



# IMPROVING THE ROAD TO ACA COVERAGE

## Lessons Learned on Outreach, Education, and Enrollment for Asian American, Native Hawaiian, and Pacific Islander Communities

Asian & Pacific Islander American Health Forum  
Association of Asian Pacific Community Health Organizations  
Asian Americans Advancing Justice | AAJC  
Asian Americans Advancing Justice | Los Angeles

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# ACTION FOR HEALTH JUSTICE

## PARTNERS

### Arizona

Asian Pacific Community in Action

### Arkansas

Hmong National Development, Inc.

### California

APAIT Health Center  
 API-Equality Los Angeles  
 Asian Americans for Community Involvement  
 Asian Health Services  
 Asian Law Alliance  
 Asian Pacific Policy & Planning Council  
 Asian Resources, Inc.  
 Cambodian Womens Association  
 Center for the Pacific Asian Family  
 Chinatown Service Center  
 Chinese Chamber of Commerce of Los Angeles  
 Community Health for Asian Americans  
 Empowering Pacific Islander Communities  
 Families in Good Health  
 Filipino American Service Group Inc.  
 Filipino Migrant Center  
 Filipino Youth Coalition  
 Fresno Interdenominational Refugee Ministries  
 Guam Communications Network  
 Healthy House Merced  
 Hmong Women's Heritage Association  
 International Children's Assistance Network  
 Kingdom Causes Long Beach  
 Korean American Community Services  
 Korean Churches for Community Development  
 Korean Community Center of the East Bay  
 Korean Resource Center  
 Koreatown Youth and Community Center  
 Lao American Coalition  
 Lao Family Community Empowerment  
 Little Tokyo Service Center  
 Merced Lao Family Community  
 National Asian Pacific American Families Against Substance Abuse  
 Native Hawaiian and Pacific Islander Alliance  
 North East Medical Services  
 Operation Samahan  
 Orange County Asian Pacific Islander Community Alliance  
 Pacific Islander Health Partnerships  
 PALS for Health  
 Samoan Community Development Center  
 Samoan National Nurses Association  
 Search to Involve Pilipino Americans  
 South Asian Network  
 Southeast Asian Assistance Center  
 Taulama for Tongans  
 Thai Community Development Center  
 Thai Health and Information Services  
 Tongan Community Service Center  
 Union of Pan Asian Communities  
 United Cambodian Community  
 Vietnamese Voluntary Foundation

### Georgia

Center for Pan Asian Community Services

### Hawaii

Kalihi-Palama Health Center

### Illinois

Asian Health Coalition  
 Asian Human Services

### Louisiana

Mary Queen of Vietnam Community Development Corporation

### Massachusetts

Lowell Community Health Center  
 South Cove Community Health Center

### Michigan

Healthy Asian Americans Project

### Minnesota

Hmong American Partnership

### Mississippi

Steps Coalition

### Missouri

Hmong National Development, Inc.

### New Jersey

Korean Community Services of Metropolitan New York, Inc.  
 United Sikhs

### New York

Charles B. Wang Community Health Center  
 Coalition for Asian American Children & Families  
 Korean Community Services of Metropolitan New York, Inc.  
 United Sikhs

### North Carolina

Hmong National Development, Inc.

### Ohio

Asian Services in Action, Inc.

### Oregon

Asian Pacific American Network of Oregon

### Pennsylvania

SEAMAAC

### Rhode Island

Center for Southeast Asians

### Texas

HOPE Clinic

### Utah

National Tongan American Society

### Washington

International Community Health Services  
 Samoan National Nurses Association

### National

Asian & Pacific Islander American Health Forum  
 Association of Asian & Pacific Community Health Organizations  
 Asian Americans Advancing Justice | AAJC  
 Asian Americans Advancing Justice | Los Angeles

## EXECUTIVE SUMMARY

The opening of the health insurance marketplaces and the expansion of Medicaid under the Patient Protection and Affordable Care Act (ACA) provided opportunities for millions of Americans to gain health insurance coverage. Still, many Asian Americans, Native Hawaiians, and Pacific Islanders (AAs and NHPs) faced major barriers and challenges during the first Open Enrollment Period from October 2013 to March 2014. Because AAs and NHPs represent a diverse group with many different languages and cultures, these populations faced unique challenges related to language, immigration status, and health literacy as they attempted to enroll in coverage.

This report provides a comprehensive narrative on the activities of Action for Health Justice (AHJ) – a collaborative of over 70 community-based organizations and Federally Qualified Health Centers working in 22 states to address the challenges in ACA outreach, education, and enrollment facing AA and NHP communities across the country. These organizations engaged in a multitude of strategies to help AAs and NHPs enroll in coverage, from creating educational materials to helping limited English proficient (LEP) consumers understand insurance concepts, to working one-on-one with families for hours and over multiple visits to help them understand application forms and submit documentation. AHJ partner organizations also created strategic partnerships with businesses, faith-based organizations such as churches, temples, and mosques, and ethnic media to educate AA and NHP consumers about the benefits of the ACA and dispel many myths circulating among communities.

This report presents examples, stories, best practices, and lessons learned from AHJ partner organizations on how they worked and connected with communities. Many organizations were already trusted sources of health information in their communities before the ACA was passed, and built on these relationships to engage with consumers about the ACA. As a result, they were able to improve enrollment efficiency for LEP and immigrant consumers. The presence of AHJ also allowed for rapid communication between organizations about new developments and changes in policies or procedures. Four AHJ national organizations served as important intermediaries to relay challenges directly from the field to appropriate state and federal officials.

While much was accomplished during the first Open Enrollment Period, many enrollment barriers remain for AA and NHP communities. Federal and state policy changes can help improve the enrollment experience for AAs and NHPs and other hard-to-reach populations so they can continue to enroll in coverage. AHJ will continue its work and hopes that others can utilize the experiences and strategies shared in this report to help improve the health of all communities.

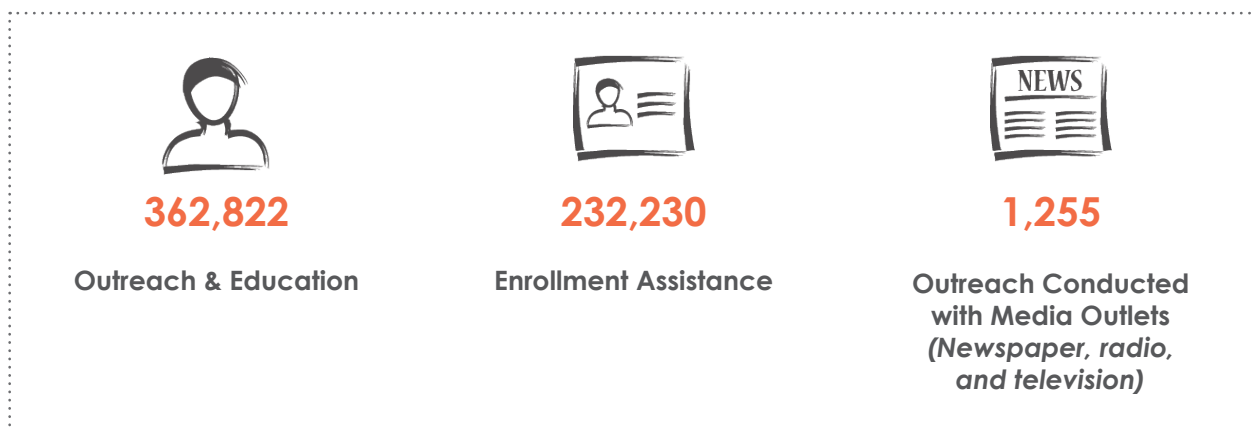
## INTRODUCTION

The passage of the Patient Protection and Affordable Care Act (ACA) opened a gateway to change the lives of many Asian Americans, Native Hawaiians, and Pacific Islanders (AAs and NHPs). Immediately, efforts to ensure meaningful access to new health insurance coverage options unfolded within AA and NHP communities, particularly for those who could benefit most from the new law but were least likely to be aware of their new options: low-income, immigrant, and limited English proficient (LEP) individuals. At the start of the first Open Enrollment Period, an estimated 1.9 million uninsured AAs and NHPs were eligible for new options for coverage in the health insurance marketplaces and Medicaid.<sup>1</sup>

AA and NHP serving organizations with extensive experience serving diverse and hard-to-reach communities knew that additional time, resources, and cultural sensitivity would be essential for outreach, education, and enrollment of AAs and NHPs who speak dozens of different languages.<sup>2</sup> Mainstream outreach efforts often do not consider the cultural and linguistic differences of AAs and NHPs. As a result, outreach, education and enrollment efforts targeting AA and NHP communities are poorly constructed at best or simply ignored at worst.

As educational materials and enrollment assistance funding emerged in preparation for the first Open Enrollment Period, it was apparent that very limited federal and state resources would be directed to AA and NHP communities. In response, national AA and NHP organizations, community-based organizations (CBOs), and Federally Qualified Health Centers (FQHCs) came together to form Action for Health Justice (AHJ).

Prior to the first Open Enrollment Period, AHJ put forth a strategic plan to optimize AA and NHP enrollments by coordinating and leveraging intellectual and financial resources and building organizational capacity for CBOs to advocate for AA and NHP communities. From July 2013 to the end of the first Open Enrollment Period in March 2014, AHJ partners engaged in a multitude of outreach, education, and enrollment activities and strategies to achieve the following:



<sup>1</sup> Minh Wendt, Shondelle Wilson-Frederick, Samuel Wu & Emily R. Gee, Assistant Secretary for Planning and Evaluation & Office of Minority Health, U.S. Department of Health & Human Services, Eligible and Uninsured Asian Americans, Native Hawaiians, and Pacific Islanders: 8 in 10 Could Receive Health Insurance Marketplace Tax Credits, Medicaid or CHIP 1 (2014), [http://aspe.hhs.gov/health/reports/2014/UninsuredAANHPI/rb\\_UninsuredAANHPI.pdf](http://aspe.hhs.gov/health/reports/2014/UninsuredAANHPI/rb_UninsuredAANHPI.pdf). About 680,000 of eligible uninsured AAs and NHPs resided in California alone. Id. at 7, Table 3.a

<sup>2</sup> U.S. Census Bureau, *American Community Survey and Puerto Rico Survey 2013 Code List* (2013), [http://www.census.gov/acs/www/Downloads/data\\_documentation/CodeLists/2013\\_ACS\\_Code\\_Lists.pdf](http://www.census.gov/acs/www/Downloads/data_documentation/CodeLists/2013_ACS_Code_Lists.pdf) accessed 9/18/2014



## Outreach, Education, and Enrollment Assistance in 41 languages

Arabic	Hindi	Mien	Thai
Bangla (Bengali)	Hmong	Nepali	Toisanese
Bhutanese	Ilocano	Portuguese	Tongan
Bosnian	Indonesian	Punjabi	Urdu
Burmese	Japanese	Russian	Vietnamese
Cantonese	Karen	Samoan	
Chamorro	Khmer (Cambodian)	Spanish	
Chin	Korean	Swahili	
Chuukese	Kurdish	Tagalog	
English	Laotian	Taiwanese	
Farsi	Mandarin	Tibetan	
French	Marshallese	Teochew	

### ***Improving the Road to ACA Coverage: Lessons Learned on Outreach, Education, and Enrollment for Asian American, Native Hawaiian, and Pacific Islander Communities***

consolidates outreach, education, and enrollment strategies AHJ partners used to effectively engage AA and NHPI communities in the health insurance marketplaces and expanded Medicaid during the first Open Enrollment Period. Many of these strategies helped LEP and immigrant consumers in particular gain access to the ACA's new coverage programs.

