



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

October
September 1, 2015

Re: Our Lady of Lourdes Memorial Hospital's Language Access & Financial Aid Policies and Procedures

The purpose of this letter is to memorialize Our Lady of Lourdes Hospital's cooperation with the New York State Attorney General's Office (OAG) and commitment to implementing and maintaining policies, procedures, and training protocols to help ensure that (a) individuals with limited English proficiency (LEP) have meaningful access to the Hospital's programs and services and (b) individuals with limited financial resources are informed about and are able to receive financial assistance where appropriate.

By way of context, Our Lady of Lourdes Hospital (Hospital) is located in the city of Binghamton in Broome County, New York. Binghamton has a population of 44,562 residents who are over five years of age, of whom 13.7% speak a language other than English at home and 5.4% do not speak English "very well". The population of Broome County age five or older is 189,038, of whom 8.9% speak a language other than English at home and 2.9% do not speak English "very well". With respect to financial ability to access healthcare, 2013 Census data indicates that 10.1% of Binghamton's 46,014 residents and 8.6% of Broome County's 196,422 residents lacked health insurance and that, between 2012 and 2013, 33.3% of Binghamton residents and 17.4% of Broome County residents lived below the federal poverty level.

The Hospital is subject to federal and state laws and guidelines requiring that all persons seeking services of the Hospital have meaningful access to Hospital programs and services, regardless of financial status, and require that the Hospital maintain compliant and comprehensive financial assistance policies and procedures that improve financial assistance access for low-income patients.¹ The OAG recognizes that the Hospital has taken certain preliminary actions designed to make available language assistance and financial aid at its facilities. For instance, the Hospital has a publication in several languages describing the availability of language assistance, provides training for some employees with direct patient care

¹ Specifically, the Hospital is covered by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; Section 9007 of the Patient Protection and Affordable Care Act and the regulations promulgated thereunder by the United States Department of Health & Human Services, 45 C.F.R. Part 80; N.Y. Public Health Law §§ 2801-c, 2803, 2807-k(9-a), and corresponding regulations and guidance set forth by the New York State Department of Health.

contact about language assistance, and has an LEP Services Committee that conducts periodic assessments of the language assistance policy's use and implementation.

Despite these undertakings, in 2014 the OAG received complaints about the failure to provide language assistance and commenced an investigation that revealed the Hospital's policies and procedures had not been consistently followed. With respect to language access, the OAG learned that Hospital personnel did not consistently inform LEP patients of the availability of free interpretation/translation services; did not consistently ask LEP patients who their preferred interpreter or what their preferred method of communication was; had automatically relied upon family and/or friends to interpret without considering conflicts of interest or ability to adequately translate medical terminology; did not consistently provide LEP patients vital documents in languages other than English upon admission and discharge; did not consistently use telephonic language interpreter services; and did not consistently provide interpretation services to or return messages left by LEP callers seeking to make appointments. The OAG's investigation revealed the need for training, revised policies, and other actions to resolve the deficiencies identified above.

As for financial assistance, the OAG learned that Lourdes's financial assistance policies and procedures did not comply with state and federal law. Lourdes improperly applied financial aid discounts at a higher initial charge than permitted by law; failed to allow the submission of financial assistance applications for at least 240 days after the date of the first post-discharge bill; required self-employed patients to complete an overly burdensome application; required a Medicaid determination prior to determining eligibility for financial assistance; and required patients to provide information about assets and used that information in determining eligibility for financial assistance. The OAG's investigation revealed the need for training, revised policies and other actions to resolve the concerns identified above.

WHEREAS, Our Lady of Lourdes Hospital has demonstrated a commitment to complying with federal and state laws and regulations concerning language assistance and financial assistance; and

WHEREAS, Our Lady of Lourdes Hospital seeks to improve upon the language assistance and financial assistance policies and procedures currently in place and remedy any deficiencies in these policies and practices;

THEREFORE, Our Lady of Lourdes Hospital agrees to undertake the following actions:

Language Access

1. Ensure that the "Guide to Lourdes Language Access Policy" and translated versions of "Patient's Bill of Rights" (a) are provided to LEP patients upon registration/admission or if requested, (b) are maintained in publicly accessible areas of the Hospital frequently visited or used by patients and their families or friends, and (c) are available on its website.
2. Ensure that "Interpretation Services Available" signs informing patients in English and other languages identified by the Hospital pursuant to its periodic language needs

assessments about (a) the availability of free language assistance services and (b) the availability of financial assistance services are placed in prominent locations in public entryways; in registration, admission, and waiting areas; and other public areas frequently used or visited by patients or their family and friends.

