

## § 1322.35

governments, other State agencies responsible for emergency and disaster preparedness, and any other institutions that have responsibility for disaster relief service delivery;

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

(d) Other relevant information as determined by the Tribal organization or Hawaiian Native grantee.

### **§ 1322.35 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 Tribal organization or Hawaiian Native grantee may use disaster relief flexibilities as set forth in this section to provide disaster relief services within its approved service area for areas of the State or Indian Tribe where the specific major disaster declaration is authorized and where older Native Americans and family caregivers are affected.

(b) Flexibilities a Tribal organization or Hawaiian Native grantee may exercise under a major disaster declaration include allowing use of any portion of the funds of any open grant awards under Title VI of the Act for disaster relief services for older individuals and family caregivers.

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

(d) Expenditures of funds under disaster relief flexibilities must be reported separately from the grant where funding was expended. A Tribal organization or Hawaiian Native grantee may expend funds from any source within open grant awards under Title VI of the Act but must track the source of all expenditures.

(e) A Tribal organization or Hawaiian Native grantee must have policies and procedures outlining eligibility, use, and reporting of services and funds provided under these flexibilities.

(f) A Tribal organization or Hawaiian Native grantee may only make obligations exercising this flexibility during the major disaster declaration incident

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period or 90 days thereafter or with prior approval from the Assistant Secretary for Aging.

### **§ 1322.37 Title VI and Title III coordination for emergency and disaster preparedness.**

A Tribal organization or Hawaiian Native grantee under Title VI of the Act and State and area agencies funded under Title III of the Act should coordinate in emergency and disaster preparedness planning, response, and recovery. A Tribal organization or Hawaiian Native grantee must have policies and procedures in place for how they will communicate and coordinate with State agencies and area agencies regarding emergency and disaster preparedness planning, response, and recovery.

### **§ 1322.39 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 1324—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES**

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AUTHORITY: 2 U.S.C. 3001 *et seq.* and 42 U.S.C. 1394m.

SOURCE: 89 FR 11688, Feb. 14, 2024, unless otherwise noted.

### Subpart A—State Long-Term Care Ombudsman Program

#### § 1324.1 Definitions.

The following definitions apply to this part:

*Immediate family*, pertaining to conflicts of interest as used in section 712 of the Older Americans Act (the Act) (42 U.S.C. 3058g), means a member of the household or a relative with whom there is a close personal or significant financial relationship.

*Office of the State Long-Term Care Ombudsman*, as used in sections 711 and 712 of the Act (42 U.S.C. 3058f and 3058g), means the organizational unit in a State or Territory which is headed by a State Long-Term Care Ombudsman.

*Official duties*, as used in section 712 of the Act (42 U.S.C. 3058g) 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, subpart A of this part, and/or State law and carried out under the auspices and general direction of, or by direct delegation from, the State Long-Term Care Ombudsman.

*Representatives of the Office of the State Long-Term Care Ombudsman*, as used in sections 711 and 712 of the Act (42 U.S.C. 3058f and 3058g), means the employees or volunteers designated by the Ombudsman to fulfill the duties set forth in §1324.19(a), whether personnel supervision is provided by the Ombuds-

man or their designees or by an agency hosting a local Ombudsman entity designated by the Ombudsman pursuant to section 712(a)(5) of the Act (42 U.S.C. 3058g(a)(5)).

*Resident representative* means any of the following:

(1) An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access the resident's medical, social, or other personal information; manage the resident's financial matters; or receive notifications pertaining to the resident;

(2) A person authorized by State or Federal law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access the resident's medical, social or other personal information; manage the resident's financial matters; or receive notifications pertaining to the resident;

(3) Legal representative, as used in section 712 of the Act (42 U.S.C. 3058g);

(4) The court-appointed guardian or conservator of a resident;

(5) Nothing in this rule is intended to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, State or Federal law, or a court of competent jurisdiction.

*State Long-Term Care Ombudsman*, or *Ombudsman*, as used in sections 711 and 712 of the Act (42 U.S.C. 3058f and 3058g), means the individual who heads the Office and is responsible to personally, or through representatives of the Office, fulfill the functions, responsibilities and duties set forth in §§1324.13 and 1324.19.

*State Long-Term Care Ombudsman program*, *Ombudsman program*, or *program*, as used in sections 711 and 712 of the Act (42 U.S.C. 3058f and 3058g), means the program through which the functions and duties of the Office are carried out, consisting of the Ombudsman, the Office headed by the Ombudsman, and the representatives of the Office.

*Willful interference* means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman from performing any