The purpose of this comprehensive report is twofold: (1) to discuss lessons learned from outreach, education, and enrollment efforts that other consumer assistance organizations can put into practice; and (2) to guide policymakers to improve the cultural and linguistic aspects of the ACA's new health systems and to ensure access for all eligible uninsured consumers. This report is a companion to the AHJ policy brief released in July 2014, *Improving the Road to ACA Coverage: Policy Recommendations for Enrollment Success*. Together, these two publications demonstrate how improvements to policies and field operations can be made to enhance outreach, education, and enrollment efforts for future enrollment periods.

This report discusses the successful outreach, education, and enrollment strategies deployed by AHJ partners in the following categories:

- Addressing language and cultural barriers
- Building partnerships
- Engaging AA and NHPI consumers
- Improving enrollment efficiency
- Championing the voices of AA and NHPI communities

## Action for Health Justice

Action for Health Justice (AHJ) is a network of organizations established in July 2013 to reach and educate AAs and NHPs about their health insurance coverage options under the ACA, and to maximize enrollment in the Federally-Facilitated Marketplaces (FFM), state partnership marketplaces, state-based marketplaces (collectively, “health insurance marketplaces”), and Medicaid. AHJ focuses on hard-to-reach AA and NHP communities, particularly individuals who are low-income, LEP, or in mixed immigration status families, as well as small business owners, their employees, and young adults. AHJ builds the capacity of local, state, and national organizations to serve, advocate for, and engage with AA and NHP communities and improve their health.

AHJ consists of four national organizations (Asian & Pacific Islander American Health Forum, Association of Asian Pacific Community Health Organizations, Asian Americans Advancing Justice | AAJC, and Asian Americans Advancing Justice | Los Angeles<sup>3</sup>), and more than 70 AA and NHP national and local CBOs and FQHCs dedicated to educating, empowering, and enrolling AAs and NHPs in health coverage. ZeroDivide serves as AHJ’s technology counsel.<sup>4</sup>

national partners

### SPOTLIGHT

#### Asian & Pacific Islander American Health Forum (APIAHF)

APIAHF is a national health justice non-profit organization dedicated to improving the health and well-being of more than 18.5 million Asian Americans, Native Hawaiians, and Pacific Islanders (AAs and NHPs) living in the United States and its jurisdictions. Its mission is to influence policy, mobilize communities, and strengthen programs and organizations for the health of AAs and NHPs. APIAHF has invested in community-based organizations (CBOs) that serve hard-to-reach AAs and NHPs for the last 15 years and believes in the long-term engagement and support of these CBOs to build infrastructure and capacity.

During the first Open Enrollment Period APIAHF supported 14 CBO partners in their efforts to conduct ACA outreach, education and enrollment assistance in 16 states. APIAHF’s support included the dissemination of funds, the creation of a learning community to share tools, skills, trainings and best practices, and the delivery of rapid-response technical assistance. APIAHF’s partners serve hard-to-reach AA and NHP communities that are low-income, LEP, refugees, mixed immigration status families and other emerging communities that are considered “invisible within an invisible population” and are geographically or culturally isolated. The CBOs are uniquely situated to deliver ACA-related services and are already recognized as culturally and linguistically adept and trusted sources of services and information.

#### Association of Asian Pacific Community Health Organizations (AAPCHO)

AAPCHO is a national association of community health organizations serving Asian Americans, and Native Hawaiians, and Pacific Islanders. Its mission is to promote advocacy, collaboration, and leadership that improves the health status and access of AAs and NHPs within the United States, its territories, and freely associated states, primarily through its membership base of federally qualified community health centers and AA and NHP primary care networks and partners. Collectively the AAPCHO membership network provides primary care, dental, and mental health services to more than 500,000 patients annually. A critical member of the safety net, AAPCHO members have expanded capacity and efforts to educate, enroll, and ensure access to care for the newly insured.

Through the AHJ national network, a total of 13 AAPCHO member centers participated in outreach, education, and enrollment activities in the following states: CA, GA, HI, IL, LA, MA, NY, OH, TX, WA. During the first round of Open Enrollment from October 1, 2013, to March 31, 2014, AAPCHO member centers successfully enrolled more than 62,000 individuals and families into Medicaid and state and federal exchange insurance plans.

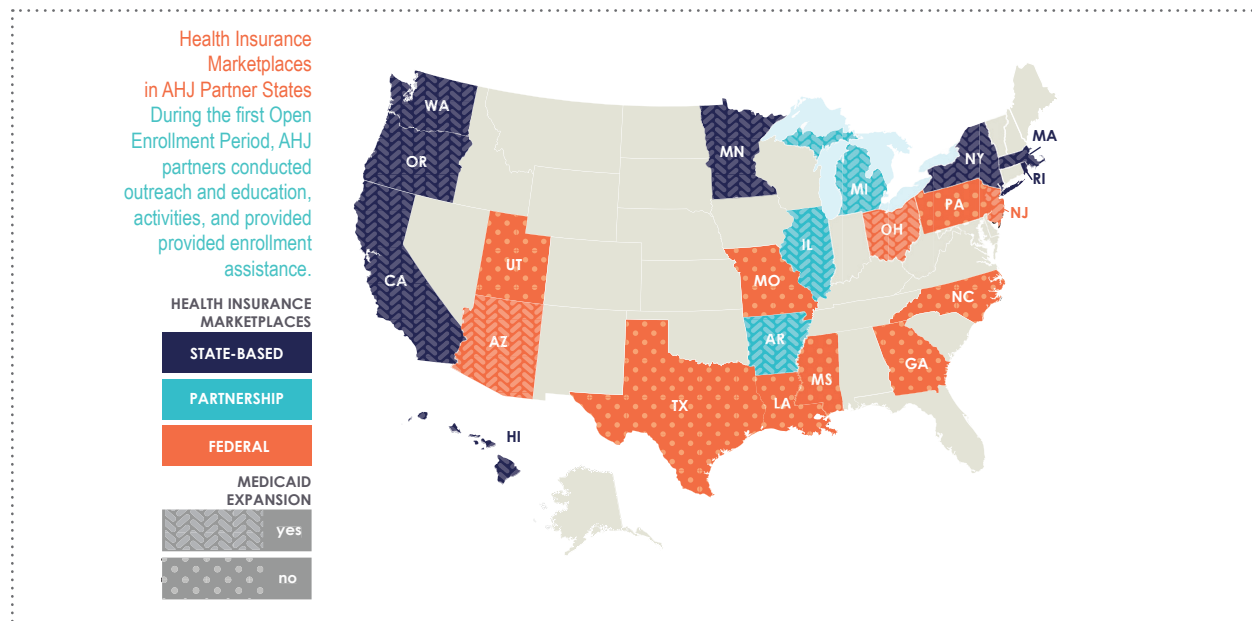
<sup>3</sup> Hereinafter, “Advancing Justice | Los Angeles.”

<sup>4</sup> For complete list of AHJ partners please see page 4.



## Methodologies

Findings in this document were gathered directly from over 70 AHJ partners through questionnaires, anecdotal interviews, and field experience. AHJ partners submitted biweekly, quarterly, and annual reports on outreach, education, and enrollment activities. At the end of the first Open Enrollment Period in April and May 2014, surveys were administered to AHJ partners by paper and through email. Fifty-nine responses were received from 20 CBOs and FQHCs across 15 states. Focus groups were also conducted during this time at AHJ partner meetings.



### Asian Americans Advancing Justice | Los Angeles (Advancing Justice | Los Angeles)

Since 1983, Advancing Justice-LA has served more than 15,000 individuals and organizations every year, through direct services, impact litigation, policy advocacy, leadership development, and capacity building. Along with three affiliates around the nation, Advancing Justice-LA's mission is to advocate for civil rights, provide legal services and education, and build coalitions to positively influence and impact Asian Americans, Native Hawaiians, and Pacific Islanders (AA and NHPIs) and to create a more equitable and harmonious society.

Advancing Justice-LA's Health Access Project (HAP) seeks to create a fair, accessible health care system for AA and NHPi communities through outreach, education, and advocacy. HAP leads the Health Justice Network (HJN), a statewide collaborative of over 55 funded partners (health care providers, small business groups, and advocacy organizations) in seven regions: Sacramento, San Francisco/Bay Area, Santa Clara County, Central Valley, Los Angeles, Orange County, and San Diego. HJN serves as a collaborative voice for AA and NHPi, limited English proficient, and immigrant communities to advance a proactive agenda to reduce health disparities and to increase access to affordable, quality health services, while growing community leadership and developing advocacy skills of individuals and organizations serving these diverse communities. During the first Open Enrollment Period, Advancing Justice-LA and its statewide partners received a \$1 million outreach and education grant through Covered California, the state-based marketplace, through which it reached and educated over 130,000 individuals in the state.

### Asian Americans Advancing Justice | AAJC (Advancing Justice | AAJC)

Founded in 1991, Advancing Justice | AAJC works to advance the human and civil rights of Asian Americans, and build and promote a fair and equitable society for all. Since its founding, along with affiliates throughout the country, Advancing Justice | AAJC has enacted a sweeping range of programs of critical national issues that enrich, enhance, and serve Asian American communities all across the country.

Advancing Justice | AAJC is committed to Creating an Inclusive Society by helping Asian Americans successfully challenge discriminatory barriers to fair and equal access to government programs at every level. Prior to and throughout the first Open Enrollment Period, Advancing Justice | AAJC monitored the implementation of the Affordable Care Act's new health insurance marketplaces for the provision of culturally and linguistically appropriate services. To ensure that policies and programs will adequately meet the needs of limited English proficient and immigrant communities, Advancing Justice | AAJC continues to examine federal oversight of the health insurance marketplaces and to prepare to enforce their nondiscrimination protections.

