

(k) How the State agency will use funds for prevention of elder abuse, neglect, and exploitation as set forth in 45 CFR part 1324, subpart B.

(l) How the State agency will meet responsibilities for the Legal Assistance Developer, as set forth in 45 CFR part 1324, subpart C.

(m) Description of how the State agency will conduct monitoring that the assurances to which they attest are being met.

#### **§ 1321.29 Public participation.**

The State agency shall:

(a) Have mechanisms and varied methods to obtain the views of older individuals, family caregivers, service providers, and the public on a periodic basis, with a focus on those in greatest economic need and greatest social need;

(b) Consider those views in developing and administering the State plan and policies and procedures regarding services provided under the plan;

(c) Establish and comply with a reasonable minimum time period (at least 30 calendar days) for public review and comment on new State plans as set forth in § 1321.27 and State plan amendments requiring approval of the Assistant Secretary for Aging as set forth in § 1321.31(a). State agencies may request a waiver of the minimum time period from the Assistant Secretary for Aging during an emergency or when a time sensitive action is otherwise necessary;

(d) Ensure the documents noted in paragraph (c) of this section and final State plans and amendments are available to the public for review, as well as available in alternative formats and other languages if requested.

#### **§ 1321.31 Amendments to the State plan.**

(a) Subject to prior approval by the Assistant Secretary for Aging, a State agency shall amend the State plan whenever necessary to reflect:

(1) New or revised statutes or regulations as determined by the Assistant Secretary for Aging;

(2) An addition, deletion, or change to a State agency's goal, assurance, or information requirement statement;

(3) A change in the State agency's intrastate funding formula or funds

distribution plan for Title III funds, as set forth in § 1321.49 or § 1321.51;

(4) A request to waive State plan requirements as set forth in section 316 of the Act (42 U.S.C. 3030c-3), or as required by guidance as set forth by the Assistant Secretary for Aging; or

(5) Other changes as required by guidance as set forth by the Assistant Secretary for Aging.

(b) A State agency shall amend the State plan and notify the Assistant Secretary for Aging of an amendment not requiring prior approval whenever necessary and within 30 days of the action(s) listed in paragraphs (b)(1) through (6) of this section:

(1) A significant change in a State law, organization, policy, or State agency operation;

(2) A change in the name or organizational placement of the State agency;

(3) Distribution of State plan administration funds for demonstration projects;

(4) A change in planning and service area designation, as set forth in § 1321.13;

(5) A change in area agency on aging designation, as set forth in § 1321.19; or

(6) Exercising of major disaster declaration flexibilities, as set forth in § 1321.101.

(c) Information required by this section shall be submitted according to guidelines prescribed by the Assistant Secretary for Aging.

#### **§ 1321.33 Submission of the State plan or plan amendment to the Assistant Secretary for Aging for approval.**

(a) Each State plan, or plan amendment which requires approval of the Assistant Secretary for Aging as set forth at § 1321.31(a), shall be signed by the Governor, or the Governor's designee, and submitted to the Assistant Secretary for Aging to be considered for approval at least 90 calendar days before the proposed effective date of the plan or plan amendment according to guidance as set forth by the Assistant Secretary for Aging, except in the case of a waiver provided by the Assistant Secretary for Aging. Each State plan amendment which does not require the prior approval of the Assistant Secretary for Aging shall be submitted as set forth at § 1321.31(b).

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(b) In advance of the submission to the Assistant Secretary for Aging to be considered for approval, the State agency shall submit a draft of the plan or amendment to the appropriate ACL Regional Office at least 120 calendar days before the proposed effective date of the plan or plan amendment, except in the case of a waiver request or as otherwise provided in guidance as set forth by the Assistant Secretary for Aging. The State agency shall work with the ACL Regional Office in reviewing the plan or plan amendment for compliance.

### **§ 1321.35 Notification of State plan or State plan amendment approval or disapproval for changes requiring Assistant Secretary for Aging approval.**

(a) The Assistant Secretary for Aging shall approve a State plan or State plan amendment by notifying the Governor or the Governor's designee in writing.

(b) When the Assistant Secretary for Aging proposes to disapprove a State plan or amendment, the Assistant Secretary for Aging shall notify the Governor in writing, giving the reasons for the proposed disapproval, and inform the State agency that it may request a hearing on the proposed disapproval following the procedures described in guidance issued by the Assistant Secretary for Aging.

### **§ 1321.37 Notification of State plan amendment receipt for changes not requiring Assistant Secretary for Aging approval.**

The State agency shall submit an amendment not requiring Assistant Secretary for Aging approval as set forth at § 1321.31(b) to the appropriate ACL Regional Office. The ACL Regional Office shall review the amendment to confirm the contents do not require approval of the Assistant Secretary for Aging and will acknowledge receipt of the State plan amendment by notifying the head of the State agency in writing.

### **§ 1321.39 Appeal to the Departmental Appeals Board regarding State plan on aging.**

If the Assistant Secretary for Aging intends to disapprove a State plan or

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State plan amendment, the Assistant Secretary for Aging shall first afford the State agency notice and an opportunity for a hearing. Administrative reviews of State plan disapprovals, as provided for in sections 307(c) and 307(d) of the Act (42 U.S.C. 3027(c)–(d)) are performed by the Department Appeals Board in accordance with the procedures set forth in 45 CFR part 16. The DAB may refer an appeal to its Alternative Dispute Resolution Division for mediation prior to making a decision.

### **§ 1321.41 When a disapproval decision is effective.**

(a) The Assistant Secretary for Aging shall specify the effective date for reduction and withholding of the State agency's grant upon a disapproval decision from the Departmental Appeals Board. This effective date may not be earlier than the date of the Departmental Appeals Board's decision or later than the first day of the next calendar quarter.

(b) A disapproval decision issued by the DAB represents the final determination of the Assistant Secretary for Aging and shall remain in effect unless reversed or stayed on judicial appeal, or until the agency or the plan is changed to meet all Federal requirements, except that the Assistant Secretary for Aging may modify or set aside the decision before the record of the proceedings under this subpart is filed in court.

### **§ 1321.43 How the State agency may appeal the Departmental Appeals Board's decision.**

A State agency may appeal the final decision of the Departmental Appeals Board disapproving the State plan or plan amendment, finding of noncompliance, or finding that a State agency does not meet the requirements of this part to the U.S. Court of Appeals for the circuit in which the State is located. The State agency shall file the appeal within 30 days of the Departmental Appeals Board's final decision.

### **§ 1321.45 How the Assistant Secretary for Aging may reallocate the State agency's withheld payments.**

The Assistant Secretary for Aging may disburse funds withheld from the