AUDIENCE: Individuals, Waiver providers (providers), Administrative Entities (AEs), County MH/ID Programs, Supports Coordination Organizations (SCOs), and other interested parties

PURPOSE: The purpose of this memorandum is to provide clarification about interpreter use and ODP’s expectations for compliance with applicable laws when rendering services to individuals who are deaf.

DISCUSSION:

On April 8, 2014, the Department of Human Services, Office of Developmental Programs (Department) released Bulletin Number 00-14-04, relating to Accessibility of Intellectual Disability Services for Individuals who are Deaf. Some County MH/ID Programs, Administrative Entities, and Supports Coordination Organizations have requested clarification regarding communication assistance and what types of funds are to be used to pay for sign language interpreters.

COMMUNICATION ASSISTANCE FOR INDIVIDUALS WHO ARE DEAF

Bulletin 00-14-04 reads, in part, that Interpreters and/or transliterators must be registered with the Pennsylvania Department of Labor and Industry’s Office for the Deaf and Hard of Hearing (ODHH) prior to providing interpretation and/or transliteration services.

In accordance with Act 57, also known as the Sign Language Interpreter and Transliterator State Registration Act, the Registry of Interpreters for the Deaf (RID) has separate certifications for interpreters and transliterators. Act 57 reads that no individual may provide or offer to provide sign language interpreting or transliterating services, or hold himself as a qualified sign...
language interpreter or qualified transliterator or, use a similar title or designation, without being State-registered by ODHH. This portion of Act 57 requires that anyone who serves as an interpreter, including a family member, must be registered with ODHH.

However, section 4(b) of Act 57 provides that an individual is exempt from the state registration requirements when the interpreter or transliterator is an individual engaged in interpreting or transliterating at the request of an individual who is deaf or hard of hearing if the individual informs the person that the individual is not registered under this act. This exception provides freedom of choice for individuals who are deaf to choose to utilize the services of a particular interpreter for a specific purpose, who may not be registered. Importantly, this exception:

- Is not an avenue to let non-registered interpreters provide random interpreting services in the Commonwealth without a request from the individual who is deaf, and
- Does not allow non-registered interpreters to accept referrals and provide interpreting services, unless the individual who is deaf specifically requested their services.

The individual who is deaf and the non-registered interpreter must sign the “Request to Use a Non-Registered Interpreter” form developed by ODHH. A modified version of this form is attached as Appendix A. The form is valid for 2 years from the date of signature. The person who is deaf can revoke the request by signing ODHH’s “Revocation” form. A modified version of this form is attached as “Appendix B.”

In addition to the scenarios in which a friend or family member may provide interpreter services outlined in Bulletin 00-14-04, the Department will only allow exception 4(b) to be used for an individual to select a friend or family member to provide non-registered interpreter services. All professional interpreters or transliterators must be registered with ODHH. Because Commonwealth of Pennsylvania policy requires state agencies to hire interpreters/transliterator who are state-registered with ODHH, friends and family members may not be paid for the provision of non-registered interpreter services.

Additionally, individuals may not be required to use a non-registered interpreter. All individuals have the right to request and receive the services of a registered interpreter. Individuals may not be encouraged to use non-registered interpreters.

MUST AN INTERPRETER BE PROVIDED FOR EVERY INDIVIDUAL WHO IS DEAF?

Communication assistance is not limited to interpreters. The type of communication assistance required is determined by the individual’s Individual Support Plan (ISP) team. The need for communication assistance may also be determined by a professional assessor such as a speech-language pathologist. Because the need for an assessment should not delay the provision of communication assistance, in cases where the ISP team determines that a professional assessment is required, the ISP team may plan for communication assistance to be provided on an interim basis pending the completion of an assessment, the service may be included in the ISP, and provided on an interim basis pending the completion of an assessment. When the ISP team determines that an interpreter is needed, it is very important that the ISP for an individual who is deaf addresses the circumstances under which an interpreter is required.
For example, an individual may be able to communicate via exchange of written notes during Supports Coordinator (SC) monitoring visits, but requires an interpreter during ISP team meetings.

**PAYING FOR COMMUNICATION ASSISTANCE**

For individuals enrolled in the Consolidated or Person/Family Directed Support Waivers, AEs should use Waiver Administration funds for interpreters and may authorize the Assistive Technology service for Waiver-eligible communication devices; however, base funds may be used for these services if desired or when necessary to cover a service that is not eligible for waiver funding.

For individuals who solely received base-funded services, base funds must be used.

**USE OF VIDEO RELAY SERVICE AND VIDEO REMOTE INTERPRETING**

Video Relay Service (VRS) and Video Remote Interpreting (VRI) each use the Internet and a video connection to permit persons with hearing disabilities to communicate with persons without such disabilities. However, VRS and VRI are used for different purposes.