## 10 BARRIERS TO ACCESS

Significant informational and process barriers in the health insurance marketplaces hindered AA and NHPI consumer enrollment during the first Open Enrollment Period. Systems put in place to assist and enroll consumers fell short of servicing LEP and immigrant consumers, who often also had low levels of health literacy and difficulty with the citizenship and immigration verification process. AA and NHPI demographic profiles illustrate the importance of policies and practices that provide adequate language assistance services and culturally and linguistically appropriate materials.

Sixty percent of AAs, the highest proportion of any racial or ethnic group nationwide, and 14% of NHPIs are foreign-born, representing a range of immigration statuses.<sup>5</sup> Seventy-one percent of AAs speak a language other than English at home and 32% are LEP,<sup>6</sup> meaning they do not speak English as their primary language and have a limited ability to read, write, speak, or understand English.<sup>7</sup> Twenty-nine percent of NHPIs speak a language other than English at home. Twenty-three percent of Asian American households are linguistically isolated, meaning all household members 14 years old and older speak English less than “very well.”<sup>8</sup>

### Lack of Culturally and Linguistically Appropriate Assistance

The development and distribution of educational materials is critical to outreach, education, and enrollment efforts. Nationwide, AHJ partners identified challenges to obtaining and utilizing federal, state, and local government-issued print and website materials for LEP consumers. State and federal agencies provided inadequate language assistance services despite federal and state laws mandating the provision of culturally and linguistically appropriate information and services in the health insurance marketplaces. See Appendix: *Federal Requirements for Cultural and Linguistic Accessibility in Outreach, Education, and Enrollment Activities*.

The lack of language access was pervasive. The health insurance marketplace call centers did not employ an adequate number of bilingual operators to handle the number of LEP callers (the FFM call center only had a limited number of Spanish bilingual operators). In most states, posters, fact sheets, websites, government presentations, and budgets for media engagement targeting English-speaking consumers were not similarly provided for LEP and immigrant consumers.

<sup>5</sup> Asian Americans Advancing Justice (formerly Asian American Center for Advancing Justice), A Community of Contrasts: Asian Americans in the United States: 2011, at 17, available at <http://www.advancingjustice.org/sites/default/files/CoC%20National%202011.pdf>.

<sup>6</sup> Id. at 27. As used here in the context of Census data, “limited-English proficient” describes a person who speaks English less than “very well.” See U.S. Census Bureau, About Language Use (2013), <https://www.census.gov/hhes/socdemo/language/about/index.html>.

<sup>7</sup> U.S. Dep’t of Health and Human Servs., Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 47,311, at 47,313 (Aug. 8, 2003) [hereinafter HHS LEP Guidance].

<sup>8</sup> Asian Americans Advancing Justice, A Community of Contrasts at 24, 27.

Web-based application submissions for federal and state-based marketplaces were not available in any Asian, Native Hawaiian or Pacific Islander languages. As a result, consumers were discouraged, deterred, and delayed from enrollment.

Although some health insurance marketplaces and other government entities attempted to translate written materials into Asian, Native Hawaiian, and Pacific Islander languages, they fell short of meeting the needs of LEP consumers. The federal website HealthCare.gov posted limited resources only in a few Asian languages. Consumers were further confused by the list of in-language materials for in-person assisters on marketplace.cms.gov not matching those on HealthCare.gov. In California, the state marketplace's translated materials were too technical for many consumers to understand.

The limited number of in-language materials often fell short of being functionally meaningful and naturally readable in the targeted languages. AHJ partners shared that content was translated word-for-word rather than conceptually, resulting in awkward sentence structures and readability issues. For example, Korean translations of materials provided on HealthCare.gov contained phonetic translations of health insurance marketplace terms that lacked functional meaning. Similarly, New York's only Korean-language flyer contained Korean characters that were incorrectly spaced and had meaningless phonetic and literal translations of English terms. As a result of these inaccuracies, AHJ partners in New York did not distribute these flyers.<sup>9</sup>

AHJ partners also recognized inconsistently translated materials across the same languages. For example in California, Tagalog translations inconsistently appeared with both Spanish and English-influenced terms, and Chinese translations appeared inconsistently with traditional and simplified characters. As a result of translation errors, almost all AHJ partners created their own in-language materials and tools to educate LEP consumers.

AHJ partners also shared that government-issued materials were delayed and untimely. The need for properly translated application aids was especially acute since many health insurance marketplace websites were not functioning properly at the start of the Open Enrollment Period or failed to ever be functional.

## Insufficient and Unequal Distribution of Resources

Funding to conduct culturally and linguistically appropriate outreach, education and enrollment activities is necessary to ensure targeted efforts in hard-to-reach uninsured communities. Unfortunately, although California provided funding to target AA and NHPI communities, most of the other AHJ partners did not receive Navigator or comparable state-

*"Many people missed open enrollment because they didn't have the right information that was in language about when to enroll or understood there was an enrollment deadline. Additionally, community members weren't aware that they could continue to enroll into Medicaid on a rolling basis and were waiting for the next open enrollment period."*

*—AHJ Partner in Seattle, WA*

<sup>9</sup> AIM for Equity, "Memo on ACA Translated Publications," email message to Dr. Howard Koh, November 14, 2013.

based consumer assistance grants to conduct outreach, education and enrollment assistance activities. Some AHJ partners did, however, receive sub-grants from and partner with Navigator grant recipients to target AA and NHPI consumers.<sup>10</sup> AHJ partners were much smaller CBOs with more restricted staff capacity in comparison to Navigator grant recipients. As a result, bound by requirements facing Navigator grant recipients and a shortage of funding for consumer assistance programs, AHJ partners were concerned about meeting high service grant requirements in light of their actual service capacity and increasing need from clients and constituents.

AHJ partners encountered delays in certification trainings, which were required for official marketplace recognition, and in some states, reimbursement. In some states, trainings were difficult to access because space was limited and organizations received notice of available trainings only a few days in advance. Delays in certification processes resulted in delays in direct enrollment services until the last two months of the Open Enrollment Period. AHJ partners faced capacity challenges as the number of consumers far exceeded the number of available in-person bilingual assisters.

Many AHJ partners found that trainings inadequately prepared them for actual enrollment encounters. Examples of eligibility issues included in training curriculum did not reflect the issues of actual clients, such as the complex family structures and mixed immigration status families.

## Low Health Literacy<sup>11</sup>

LEP consumers and immigrants needed tools to understand health insurance terminology. AHJ partners reported that LEP and immigrant consumers knew very little about key insurance concepts such as deductibles, premiums, and co-payments typically found in Western healthcare systems. They often returned to AHJ partners for additional assistance and ongoing clarification regarding their new plans and how to access care once insured. Barriers to understanding how health insurance works and what it covers affect a consumer's ability and confidence level in selecting a health plan. Consumers who did not fully understand the ramifications of selecting a small provider network plan at the lowest price premium also reported frustration at being unable to find culturally and linguistically accessible providers and the inability to access out-of-network specialty care services.

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<sup>10</sup> Covered California awarded a grant to Advancing Justice | Los Angeles and its Health Justice Network (HJN), a statewide collaborative of CBOs and community clinics to conduct outreach and education to the AA and NHPI communities and part of AHJ. See page 23, Covered California, Outreach and Education Grant Program Award Recipients (2013), [hbex.coveredca.com/outreach-n-edu/pdfs/grantee\\_list\\_v7c\\_082013\[1\].pdf](http://hbex.coveredca.com/outreach-n-edu/pdfs/grantee_list_v7c_082013[1].pdf)

<sup>11</sup> The Institute of Medicine (IOM) defines health literacy as “the product of the interaction between individuals' capacities and the health literacy-related demands and complexities of the health care system. Specifically the ability to understand, evaluate, and use numbers is important to making informed health care choices.” Inst. of Med., *Health Literacy and Numeracy: Workshop Summary*, at 1 (The Nat'l Academies Press 2014), available at [http://www.nap.edu/openbook.php?record\\_id=18660&page=1](http://www.nap.edu/openbook.php?record_id=18660&page=1).

## Immigration-Related Concerns

Given the high number of immigrants in AA and NHPI communities, it is not surprising that the fears associated with divulging sensitive information about one's immigration status would raise serious concerns and discourage or delay enrollment for many AAs and NHPIs, especially in states with high anti-immigrant sentiment. Some lawfully present immigrants mistakenly believed that applying for coverage would have an adverse effect on their ability to adjust their immigration status in the future. This belief is understandable given existing policies that make immigrant participation in some government-operated public programs (although this is not true for health programs, such as the health insurance marketplaces or Medicaid) subject to a "public charge" determination. Mixed immigration status families, where at least one family member has a different immigration status from another family member, were particularly fearful and confused.<sup>12</sup> Consequently, undocumented head-of-households often did not apply for coverage for other eligible immigrant or U.S. citizen family members due to fear of deportation.<sup>13</sup> The U.S. Office of Immigration and Customs Enforcement (ICE) issued a memo clarifying that application information would not be shared and immigration proceedings would be triggered. While AHJ partners attempted to assure community members that they did not need to fear immigration proceedings, the information did not reach many mixed status families because ICE did not translate the memo into Asian and Pacific Islander languages or reach out to affected AA and NHPI communities.

When eligible immigrants applied for coverage, they encountered multiple hurdles throughout the enrollment process, including difficulties with identity proofing, verification of immigration and citizenship status, and calculating income and household size. As a result, many immigrant consumers were not able to complete the enrollment process or have been stuck in limbo for months waiting for their inconsistencies to be resolved.

*"Many clients came to our office not knowing the first thing about healthcare. The concepts of deductibles, copayments, and coinsurance were really hard for them to grasp, because they never had a chance to have health care. This made it that much more difficult to explain the different plans, and for them to even begin to choose a plan that was the best for them."*

*—AHJ partner in Los Angeles, CA*

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<sup>12</sup> There are about 1 million undocumented immigrants from Asia residing in the United States. Asian Americans Advancing Justice, *A Community of Contrasts* at 22.

<sup>13</sup> A memo was issued by the U.S. Office of Immigration and Customs Enforcement clarifying that the information from the application would not be shared and no immigration proceedings would be triggered when applying for health coverage through the Marketplace. However, the clarification information did not reach many mixed status families due to lack of in-language outreach. Even those who were aware of this memo continued to be fearful of deportation and many chose not to apply for coverage through the marketplaces. U.S. Immigration and Customs Enforcement, *Clarification of Existing Practices Related to Certain Health Care Information* (Oct. 25, 2013), available at <http://www.ice.gov/doclib/ero-outreach/pdf/ice-aca-memo.pdf>.

# LESSONS LEARNED

## Addressing Language and Cultural Barriers

AHJ partners deployed several strategies to address the absence of in-language materials and interpreting services required to reach AA and NHPI consumers. They translated and corrected existing health insurance marketplace materials, created their own materials, and, most importantly, provided multilingual and culturally appropriate one-on-one assistance to consumers.

