

## SUBCHAPTER C—THE ADMINISTRATION FOR COMMUNITY LIVING

### PART 1321—GRANTS TO STATE AND COMMUNITY PROGRAMS ON AGING

#### Subpart A—Introduction

Sec.

- 1321.1 Basis and purpose of this part.
- 1321.3 Definitions.
- 1321.5 Applicability of other regulations.

#### Subpart B—State Agency Responsibilities

- 1321.7 Mission of the State agency.
- 1321.9 Organization and staffing of the State agency.
- 1321.11 State agency policies.
- 1321.13 Advocacy responsibilities.
- 1321.15 Duration, format and effective date of the State plan.
- 1321.17 Content of State plan.
- 1321.19 Amendments to the State plan.
- 1321.21 Submission of the State plan or plan amendment to the Commissioner for approval.
- 1321.23 Notification of State plan or State plan amendment approval.
- 1321.25 Restriction of delegation of authority to other agencies.
- 1321.27 Public participation.
- 1321.29 Designation of planning and service areas.
- 1321.31 Appeal to Commissioner.
- 1321.33 Designation of area agencies.
- 1321.35 Withdrawal of area agency designation.
- 1321.37 Intrastate funding formula.
- 1321.41 Single State planning and service area.
- 1321.43 Interstate planning and service area.
- 1321.45 Transfer between congregate and home-delivered nutrition service allotments.
- 1321.47 Statewide non-Federal share requirements.
- 1321.49 State agency maintenance of effort.
- 1321.51 Confidentiality and disclosure of information.
- 1321.52 Evaluation of unmet need.

#### Subpart C—Area Agency Responsibilities

- 1321.53 Mission of the area agency.
- 1321.55 Organization and staffing of the area agency.
- 1321.57 Area agency advisory council.
- 1321.59 Submission of an area plan and plan amendments to the State for approval.
- 1321.61 Advocacy responsibilities of the area agency.

#### Subpart D—Service Requirements

- 1321.63 Purpose of services allotments under Title III.
- 1321.65 Responsibilities of service providers under area plans.
- 1321.67 Service contributions.
- 1321.69 Service priority for frail, homebound or isolated elderly.
- 1321.71 Legal assistance.
- 1321.73 Grant related income under Title III-C.
- 1321.75 Licenses and safety.

#### Subpart E—Hearing Procedures for State Agencies

- 1321.77 Scope.
- 1321.79 When a decision is effective.
- 1321.81 How the State may appeal.
- 1321.83 How the Commissioner may reallocate the State's withheld payments.

AUTHORITY: 42 U.S.C. 3001 *et seq.*; title III of the Older Americans Act, as amended.

SOURCE: 53 FR 33766, Aug. 31, 1988, unless otherwise noted.

#### Subpart A—Introduction

##### § 1321.1 Basis and purpose of this part.

(a) This part prescribes requirements State agencies shall meet to receive grants to develop comprehensive and coordinated systems for the delivery of supportive and nutrition services under title III of the Older Americans Act, as amended (Act). These requirements include:

- (1) Designation and responsibilities of State agencies;
- (2) State plans and amendments;
- (3) Services delivery; and
- (4) Hearing procedures for applicants for planning and services area designation.

(b) The requirements of this part are based on title III of the Act. Title III provides for formula grants to State agencies on aging, under approved State plans, to stimulate the development or enhancement of comprehensive and coordinated community-based systems resulting in a continuum of services to older persons with special emphasis on older individuals with the greatest economic or social need, with

particular attention to low-income minority individuals. A responsive community-based system of services shall include collaboration in planning, resource allocation and delivery of a comprehensive array of services and opportunities for all older Americans in the community. The intent is to use title III funds as a catalyst in bringing together public and private resources in the community to assure the provision of a full range of efficient, well coordinated and accessible services for older persons.

(c) Each State agency designates planning and service areas in the State, and makes a subgrant or contract under an approved area plan to one area agency in each planning and service area for the purpose of building comprehensive systems for older people throughout the State. Area agencies in turn make subgrants or contracts to service providers to perform certain specified functions.

#### § 1321.3 Definitions.

*Act* means the Older Americans Act of 1965 as amended.

*Altering or renovating*, as used in section 307(a)(14) of the Act with respect to multipurpose senior centers, means making modifications to or in connection with an existing facility which are necessary for its effective use as a center. These may include renovation, repair, or expansion which is not in excess of double the square footage of the original facility and all physical improvements.

