



Pascua Yaqui TRBHA
CENTERED SPIRIT PROGRAM
Provider Manual - 2023



Section 3.23 Cultural Competence

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I. STATEMENT OF PURPOSE:

As Arizona's population becomes more diverse, the Arizona Health Care Cost Containment System (AHCCCS) continues to plan for these changes by developing ways to address needs of all individuals receiving services in the public behavioral health system. AHCCCS, the Pascua Yaqui (PY) Tribal Regional Behavioral Health Authority (TRBHA) and behavioral health providers must have the ability to be responsive to the unique cultural, ethnic, or linguistic characteristics of the population it serves; therefore, AHCCCS has based the cultural competency approach in a mixture of competency-based and evidence-based practice models.

In 1997, the U.S. Department of Health and Human Services - Office of Minority Health (OMH) developed the National Standards on Culturally and Linguistically Appropriate Services (CLAS), to support a more consistent and comprehensive approach to cultural and linguistic competence in health care. The CLAS standards have been integrated by AHCCCS incorporating them in contracts, plans, and policy language. Additionally, the standards have served as the base for the AHCCCS cultural competence framework and model.

Through ongoing data collection and community collaboration, AHCCCS has determined that disparities and/or gaps exist regarding access to effective, quality behavioral health services that are inclusive of all traditions, cultural beliefs, diverse cultures, and races and ethnicities. Therefore, AHCCCS continues to focus on new initiatives and programs, based on data-driven goals and outcomes, to provide a comprehensive range of inclusive and high-quality services for all underserved/underrepresented populations identified within Arizona's geographic regions.

II. REFERENCES:

The following PY Centered Spirit Program (CSP) Provider Manual sections can serve as additional resources for this content area:

Section 3.9, Assessment and Service Planning
Section 3.13 Covered Behavioral Health Services



Section 4.2, Behavioral Health Medical Record Standards

Section 5.1 Notice Requirements and Appeal Process for Title XIX and Title XXI Eligible Persons

Section 5.5 Notice and Appeal Requirements (SMI and General)

Section 9.1 Training Requirements

The following citations, government documents and AHCCCS documents can also serve as resources for this content area:

29 U.S.C § 102

29 U.S.C. § 206 (d)

29 U.S.C § 501

29 U.S.C. § 621

29 U.S.C. § 626 (e)

29 U.S.C § 791

42 U.S.C. § 2000d et seq.

42 U.S.C. § 2000e et seq.

42 U.S.C. § 1981

42 U.S.C. § 12101 et seq.

Balanced Budget Act of 1997

45 CFR Section 80.3

42 CFR § 438.10

42 CFR § 438.206

42.CFR § 422.2264(e)

Title VI of the Civil Rights Act

ADA Accessibility Guidelines

Culturally and Linguistically Appropriate Services (CLAS) in Healthcare Standards

Mental Health: Culture, Race and Ethnicity- Supplemental Report of the Surgeon General

U.S. Department of Health & Human Services - Office for Civil Rights – LEP recipients

U.S. Department of Health & Human Services - Office of Minority Health

U.S. Equal Employment Opportunity Commission

Indian Health Care Improvement Act - Provisions in the Patient Protection and Affordable Care Act (P.L. 111-148)

President's Executive Order No.13166

A.R.S. § 23-341

A.R.S. § 36-1946

R9-21-202

AHCCCS/Tribal Intergovernmental Agreement (IGA) 2021

III. STANDARDS:

The Centered Spirit Program (CSP) annually develops and implements a cultural competency plan that addresses the unique needs of the Yoeme clients and their families served. AHCCCS provides guidance and technical assistance when needed to be in agreement with the most important goals of AHCCCS cultural competency outlined in the annual plan. The plan provides for TRBHA and provider orientation and ongoing training and education in the provision of



culturally competent services for staff with behavioral health recipient contacts, the method of evaluating recipients' cultural diversity, network and outreach services for improved accessibility and quality of care, and the provision of skilled linguistic services and disability related services.

