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SB 991

Behavioral Health – Language Assistance Services Pilot Program Hearing of The House Health & Government Operations Committee

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FAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Health and Benefits Equity Project advocates to protect and expand access to healthcare and safety net services for Marylanders struggling to make ends meet. We support policies and practices that are designed to eliminate economic and racial inequities and enable every Marylander to attain their highest level of health. **PJC strongly supports SB 991**, which establishes the Language Assistance Services Pilot Program in the Behavioral Health Administration to provide grants to local behavioral health authorities to reimburse behavioral health providers for language assistance services for children with limited English proficiency (LEP) accessing and receiving behavioral health services. It would also reimburse providers for providing language assistance services to parents and guardians with LEP coordinating the provision of behavioral health services and making health care decisions on behalf of a child.

Maryland is home to more than 416,000 individuals who identify as having limited English proficiency, according to the 2019 U.S. Census Bureau’s American Community Survey.¹

As part of PJC’s Health & Benefits Equity Project, we advocate to ensure that individuals with LEP are afforded timely and consistent access to language services, including interpretation and translation, in health care settings. In accordance with Section 1557 of the Affordable Care Act, entities that accept federal financial assistance (including Medicaid and certain parts of Medicare) must provide meaningful access to their programs and activities to individuals with LEP. This federal law, which covers Maryland’s behavioral health providers, requires health care providers to provide free interpretation and translation services to individuals with LEP, including children and parents or legal guardians that have the right to make medical decisions on their child’s behalf.

¹ Migration Policy Institute, *State Immigration Data Profiles* (last visited on March 6, 2023), <https://www.migrationpolicy.org/data/state-profiles/state/language/MD> (In 2019, 39.5% of Foreign-born residents (364,406) and 1.1% of U.S.-born residents (52,412) identified as speaking English less than “very well” (LEP) in Maryland).

Despite the explicit requirements of this mandate, PJC and our language access allies have observed numerous instances of children and families with LEP being denied access to an interpreter and translated documents, leading to the child ultimately being denied time sensitive behavioral health services. We have also received reports from both providers and parents over the years regarding certain behavioral health providers asking child-patients to interpret for their parents, in violation of federal law, instead of utilizing a qualified interpreter. Failing to provide language assistance services to children and parents/guardians with LEP is national origin discrimination and a clear violation of federal law.

Providing language assistance services to children and families with LEP to foster access to timely community-based behavioral health services enables children to stay in the community and avoid crisis and unnecessary hospitalization.

Our state has experienced growth not only in the diversity of spoken languages, but we have also seen a tremendous increase in the demand for mental health care following the COVID-19 pandemic. In fact, the American Academy of Pediatrics and the American Academy of Child and Adolescent Psychiatry declared a national emergency in 2021 in child and adolescent mental health.² When children and adolescents cannot access time sensitive behavioral health services, such as therapy and medication management, they are at risk for a behavioral health crisis which threatens their right to safely reside in the community and can lead to self-harm. Additionally, when community-based behavioral services are not available to children, parents often turn to the emergency room for crisis support. This in turn increases avoidable emergency room utilization in Maryland, which has the longest ER wait times in the country.

Many Maryland behavioral health providers cite the high cost of language assistance services as a barrier to compliance with federal law, and Maryland's Medicaid program does not cover language assistance services.

In 2022, PJC and Centro SOL co-authored a report, *Speaking the Language: The Right to Interpretation and Translation Services for Children and Adolescents with Mental Health Needs in Maryland*. The report describes the experiences of children and adolescents who were denied recommended mental health care due to their primary and preferred language as well as families who struggle to coordinate care for their young children when their request for interpretation and translation is denied. The report also highlights challenges to providing interpretation and translation from the perspective of mental health providers. During a listening session held with mental health providers, one of the most cited barriers to providing care to children and families with LEP was the overall costs of interpretation and translation. In fact, the average hourly rate for an interpreter and translator in Maryland is \$40.08.³ For a child that needs intensive behavioral health services, the cost of providing language assistance services can often exceed the reimbursement that the provider receives for the behavioral health service itself. Despite Section 1557's status as an unfunded mandate and availability of federal matching funds for Medicaid programs that choose to cover language assistance services, Maryland's Medicaid program still does not cover these vital services.

SB 991 would help close the gap in access to behavioral health care for children and their families with LEP.

² Public Justice Center & Centro SOL, Johns Hopkins University, *Speaking the Language: The Right to Interpretation & Translation Services for Children and Adolescents with Mental Health Needs in Maryland* (November 2022), <https://www.publicjustice.org/wp-content/uploads/2022/12/Speaking-the-Language-Report.pdf>.

³ Bureau of Labor Statistics, Occupational Employment and Wage Statistics May 2022, <https://www.bls.gov/oes/current/oes273091.htm> (last visited March 7, 2024).

SB 991 addresses linguistic barriers to accessing behavioral health care for children by providing financial support to behavioral health providers for language assistance services. SB 991 would create a competitive grant program through the Behavioral Health Administration to provide \$30,000 grants to three local behavioral health authorities for two years to reimburse providers for language assistance services for children with LEP in need of behavioral health care. It would also enable providers to cover the cost of language assistance services provided to parents and legal guardians who are coordinating their child's care and making medical decisions on their behalf. A standard 50% federal matching rate for interpretation and translation may be available to Maryland's Medicaid program through a state plan amendment to cover this small pilot program. Finally, SB 991 would provide much needed data on language assistance service utilization in grantee's jurisdictions, allowing policymakers to assess costs and pursue pathways to reimburse language assistance services. Ultimately, SB 991 would help our state improve health outcomes of children with behavioral health needs in families with LEP.

If passed, SB 991 would promote long-term recovery for children, reduce unnecessary emergency room utilization, and lay the foundation for reimbursement for language services in health care settings. For these reasons, the Public Justice Center urges the committee to issue a **FAVORABLE** report for **SB 991** to help safeguard the right of children and their families with LEP to access behavioral health care. If you have any questions about this testimony, please contact Ashley Woolard at 410-625-9409 ext. 224 or woolarda@publicjustice.org.