### *Filling the gap to provide quality translated materials*

**Create and translate key outreach, education, and enrollment documents.** To complement federal, state, and local government issued materials, AHJ partners utilized bilingual staff to create new and or adapt and translate existing marketplace materials into additional critical Asian and Pacific Islander languages. For example, an AHJ partner in Illinois created one-page outreach flyers in Arabic, Bosnian, Hindi, and Urdu that

partner

## SPOTLIGHT

*“In 2013, SEAMAAC recognized the ACA as a turning point for the LEP, immigrant and refugee communities we serve. Although many families were eligible for health insurance for the first time, due to language, literacy, and cultural barriers, many eligible immigrants and refugees did not understand the ACA and could not complete the application independently. Seeing access to health care as central to our mission SEAMAAC was able to fill a gap and provide outreach, education and enrollment services to hard-to-reach and isolated populations because we have bilingual and bicultural staff and volunteers who have cultivated high levels of trust and strong connections within the communities they serve.”*



Zing Thluai, a bilingual Chin outreach team member at SEAMAAC assisting a client with ACA enrollment. (AHJ Photo/SEAMAAC)

### SEAMAAC Greater Philadelphia, Pennsylvania

SEAMAAC, founded by refugees from Cambodia, Laos, and Vietnam, has 30 years of experience serving and advocating for refugees, immigrants, and asylees. SEAMAAC addressed language barriers by forming a local coalition, creating multilingual educational materials and workshops, training staff and community leaders as Certified Application Counselors, and partnering with Navigator organizations to provide on-site assistance. This was only possible with their uniquely qualified 42-staff and volunteer member team; fifty percent are immigrants or refugees and 80% are bilingual or multilingual, reading and or speaking a total of 20 dialects and languages.



An ACA outreach flyer in Hindi by Asian Health Coalition in Illinois



An ACA outreach flyer in Bangla by South Asian Network (AHJ Image/South Asian Network)



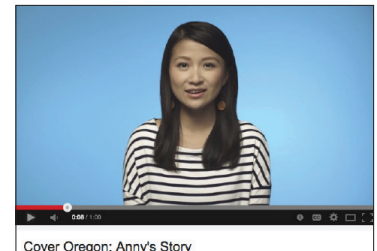
An ACA outreach flyer in Chinese by the Kalihi-Palama Health Center in Hawaii.(AHJ Image/Kalihi Palama Health Center)

stated the deadline, key benefits of the ACA, and contact information for enrollment assistance. AHJ partners in California created presentations, flyers, and other educational materials about the state’s marketplace and Medicaid program in 16 Asian and Pacific Islander languages: Bangla, Burmese, Chamorro, Chinese, Hindi, Hmong, Khmer, Korean, Lao, Mien, Samoan, Tagalog, Thai, Tongan, Urdu, and Vietnamese.

**Solicit and provide community feedback and input.** AHJ partners tested materials that they developed with LEP and immigrant consumers to make sure they were useful to their target audiences. This feedback process ensured accuracy and garnered community buy-in for AHJ partner created publications. AHJ partners also welcomed opportunities from government agencies and mainstream outreach organizations to be consulted as part of their translation process.<sup>14</sup>

**Publish accurate, understandable, and visually engaging materials.** Before using official health insurance marketplace materials, AHJ partners reviewed their translations for accuracy, style, tone, and context consistent with the source of information. Translations are much more accurate when they take into account grammar, writing conventions, and forms of expression that are particular to the translated language. As a best practice, AHJ partners sought to produce translated materials that communicated information as “the closest natural equivalent of the source language message, firstly with respect to meaning and secondly with respect to style.”<sup>15</sup> AHJ partners also developed materials with visually appealing content written in vernacular yet technically correct language. They avoided dense and superfluous explanations and included pictures of people from the intended target groups.

**Disseminate information in a timely manner.** Many AHJ partners began ACA outreach and education soon after the law was enacted to ensure LEP and other hard-to-reach consumers had enough time to learn about



In Oregon, the Asian Pacific American Network of Oregon partnered with the state-based marketplace to create a video ad featuring a Taiwanese immigrant who told her family’s story about being uninsured before the ACA. (AHJ Image/Asian Pacific American Network of Oregon)

<sup>14</sup> In practice, most AHJ partners have not been reimbursed for reviewing government-backed publications despite having to reallocate limited organizational capacity from other outreach, education, and enrollment services.

<sup>15</sup> Hablamos Juntos, Tool 3: Developing the Translation Brief: Why & How, More Than Words Toolkit, 4 (2009), [http://www.hablamosjuntos.org/mtw/html\\_toolkit/pdf/Tool\\_3Dev\\_TransBrief-Feb5\\_Final.pdf](http://www.hablamosjuntos.org/mtw/html_toolkit/pdf/Tool_3Dev_TransBrief-Feb5_Final.pdf).

Healthy Asian American Project offered an ACA education session in Chinese at the MI Association of Chinese Americas (ACA) center in Madison Heights, MI. (AHJ Photo/Healthy Asian American Project)



the ACA and understand their health coverage options. As witnessed in the first Open Enrollment Period, timeliness was essential to allow consumers enough time to navigate their options. In California, AHJ partners began reaching out to AA and NHPI communities in 2011.

### ***Use in-person, in-language assistance***

***Set up one-on-one appointments.*** In-person, in-language assistance proved to be a key lesson learned and one of the most effective mechanisms for effective enrollment of community members. Some AHJ partners provided anywhere from eight to 15 personalized in-person assister encounters daily to assist with eligibility screening, education, and enrollment services. In-person assisters were successful because of their gained trust in the community and their cultural and bilingual expertise. Direct interactions gave educators more time with clients to explain intricate concepts and welcomed consumers to ask questions privately.

***Present in-language to larger audiences.*** Even before the first Open Enrollment Period began, AHJ partners organized in-language outreach and education community events covering broad and in-depth reviews of the ACA. Having simple and recognizable vocabulary was key to giving effective presentations to LEP and immigrant consumers who were unfamiliar with the ACA. The use of question and answer sessions and one-on-one appointments after presentations to answer questions from community members were equally important. Some AHJ partners held events with simultaneous interpretation during group presentations and one-on-one informational sessions. AHJ partners found providing presenters with translated presentation slides ahead of time improved the flow and accuracy of interpretations. Effective presentations also required presenters to speak slowly with periodic breaks to allow interpreters time to interpret information.

***Utilize bilingual staff.*** AHJ partners reached LEP consumers through bilingual staff at events to present information and answer questions from non-English speaking consumers. AHJ partners had trained and certified bilingual staff covering various Asian, Native Hawaiian, and Pacific Islander languages, whether in-person or through dedicated phone lines. Some AHJ partners established and promoted language lines to ensure that consumers requiring language assistance received necessary information in a timely fashion.



## Building Partnerships

AHJ partners created and strengthened strategic partnerships across private, government, and non-profit sectors to maximize outreach, education, and enrollment efforts. As trusted messengers of their communities, AHJ partners across the country joined regional, county, multi-ethnic and language cohorts. Often, AHJ partners worked with each other and other community partners to co-sponsor events where some could provide outreach and education while others conducted enrollment activities. In addition to utilizing collaborations across sectors, AHJ partners improved their organizational best practices by creating learning communities and share with each other through a series of regional and national calls, webinars and in-person meetings.

### Small businesses

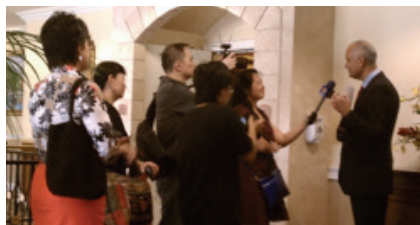
Asian Americans constitute over 1.5 million minority-owned businesses and have the second highest rate of self-employment.<sup>16</sup> Most small business owners also have high rates of uninsurance.<sup>17</sup> To reach AA and NHPI small business owners and their employees and customers, AHJ partners partnered with small business chambers of commerce and ethnic business networks. Additional efforts were made visiting individual business. Many individual small businesses situated in ethnic shopping centers agreed to place outreach flyers on their counters and post larger posters about the ACA in their windows. Moreover, some AHJ partners worked with entrepreneurial training programs at CBOs to provide ACA education and enrollment workshops and presentations for eligible small business owners and employees.

### Public officials and government agencies

To more broadly appeal to community members and stress the importance of informational town halls and enrollment events, AHJ partners identified key public officials and government agencies or were contacted by them to collaborate with on educational events. At these events, public officials participated as panelists to talk about the ACA.

<sup>16</sup> U.S. Department of Commerce Minority Business Development Agency, Asian-American-Owned Business Growth & Global Reach (2007), Retrieved from: [http://www.mbda.gov/sites/default/files/AsianOwnedBusinessGrowthandGlobalReach\\_Final.pdf](http://www.mbda.gov/sites/default/files/AsianOwnedBusinessGrowthandGlobalReach_Final.pdf).

<sup>17</sup> Id.



Collaboration with California Senator Ed Hernandez speaking to Chinese ethnic media about the importance of the Small Business Health Options Program (SHOP). (AHJ Image/Asian Americans Advancing Justice | Los Angeles)



AHJ partner, HOPE Clinic in Houston, Texas, hosted an ACA town hall with public officials from city, state, and federal agencies. (AHJ Photo/Hope Clinic)

*“Southeast Asian small businesses are probably one of the most visited places for our community. Most of our community members either own, work or shop at Asian grocery stores and other food businesses. Early on we developed relationships with small businesses owners, offered them ACA education, and to asked them for help in outreaching and educating their employees and customers.”*

*—AHJ partner in Providence, RI*

*In New York, two AHJ partners along with a public library organized an event with Congresswoman Grace Meng to introduce the ACA to the community. The AHJ partners presented on ACA 101 and introduced Navigator organizations that were able to provide enrollment assistance in 6 languages. It was followed by a health fair with insurance brokers and community organizations answering questions and giving one-on-one consultations.*

*—AHJ partners in New York City, NY*

One hundred individuals stayed after a temple service at the Watlao Buddhovath of Rhode Island to attend an ACA education session organized by the Center for Southeast Asians. (AHJ Photo/Center for Southeast Asians)



AHJ partners also participated in media events, such as the launch of the first Open Enrollment Period, with public officials to publicize the ACA's new health care options. In Rhode Island, an AHJ partner testified about the ACA at a city council meeting, which reached over 50 attendees in addition to those listening and watching the meeting on the radio and public access television.

### ***Faith-based organizations***

AHJ partners relied on the trust faith leaders have in their communities and teamed up together to outreach and educate consumers about the ACA at faith-based organizations such as temples within South Asian communities, churches within Pacific Islander communities, temple service in the Thai community, mosques, and health care sharing ministries.

