

(2) Exceeding the State plan and area plan administration caps set in the Act, as set forth at §1321.9(c)(2)(iv);

(3) Use of Title III, part D funds for area plan administration;

(4) A State agency to directly provide Title III funds to any entity other than a designated area agency on aging, with the exception of State plan administration funds, Title III, part B Ombudsman program funds, and disaster set-aside funds as described in §1321.99; or

(5) Any other use in conflict with the Act.

(d) In meeting the requirement in paragraph (b)(1)(iii) of this section, the following apply:

(1) Cash must be promptly and equitably disbursed to recipients of grants or contracts for nutrition projects under the Act;

(2) The statement of distribution of grant funds and procedures for determining any commodities election amount must be followed;

(3) State agencies have the option to receive grant as cash and/or agricultural commodities; and

(4) State agencies may consult with the area agencies on aging to determine the amount of the commodities election.

(e) In meeting the requirements in this section, the following apply:

(1) Title VII funds are not required to be subject to the intrastate funding formula;

(2) Any funds allocated for the Long-Term Care Ombudsman Program under Title III, part B are not required to be subject to the intrastate funding formula;

(3) The intrastate funding formula may provide for a separate allocation of funds received under Title III, part D for preventive health services. In the award of such funds to selected planning and service areas, the State agency shall give priority to areas of the State:

(i) Which are medically underserved; and

(ii) In which there are large numbers of individuals who have the greatest economic need and greatest social need for such services, including the populations the State agency identifies pursuant to §1321.27(d)(1).

(4) The State agency may determine the amount of funds available for area plan administration prior to deducting Title III, part B Ombudsman program funds and disaster set-aside funds as described in §1321.99;

(5) After deducting any State plan administration funds, Title III, part B Ombudsman program funds, and disaster set-aside funds as described in §1321.99, the State agency must allocate all other Title III funding to area agencies on aging designated to serve each planning and service area;

(6) State agencies may reallocate funding within the State when an area agency on aging voluntarily or otherwise returns funds, subject to the State agency's policies and procedures which must include the following:

(i) If an area agency voluntarily returns funds, the area agency on aging must provide evidence that its governing board or chief elected official approves the return of funds;

(ii) Funds must be made available to all area agencies on aging who request funds available for reallocation;

(iii) The intrastate funding formula shall be proportionally adjusted based on area agencies on aging that request redistributed allocations; and

(iv) Title III funds subject to reallocation may only be reallocated to area agencies on aging via the proportionally adjusted intrastate funding formula described in paragraph (a) of this section.

(f) The State agency shall submit its proposed intrastate funding formula to the Assistant Secretary for Aging for prior approval as part of a State plan or State plan amendment as set forth in §1321.33.

#### **§ 1321.51 Single planning and service area States.**

(a) Unless otherwise specified, the State agency in single planning and service area States must meet the requirements in the Act and subpart C of this part, including maintaining an advisory council as set forth in §1321.63.

(b) As part of their State plan submission, single planning and service area States must provide a funds distribution plan which includes:

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(1) A descriptive statement as to how the State agency determines the geographical distribution of the Title III and Nutrition Services Incentive Program funding;

(2) How the State agency targets the funding to reach individuals with greatest economic need and greatest social need, with particular attention to low-income minority older individuals;

(3) At the option of the State agency, a numerical/mathematical statement as a part of their funds distribution plan; and

(4) Justification if the State agency determines it meets requirements to provide services directly where:

(i) As set forth in section 307(a)(8)(A) of the Act (42 U.S.C. 3027(a)(8)(A)), no supportive services, except as set forth in paragraph (b)(4)(i)(B) of this section, nutrition services, disease prevention and health promotion, or family caregiver services will be directly provided by the State agency, unless, in the judgment of the State agency:

(A) Provision of such services by the State agency is necessary to assure an adequate supply of such services;

(B) Such services are directly related to such State agency's administrative functions; or

(C) Such services may be provided more economically, and with comparable quality, by such State agency.

(ii) The State agency may directly provide case management, information and assistance services, and outreach.

(iii) Approval of the State agency to provide direct services may only be granted for a maximum of the State plan period. For each time that approval is granted to a State agency to provide direct services, the State agency must demonstrate the State agency's efforts to identify service providers prior to being granted a subsequent approval.

(c) Single planning and service area States must adhere to use of the funds distribution plan for Title III and Nutrition Services Incentive Program funds within the State. If a single planning and service area State agency revises their Title III funds distribution plan, they may do so by:

(1) Following their policies and procedures to publish the updated funds

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distribution plan for public review and comment for a reasonable minimum time period (30 calendar days or greater, unless a waiver is provided by the Assistant Secretary for Aging during an emergency or when a time sensitive action is otherwise necessary); and

(2) Submitting the revised funds distribution plan for Assistant Secretary for Aging approval prior to implementing the changes as noted at § 1321.33.

**§ 1321.53 State agency Title III and Title VI coordination responsibilities.**

(a) For States where there are Title VI programs, the State agency's policies and procedures, developed in coordination with the relevant Title VI program director(s), as set forth in § 1322.13(a), must explain how the State's aging network, including area agencies and service providers, will coordinate with Title VI programs to ensure compliance with sections 306(a)(11)(B) and 307(a)(21)(A) of the Act (42 U.S.C. 3026(a)(11)(B) and 3027(a)(21)(A)). State agencies may meet these requirements through a Tribal consultation policy that includes Title VI programs.

(b) The policies and procedures set forth in paragraph (a) of this section must at a minimum address:

(1) How the State's aging network, including area agencies on aging and service providers, will provide outreach to Tribal elders and family caregivers regarding services for which they may be eligible under Title III and/or VII;

(2) The communication opportunities the State agency will make available to Title VI programs, to include Title III and other funding opportunities, technical assistance on how to apply for Title III and other funding opportunities, meetings, email distribution lists, presentations, and public hearings;

(3) The methods for collaboration on and sharing of program information and changes, including coordinating with area agencies and service providers where applicable;

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