1. Representatives from AHCCCS in conjunction with TRBHAs have established a Cultural Competency Advisory Committee to strategize, provide input, and implement initiatives.
2. Each TRBHA has a Cultural Specialist. The Cultural Specialist, as well as behavioral health recipients and representatives from the community, serves on the Cultural Competency Advisory Committee.
3. According to research by the Department of Health and Human Services (DHHS) Office of Minority Health (OMH), language assistance such as oral interpretation can have a positive effect on patient satisfaction and comprehension, improvements on delivery measures such as increased amount of time spent with recipients, high clinic return rates, and increases in service utilization. Studies also demonstrate the cost benefits of providing interpretation services, including decreased malpractice claims.
4. Of the 14 Culturally and Linguistically Appropriate Services (CLAS) Standards, four Standards (4, 5, 6 and 7, dealing with linguistic competency) are federally mandated.

CSP ensures the delivery of culturally and linguistically appropriate behavioral health services by competent providers that are respectful and responsive to cultural and linguistic needs. CSP also ensures that services are accessible to diverse recipient populations and provider policies follow applicable federal and state anti-discrimination laws.

IV. PROCEDURES:

A. Required cultural competency plan:

The CSP TRBHA is required to develop and implement an annual cultural competency plan according to AHCCCS guidance to ensure compliance of state and federal rules and regulations.

As the involvement of Indian Tribes in the development of AHCCCS policies has increased and under the legal umbrella of the Intergovernmental Agreements (IGAs), AHCCCS is committed to working with Indian Tribes to improve the quality, availability, accessibility, and culturally responsive behavioral health care services for American Indians in Arizona. As part of those efforts the TRBHAs annually develop and implement cultural competency plans that address the unique needs of the population they serve. AHCCCS provides guidance and technical assistance when needed to be in agreement with the most important goals of AHCCCS cultural competency outlined in the annual plan.



B. Overall AHCCCS cultural competency framework:

Required Culturally and Linguistically Appropriate Services (CLAS) Standards:

The CLAS standards were established to correct inequities that currently exist in the provision of health and social services and to be more responsive to the individual needs of all patients/consumers. Ultimately, the aim of the standards is to contribute to the elimination of racial and ethnic health disparities and to improve the health of all Americans.

The 14 standards are organized as follows:

1. Culturally Competent Care (Standards 1-3);
2. Language Access Services (Standards 4-7); and
3. Organizational Supports for Cultural Competence (Standards 8-14).

Within this framework, there are three levels of expectations for compliance:

1. CLAS **mandates** are current Federal requirements for all recipients of Federal funds (Standards 4, 5, 6, and 7), and these mandates deal with linguistic competency
2. CLAS **guidelines** are activities recommended by OMH for adoption as mandates by Federal, State, and national accrediting agencies (Standards 1, 2, 3, 8, 9, 10, 11, 12, and 13).
3. CLAS **recommendations** are suggested by OMH for voluntary adoption by health care organizations (Standard 14).

In accordance with all the standards, AHCCCS and Tribal IGAs and TRBHA Annual Cultural Competency plans, require adherence to all three areas of the CLAS standards:

1. Language Access Services (LAS);
2. Culturally competent care; and
3. Organizational supports for cultural competence.



C. Language Access Services (LAS):

To comply with the LAS requirements, TRBHAs and subcontracted providers must:

1. Provide language assistance services, including bilingual staff and interpreter services, at no cost to each behavioral health recipient with limited English proficiency at all points of contact, in a timely manner during all hours of operation;
2. Provide to behavioral health recipients in their preferred language both verbal offers and written notices informing them of their right to receive language assistance services;
3. Ensure the competence of language assistance provided to limited English proficient behavioral health recipients, by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services (except on request by the behavioral health recipient); and
4. Make available easily understood behavioral health-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area.

If the behavioral health recipient care requires the presence of a legal parent or guardian who does not speak English (e.g., when the patient/consumer is a minor or severely disabled), the TRBHA and subcontracted providers must document the language not only of the recipient but also of the guardian or legal appointed representative.

As a first preference, the availability of bilingual staff who can communicate directly with the recipient or guardian in their preferred language is desired. When such staff members are not available, face-to-face interpretation provided by trained staff, or contract or volunteer interpreters, is the next preference. Telephone interpreter services should be used as a supplemental system when an interpreter is needed instantly, or when services are needed in an unusual or infrequently encountered language. The competence and qualifications of individuals providing language services are discussed in Standard 6 of the CLAS standards final report.

Accessing oral interpretation services:

In accordance with Title VI of the Civil Rights Act, Prohibition against National Origin Discrimination, TRBHAs and their subcontracted providers must make oral interpretation services available to persons with Limited English Proficiency (LEP) at all points of contact. Oral interpretation services are provided at no charge to AHCCCS eligible persons and Non-Title XIX/XXI persons determined



to have a Serious Mental Illness (SMI). Members must be provided with information instructing them how to access these services.

