

§ 1321.97

(3) The methods for collaboration on and sharing of program information and changes;

(4) How Title VI programs may refer individuals who are eligible for Title III services;

(5) How services will be provided in a culturally appropriate and trauma-informed manner; and

(6) Opportunities to serve on advisory councils, workgroups, and boards.

Subpart E—Emergency and Disaster Requirements

§ 1321.97 Coordination with State, Tribal, and local emergency management.

(a) *State agencies.* (1) State agencies shall establish emergency plans, as set forth in section 307(a)(28) of the Act (42 U.S.C. 3027(a)(28)). Such plans must include, at a minimum:

(i) The State agency's continuity of operations plan and an all-hazards emergency response plan based on completed risk assessments for all hazards and updated annually;

(ii) A plan to coordinate activities with area agencies on aging, service providers, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency and disaster preparedness, and any other institutions that have responsibility for disaster relief service delivery;

(iii) Processes for developing and updating long-range emergency and disaster preparedness plans; and

(iv) Other relevant information as determined by the State agency.

(2) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency and disaster preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

(3) The plan shall discuss coordination with area agencies on aging and service providers and Tribal and local emergency management.

(b) *Area agencies on aging.* (1) Area agencies on aging shall establish emergency plans. Such plans must include:

(i) The area agency's continuity of operations plan and an all-hazards

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emergency response plan based on completed risk assessments for all hazards and updated annually;

(ii) A description of coordination activities for both development and implementation of long-range emergency and disaster preparedness plans; and

(iii) Other information as deemed appropriate by the area agency on aging.

(2) The area agency on aging shall coordinate with Federal, local, and State emergency response agencies, service providers, relief organizations, local and State governments, and any other entities that have responsibility for disaster relief service delivery, as well as with Tribal emergency management, as appropriate.

§ 1321.99 Setting aside funds to address disasters.

(a) Section 310 of the Act (42 U.S.C. 3030) authorizes the use of funds during Presidentially declared major disaster declarations under the Stafford Act (42 U.S.C. 5121–5207) without regard to distribution through the State agency's intrastate funding formula or funds distribution plan when the following apply:

(1) Title III services are impacted; and

(2) Flexibility is needed as determined by the State agency.

(b) When implementing this authority, State agencies may set aside funds, up to five percent of their total Title III allocations, if specified as being allowed to be withheld for the purpose in their approved intrastate funding formula or funds distribution plan, or with prior approval from the Assistant Secretary for Aging. The following apply for use of set aside funds:

(1) Set aside funds that are awarded under this provision must comply with the requirements at § 1321.101; and

(2) The State agency must have policies and procedures in place to award funds set aside through the intrastate funding formula, as set forth in § 1321.49, or funds distribution plan, as set forth in § 1321.51(b), if there are no funds awarded subject to this provision within 30 days of the end of the fiscal year in which the funds were received.

§ 1321.101 Flexibilities under a major disaster declaration.

(a) If a State or Indian Tribe requests and receives a major disaster declaration under the Stafford Act (42 U.S.C. 5121-5207), the State agency may use disaster relief flexibilities under Title III as set forth in this section to provide disaster relief services for areas of the State where the specific major disaster declaration is authorized and where older adults and family caregivers are affected.

(b) Flexibilities a State agency may exercise under a major disaster declaration include:

(1) Allowing use of any portion of the funds of any open grant awards under Title III of the Act for disaster relief services for older individuals and family caregivers.

(2) Awarding portions of State plan administration, up to a maximum of five percent of the Title III grant award or to a maximum of the amounts set forth at § 1321.9(c)(2)(iv), for use in a planning and service area covered in whole or part under a major disaster declaration without the requirement of allocation through the intrastate funding formula or funds distribution plan to be used for direct service provision.

