Section 3.23 Cultural Competence

3.23.1 Introduction
3.23.2 References
3.23.3 Scope
3.23.4 Did you know…?
3.23.5 Definitions
3.23.6 Objective
3.23.7 Procedures
3.23.7-A. Culturally Competent Language Services
3.23.7-B. Respect for Diversity

3.23.1 Introduction

The Arizona Department of Health Services/Division of Behavioral Health Services defines culture in a broad sense, as there are characteristics in addition to race, language, and ethnicity that contribute to a person's sense of self in relation to others. A person may identify him or herself according to general subgroups (such as age, gender, sexual orientation or gender orientation) or shared life experiences (such as survival of violence and/or trauma, disability status, education, occupation, socio-economic status or homelessness.) Multiple memberships in these subgroups contribute to an individual's personal identity and sense of own "culture". Understanding how these factors influence the way a person seeks and uses behavioral health services is important to providing culturally competent care.

The ADHS/DBHS vision for culturally competent care is:

- Care that is given with an understanding of and respect for behavioral health recipients' health-related beliefs and cultural values;
- Staff who respect health-related beliefs, interpersonal styles, attitudes and behaviors of the behavioral health recipients, families, and communities they serve; and
- Leadership from administrative, management and clinical operations that includes assessments and processes that ensure a culturally competent response by all staff.

The overall goal of ADHS/DBHS is to establish a model intake, assessment, service planning and service delivery system that is strength-based, family friendly, culturally sensitive and clinically sound and supervised. This goal can be accomplished by valuing the role culture can play in a person's health and well-being.

3.23.2 References

The following citations can serve as additional 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*.

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42 U.S.C. § 1981
42 U.S.C. § 12101
Balanced Budget Act of 1997
45 CFR Section 80.3
42 CFR § 438.10
42 CFR § 438.206
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. Equal Employment Opportunity Commission
A.R.S. § 23-341
A.R.S. § 36-1946
R9-21-202
AHCCCS/ADHS Contract
AHCCCS Contractor Operations Manual
ADHS/RBHA Contracts
ADHS/Tribal IGAs
The Adult Clinical Team Practice Protocol
The Child and Family Team Process Practice Protocol
Section 3.9, Intake, Assessment and Service Planning
Section 3.13 Covered Behavioral Health Services
Section 4.2, Behavioral Health Medical Record Standards
ADHS/DBHS Behavioral Health Covered Services Guide
ADHS/DBHS Cultural Competency Plan
ADHS/DBHS Cultural Competency webpage
ADHS/DBHS Policy Clarification Memorandum – Use of Spanish Assessments and Service Plans

3.23.3 Scope

To whom does this apply?

All persons receiving behavioral health services.

3.23.4 Did you know…?

- ADHS/DBHS and Tribal and Regional Behavioral Health Authorities are each required to submit and implement an annual cultural competency plan. The plan must provide for T/RBHA and provider orientation and ongoing training and education in the provision of cultural competent services for staff with behavioral health recipient contact, 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.
- Representatives from ADHS/DBHS in conjunction with Tribal and Regional Behavioral Health Authorities (T/RBHAs) have established a Cultural Competency Advisory Committee to strategize, provide input and implement initiatives.
- Each T/RBHA has a Cultural Specialist. The Cultural Specialist, as well as behavioral health recipients and representatives from the community serve on the Cultural Competency Advisory Committee.

- According to research by the Department of Health and Human Services (DHHS) Office of Minority Health, 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.
- Of the 14 Culturally and Linguistically Appropriate Services (CLAS) Standards, four (Standards 4, 5, 6 and 7, dealing with linguistic competency) are federally mandated.

3.23.5 Definitions

Commonly Encountered LEP Groups
Cultural Competence
Disability
Interpretation
Limited English Proficiency
Linguistic Competence
Translation

3.23.6 Objective

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

3.23.7 Procedures

3.23.7-A. Culturally Competent Language Services

In light of Arizona's rapidly changing demographics, the delivery of behavioral health services by competent providers to culturally and linguistically diverse populations has become a priority. In 2003, ADHS/DBHS developed a Statewide Cultural Competency Plan that includes actions to address Arizona's changing demographics, the needs of linguistically diverse populations, the needs of persons with Limited English Proficiency (LEP) and assistance for persons who are deaf or hard of hearing. The Cultural Competency Plan is updated annually.