CSP offers oral interpretation services as necessary. Consumers in need of interpretation services may inform CSP of their needs upon referral, to ensure that at the initial intake providers are available to provide interpretation in Spanish or Yoeme, as needed. Consumers can contact the CSP front office at (520) 879-6060 to make necessary arrangements. Consumers receiving services through subcontracted providers can also contact the CSP main office for assistance in ensuring interpretation services are available through subcontracted providers.

Accessing interpretation services for the deaf and the hard of hearing

In accordance with A.R.S. § 36-1946, TRBHAs and their subcontracted providers must provide auxiliary aids or licensed sign language interpreters that meet the needs of enrolled persons upon request, at no charge to AHCCCS eligible persons or person determined to have an SMI. Auxiliary aids include computer-aided transcriptions, written materials, assistive listening devices or systems, closed and open captioning, and other effective methods of making aurally delivered materials available to persons with hearing loss.

The Arizona Commission for the Deaf and the Hard of Hearing provides a listing of qualified and licensed interpreters, information on auxiliary aids and the complete rules and regulations regarding the profession of interpreters in the State of Arizona. (Arizona Commission for the Deaf and the Hard of Hearing <http://www.acdhh.org> or (602) 542-3323 (V/TTY)).

CSP offers sign language interpretation services as necessary. Consumers in need of these services may inform CSP of their needs upon referral, to ensure that at the initial intake providers are available to provide interpretation in Spanish or Yoeme, as needed. Consumers can contact the CSP front office at (520) 879-6060 to make necessary arrangements. Consumers receiving services through subcontracted providers can also contact the CSP main office for assistance in ensuring interpretation services are available through subcontracted providers.

Translation of written material

TRBHAs and their subcontracted providers must make written translated materials available, when the TRBHA is aware that a language is spoken by 3,000 or 10% (whichever is less) of the provider behavioral health recipients, to the commonly encountered LEP groups who are AHCCCS eligible and to persons determined to have an SMI.



All vital materials shall be translated when the TRBHA is aware that a language is spoken by 1,000 or 5% (whichever is less) of the TRBHA's behavioral health recipients who also have LEP. Vital materials must include at a minimum;

1. Notice for denials, reductions, suspensions or termination of services;
2. Service plans;
3. Consent forms;
4. Communications requiring a response from the behavioral health recipient; and
5. Grievance notices.

Members with LEP, whose languages are not considered commonly encountered, will be provided written notice in their primary or preferred language of the right to receive competent translation of written material.

Individual Service Plan (ISP) and Inpatient Treatment and Discharge Plan (ITDP)

The AHCCCS Individualized Service Plan (ISP) is intended to fulfill several functions, which include identification of necessary behavioral health services (as evaluated during the assessment and through participation from the person and his/her team), documentation of the person's agreement or disagreement with the plan, and notification of the person's right to a Notice of Action (see *Section 5.1 Notice Requirements and Appeal Process for Title XIX and Title XXI Eligible Persons*) or Notice of Decision and Right to Appeal (see *Section 5.5 Notice and Appeal Requirements (SMI and General)*), if the person does not agree with the plan. AHCCCS provides the service plan templates in both English and Spanish. The individual service plan is a vital document as defined in the AHCCCS and TRBHA IGA.

As the service plans specifically incorporates a person's rights to disagree with services identified on the plan; If the plan is not in the person's preferred language, the person has not been appropriately informed of services he/she will be provided and afforded the opportunity to exercise his/her rights when there is a disagreement.

These requirements apply also to the ITDP (Inpatient Treatment and Discharge Plan), in accordance with the 9 A.A.C. 21, Article 3.

In general, any document that requires the signature of the behavioral health recipient, and that contains vital information such as the treatment, medications or notices, or service plans must be translated into their preferred/primary language if requested by the behavioral health recipient or his/her guardian.



TRBHAs and subcontracted providers must provide the service plans in the preferred/primary language expressed by the behavioral health recipient.

CSP has written materials available in Spanish and Yoeme.