(3) Awarding of funds set aside to address disasters, as set forth in § 1321.99, or as determined by the Assistant Secretary for Aging, in the following ways:

(i) to an area agency serving a planning and service area covered in whole or part under a major disaster declaration without the requirement of allocation through the intrastate funding formula;

(ii) for single planning and service area States, to a service provider without the requirement of allocation through a funds distribution plan; or

(iii) to be used for direct service provision, direct expenditures, and/or procurement of items on a statewide level, if the State agency adheres to the following:

(A) The State agency judges that provision of services or procurement of supplies by the State agency is necessary to ensure an adequate supply of such services and/or that such services can be provided/supplies procured more economically, and with comparable quality, by the State agency;

(B) The State agency consults with area agencies on aging prior to exercising the flexibility, and includes the Ombudsman as set forth in part 1324, subpart A if funding for the Ombudsman program is affected;

(C) The State agency uses such set aside funding, as provided at § 1321.99, for services provided through area agencies on aging and other aging network partners to the extent reasonably practicable, in the judgment of the State agency; and

(D) The State agency ensures reporting of any clients, units, and services provided through such expenditures.

(c) A State agency must submit a State plan amendment as set forth in § 1321.31(b) if the State agency exercises any of the flexibilities as set forth in paragraph (b) of this section. The State plan amendment must at a minimum include the specific entities receiving funds; the amount, source, and intended use for funds; and other such justification of the use of funds.

(d) Disaster relief services may include any allowable services under the Act to eligible older individuals or family caregivers during the period covered by the major disaster declaration.

(e) Expenditures of funds under disaster relief flexibilities must be reported separately from the grant where funding was expended. State agencies may expend funds from any source within open grant awards under Title III and Title VII of the Act but must track the source of all expenditures.

(f) State agencies must have policies and procedures outlining communication with area agencies on aging and/or local service providers regarding State agency expectations for eligibility, use, and reporting of services and funds provided under these flexibilities, and include the Ombudsman as set forth in part 1324, subpart A if funding for the Ombudsman program is affected.

(g) A State agency may only make obligations exercising this flexibility during the major disaster declaration incident period or 90 days thereafter or with prior approval from the Assistant Secretary for Aging.

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§ 1321.103 Title III and Title VI coordination for emergency and disaster preparedness.

State agencies, area agencies, and Title VI programs should coordinate in emergency and disaster preparedness planning, response, and recovery. State agencies and area agencies that have Title VI programs in operation within their jurisdictions must have policies and procedures, developed in communication with the relevant Title VI program director(s) as set forth in § 1322.13(c), in place for how they will communicate and coordinate with Title VI programs regarding emergency and disaster preparedness planning, response, and recovery.

§ 1321.105 Modification during major disaster declaration or public health emergency.

The Assistant Secretary for Aging retains the right to modify the requirements described in these regulations pursuant to a major disaster declaration or public health emergency.

PART 1322—GRANTS TO INDIAN TRIBES AND NATIVE HAWAIIAN GRANTEEES FOR SUPPORTIVE, NUTRITION, AND CAREGIVER SERVICES

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AUTHORITY: 42 U.S.C. 3001 *et seq.*

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Subpart A—Introduction

§ 1322.1 Basis and purpose of this part.

(a) This program is established to meet the unique needs and circumstances of American Indian and Alaskan Native elders and family caregivers and of older Native Hawaiians and family caregivers, on Indian reservations and/or in service areas as approved in § 1322.7. This program honors the sovereign government to government relationship with a Tribal organization serving elders and family caregivers through direct grants to serve the eligible participants and similar considerations, as appropriate, for Hawaiian Native grantees representing elders and family caregivers. This part implements Title VI (parts A, B, and C) of the Older Americans Act, as amended (the Act), by establishing the requirements that an Indian Tribal organization or Hawaiian Native grantee shall meet in order to receive a grant to promote the delivery of services for older Indians, Alaskan Native, Native Hawaiians, and Native American family caregivers that are comparable to services provided under Title III. This part also prescribes application and hearing requirements and procedures for these grants.

(b) Terms used, but not otherwise defined, in this part will have the meanings ascribed to them in the Act.

§ 1322.3 Definitions.

Access to services or access services, as used in this part, means services which may facilitate connection to or receipt of other direct services, including transportation, outreach, information