

## § 1321.11

(b) The State agency shall have an adequate number of qualified staff to carry out the functions prescribed in this part.

(c) The State agency shall have within the State agency, or shall contract or otherwise arrange with another agency or organization, as permitted by section 307(a)(12)(A), an Office of the State Long-Term Care Ombudsman, with a full-time State ombudsman and such other staff as are appropriate.

(d) If a State statute establishes a State ombudsman program which will perform the functions of section 307(a)(12) of the Act, the State agency continues to be responsible to assure that all of the requirements of the Act for this program are met regardless of the State legislation or source of funds. In such cases, the Governor shall confirm this through an assurance in the State plan.

### § 1321.11 State agency policies.

(a) The State agency on aging shall develop policies governing all aspects of programs operated under this part, including the ombudsman program whether operated directly by the State agency or under contract. These policies shall be developed in consultation with other appropriate parties in the State. The State agency is responsible for enforcement of these policies.

(b) The policies developed by the State agency shall address the manner in which the State agency will monitor the performance of all programs and activities initiated under this part for quality and effectiveness. In monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long-term care facility, shall be available only to the director of the State agency on aging and one other senior manager of the State agency designated by the State director for this purpose. In the conduct of the monitoring of the ombudsman program, the confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in section 307(a)(12) of the Act shall be strictly adhered to.

### § 1321.13 Advocacy responsibilities.

(a) The State agency shall:

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(1) Review, monitor, evaluate and comment on Federal, State and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which the State agency considers to be appropriate;

(2) Provide technical assistance to agencies, organizations, associations, or individuals representing older persons; and

(3) Review and comment, upon request, on applications to State and Federal agencies for assistance relating to meeting the needs of older persons.

(b) No requirement in this section shall be deemed to supersede a prohibition contained in a Federal appropriation on the use of Federal funds to lobby the Congress.

### § 1321.15 Duration, format and effective date of the State plan.

(a) A State may use its own judgment as to the format to use for the plan, how to collect information for the plan, and whether the plan will remain in effect for two, three or four years.

(b) An approved State plan or amendment, as identified in §1321.17, becomes effective on the date designated by the Commissioner.

(c) A State agency may not make expenditures under a new plan or amendment requiring approval, as identified in §1321.17 and §1321.19, until it is approved.

### § 1321.17 Content of State plan.

To receive a grant under this part, a State shall have an approved State plan as prescribed in section 307 of the Act. In addition to meeting the requirements of section 307, a State plan shall include:

(a) Identification by the State of the sole State agency that has been designated to develop and administer the plan.

(b) Statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the Commissioner through the rulemaking process.

(c) A resource allocation plan indicating the proposed use of all title III

funds administered by a State agency, and the distribution of title III funds to each planning and service area.

(d) Identification of the geographic boundaries of each planning and service area and of area agencies on aging designated for each planning and service area, if appropriate.

(e) Provision of prior Federal fiscal year information related to low income minority and rural older individuals as required by sections 307(a) (23) and (29) of the Act.

(f) Each of the assurances and provisions required in sections 305 and 307 of the Act, and provisions that the State meets each of the requirements under §§ 1321.5 through 1321.75 of this part, and the following assurances as prescribed by the Commissioner:

(1) Each area agency engages only in activities which are consistent with its statutory mission as prescribed in the Act and as specified in State policies under § 1321.11;

(2) Preference is given to older persons in greatest social or economic need in the provision of services under the plan;

(3) Procedures exist to ensure that all services under this part are provided without use of any means tests;

(4) All services provided under title III meet any existing State and local licensing, health and safety requirements for the provision of those services;

(5) Older persons are provided opportunities to voluntarily contribute to the cost of services;

(6) Area plans shall specify as submitted, or be amended annually to include, details of the amount of funds expended for each priority service during the past fiscal year;

(7) The State agency on aging shall develop policies governing all aspects of programs operated under this part, including the manner in which the ombudsman program operates at the State level and the relation of the ombudsman program to area agencies where area agencies have been designated;

(8) The State agency will require area agencies on aging to arrange for outreach at the community level that identifies individuals eligible for assistance under this Act and other pro-

grams, both public and private, and informs them of the availability of assistance. The outreach efforts shall place special emphasis on reaching older individuals with the greatest economic or social needs with particular attention to low income minority individuals, including outreach to identify older Indians in the planning and service area and inform such older Indians of the availability of assistance under the Act.