*In the greater Chicago area, one AHJ partner built relationships with Buddhist monks by scheduling one-on-one meetings and asking them for help in promoting the ACA in their respective communities. This strategy was effective in connecting with Vietnamese, Burmese and Laotian communities.*

### ***Schools, colleges, and universities***

AHJ partners created partnerships with youth groups and schools, colleges, and universities to reach youth, young invincibles, and their families. AHJ partners made ACA presentations to AA and NHPI student groups, distributed flyers at Pacific Islander student fairs on college campuses, and reached out to parents of K-12 students through their schools.



An in-person appointment provides ACA enrollment assistance to Laotian monk who in turn helped to conduct outreach and education at his temple. (AHJ Photo/Asian Health Coalition)

*"We had a really successful partnership with a local community college where their Outreach Coordinator educated over 400 students across four campuses."*

*—AHJ partner in San Francisco, CA*

### ***Technical assistance for small organizations***

AHJ national and local partners spearheaded the coordination of regional and state collaborative efforts. By providing trainings on ACA enrollment topics, national partners equipped smaller CBOs, which had more limited staff capacity, with new service skills, capacity-building tools, and technical assistance to respond to consumer problems. Through these virtual and conference call meetings, AHJ partners shared translated presentations, consumer outreach materials, and other resources with one another and identified systemic issues to be addressed by the national partners.



Congregants at Taaeo Fou Church in Long Beach, California, listened to an ACA presentation by Samoan National Nurses Association team. (AHJ Photo/Samoan National Nurses Association)

### Strategic partnerships

AHJ partners credited a significant part of their success to the advantages of forming partnerships with funded Navigator entities. When Navigator organizations re-granted funding to AHJ partners, LEP and immigrant communities benefited from these shared resources. AHJ partners found that asserting their organization’s expertise and community need with reluctant external partners yielded positive results in their outreach and education efforts. Furthermore, AHJ partners joined regional multiethnic and multilingual coalitional efforts to maximize reach in their respective communities. For example, in Utah an AHJ partner received a small

partner

## SPOTLIGHT



AHJ partner in California utilized YouTube to educate young Korean-speaking community members about the ACA. (AHJ Image/ Korean Community Center of the East Bay)

### Korean Community Center of the East Bay (KCCEB) Oakland, California

In California, KCCEB led a team of educators and enrollment staff to reach the Bay Area’s Korean community, a third of which is uninsured. KCCEB’s strategy to collaborate with faith-based community leaders and congregations resulted in positive community feedback and requests for presentations from other local Korean networks ultimately receiving responses from consumers living in 37 different cities wanting enrollment assistance. KCCEB initially approached the faith leaders’ network, educating them on current health disparities within the Korean community, and how the ACA could benefit this highly uninsured population. Then, after gaining their trust, KCCEB presented information on the ACA and CA’s state-based marketplace in language to the larger

congregations.

*“The main strategy here is accessing the most utilized networks within these communities and subgroups, to disseminate information efficiently. Using the faith network to reach the Korean community was effective because over 70% go to church, and church is their initial go-to place to obtain any information on public programs or policies. These types of grassroots approaches were at times even more effective than going to big fairs and events.”*

sub-grant from a Navigator partner and reached, educated, and provided enrollment assistance to over 13,000 Pacific Islanders. In California, an AHJ partner obtained a \$1 million Outreach and Education Grant from the state-based marketplace to subcontract with 21 smaller CBOs and FQHCs to successfully assist in reaching out to and educating over 130,000 AAs and NHPs.<sup>18</sup>

### ***Ethnic media***

Strong partnerships with national and local ethnic media proved critical in reaching AA and NHPI communities. AHJ partners emphasized ethnic media—and its different mediums—as a trusted source of information for LEP and immigrant consumers. Due to strong prior relationships with local ethnic media outlets, AHJ partners appeared on local talk and radio shows to share updates about family and individual coverage options. Others placed ads in ethnic newspapers to include updates about key enrollment deadlines. One AHJ partner published an op-ed in *India Post*, one of the most widely read South Asian newspapers in the United States, about the importance of the ACA.



Noilyn Abesamis-Mendoza, Coalition for Asian American Children & Families in New York, New York speaks about the ACA from a townhall on Korean Channel TV

*“Because we knew that many Vietnamese community members listen to ethnic radio we created a strategy to ‘fill the air’ with information about the ACA and our enrollment services. We did community interviews and bought ads about the ACA and one radio station actively promoted it on their regular programming. This early targeting ignited the Vietnamese community and created significant momentum for word-of-mouth referrals which accounted for 90% of the Vietnamese community who came in for enrollment services.”*

*—AHJ partner in Phoenix, AZ*

## **Engaging AA and NHPI Consumers**

As community champions and trusted messengers of their communities, AHJ partners engaged hard-to-reach AA and NHPI consumers through strategic and innovative methods that addressed language, cultural, socioeconomic, and health literacy barriers. Altogether, these efforts worked to promote a “culture of coverage.”

### ***Working in the community***

#### ***Going to where the community lives, works, plays, and worships.***

AHJ partners disseminated information at a wide variety of venues and events that already existed as hubs of information and socializing for AA and NHPI communities. Some AHJ partners were FQHCs where many community members already visited and thus a captive audience for ACA information. Such in-reach strategies were also used by other AHJ partners who also had existing programs which drew community members to their offices. Other AHJ partners conducted outreach and education activities at community sites such as small businesses, community colleges, grocery stores, hair salons, workers centers, ethnic restaurants, taxis, and buses. Some further personalized activities and canvassed door-to-door.

***Opening enrollment storefronts.*** AHJ partners established “storefront” services, which included outreach and enrollment assistance at local libraries, temporary work agencies, and schools. AHJ partners worked with local school districts to provide presentations and enrollment workshops to parents attending the schools. One key lesson learned was to establish a regular schedule so community members know they

<sup>18</sup> See footnote 10.

can walk in for assistance during certain hours, although setting up appointments helped in creating shorter wait times.

### **Understand sources of mistrust and develop trust in the community**

In person, one-on-one education to dispel negative perceptions and concerns, despite the spread of misinformation from some mainstream and ethnic media to local communities throughout the first Open Enrollment Period, AHJ partners served as trustworthy messengers to dispel myths and share correct ACA and enrollment information with misinformed immigrant and LEP consumers. AHJ partners recognized that it would take time for consumers to build trust and eventually enroll. Therefore they stressed the importance of continuity in the community and building trust.

Successful strategies to engage reluctant or misinformed consumers involved conveying correct information in accessible language, in small group settings, and one-on-one appointments. Rather than skirting misconceptions, however inaccurate, AHJ partners directly addressed myths, validated concerns and were persistent in their messages. AHJ partners addressed clients' immigration concerns by counseling them in their preferred languages and providing direct services to help navigate the enrollment process to completion. Because many non-English speaking immigrants often suspect mail from government entities to be notices for deportation, AHJ partners opened and interpreted mail regarding eligibility and missing documents.

*One pilot project in Los Angeles used a trilingual, Chinese-speaking Certified Enrollment Counselor who held regular hours four days a week, including evenings and weekends, at the Los Angeles Public Library. These workshops allowed working community members to attend and learn about CA's state-based marketplace and state Medicaid and to enroll in marketplace plans. A county eligibility worker was present three days a week to help consumers apply for state Medicaid.*

*—AHJ partner in Los Angeles, CA*

at a glance

## **AHJ PARTNERS ON THE GO**

- Decision-makers in Chamorro households are mothers, so the best engagement method is to conduct one-on one meetings with trusted staff through word-of-mouth. One AHJ partner leveraged its 20-year relationship with its community by incorporating ACA materials into education presentations, directly approaching Chamorro households, social clubs, religious fiesta groups, and family clans. —AHJ partner in Long Beach, CA
- Another AHJ partner held ACA workshops at large apartment complexes and senior centers. —AHJ partner in Phoenix, AZ
- One AHJ partner created flyers in Hmong about the ACA and how to enroll, and rented a space at Hmong flea market, which houses over 200 vendors and attracts Southeast Asian customers from the entire state of Minnesota. The AHJ partner also provided onsite enrollment assistance appointments and walk-ins. —AHJ partner in Minneapolis, MN
- One AHJ partner attended large family gatherings to conduct ACA education and enrollment assistance sessions to Marshallese family clans. —AHJ partner in Seattle, WA that traveled 4-hours by car to Spokane, WA
- One AHJ partner visited taxi garages and taxi stands to reach taxi drivers and provide education in Urdu, Arabic and English. —AHJ partner in New York City, NY

*Samoan National Nurses Association outreach team traveled four hours by car to conduct outreach and education and offer enrollment assistance to Marshallese community members.*



partner  
**SPOTLIGHT**

*“We knew that our community was going to be challenged to understand all the changes coming with the ACA. We focused our efforts on an educational video that provided basic information about the changes, the opportunities, and benefits of the ACA. We talked about the Medicaid expansion in California, introduced the concept of the Marketplace, how it works, and who would qualify. More than 500 community members attended the event and we feel were less intimidated about the changes and better informed about their options as a result.”*



Town hall meeting with Asian Health Services in Oakland, California. (AHJ Photo/Asian Health Services)

**Asian Health Services (AHS)  
Oakland, CA**

Established in 1974, AHS is a federally qualified community health center with a dual mission of service and advocacy. Since its inception, Asian Health Services has engaged the community in general town hall meetings to listen to concerns and to educate the community of its right to health care. One of the most powerful tools of the townhall is the demonstration of language access with simultaneous interpretation provided by staff in more than eight Asian languages.



Two AHJ partners outreach to the AA and NHPI LGBTQ community about their coverage options in California. (AHJ Image/ API-Equality Los Angeles)



"North East Medical Services, an FQHC and Health Justice Network partner in California, conducted in-person large workshops, opened multiple enrollment centers, and enrolled 15,000 consumers. (AHJ Photo/North East Medical



A California Certified Enrollment Counselor outreaches to the Chinese community with in-language material. (AHJ Image/Advancing Justice - Los Angeles)

partner

## SPOTLIGHT



AAPI Enrollment Summit held in Atlanta, Georgia, with CPACS and WHIAAPI. (AHJ Photo/CPACS)

*"CPACS had a successful partnership with the WHIAAPI Region IV Interagency workgroup as host of the first AAPI enrollment summit held in Georgia. With a large number of individuals enrolled on this day, we were also able to create a forum by which representatives and leaders of the AAPI community were able to have direct communication with federal agencies and facilitate the exchange of ideas and identify more effective ways to meet the needs of our communities."*

### Center for Pan Asian Community Health Services (CPACS) Atlanta, GA

In Atlanta, Georgia, CPACS engaged in several strategic partnerships at the local, state, and regional level that allowed them access to real-time information, strategies, and ideas on how to troubleshoot issues, identify hotspots of uninsured individuals, and collaborate on large-scale events that expanded opportunities for enrollment. One such event was the opportunity to host the first ever enrollment summit in partnership with the White House Initiative on Asian and Pacific Islanders (WHIAAPI) Region IV Interagency Workgroup.