3. Maintain and make readily accessible, at all times, copies of vital documents in (a) Spanish and (b) any languages spoken by limited English speaking groups who comprise more than 1% of the population of the Hospital's service area or any languages used in at least 5% of patient visits over the course of one year, to communicate with patients who cannot speak, read, write, or understand English at the level of proficiency necessary for effective communication with health care providers. A document is considered vital if it contains or requests from the patient any information critical for obtaining medical care or treatment, for obtaining federal or state services and/or benefits, or is required by law to be provided to or completed by patients. Examples of vital documents include medical consent forms and advance directives; notices about Patients' rights and availability of free language assistance or financial assistance, including any key forms or applications; letters or notices requiring a response from the beneficiary or patient; general discharge instructions, and; explanation of billing information. If and when the Hospital develops or begins using new written materials that constitute vital documents, the Hospital shall translate those materials as appropriate.
4. Ensure that administrative, clinical and any other employees with direct patient contact are aware of the existence of the language access policy and the procedure for obtaining telephonic or in-person translation services, including but not limited to switchboard operators or other front-line staff responsible for scheduling appointments and taking calls from the public.
5. Ensure that designated clinical or administrative personnel regularly document each patient's language needs, language of preference, and acceptance or refusal of language assistance services in appropriate medical records upon the patient's initial visit/admission, including but not limited to the Emergency Department. Ensure that such information is automatically available to clinical and administrative personnel upon subsequent visits by the patient, regardless of whether the individual is seeking in-patient or out-patient services.

Financial Aid Policy & Procedures

6. Ensure that the Hospital's financial assistance policies and procedures comply with Section 9007 of the Patient Protection and Affordable Care Act and the regulations promulgated thereunder, and New York State Public Health Law §2807-k(9-a) and its corresponding guidance.
7. Adopt the financial assistance application outlined by the New York State Department of Health in its May 11, 2009 guidance issued to hospital Chief Executive Officers (05-09).

8. Eliminate the use of "asset tests" in determining eligibility for financial assistance.
9. Allow patients who are otherwise eligible for financial assistance to apply for financial assistance to cover cost-sharing components of health insurance, such as deductibles, copayments, and coinsurance.
10. Ensure that financial aid applications and summaries are distributed to all self-pay patients prior to discharge, even if these documents are not requested.

Audits & Reporting

11. Continue audits of Hospital departments and satellite locations to evaluate implementation of and compliance with its language access and financial assistance policies and procedures. Conduct comparable audits of administrative or other front-line personnel/departments that have direct patient communication or contact.
12. Report to the Office of the Attorney General every six months for a three-year period commencing upon execution of this Agreement, to discuss the Hospital's implementation of its language access services and provision of financial assistance, and information relevant thereto, including those efforts outlined in this letter. During these meetings, the OAG and the Hospital will jointly discuss and review: (a) audit data and other information relevant to the Hospital's language access services that are collected by the Hospital's LEP services committee, (b) training and education materials concerning language access and financial assistance, (c) notices and informational materials concerning language access and financial assistance, (d) copies of all forms and documents translated by the Hospital, and (e) any complaints made to the Hospital about language access or financial assistance, including the Hospital's response or resolution to any such complaints.

IT IS FURTHER UNDERSTOOD AND AGREED THAT the acceptance of this Letter Agreement does not constitute an admission of wrongdoing on the part of Lourdes, or any violation of any laws, regulations, or administrative pronouncements applicable to Lourdes.

AND IT IS FURTHER UNDERSTOOD AND AGREED THAT no person or entity is intended to be a third-party beneficiary of the provisions of this Letter Agreement for purposes of any civil, criminal, or administrative action. Nor shall any person or entity be permitted to assert any claim or right as a beneficiary or protected class under this Letter Agreement. Nothing contained in this Letter Agreement shall be construed to deprive any person, corporation, association, agency, or other entity of any right provided by law, regulation or administrative pronouncement.

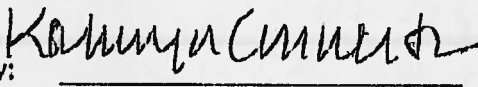
AND IT IS FURTHER UNDERSTOOD AND AGREED THAT this Letter Agreement is a public document. Upon request, a copy of this document or any information contained in it shall be made available to any person by the Office of the Attorney General.

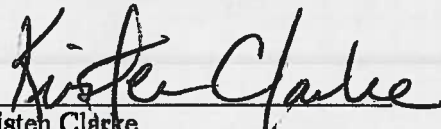
AND IT IS FURTHER UNDERSTOOD AND AGREED THAT this Letter Agreement sets forth the entire agreement of the Parties and may be modified only by the subsequent execution of a written agreement by its Parties.

WHEREFORE, the following signatures are affixed hereto:

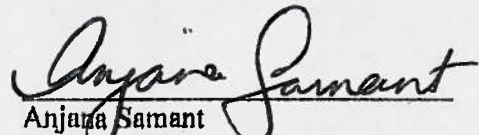
OUR LADY OF LOURDES
MEMORIAL HOSPITAL, INC.
Binghamton, New York

ERIC T. SCHNEIDERMAN,
ATTORNEY GENERAL OF THE
STATE OF NEW YORK

By: 

By: 
Kristin Clarke
Chief, Civil Rights Bureau
Lisa Landau
Chief, Health Care Bureau

Date: 10/1/15


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Date: 10/6/2015