(9) The State agency shall have and employ appropriate procedures for data collection from area agencies on aging to permit the State to compile and transmit to the Commissioner accurate and timely statewide data requested by the Commissioner in such form as the Commissioner directs; and

(10) If the State agency proposes to use funds received under section 303(f) of the Act for services other than those for preventive health specified in section 361, the State plan shall demonstrate the unmet need for the services and explain how the services are appropriate to improve the quality of life of older individuals, particularly those with the greatest economic or social need, with special attention to low-income minorities.

(11) Area agencies shall compile available information, with necessary supplementation, on courses of post-secondary education offered to older individuals with little or no tuition. The assurance shall include a commitment by the area agencies to make a summary of the information available to older individuals at multipurpose senior centers, congregate nutrition sites, and in other appropriate places.

(12) Individuals with disabilities who reside in a non-institutional household with and accompany a person eligible for congregate meals under this part shall be provided a meal on the same basis that meals are provided to volunteers pursuant to section 307(a)(13)(I) of the Act.

(13) The services provided under this part will be coordinated, where appropriate, with the services provided under title VI of the Act.

(14)(i) The State agency will not fund program development and coordinated activities as a cost of supportive services for the administration of area

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plans until it has first spent 10 percent of the total of its combined allotments under Title III on the administration of area plans;

(ii) State and area agencies on aging will, consistent with budgeting cycles (annually, biannually, or otherwise), submit the details of proposals to pay for program development and coordination as a cost of supportive services, to the general public for review and comment; and

(iii) The State agency certifies that any such expenditure by an area agency will have a direct and positive impact on the enhancement of services for older persons in the planning and service area.

(15) The State agency will assure that where there is a significant population of older Indians in any planning and service area that the area agency will provide for outreach as required by section 306(a)(6)(N) of the Act.

**§ 1321.19 Amendments to the State plan.**

(a) A State shall amend the State plan whenever necessary to reflect:

(1) New or revised Federal statutes or regulations,

(2) A material change in any law, organization, policy or State agency operation, or

(3) Information required annually by sections 307(a) (23) and (29) of the Act.

(b) Information required by paragraph (a)(3) of this section shall be submitted according to guidelines prescribed by the Commissioner.

(c) If a State intends to amend provisions of its plan required under §§1321.17 (a) or (f), it shall submit its proposed amendment to the Commissioner for approval. If the State changes any of the provisions of its plan required under §1321.17 (b) through (d), it shall amend the plan and notify the Commissioner. A State need only submit the amended portions of the plan.

**§ 1321.21 Submission of the State plan or plan amendment to the Commissioner for approval.**

Each State plan, or plan amendment which requires approval of the Commissioner, shall be signed by the Governor or the Governor's designee and

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submitted to the Commissioner to be considered for approval at least 45 calendar days before the proposed effective date of the plan or plan amendment.

**§ 1321.23 Notification of State plan or State plan amendment approval.**

(a) The Commissioner approves a State plan or State plan amendment by notifying the Governor or the Governor's designee in writing.

(b) When the Commissioner proposes to disapprove a State plan or amendment, the Commissioner notifies the Governor in writing, giving the reasons for the proposed disapproval, and informs the State agency that it has 60 days to request a hearing on the proposed disapproval following the procedures specified in subpart E of this part.

**§ 1321.25 Restriction of delegation of authority to other agencies.**

A State or area agency may not delegate to another agency the authority to award or administer funds under this part.

**§ 1321.27 Public participation.**

The State agency shall have a mechanism to obtain and shall consider the views of older persons and the public in developing and administering the State plan.

**§ 1321.29 Designation of planning and service areas.**

(a) Any unit of general purpose local government, region within a State recognized for area wide planning, metropolitan area, or Indian reservation may make application to the State agency to be designated as a planning and service area, in accordance with State agency procedures.

(b) A State agency shall approve or disapprove any application submitted under paragraph (a) of this section.

(c) Any applicant under paragraph (a) of this section whose application for designation as a planning and service area is denied by a State agency may appeal the denial to the State agency, under procedures specified by the State agency.