Required Culturally and Linguistically Appropriate Services (CLAS) Standards
In 1997, the DHHS Office of Minority Health developed national CLAS standards that support a more consistent and comprehensive approach to cultural and linguistic competence in health care. In 2000, the standards were published as recommendations in the Federal Register. In accordance with all the standards, ADHS/RBHA contracts, ADHS/Tribal IGAs and RBHA Annual Cultural Competency Plans, T/RBHAs and their subcontracted providers (where indicated) are required to adhere to the following:

Culturally Competent Care
- Ensure that behavioral health recipients receive from all staff members, effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices and preferred language;

- 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
- Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery;

Language Access Services

- Offer and provide language assistance services; including bilingual staff, interpreters, and telephone interpretation services, at no cost to each behavioral health recipient with Limited English Proficiency (LEP) at all points of contact, in a timely manner during all hours of operation;
- Provide both verbal offers and written notices informing behavioral health recipients, and potential behavioral health recipients of their right to receive language assistance services in their preferred language;
- Ensure the quality of language assistance provided to LEP persons by interpreters and bilingual staff through certification or a similar process. Family and friends should not be used to provide interpretation services; and
- Make available easily understood recipient-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area in a conspicuous public area such as a facility waiting room. Examples of translated agency signage for Spanish speaking persons may be obtained on the ADHS/DBHS Cultural Competence web page.

Organizational Supports for Cultural Competence (T/RBHA only*)

- Develop, implement, and promote a written strategic plan that outlines clear goals, policies, operational plans, and management accountability/oversight mechanisms to provide culturally and linguistically appropriate services;
- 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;
- 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;
- Maintain a current demographic profile of the service area as well as communicate existing needs in order to accurately plan for and implement services that respond to the cultural and linguistic characteristics of the service area;
- 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;
- Ensure that conflict and grievance resolution processes are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by behavioral health recipients; and
- Regularly make available to the public 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.

Information about CLAS Standards, LEP and other State and Federal initiatives occur at the systems level through the CPSA Cultural Diversity Advisory Council (CDAC) which meets quarterly and is comprised of members, community agencies, stakeholders and CPSA Providers and Network. Additional information and guidance is available by calling (520) 325-4268 and asking for the CPSA Cultural Diversity Specialist or by visiting the Cultural Specific Resources located on the CPSA website.

Accessing Oral Interpretation Services

In accordance with Title VI of the Civil Rights Act, Prohibition against National Origin Discrimination, T/RBHAs 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 persons determined to have a Serious Mental Illness (SMI.)

Any person or family member of a person requesting or receiving behavioral health services who has Limited English Proficiency (LEP) is eligible for interpreting services in his/her primary language or language of choice. First priority shall always be given to the provision of direct face-to-face interpretation. It is expected that the service provider will have immediate accessibility to certified Spanish-speaking interpreters and/or Spanish-speaking clinical staff for face-to-face interventions with the member or family member. If that is not the case or the primary language spoken is other than Spanish, the subcontracted provider may utilize over-the-phone interpretation services as an enhancement to the immediate availability of interpreters.

CPSA utilizes over-the-phone services, also called transparent language services, through CyraCom International, a locally owned and operated communications company with access to more than 150 languages, including Native American languages. Over-the-phone interpretation services allow the subcontracted provider to speak directly to the member with a medically trained and certified language interpreter over a secured telephone line. This unique method offers immediate access to qualified interpreters and protects the privacy of the member and/or family member (HIPAA compliant).

Over-the-phone transparent language services are prioritized to include the provision of crisis services, provision of behavioral health medical services and for members and families participating in the ADHS/DBHS Mental Health Statistical Improvement Project (MHSIP). Transparent language services are available at CPSA Member Services, Comprehensive Service Networks, CPSA's Community-wide Crisis and Detoxification providers, and other selected outpatient sites under subcontract to perform initial assessments. Additional information and instructions are available in Section 10.5, Interpreting Services.

Accessing Interpretation Services for the Deaf and the Hard of Hearing

In accordance with A.R.S. 36-1946, T/RBHAs 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 a Serious Mental Illness. 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).

Any person or family member of a person who is deaf or hard of hearing and requesting or receiving behavioral health services shall be afforded face-to-face sign language interpretation either through a qualified provider staff member or through a subcontracted sign language provider in the community. CPSA subcontracts with sign language interpreter services to assist with member grievance an/or appeal processes, community training events and other member services related responsibilities.