VRS enables persons with hearing disabilities who use American Sign Language (ASL) to communicate with voice telephone users through video equipment, rather than through typed text. The VRS caller, using a television or a computer with a video camera device and a broadband (high speed) Internet connection, contacts a VRS Communication Assistant (CA), who is a qualified sign language interpreter. They communicate with each other in sign language through a video link. The VRS CA then places a telephone call to the party the VRS user wishes to call. The VRS CA relays the conversation back and forth between the parties -- in sign language with the VRS user, and by voice with the called party. No typing or text is involved. In most states, including Pennsylvania, VRS is funded by a Telecommunications Relay Service Program surcharge that is added a person’s telephone bill. VRS is regulated by the Federal Communications Commission (FCC).

VRI is a service that is used when an interpreter cannot be physically present to interpret for two persons who are together at the same location (for example, at a meeting or in a doctor’s office). In a typical VRI situation, the deaf person and the hearing person are located together at one location with a videophone or web camera, and a television or computer screen. The interpreter works from another location—such as an office, home-based studio or call center—also using a videophone or web camera and television or computer screen. The deaf person signs to the camera, the interpreters views it from their screen, and then speaks the aural interpretation into a microphone or telephone for the hearing person. In turn, the interpreter hears the voices of the hearing people through the microphone or telephone, and renders the message into sign language, via a video camera, which the deaf person views on his or her video display. VRI is provided by private companies that charge a fee for the service. VRI is not regulated by the FCC.
According to the FCC, it is a violation of federal regulations to use VRS to interpret between deaf and hearing purposes at the same location. As a result, VRS cannot be used for interpreting in any situation where a deaf individual is in the same place as a hearing person. This includes, but is not limited to: SC monitoring visits, ISP meetings, or during the investigation of a complaint or incident that requires interviewing a deaf individual. Use of VRS for this purpose may subject the SCO, AE, or other provider to enforcement action by the FCC. Only in-person interpreters or a VRI service may be used to interpret in cases where the deaf individual is in the same place as hearing persons. If the Department suspects that VRS is being misused, it will refer the matter to the FCC’s complaint division for investigation.

ASSISTANCE WITH QUESTIONS RELATING TO PROVIDING SERVICES TO INDIVIDUALS WHO ARE DEAF

Any stakeholder who has questions about the contents of this memorandum or who is seeking general assistance in deaf issues may contact the Deaf Services Coordinator (DSC) for support. The DSC may be reached by emailing the Deaf Services Mailbox at Ra-odpdeafservices@pa.gov.
APPENDIX A

REQUEST TO USE A NON-REGISTERED INTERPRETER/TRANSLITERATOR

Date: ________________________________

Service Requestor Name (Individual): ______________________________________

Non-Registered Interpreter Name: _______________________________________

Relationship of Non-Registered Interpreter to Individual: _______________________

I am requesting the above-named non-registered interpreter to facilitate communication for me. I understand that the Sign Language Interpreter and Transliterator State Registration Act, (Act 57) (P.L. 492, No. 57), 63 P.S. § 1725.2 et. Seq., is a law that requires interpreters/ transliterators who meet the criterion to register with the PA Office for the Deaf and Hard of Hearing (ODHH) prior to providing interpreting/transliterating services in Pennsylvania.

I understand that Act 57-2004 gives me the right to have a registered sign language interpreter/transliterator provide services or I may voluntarily request and accept the services of a non-registered interpreter/transliterator.

By signing my name below:

• I verify that I have voluntarily requested and accept interpreting/transliterating services from the above-named non-registered interpreter.
• I verify that the above-named non-registered interpreter has informed me that he/she is not registered with ODHH
• I understand that the above-named non-registered interpreter is accountable for accurate and effective communication.
• I understand that above-named non-registered interpreter is required to maintain a copy of this signed statement for a period of two years.
• I understand that I should receive a copy of this signed statement.
• I understand that my request is valid for two years from the date, unless my personal representative or I revoke my request.

Signature of Individual ____________________________  Printed Name ____________________________  Date __________

Signature of Non-Registered Interpreter / Transliterator ____________________________  Printed Name ____________________________  Date __________

Witness Signature ____________________________  Printed Name ____________________________  Date __________
APPENDIX B

REVOCATION OF THE REQUEST TO USE A NON-REGISTERED INTERPRETER/TRANSLITERATOR

Date: ________________________________

Service Requestor Name (Individual): ________________________________

Non-Registered Interpreter Name: ________________________________

Relationship of Non-Registered Interpreter to Individual: ________________________________

I hereby wish to revoke (cancel) any outstanding request(s) I have previously signed to allow the above-mentioned non-registered interpreter to facilitate communication for me.

I understand that if I want to voluntarily request and accept the above-mentioned interpreter to facilitate communication for me, in the future, I will need to sign a “Request to Use a Non-registered Interpreter” form. In turn, it will nullify this revocation.

This revocation (cancellation) is effective immediately at the time of my signature and date on this statement.

Signature of Individual ________________________________  Printed Name ________________________________  Date ________________________________

Witness Signature ________________________________  Printed Name ________________________________  Date ________________________________