## Improving Enrollment Efficiency

LEP and immigrant consumers needed in-person and in-language enrollment assistance support due to English-language proficiency, low health literacy, and immigration verification glitches.

### *Tools and technology*

#### ***Increase education regarding website resources and navigation.***

Extensive education was required to help LEP consumers understand health insurance marketplace websites. To improve the effectiveness of website navigation and enrollment capability for LEP consumers, AHJ partners provided customized consumer education tools including an income calculator, and checklists for required documents for identity and immigrant verification.

#### ***Utilization of social media to educate young invincibles***

AHJ partners with limited staff capacity found the use of social media tools like Twitter, Facebook, and YouTube useful tools to promote their outreach and education events and attract young invincibles. Furthermore, partners also utilized social media to create in-language educational videos to educate consumers about the ACA. These mediums allowed AHJ partners to increase their reach and connect with a typically “hard to move” population.

***Equip field teams with laptops.*** AHJ partners equipped in-person assisters with laptops to provide enrollment assistance in the field. For example in Spokane, Washington, and the greater Chicago area, AHJ partners covered wide geographic distances by making house visits

partner

## SPOTLIGHT

*“The Hmong communities in Arkansas, Missouri, and North Carolina are socially and geographically isolated. In Arkansas and Missouri farming families live hundreds of miles from each other. To reach members of our community, who are so far apart, we held monthly regional conference calls with 40 to 50 people calling in to learn about the ACA and other resources.”*



**Hmong National Development (HND)  
Arkansas, Missouri & North Carolina**

HND is a national organization that supports local Hmong CBOs and Hmong American communities in rural and geographically isolated areas with capacity building and technical assistance to achieve prosperity and equality. During the first Open Enrollment Period, HND reached, educated and made referrals for enrollment services to Hmong farmers and other community members.



to provide enrollment assistance. In New York and New Jersey, AHJ partners set up enrollment assistance “open houses” with laptops at faith-based institutions, community centers, and hospitals to provide enrollment assistance appointments.

**Mobile apps.** Some states used technology to assist consumers with one-on-one outreach and education. For example, AHJ partners in California modified the state-based marketplace’s income calculator to create an app that assessed eligibility in Chinese (soon to be expanded to Vietnamese) and included a customized print out of documents to bring to enrollment appointments as well as the address of the nearest enrollment location.

### Enrollment processes

**Pre-enrollment assessment.** AHJ partners used trained bilingual certified application assisters to provide in-person pre-enrollment assessments. Counselors pre-screened families and individuals by collecting basic background information including income and immigration

*“We conducted a workshop at a community church back in December 2013. At the end of March, one client from the same church came to our office to enroll. It took several months for him to process the information, contemplate, and follow up by taking action. It is a time consuming process for uncertain clients to make a decision about their health care choice. Finding the right healthcare coverage for his/her family can be a stressful and daunting task at times. We as assisters need to be sensitive to clients’ feelings and provide a listening ear with a caring attitude.”*

*-AHJ partner in Chicago, IL*

partner

## SPOTLIGHT



(AHJ Photo/NTAS)

### National Tongan American Society (NTAS) Salt Lake City, UT

NTAS’s mission is to decrease disparities, and improve the quality of life and opportunities for Utah’s Pacific Islanders. NTAS focused on creative ways to add ACA outreach and education onto existing programs, activities, and events. NTAS offered ACA education and distributed short surveys to collect information on who needed enrollment services at Zumba classes held at neighborhood churches and community centers that attracted up to 140 attendees. NTAS also gave out flyers and surveys at an annual Po Hiva Kilisimasi (Eve of Christmas Carols) with over 600 attendees. Following the events, NTAS enrollment staff called those who indicated on surveys that they were uninsured and needed enrollment assistance to schedule appointments or make referrals to partner agencies. During the first Open Enrollment Period, NTAS provided over 3,100 Pacific Islanders enrollment assistance in Tongan, Samoan, and English.

*“We’ve been very intentional about rooting ACA outreach and enrollment activities in existing community assets so that we can create a culture of care that is sustainable and integrated.”*

related details. In addition, assisters provided consumers with checklists of required documents to bring prior to starting their applications. Checklists were often translated into different languages. Finally, consumers were also guided through creating their online account before beginning the application.

**Two-part enrollment appointments.** To ensure LEP consumers were equipped with information they needed to enroll, AHJ partners developed a two-part enrollment process. The first session, lasting 15 to 30 minutes, informed consumers about the enrollment process, available options based on income, and required documents. Consumers returned for a second session to fill out and submit applications. AHJ partners found that the two-part appointment process enhanced understanding of core insurance concepts, made the enrollment process more efficient by reducing appointment times, and helped increase retention of consumers by increasing overall knowledge of the enrollment process and consumer responsibilities.

### Troubleshooting with paper applications

**Using paper applications as educational tools or back-ups when website is unavailable.** Paper applications proved to be extensive and often burdensome for consumers and in-person assisters and Navigators. However, many AHJ partners used paper applications as educational tools and back-up information-gathering tools in the midst of website repairs. Assisters then entered this data into website applications when they became operational.

*Glossary of key terms in Punjabi. AHJ Partners, Charles B. Wang Community Health Center, Coalition for Asian American Children & Families, Korean Community Services, and United Sikhs were part of a coalition that worked together to create a glossary of key terms and other ACA educational materials in eight languages to help consumers understand health insurance marketplaces and the enrollment process. (AHJ Image, Charles B. Wang Community Health Center, Coalition for Asian American Children & Families, Korean Community Services and United Sikhs)*

## PROJECT CHARGE

**ਅਟੈਂਡਰਏਬਲ ਕੋਅਰ ਐਕਟ ਦੀਆਂ ਮੁੱਖ ਧਾਰਾਵਾਂ ਦੀ ਜਾਣਕਾਰੀ**

ਮਾਰਚ 2010 ਵਿੱਚ ਪ੍ਰੋਜੈਕਟ ਚਾਰਜ ਨੇ ਇੱਕ ਕਾਨੂੰਨ ਸਮੇਤ ਕੀਤਾ। ਜਿਸਨੂੰ ਅੰਤਰਰਾਸ਼ਟਰੀ ਕੋਅਰ ਐਕਟ ਅਤੇ 'ਚਿੰਮਾਮਕੋਅਰ' ਕੀ ਕਹਿੰਦੇ ਹਨ। ਜਦੋਂ ਕੋਰ ਚਿੰਮਾਮ ਕੋਅਰ ਦੀ ਗੱਲ ਕਰਦੇ ਹਨ ਤਾਂ ਉਸ ਦੀਆਂ ਮੁੱਖ ਧਾਰਾਵਾਂ ਇਹ ਹਨ।

**ਮਾਰਕਿਟ ਪਲੇਸ** - ਮਾਰਕਿਟ ਪਲੇਸ ਉਹ ਜਗ੍ਹਾ ਹੈ ਜਿੱਥੇ ਕੋਰ ਕੁਆਲਿਟੀ ਫੋਕਸ ਫੈਲਸ ਪਲੈਨ ਪੂਰੀ ਤਰ੍ਹਾਂ ਤੋਂ ਅਫੀਲ ਸਕਦੇ ਹਨ। ਉਸ ਦੇ ਵਾਸਤੇ ਸਰਕਾਰੀ ਸਹਾਇਤਾ ਨੂੰ ਸਕਦੇ ਹਨ। ਨਿਊ ਯਾਰਕ ਦੀ ਇੰਨੋਵੇਸ਼ਨ ਇੰਟਰਨੈੱਟ ਤੋਂ ਵੀ ਨੂੰ ਸਕਦੇ ਹੋ ਉਸ ਨੂੰ ਨਿਊ ਯਾਰਕ ਸਟੇਟ ਆਫ ਫੈਲਸ ਇੰਨੋਵੇਸ਼ਨ ਕਹਿੰਦੇ ਹਨ।

**ਕੁਆਲਿਟੀ ਫੋਕਸ ਫੈਲਸ ਪਲੇਨ** - ਉਹ ਫੈਲਸ ਇੰਨੋਵੇਸ਼ਨ ਪਲੈਨ ਹੈ ਜੋ ਤੁਸੀਂ ਮਾਰਕਿਟ ਪਲੇਸ ਤੋਂ ਨੂੰ ਸਕਦੇ ਹੋ। ਇਹ ਸਰਕਾਰੀ ਮਾਰਕਿਟ ਪਲੇਸ ਪ੍ਰੋਗਰਾਮ ਹੈ।

**ਅੰਤਰਰਾਸ਼ਟਰੀ ਇੰਨੋਵੇਸ਼ਨ ਪ੍ਰੋਗਰਾਮ** - ਜਿਵੇਂ ਮੈਡੀਕੇਟ, ਚਾਰੀਟਰ ਫੈਲਸ ਪਲੇਸ, ਸਸਪੈਂਡੀਵਿਜ਼ ਫੈਲਸ ਪਲੇਨ।

**ਮੈਡੀਕੇਟ** - ਇਹ ਸਟੇਟ ਦਾ ਫੈਡਰਲ ਪ੍ਰੋਗਰਾਮ ਹੈ ਜਿਹੜਾ ਨਿਊ ਯਾਰਕ ਸਟੇਟ ਵਿੱਚ ਉਨ੍ਹਾਂ ਲੋਕਾਂ ਨੂੰ ਇੰਨੋਵੇਸ਼ਨ ਦਿੰਦਾ ਹੈ ਜੋ ਗਰੀਬ ਹੋਣਾ 138% ਤੋਂ ਵੱਧੇ ਹਨ। ਜਿਹੜੇ ਖਰੀਦਾਰ ਆਪਣੇ ਖਰੀਦਾਰ ਨੂੰ ਮੈਡੀਕੇਟ ਨਹੀਂ ਨੂੰ ਸਕਦੇ, ਉਹ ਕੋਰ ਪਲੇਨ (ਚਿੰਮ) ਨੂੰ ਸਕਦੇ ਹਨ।