*Constructing*, as used in section 307(a)(14) of the Act with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees, or making modifications to or in connection with an existing facility which are in excess of double the square footage of the original facility and all physical improvements.

*Department* means the Department of Health and Human Services.

*Direct services*, as used in this part, means any activity performed to provide services directly to an individual older person by the staff of a service provider, an area agency, or a State

agency in a single planning and service area State.

*Fiscal year*, as used in this part, means the Federal Fiscal Year.

*Frail*, as used in this part, means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

*Human services*, as used in § 1321.41(a)(1) of this part, with respect to criteria for designation of a statewide planning and service area, means social, health, or welfare services.

*In-home service*, as used in this part, includes: (a) Homemaker and home health aides; (b) visiting and telephone reassurance; (c) chore maintenance; (d) in-home respite care for families, including adult day care as a respite service for families; and (e) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home, and that is not available under other programs, except that not more than \$150 per client may be expended under this part for such modification.

*Means test*, as used in the provision of services, means the use of an older person's income or resource to deny or limit that person's receipt of services under this part.

*Official duties*, as used in section 307(a)(12)(J) of the Act with respect to representatives of the Long-Term Care Ombudsman Program, means work pursuant to the Long-Term Care Ombudsman Program authorized by the Act or State law and carried out under the auspices and general direction of the State Long-Term Care Ombudsman.

*Periodic*, as used in sections 306(a)(6) and 307(a)(8) of the Act with respect to evaluations of, and public hearings on, activities carried out under State and area plans, means, at a minimum, once each fiscal year.

*Reservation*, as used in section 305(b)(4) of the Act with respect to the designation of planning and service areas, means any federally or State recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaskan Native

## § 1321.5

regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

*Service provider*, as used in section 306(a)(1) of the Act with respect to the provision of supportive and nutrition services, means an entity that is awarded a subgrant or contract from an area agency to provide services under the area plan.

*Severe disability*, as used to carry out the provisions of the Act, means a severe chronic disability attributable to mental and/or physical impairment of an individual that:

- (a) Is likely to continue indefinitely; and
- (b) Results in substantial functional limitation in 3 or more of the following major life activities:
  - (1) Self-care,
  - (2) Receptive and expressive language,
  - (3) Learning,
  - (4) Mobility,
  - (5) Self-direction,
  - (6) Capacity for independent living, and
  - (7) Economic self-sufficiency.

### § 1321.5 Applicability of other regulations.

Several other regulations apply to all activities under this part. These include but are not limited to:

- (a) 45 CFR part 16—Procedures of the Departmental Grant Appeals Board;
- (b) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, except § 75.206;
- (c) 45 CFR part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services: Effectuation of title VI of the Civil Rights Act of 1964;
- (d) 45 CFR part 81—Practice and Procedures for Hearings Under Part 80 of this title;
- (e) 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Participation;
- (f) 45 CFR part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance;

## 45 CFR Ch. XIII (10–1–23 Edition)

(g) [Reserved]

(h) 45 CFR part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities; and

(i) 5 CFR part 900, subpart F, Standards for a Merit System of Personnel Administration.

[53 FR 33766, Aug. 31, 1988, as amended at 81 FR 3022, Jan. 20, 2016]

### Subpart B—State Agency Responsibilities

#### § 1321.7 Mission of the State agency.

(a) The Older Americans Act intends that the State agency on aging shall be the leader relative to all aging issues on behalf of all older persons in the State. This means that the State agency shall proactively carry out a wide range of functions related to advocacy, planning, coordination, interagency linkages, information sharing, brokering, monitoring and evaluation, designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, communities throughout the State. These systems shall be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.

(b) The State agency shall designate area agencies on aging for the purpose of carrying out the mission described above for the State agency at the sub-State level. The State agency shall designate as its area agencies on aging only those sub-state agencies having the capacity and making the commitment to fully carry out the mission described for area agencies in § 1321.53 below.

(c) The State agency shall assure that the resources made available to area agencies on aging under the Older Americans Act are used to carry out the mission described for area agencies in § 1321.53 below.

#### § 1321.9 Organization and staffing of the State agency.

(a) The State shall designate a sole State agency to develop and administer the State plan required under this part