only in English and Spanish. Advocates have urged PA DHS to restore the prior version. The attorney in Philadelphia and community health workers in Allegheny County report that Spanish-speaking clients with LEP are experiencing double or triple the wait times, fewer calls answered, and more calls abandoned compared to the English callers. Often, even if a caller selects the menu option for Spanish, the call is answered by an English-speaking call center agent, who then must connect an interpreter. These practices result in many clients being confused, frustrated, and waiting a long time to ultimately receive no assistance.

M. Tennessee

Tennessee has an estimated 200,838 people with LEP, including 127,702 Spanish speakers, 12,818 Arabic speakers, and 7,126 Chinese speakers.⁸³ Approximately 35,659 Medicaid recipients in the state have LEP.⁸⁴ During the unwinding process, the state has disenrolled around 274,300 Medicaid beneficiaries, with 76% terminated for procedural reasons.⁸⁵

Health advocates and direct service providers report that Tennessee’s Medicaid redetermination process is inaccessible for many LEP populations. According to a director of health equity at a legal and advocacy nonprofit in Nashville, the state does not translate notices into languages other than Spanish. A community health worker in East Tennessee notes that even when the state has provided her clients with translated notices, they are poorly translated or use technical language, making it difficult for her clients to understand what is required.

The TennCare website also does not offer a clear method for individuals with LEP to find information in their language. The TennCare enrollment portal contains a “translate” button signaled by a “globe” icon at the top of the page, which would seem to signal that when a user clicks the button, they will be prompted to select their primary language. In reality, when selected, the button automatically translates the page into Spanish. For a non-Spanish speaker who requires translation in another language, this option would be perplexing. Compounding these issues, TennCare does not provide taglines or any other clear instruction on how individuals can request and obtain in-language eligibility assistance.

TennCare call centers are as fraught with language access issues as the state’s mail correspondence and website. The IVR system begins with an English prompt without first asking for the primary language. In addition, the call center only offers menu options for English and Spanish, which has discouraged clients with other language needs from contacting call centers. The health advocate in Nashville stated that her office has had to call the English language

⁸³ 2022 Am. Cmty. Surv. Data, *supra* note 4343.

⁸⁴ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁸⁵ *KFF Unwinding Tracker*, *supra* note 1111.

option with their client on the line and then request an interpreter. On several occasions, the call is dropped after they attempt to connect with an interpreter. Without an advocate, it is unclear how an LEP individual with other language needs would be able to receive eligibility assistance through the call center. The community health worker shared that her clients have experienced long hold times when trying to communicate with the Medicaid helpline and find that interpretation quality is often poor.

N. Texas

Texas has an estimated 3,538,224 people with LEP, including 2,957,440 Spanish speakers, 129,857 Vietnamese speakers, and 82,311 Chinese speakers.⁸⁶ Approximately 618,961 Medicaid recipients in the state have LEP.⁸⁷ One in every four adults in Medicaid households are LEP.⁸⁸ During the unwinding period, Texas has disenrolled around 1.8 million beneficiaries—the most nationwide—from Medicaid coverage, of whom 67% were terminated for procedural reasons.⁸⁹

Health advocates and direct service providers report that Texas Health and Human Services (“TXHHS”), which administers the state’s Medicaid program, has not met the language needs of several LEP populations during the unwinding process. Several providers state that notices and other vital documents are not mailed to clients in their primary language and contain language difficult to understand for people with limited literacy skills. A health advocate with a San Antonio-based nonprofit that serves newly arrived immigrants states that their Afghan clients are not receiving renewal notices in their primary languages, Dari and Pashto. The advocate also notes that their clients have received notices near or past the due date, making it even more challenging to maintain coverage given the additional steps required to receive in-language help. A policy director at a nonprofit organization advocating for the language rights of AAPI community members and immigrant services states TXHHS does not send notices and forms in AAPI languages. The language contained in notices and other documents is also highly technical, which presents additional challenges for many of the nonprofit’s clients who have little formal education, in addition to having LEP. This reporting is echoed by an enrollment specialist at a CBO serving the Latino community in San Antonio. She adds that notices often lack the specificity to explain why their coverage was terminated and advise beneficiaries of what is required of them.

TXHHS is failing to provide individuals with LEP meaningful access to its call centers. Although the IVR system provides a Spanish menu option, individuals seeking other language services are instructed in English to press 0. If they press 0, the caller can select from six languages, yet many communities are not covered by the language options. The policy director reports that their Korean clients have experienced acute language access barriers through call centers. As an initial matter, the call center’s IVR system does not offer an option for Korean interpretation. Often, their clients wait over an hour just to request an interpreter. CBOs based in

⁸⁶ 2022 Am. Cmty. Surv. Data, *supra* note 4343.

⁸⁷ 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁸⁸ Haldar et al., *supra* note 41.

⁸⁹ *KFF Unwinding Tracker*, *supra* note 1111.

Austin and San Antonio also report long wait times for other LEP populations. Calls are often dropped. When an interpreter is finally obtained, they often appear to be poorly trained on Medicaid renewals and themselves struggle with language proficiency. According to the policy director, call center staff have provided inconsistent or inaccurate information. He states, “Finding a [call center] representative who is well-informed and able to provide accurate information feels like winning the lottery.” The policy director further notes that call center agents have also categorically refused to allow advocates to interpret for their clients despite their clients’ stated preference, stating that the agency must use its own interpreters.⁹⁰ This practice needlessly causes further delay and unduly limits language access. In one instance, a service team member assisted an elderly Korean-speaking client who was hard of hearing. The call center agent barred the advocate from interpreting and instead relied on a language line, which the client could not hear. Even if CBOs were allowed to provide language services, they certainly do not have the capacity to serve every individual. They should not be tasked with covering for the state’s failure to meet its Title VI and Section 1557 obligations.