D. Culturally competent care:

To comply with the culturally competent care requirements, TRBHAs and subcontracted providers must:

1. Ensure that behavioral health recipients, receive from all provider staff members, effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices and preferred language;
2. Implement strategies to recruit, retain, and promote at all levels of the organization a diverse staff and leadership that are representative of the demographic characteristics of the service area; and
3. Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery. Providers with direct care responsibilities must complete mandated Cultural Competency training (see *Section 9.1 Training Requirements* and the CSP Cultural Competence Plan), and ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery for the specific groups in the region.

E. Organizational supports for cultural competence:

Under AHCCCS guidance, and to comply with the organizational supports for cultural competence, the TRBHAs must:

1. Develop, implement, and promote a written strategic plan following AHCCCS standards and guidelines that outlines clear goals, policies, operational plans, and management accountability/oversight mechanisms to provide culturally and linguistically appropriate services.
2. Conduct initial and ongoing organizational self-assessments of CLAS-related activities and integrate cultural and linguistic competence-related measures into internal audits, performance improvement programs, recipient satisfaction assessments, and outcomes-based evaluations, if required by AHCCCS.



3. Ensure that data on behavioral health recipients' race, ethnicity, and primary and/or preferred language is collected in the behavioral health medical record, integrated into management information systems, and periodically updated.
4. Develop participatory, collaborative partnerships with communities and utilize a variety of formal and informal mechanisms to facilitate community and recipient involvement in designing and implementing CLAS-related activities.

Subcontracted providers must:

1. Maintain a current demographic profile of the service area as well as communicate existing needs to the TRBHA to accurately plan for and implement services that respond to the cultural and linguistic characteristics of the service area.
2. Ensure that conflict and grievance resolution processes at the provider level are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by behavioral health recipients.
3. Regularly make available to the TRBHAs the information about progress and successful innovations in implementing the CLAS standards and to provide public notice in their communities about the availability of this information.

F. Documenting oral interpretation services and translated materials: Assessment and service planning

If the behavioral health recipient requests a copy of the assessment, those documents must be provided to the behavioral health recipient in his/her primary language. Documentation in the assessment must also be made in English; both versions must be maintained in the recipient's record. This will ensure that if any persons, who must review the recipient's record for purposes such as coordination of care, emergency services, auditing, and data validation, have an English version available. If the primary/preferred language of the behavioral health recipient is other than English and any of the service plans have been completed in English, the provider must ensure the service plans are translated into the behavioral health recipient's primary/preferred language for his/her signature.

Documentation of oral interpretation services provided in a language other than English must also be included in the recipient's record. Documentation must include date of service and interpreter name, each time a service requiring interpretation is provided.



G. Laws addressing discrimination and respect for diversity and inclusion:

TRBHAs and provider agencies must abide by the following referenced federal and state applicable rules, regulations, and guidance documents:

1. Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
2. Department of Health and Human Services - Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination affecting Limited English Proficient Persons.
3. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin by any employer with 15 or more employees. (The Civil Rights Act of 1991 reverses in whole or in part several Supreme Court decisions interpreting Title VII, strengthening and improving the law and providing for damages in cases of intentional employment discrimination.)
4. President's Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency. The Executive Order requires each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency.
5. State Executive Order 99-4 and President's Executive Order 11246 mandates that all persons regardless of race, color, sex, age, national origin or political affiliation shall have equal access to employment opportunities.
6. The Age Discrimination in Employment Act (ADEA) prohibits employment discrimination against employees and job applicants 40 years of age or older. The ADEA applies to employers with 20 or more employees, including state and local governments. The Older Workers Benefit Protection Act (Pub. L. 101-433) amends the ADEA to prohibit employers from denying benefits to older employees.
7. The Equal Pay Act (EPA) and A.R.S. 23-341 prohibit sex-based wage discrimination between men and women in the same establishment who are performing under similar working conditions.
8. Section 503 of the Rehabilitation Act prohibits discrimination in the employment or advancement of qualified persons because of physical or mental disability for employers with federal contracts or subcontracts that exceed \$10,000. All covered contractors and subcontractors must also



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include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.

9. Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in delivering contract services.

10. The Americans with Disabilities Act prohibits discrimination against persons who have a disability. Providers are required to deliver services so that they are readily accessible to persons with a disability. TRBHAs and their subcontracted providers who employ less than fifteen persons and who cannot comply with the accessibility requirements without making significant changes to existing facilities may refer the person with a disability to other providers where the services are accessible. A TRBHA or its subcontracted provider who employs fifteen or more persons is required to designate at least one person to coordinate its efforts to comply with federal regulations that govern anti-discrimination laws.