Translation of Written Material

T/RBHAs and their subcontracted providers must make written translated materials available, including vital documents (such as formal notices) to the commonly encountered LEP groups who are AHCCCS eligible and to persons determined to have a Serious Mental Illness. Members with LEP, whose languages are not considered commonly encountered, will be provided written notice in their primary language of the right to receive competent oral translation of written material.

Subcontracted providers are responsible to ensure that system-wide documents distributed to members and family member are translated in Spanish or, in the case of a visually impaired person, available in an alternate format, such as Braille. To ensure system-wide consistency of translated materials, CPSA utilizes document translation services through CyraCom International. Additional information and instructions are available in Section 10.4, Document Translation Services.

Assessment and Service Planning

The intake, assessment and service planning process described in Section 3.9, Intake, Assessment and Service Planning includes the active solicitation of a person's linguistic preferences and needs. The behavioral health recipient's primary/preferred language must be documented in the Assessment and Service Plan (PM Form 3.9.1, ADHS/DBHS Behavioral Health Assessment and Service Plan, Cover Sheet) and as part of the intake process. (Information regarding a recipient's primary/preferred language must be submitted as part of the Demographic Data Set, HIPAA 834 Benefit Enrollment and Maintenance File.) In addition, if a person requests a copy of his/her Assessment and Service Plan, those documents must be provided to the person in his/her primary language. Documentation in the Assessment and Service Plan must also be made in English. However, collaboration with the enrolled person and the clinical team must be conducted in the person's preferred language. Documentation of oral interpretation services provided in a language other than English must also be included in the person's file. Documentation must include date of service and interpreter name, each time a service requiring interpretation is provided.

3.23.7-B. Respect for Diversity
The definition of cultural competence includes awareness and respect for behavioral health recipients' diverse languages, thoughts, communications, actions, customs, beliefs, values, and racial, ethnic, religious, or social affiliations. Providers should attempt to create environments sensitive to recipients' cultural needs incorporating respectful, receptive and inclusive front desk management and recruitment strategies for a diverse workforce. Recipient services and provider organizational policies must be consistent with applicable federal and state laws and should reflect a respect for diverse values and considerations.

The Delivery of Culturally Competent Services
ADHS/DBHS supports a model for intake, assessment, service planning and service delivery that is strength-based, family friendly, culturally sensitive and clinically sound. There are six basic principles that serve as a framework for the process of assessment and service plan development. These include ensuring that behavioral health assessments and service plans:

- Are developed with an unconditional commitment to those enrolled in the behavioral health system and their families;
- Begin with empathetic relationships that foster ongoing partnerships and an expectation of equality and respect throughout the service delivery system;
- Are developed collaboratively with families to engage and empower their unique strengths and resources;
- Include other individuals important to the person;
- Are individualized, strength-based, culturally appropriate, and clinically sound; and
- Are developed with the expectation that the person is capable of positive change, growth and leading a life of value.

In addition, providers should:
- Provide an environment in which behavioral health recipients from diverse cultural backgrounds feel comfortable discussing their cultural health beliefs and practices in the context of identifying treatment options; and
- Communicate to recipients in their preferred language and ensure that recipients understand all clinical and administrative information.

The assessment and service planning process can include the active participation and integration of the recipient's culture(s,) to include his/her sexual orientation, gender identity, provider gender preference, disability status, cultural beliefs, age, utilization of alternative medicine or traditional healer, religious and spiritual needs, living environment, and family, social and community involvement and support. Recipients and their families should be responded to in a culturally relevant manner and service needs addressed in ways that are consistent with their culture, customs, communication style and preferences.

Providers with direct care responsibilities must complete ADHS/DBHS mandated Cultural Competency training (as per Section 9.1 Training Requirements) and ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery.

Laws Prohibiting Discrimination
T/RBHAs and provider agencies must abide by the following referenced federal and state anti-discrimination laws:

- 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.
- 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.)
- State Executive Order 99-4 and Federal Order 11246 mandate that all persons regardless of race, color, sex, age, national origin or political affiliation shall have equal access to employment opportunities.
- 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.
- 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.
- 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 include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.
- Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in delivering contract services.
- 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. T/RBHAs 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 T/RBHA 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.

CPSA participates in the quarterly meetings facilitated by the Arizona Commission for the Deaf and Hard of Hearing in order to obtain up-to-date information on services and issues for person who are deaf or hard of hearing.