**ਚਾਰੀਟਰ ਫੈਲਸ ਪਲੇਸ** - ਅੰਤਰ ਰਾਸ਼ਟਰੀ ਫੈਲਸ ਇੰਨੋਵੇਸ਼ਨ ਪ੍ਰੋਗਰਾਮ ਚਿੰਮਾ ਵਾਸਤੇ ਜਿਹੜਾ ਨੂੰ ਮੈਡੀਕੇਟ ਨਹੀਂ ਨਿਸ਼ਚਾ।

**ਕੋਅਰ ਚਿੰਮਾਮ ਟੈਕਸ ਟ੍ਰਿਪਟ** - ਜਿਹੜਾ ਲੋਕਾਂ ਨੂੰ ਸਹਾਇਤਾ ਨਹੀਂ ਨਿਸ਼ਚਾ ਉਹ ਟੈਕਸ ਟ੍ਰਿਪਟ ਨੂੰ ਸਕਦੇ ਹਨ।

**ਕਿਰਤ (cost) ਟੈਕਸਿਸ ਸਹਾਇਤਾ** - ਉਹ ਕਿਸਮਤ ਹੈ ਜੋ ਤੁਹਾਡੀ ਕੋਰ ਵਿੱਚੋਂ ਹੋ ਕੇ ਖਰਚੇ ਨੂੰ ਘਟ ਕਰਦਾ ਹੈ ਜੋ ਇੰਨੋਵੇਸ਼ਨ ਤੋਂ ਵੱਧੇ ਹੋਏ। ਇੰਨੋਵੇਸ਼ਨ ਤੋਂ ਵੀ ਸੰਭਵ ਹੈ ਜੋ ਕੋਰੀ ਫੈਲਸ ਇੰਨੋਵੇਸ਼ਨ ਮਾਰਕਿਟ ਪਲੇਸ ਕੁਆਲਿਟੀ ਫੋਕਸ ਦੀ ਆਮਦਨ ਨਿਰਧਾਰਤ ਲੈਕ ਤੋਂ ਵੱਧ ਹੈ ਅਤੇ ਉਹ ਫੈਲਸ ਪਲੇਨ ਨਿਰਧਾਰਤ ਨੂੰ ਤੋਂ ਕਰਦੇ ਹਨ।

**ਕੁਰ ਇੱਕ ਲਈ ਜਗ੍ਹਾ** - ਅੰਤਰਰਾਸ਼ਟਰੀ ਕੋਅਰ ਐਕਟ ਦੀਆਂ ਸਹਾਇਤਾ ਮਾਰਕਿਟ ਪਲੇਸ ਤੁਹਾਡੀਆਂ ਕੁਰ ਇੱਕ ਨੂੰ ਵੀ ਇੰਨੋਵੇਸ਼ਨ ਲੈਣੀ ਹੋਵੇਗੀ ਜੋ ਵੱਧ ਤੋਂ ਵੱਧ ਉਸ ਦੇ ਸਟੈਂਡਰਡ ਹੋਣੇ ਮੁੜ ਕੋਰ ਨਾਲ ਜੋ ਕੋਰ ਫੈਲਸ ਇੰਨੋਵੇਸ਼ਨ ਨਹੀਂ ਕੋਰੀ ਉਹਨਾਂ ਨੂੰ 2014 ਦੇ ਕੁਰ ਵਿੱਚ ਸੁਧਾਰਨਾ ਹੋਣਾ ਪਵੇਗਾ।

ਜੇ ਤੁਹਾਨੂੰ ਨਿਊ ਯਾਰਕ ਸਟੇਟ ਵਿੱਚ ਮਾਰਕਿਟ ਪਲੇਸ ਫੈਲਸ ਇੰਨੋਵੇਸ਼ਨ ਆਪਣੀ ਕਰਨ ਲਈ ਜਾਣਕਾਰੀ ਚਾਹੀਦੀ ਹੈ ਤਾਂ ਨਿਰਧਾਰਨੀ ਕਰਕੇ ਵਾਲ ਕਰੋ.

PLACE YOUR ORGANIZATION'S CONTACT INFO LABEL HERE

## Championing the Voices of AA and NHPI Communities

The AHJ network elevated the voices and experiences of AA and NHPI consumers and amplified their shared experiences. AHJ partners ensured that state and federal agencies were given feedback about technical glitches and other challenges with the enrollment process. At the federal level, AHJ national organizations met with U.S. Department of Health and Human Services (HHS) and Centers for Medicare and Medicaid Services (CMS) officials throughout the first Open Enrollment Period to report on enrollment challenges for AA and NHPI consumers. Because of the AHJ network, AHJ national organizations were able to rapidly gather stories from local AHJ partners to provide specific examples of language access and immigrant enrollment problems. AHJ partners provided examples of federal call center wait times, challenges getting interpreting services through the call center, and problems submitting immigration status documentation. At the state level in California, Advancing Justice | Los Angeles gathered examples from AHJ partners and relayed challenges to state marketplace staff individually or during monthly Board meetings.

partner

### SPOTLIGHT



OCAPICA targeted hard to reach communities in Orange County and successfully outreached and educated over 12,500 individuals in the first open enrollment period (AHJ Image/Orange County Asian Pacific Islander Community Alliance).

#### **Orange County Asian and Pacific Islander Community Alliance (OCAPICA) Orange County, CA**

OCAPICA has over 15 years of experience engaging the AA and NHPI community. The bilingual outreach and enrollment staff utilized innovative ways to get the community engaged and involved in health care. By utilizing technology, OCAPICA was able to strategically identify and reach out to likely uninsured consumers where they live, work, and play.

*“We started our canvassing efforts in January 2014 and used Enroll America’s Get Covered database to locate Asian American, Native Hawaiian, and Pacific Islander consumers who are most likely to be uninsured and eligible for Medi-Cal or Covered California with government subsidies. The database has been very helpful in locating areas that are concentrated with the uninsured and lower income consumers. With the utility of the database, we were able to visit on average 75 households per canvassing event. We made contact with at least 20 consumers during each visit and found that canvassing at apartments was an effective way to reach consumers.”*

The AHJ network developed a communications infrastructure to relay official marketplace decisions to impacted consumers as close to real time as possible. Because AHJ national partners closely tracked policy developments, federal and state officials were in turn able to use the national partners to quickly communicate important updates, quick fixes, and workarounds in the health insurance marketplaces for AA and NHPI consumers. AHJ national partners notified AHJ local partners about state and federal changes and provided technical assistance. AHJ local partners then passed this information directly to consumers.

*An AHJ partner in Washington worked to champion the voice to improve interpretation service terminology by advocating for correct interpretation of the term “Marketplace” and other terms at the state exchange level.*

*—AHJ Partner in Seattle, WA*



AHJ Partners. (AHJ Photo/Advancing Justice LA)

## CONCLUSION - THE POWER OF PARTNERSHIP AND TARGETED ASSISTANCE

Although AA and NHPI communities faced many challenges and barriers during the first Open Enrollment Period, the AHJ network of organizations used tailored strategies to help consumers learn about the ACA and enroll in coverage. By creating linguistically and culturally appropriate materials, providing personalized in-language assistance, and working in partnerships, these CBOs and FQHCs were successful in enrolling LEP and immigrant AA and NHPI consumers. Even with limited resources, these organizations met the unique needs of the communities and assisted them with accessing the new health insurance options made available under the ACA. As challenges persist, stakeholders should replicate and build on these efforts to provide access to health care to AAs, NHPs, and other hard to reach and vulnerable communities.

# APPENDIX

## ***Federal Requirements for Cultural and Linguistic Accessibility in Outreach, Education, and Enrollment Activities***

While community organizations have realized successes in providing AA and NHPI consumers with culturally and linguistically appropriate services, their efforts do not eliminate the need for public investment in creating and sustaining culturally and linguistically appropriate systems for health coverage. Eligible consumers, despite their English-language ability and immigration status, have a right to equal and meaningful access to the health insurance marketplaces. Governing bodies should ensure that the health insurance marketplaces are accessible by all individuals.

Without adequate language assistance services provided in culturally competent settings, LEP individuals will be excluded from gaining critical health insurance coverage. Additionally, LEP individuals may be dissuaded from enrolling, ignore important coverage information, or be wrongfully denied coverage.

The following statutes and regulations govern the implementation of culturally and linguistically accessible services. As laid out here, they serve as a guide to address the barriers to access, such as those discussed in this report, through legal and administrative remedies.

### ***The Affordable Care Act and Rights of LEP Consumers to Access Information and Services Provided by Consumer Assistance Entities in the Health Insurance Marketplaces***

Consumer assistance programs, including Navigator programs, are required to provide information and services that are accessible to LEP consumers.<sup>19</sup> Information must be in plain language and timely. Language assistance services, such as oral interpretations and written translations, must be provided at no cost. When these services are not immediately available, LEP consumers must be notified with taglines in non-English languages indicating the availability of these services.<sup>20</sup>

Specific consumer assistance tools covered by regulations include call centers,<sup>21</sup> websites,<sup>22</sup> and outreach and education activities.<sup>23</sup> In addition to tools that LEP individuals can access for assistance, health insurance marketplaces must be proactive in contacting LEP consumers through outreach and education activities and encourage their participation.

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<sup>19</sup> Notably, the Federally-Facilitated Marketplace continues to operate without a regulatory definition for “limited English proficient” individuals. HHS has indicated that it is currently not using the definition from U.S. Census data as “an individual whose primary language is not English and who speaks English less than very well” and has instead tabled the definition for future rulemaking. 77 Fed. Reg. 18,310, at 18,314 (March 27, 2012). In comparison, HHS LEP Guidance has adopted a similar, and arguably broader, definition of LEP individuals as those “who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.” 68 Fed. Reg. 47,311, at 47,313 (Aug. 8, 2003).

<sup>20</sup> For consumer assistance programs, refer to the Patient Protection and Affordable Care Act (ACA) § 1321(a)(1), 42 U.S.C. § 18041 (LexisNexis 2014), with implementing regulations at 45 C.F.R. § 155.205 (2014). For Navigators, refer to ACA § 1311(i)(3) (e) & (4), 42 U.S.C. § 18031 (LexisNexis 2014), with implementing regulations at 45 C.F.R. § 155.210 (2014).

<sup>21</sup> 45 C.F.R. § 155.205(a) (2014).

<sup>22</sup> 45 C.F.R. § 155.205(b) (2014).

<sup>23</sup> 45 C.F.R. § 155.205(e) (2014).

As part of their duty to provide information in a manner that is culturally and linguistically appropriate, Navigators must receive training in this area.<sup>24</sup> Certified application counselors are categorized separately from Navigators and are not subject to the same cultural and linguistic accessibility standards; for example, certified application counselors are not required to conduct outreach to diverse communities.<sup>25</sup> While Navigators have a heightened duty to directly serve LEP consumers, certified application counselors now have a duty to, at the very least, refer LEP consumers to appropriate Navigators if they cannot serve them.<sup>26</sup> Navigators, too, may refer LEP individuals to other programs but only if they are not equipped to provide services directly in that language.<sup>27</sup>

Navigators must adhere to six broad criteria to provide culturally and linguistically appropriate services:

1. Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;
2. Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;
3. Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary or when requested by the consumer to ensure effective communication. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;
4. Provide oral and written notice to consumers with limited English proficiency, in their preferred language, informing them of their right to receive language assistance services and how to obtain them;
5. Receive ongoing education and training in culturally and linguistically appropriate service delivery; and
6. Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.<sup>28</sup>

<sup>24</sup> 45 C.F.R. § 155.215(b)(2)(viii) (2014).