Like its call centers, TXHHS’s Medicaid website, Your Texas Benefits, does not provide reliable, in-language information to most LEP individuals. The website can only be translated into Spanish and does not provide taglines or further instructions on how to request interpretation or translated materials in other languages. Advocates also report that the portal does not provide any recent communications to clients, the status of benefits, or specific information as to why a Medicaid application or renewal has been denied. This obliges the client and advocates to call for further assistance, which can be an inconvenient and time-consuming for people with LEP to obtain basic clarity on their coverage.

O. Virginia

Virginia has an estimated 477,552 people with LEP, including 246,030 Spanish speakers, 28,173 Vietnamese speakers, and 27,573 Korean speakers.⁹¹ Approximately 59,465 Medicaid recipients in the state have LEP.⁹² During the unwinding process, the state has terminated 249,500 beneficiaries from Medicaid coverage, with 75% terminated for procedural reasons.⁹³

Health advocates and direct service providers report that the Virginia Department of Medical Assistance Services (“DMAS”), which administers the state’s Medicaid program, is falling short of meeting the language needs of LEP populations during the unwinding process. A Medicaid policy analyst and health insurance navigator at an anti-poverty legal and advocacy organization states that Medicaid application forms and other documents are generally only available in English or Spanish, and many of her clients have received Medicaid notices in English, rather than the primary language they indicated on their application. A community engagement specialist in southwest Virginia shares similar experiences. Staff members at the nonprofit have also observed that when Medicaid recipients receive notices in their language, they still often contain notes from case workers in English, which means that recipients cannot

⁹⁰ HHS regulations contemplate that a person with LEP can provide their own interpreter under certain circumstances. See 45 C.F.R. § 92.101(b)(4).

⁹¹ 2022 Am. Cmty. Surv. Data, *supra* note 4343.

⁹² 2021 Am. Cmty. Surv. Data, *supra* note 44.

⁹³ *KFF Unwinding Tracker*, *supra* note 1111.

fully understand the outcome of their case or what actions are required. Translated documents also contain errors, such as when ambiguous characters replace accented letters.

DMAS's Medicaid call centers are similarly hard to navigate for individuals with LEP. People requesting language assistance often experience long wait times and dropped calls. The IVR system begins with an introductory prompt in English before asking the caller for their primary language. Even then, although Spanish is a menu option, callers seeking assistance in other languages are directed to dial a separate option "for help in other languages." The nonprofit's clients have also reported being called by case workers without an interpreter, even though they indicated a non-English language preference. Moreover, as confirmed by the community engagement specialist, in rural parts of the state, individuals with LEP often do not receive language assistance at local enrollment offices because most offices do not have interpreters on staff and the language line can be unreliable.

Beneficiaries with LEP also find obtaining in-language information online a challenge. Virginia has a Medicaid website, managed by DMAS, and 120 county-administered Department of Social Services ("DSS") websites. The content on the DMAS website, CoverVA.org, can only be translated into Spanish, but embedded guides and informational sheets are only available in English. An analysis conducted by the above-mentioned nonprofit found that 70% of DSS websites have no translated information. Those who have translated information generally utilize unreliable tools like Google Translate.

III. RECOMMENDATIONS

The reporting above demonstrates that months into the unwinding process, state Medicaid agencies are systematically failing to meet the language needs of individuals with LEP. In particular, states are failing to:

- translate notices, renewal forms, and other vital documents for many commonly encountered LEP groups,
- ensure that individuals with LEP receive timely and reliable eligibility assistance through call centers, and
- inform individuals with LEP of their right to language assistance.

These glaring inequities in basic access to the redetermination process raise serious questions about whether states are taking reasonable steps to provide meaningful access to individuals with LEP, thereby implicating national origin discrimination and other regulatory violations.

Whether a Medicaid enrollee's language access rights are respected should not depend on what state they live in. While state-by-state technical assistance can be helpful, the time for relying on states to remedy language access deficiencies on their own has passed. As such, NILC urges HHS and its sub-agencies to undertake a wholesale approach to redressing language inequities during the Medicaid unwinding process. We recommend that, among other enforcement measures, HHS and its sub-agencies:

- Issue on an expedited basis an advisory to state agencies that failure to meet language access requirements, including but not limited to OCR recommendations,⁹⁴ could result in notices of violation that lead to HHS directing states to suspend terminations unless and until they have met their Title VI and Section 1557 obligations.
- Conduct compliance reviews in the enumerated states to determine whether state agencies are failing to take reasonable steps to provide meaningful access to individuals with LEP.
- Issue notices of violation to states that have failed to take reasonable steps to provide access and require violating states to submit corrective action plans.
- Suspend all terminations for procedural reasons of individuals with LEP in states that fail to submit and/or implement corrective action plans regarding language access.
- Conduct mandatory technical assistance and training on an expedited basis for all states regarding their obligations under Title VI and Section 1557.
- Require states to report monthly Medicaid renewal and termination data by primary language, alongside baseline data for comparison.
- Publish sub-regulatory guidance for all states in an expedited manner based on the reports in this and other complaints.

IV. CONCLUSION

For the above reasons, we urge OCR to take immediate action to protect low-income LEP populations who are being disenrolled from essential health coverage—not because they were found ineligible for Medicaid, but because they were not provided meaningful access to the redetermination process. If you have any questions regarding this complaint, please contact Nicholas Espiritu at espiritu@nilc.org and Matthew Lopas at lopas@nilc.org.

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Respectfully submitted,

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⁹⁴ See Letter from Melanie Fontes Rainer, *supra* note 24.