

*From the Fall 1999 Health Advocate*

[Copy of the OCR Investigation Letter](#) (OCR website)

On October 21, 1999, the Department of Health and Human Services' Office for Civil Rights (OCR) announced that it had completed a civil rights investigation of the New York City Human Resources Administration (HRA), the New York State Department of Health (DOH), the New York State Office of Temporary and Disability Assistance (OTDA), and the Nassau and Suffolk County Departments of Social Services (DSS). OCR found these agencies in violation of federal civil rights laws. In a letter to the agencies, OCR reinforced their civil rights obligation to provide language assistance to limited English proficient (LEP) and hearing-impaired persons.

The discrimination finding came at the conclusion of an investigation of allegations that HRA, DOH, OTDA, and Nassau and Suffolk Counties had failed to provide interpreter services to persons with limited English proficiency who were applying for benefits under Medicaid and the Temporary Assistance to Needy Families (TANF) programs. According to OCR, these agencies are required under Title VI of the Civil Rights Act of 1964 to ensure that people with limited English proficiency have meaningful access to federally funded programs such as Medicaid and TANF.

OCR also investigated allegations that HRA, DOH, OTDA, Nassau and Suffolk Counties discriminated against individuals with hearing impairments by failing to provide them with sign language interpreters or other communication assistance when applying for benefits. According to OCR, these agencies are required pursuant to the Americans with Disabilities Act and § 504 of the Rehabilitation Act to provide reasonable accommodations to persons with hearing impairments so they can readily access services and benefits programs such as Medicaid and TANF.

The investigation included unannounced visits to 14 sites by personnel from OCR and the Health Care Financing Administration (HCFA) to various offices in each of New York City's five boroughs, and Nassau and Suffolk Counties. These included Job Centers, Income Maintenance Centers, as well as public assistance and Medicaid offices.

During these site visits, the investigators posed as potential Medicaid applicants, interviewed public assistance staff members, applicants and beneficiaries, and made observations and assessments of office procedures, practices and facilities. They observed a number of barriers for LEP and hearing-impaired people, including substantial delays in service, insufficient numbers of bilingual employees or interpreters, and a lack of understanding among many workers of policies and procedures for serving clients who were limited English proficient or hearing-impaired. Among the many problems identified were the following:

- LEP and hearing impaired clients were denied language interpreter assistance during visits to public assistance offices and were often required by office staff members to provide their own interpreters before being served. Family members or friends were often used to interpret.
- Appointment notices directed clients to bring interpreters to eligibility interviews. Existing bilingual staff resources were clearly insufficient to serve the needs of LEP clients.
- Many public assistance offices were found to lack signs and basic information materials in languages other than English, including those describing client rights.
- Public assistance staff members, including those with direct client contact, frequently lacked an awareness of existing OTDA, DOH and HRA non discrimination policies, many admitting their ignorance of existing policies.
- Offices lacked effective procedures for assisting LEP and hearing impaired persons.
- Many workers indicated that they had never received training on assisting LEP and hearing-impaired clients, and were unaware of language palm cards, TTY/TTD devices, and other language assistance tools which were available to them.
- OCR investigators who requested information in American Sign Language were directed, through the use of hand-written notes, to sit and wait until interpreters were available, and waited several hours without receiving any assistance. For example, after waiting more than three hours, one investigator was told to return at a future date and that if she could not provide her own sign language interpreter, she would have to call the office two days in advance of her next visit to assure that one would be present on that date.
- Public assistance offices were found to lack TTY/TDD and other devices to facilitate communication with hearing-impaired persons.

As a result, LEP clients and individuals with hearing impairments experienced significant problems at the public assistance offices due to the unavailability of interpreter assistance, and had problems understanding the instructions of English speaking staff members. OCR found that the lack of adequate translation and/or interpreter services imposed serious barriers on LEP and hearing impaired persons, effectively denying LEP clients meaningful access to Medicaid and TANF programs and hearing-impaired clients an equal opportunity to participate in and benefit from the services and programs administered by HRA, DOH, OTDA, and Nassau and Suffolk Counties.

The OCR letter gives the agencies who failed to comply with the applicable statutes or regulations an opportunity to take corrective actions necessary to remedy existing violations. Within 30 days of receipt of the OCR Letter of Finding, HRA, DOH, OTDA, and Nassau and Suffolk Counties, collectively, must provide a corrective action plan to OCR addressing the deficiencies identified in the finding.

The letter is a significant victory for advocates representing LEP and hearing impaired persons in the Medicaid and TANF programs because it sends a strong message to state and local agencies that they must provide language assistance to those requiring such assistance to comply with the civil rights laws. [A copy of the investigation letter](#) , which describes specific recommendations to be included in the action plan, is posted on the OCR website. Please contact our office if problems similar to those revealed in the New York OCR investigation are occurring in your local area.