<sup>25</sup> See generally, 45 C.F.R § 155.225 (2014) (no mention of cultural and linguistic access).

<sup>26</sup> 45 C.F.R. § 155.120(c)(2) (2014). During the first Open Enrollment Period, certified application counselors did not have a duty to refer LEP consumers to LEP-serving Navigators. 78 Fed. Reg. 42,824, at 42,826 (July 17, 2013) ("Navigators and non-Navigator assistance programs must provide culturally and linguistically appropriate services, but we are not requiring certified application counselors to comply with [culturally and linguistically appropriate services] standards beyond any existing obligations they may have.").

<sup>27</sup> See 78 Fed. Reg. 42,824, at 42,839 (July 17, 2013) (interpreting Navigators' duty at 45 C.F.R. § 155.215(c)(3) to "[p]rovide consumers with information and assistance in the consumer's preferred language").

<sup>28</sup> 45 C.F.R. § 155.215(c) (2014).

## ***Enforcing Cultural and Linguistic Accessibility Standards Against Consumer Assistance Entities***

HHS may now issue civil money penalties and corrective action plans against consumer assistance entities operating in FFM states.<sup>29</sup> These penalties apply against consumer entities that fail to provide culturally and linguistically appropriate services as discussed in this section.

<sup>30</sup> However, HHS is currently refraining from enforcing these penalties in state marketplaces.<sup>31</sup>

Consumer advocates could play an important role in urging HHS to initiate investigations of consumer assistance entities for suspected failure to comply with federal regulations. HHS may consider any information received in any manner in determining when to initiate investigations, which may result in money penalties or corrective action plans.<sup>32</sup> HHS suggests information may be received from complaints from the general public, reports from government agencies, briefings from community advocates, and other sources. Any individual may file a complaint with HHS. Currently, there is no specific office with which complaints must be filed.

## ***Civil Rights Nondiscrimination Protections to Ensure Meaningful Access for LEP Consumers***

Participants in the health insurance marketplaces must comply with Title VI of the Civil Rights Act of 1964 separate from ACA statutory and regulatory obligations. Under Title VI, “[n]o 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.”<sup>33</sup> Discrimination against LEP individuals on the basis of language is prohibited as a form of national origin discrimination.

Courts have interpreted discrimination against LEP individuals to mean the denial of meaningful access to a federally funded program or activity.<sup>34</sup> Specific discriminatory actions that are prohibited by HHS under Title VI include denying individuals services on the basis of race, color, or national origin; restricting individuals in any way in the same privileges enjoyed by others receiving services under a program; treating individuals differently from others in enrollment eligibility or receipt of services; denying individuals opportunities to participate in a program in ways that are different from those afforded to others; and denying individuals the opportunity to participate as a member of a planning or advisory body which is an integral part of a program.<sup>35</sup>

In 2000, Executive Order 13166 was passed to clarify federal programs’ Title VI obligations by initiating policy guidance to be issued by the U.S. Department of Justice and U.S. Department of Health and Human Services.<sup>36</sup> These guidance documents contain standards on how agencies themselves and their funding recipients should take reasonable steps to provide language

<sup>29</sup> 45 C.F.R. § 155.206 (2014); see also 79 Fed. Reg. 30,240, at 30,262 (May 27, 2014).

<sup>30</sup> 79 Fed. Reg. 30,240, at 30,263 & 30,266.

<sup>31</sup> 79 Fed. Reg. 30,240, at 30,264.

<sup>32</sup> 45 C.F.R. § 155.206(d); see also 79 Fed. Reg. 30,240, at 30,267.

<sup>33</sup> 42 U.S.C. § 2000d.

<sup>34</sup> The principle of meaningful access for LEP individuals to federally funded programs was established by the Supreme Court case *Lau v. Nichols*, 414 U.S. 563, 566 (1974), in which a San Francisco school district was required to provide Chinese students who did not speak English “meaningful opportunity” to participate in its public schools.

<sup>35</sup> 45 C.F.R. § 80.3 (2014).

<sup>36</sup> 65 Fed. Reg. 50,121 (Aug. 16, 2000).



assistance services for LEP individuals.<sup>37</sup>

Under Executive Order 13166 and HHS LEP Guidance, health insurance marketplaces and consumer assistance entities that receive federal funding must take reasonable steps to ensure that LEP individuals have meaningful access to their programs and activities. The standard for reasonableness is determined by balancing four factors, on a case-by-case basis: (1) the number of proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the grantee/recipient, and costs. These factors help determine the types of language services recipients should provide and when language services should be provided. The types of language services that are usually available are oral interpretation and written translation, which are also mentioned in ACA regulations.

HHS LEP Guidance suggests written materials or documents that are deemed “vital” may often have to be translated.<sup>38</sup> In the same vein, when recipients translate vital documents for each LEP language group that constitutes five percent or 1000, whichever is less, of an eligible service population, they may be provided with a safe harbor or “strong evidence of compliance with [their] written-translation obligations.”<sup>39</sup> In a different analysis under DOJ LEP Guidance, written translations are in fact mandatory depending on population size.<sup>40</sup> Similarly, HHS has identified certain “essential documents” issued by qualified health plans in the Federally-Facilitated Marketplace that it “expects” to be made accessible to LEP consumers. Although health plan correspondences and forms are different from information provided by consumer assistance entities, HHS’ rules for health plans may be instructive to how consumer assistance entities should comply with language access requirements.

<sup>37</sup> U.S. Dep’t of Health & Human Servs., Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 47,311 (Aug. 8, 2003), available at <http://www.gpo.gov/fdsys/pkg/FR-2003-08-08/pdf/03-20179.pdf> [hereinafter HHS LEP Guidance]; U.S. Dep’t of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002), available at <http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf> [hereinafter DOJ LEP Guidance]; U.S. Dep’t of Health & Human Servs., Language Access Plan (2013), <http://www.hhs.gov/open/execorders/2013-hhs-language-access-plan.pdf>.

<sup>38</sup> HHS LEP Guidance, 68 Fed. Reg. at 47,322, 47,318.

<sup>39</sup> HHS LEP Guidance, 68 Fed. Reg. at 47,319.

<sup>40</sup> 28 C.F.R. § 42.405(d)(1) (“Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program (e.g., affected by relocation) needs service or information in a language other than English in order effectively to be informed of or to participate in the program, the recipient shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide information in appropriate languages to such persons. This requirement applies with regard to written material of the type which is ordinarily distributed to the public.”); see *Colwell v. HHS*, 558 F.3d 1112, 1126 (9th Cir. 2009) (referencing DOJ regulations for required written translations).

<sup>41</sup> Center for Consumer Information and Insurance Oversight, Centers for Medicare & Medicaid Services, Draft 2015 Letter to Issuers in the Federally-Facilitated Marketplace (FFM) 49, Feb. 4, 2014, <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/draft-issuer-letter-2-4-2014.pdf>.

<sup>42</sup> HHS LEP Guidance, 68 Fed. Reg. at 47,319.

**Table 1. ACA ‘Essential Documents’ and HHS LEP Guidance ‘Vital Documents’**

<b>Essential Documents<sup>38</sup></b>	<b>Vital Documents<sup>39</sup></b>
Applications (including the single streamlined application)	Applications to participate in a recipient’s program or activity or to receive recipient benefits or services
Consent, grievance, and complaint forms, and any documents requiring a signature	Consent and complaint forms
Correspondence containing information about eligibility and participation criteria;  Notices pertaining to the denial, reduction, modification, or termination of services, benefits, non-payment, and/or coverage;	Written notices of eligibility criteria, rights, denial, loss, or decreases in benefits or services, actions affecting parental custody or child support, and other hearings
<p>Other:</p> <ul style="list-style-type: none"> <li>• A plan’s explanation of benefits or similar claim processing information;</li> <li>• QHP ratings information, as applicable;</li> <li>• Rebate notices; and</li> <li>• Any other document that contains information that is critical for obtaining health insurance coverage or access to care through the QHP</li> </ul>	<p>Other:</p> <ul style="list-style-type: none"> <li>• Intake forms with the potential for important consequences</li> <li>• Notices advising LEP persons of free language assistance;</li> <li>• Written tests that do not assess English language competency, but test competency for a particular license, job, or skill for which knowing English is not required;</li> <li>• Outreach and education materials</li> </ul>

While pre-dating the passage of the ACA, Title VI was expressly incorporated into the health insurance marketplaces by Section 1557 of the ACA. Section 1557 specified that health programs and activities involving credits, subsidies, and contracts of insurance in the health insurance marketplaces are prohibited from discriminating against participants on grounds prohibited by Title VI, which include national origin and its subcategory of language.<sup>43</sup> The Office for Civil Rights (OCR) at HHS plans is expected to issue regulations to clarify enforcement mechanisms and examples of national origin discrimination under Section 1557 before the second Open Enrollment Period.

<sup>43</sup> Under Section 1557, “an individual shall not, on the ground prohibited under title VI . . . be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title (or amendments).”

## ***Enforcing Nondiscrimination Protections Against Marketplaces and Consumer Assistance Entities***

In addition to extending the prohibitions and enforcement mechanisms of Title VI to all health insurance marketplace services and activities, Section 1557 could be interpreted to have expanded—or restored—enforcement mechanisms not previously available to LEP individuals. Section 1557 intends to provide LEP consumers with a private right of action to bring claims in court to enforce their right to language assistance services by showing disparate impact discrimination or intentional discrimination in the health insurance marketplaces. LEP consumers may also file complaints with OCR to address either forms of discrimination.

Upon receiving a complaint, OCR would initiate an investigation into the alleged discriminatory conduct. Recipients under investigation typically agree to voluntary compliance agreements or corrective action plans, which include assessing the language needs of their service populations, developing employee training programs on how to carry out language assistance policies and procedures, improving intake procedures for LEP clients, providing on-site interpretation services, translating vital documents into different languages, and periodically monitoring and tracking the effectiveness of services provided for LEP individuals. The most severe penalty for failure to comply with Title VI would be for a recipient to lose its funding altogether.<sup>44</sup>

Remedies sought in court for Title VI violations are similar to those offered by HHS, likely resulting in injunctive relief for the creation and implementation of new or better language access plans. In cases of intentional discrimination, LEP individuals may ask for monetary damages as well.

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<sup>44</sup> See Office for Civil Rights, U.S. Dep't of Health & Human Servs., *Recent Civil Rights Resolution Agreements & Compliance Reviews*, <http://www.hhs.gov/ocr/civilrights/activities/agreements/index.html> (last visited Sept. 9, 2014); Jessica Rubin-Wills, *Language Access Advocacy after Sandoval: A Case Study of Administrative Enforcement Outside the Shadow of Judicial Review*, 36 N.Y.U. Rev. L. & Soc. Change 465 (2012).



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