

## § 1321.59

separate organizational unit of a multipurpose agency that has previously been serving as an area agency, the State agency action shall not be subject to section 305(b)(5)(B) of the Act (42 U.S.C. 3025(b)(5)(B)).

(b) The area agency, once designated, is responsible for providing for adequate and qualified staff to facilitate the performance of the functions as set forth in this part. Such functions, except for provision of direct services, are considered to be area plan administration functions.

(c) The designated area agency shall continue to function in that capacity until either:

(1) The State agency withdraws the designation of the area agency as provided in § 1321.21(a)(1) through (5); or

(2) The area agency informs the State agency that it no longer wishes to carry out the responsibilities of an area agency as provided in § 1321.21(a)(6).

## § 1321.59 Area agency policies and procedures.

(a) The area agency on aging shall develop policies and procedures in compliance with State agency policies and procedures, including those required under § 1321.9, governing all aspects of programs operated under this part, including those related to conflict of interest, and be in alignment with the Act and all other applicable Federal requirements. These policies and procedures shall be developed in consultation with other appropriate parties in the planning and service area.

(b) The policies and procedures developed by the area agency shall address the manner in which the area agency will monitor the programmatic and fiscal performance of all programs, direct service providers, and activities initiated under this part for quality and effectiveness. Quality monitoring and measurement results are encouraged to be publicly available in a format that may be understood by older individuals, family caregivers, and their families.

(c) The area agency is responsible for enforcement of these policies and procedures.

(d) The area agency may not delegate to another agency the authority to

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award or administer funds under this part.

## § 1321.61 Advocacy responsibilities of the area agency.

(a) The area agency shall serve as the public advocate for the development or enhancement of comprehensive and coordinated community-based systems of services in each community throughout and specific to each planning and service area.

(b) In carrying out this responsibility, the area agency shall:

(1) Monitor, evaluate, and comment on policies, programs, hearings, levies, and community actions which affect older individuals and family caregivers which the area agency considers to be aligned with the interests identified in the Act;

(2) Solicit comments from the public on the needs of older individuals and family caregivers;

(3) Represent the interests of older individuals and family caregivers to local level and executive branch officials, public and private agencies, or organizations;

(4) Consult with and support the State's Long-Term Care Ombudsman Program; and

(5) Coordinate with public and private organizations, including units of general purpose local government to promote new or expanded benefits and opportunities for older individuals and family caregivers.

(c) Each area agency on aging shall undertake a leadership role in assisting communities throughout the planning and service area to target resources from all appropriate sources to meet the needs of older individuals and family caregivers with greatest economic need and greatest social need, with particular attention to low-income minority individuals. Such activities may include location of services and specialization in the types of services most needed by these groups to meet this requirement. However, the area agency shall not permit a grantee or contractor under this part to employ a means test for services funded under this part.

(d) No requirement in this section shall be deemed to supersede a prohibition contained in the Federal appropriation on the use of Federal funds to lobby the Congress; or the lobbying provision applicable to private non-profit agencies and organizations contained in OMB Circular A-122.

**§ 1321.63 Area agency advisory council.**

(a) *Functions of council.* The area agency shall establish an advisory council. The council shall carry out advisory functions which further the area agency's mission of developing and coordinating community-based systems of services for all older individuals and family and older relative caregivers specific to each planning and service area. The council shall advise the agency relative to:

- (1) Developing and administering the area plan;
- (2) Ensuring the plan is available to older individuals, family caregivers, service providers, and the general public;
- (3) Conducting public hearings;
- (4) Representing the interests of older individuals and family caregivers; and
- (5) Reviewing and commenting on community policies, programs and actions which affect older individuals and family caregivers with the intent of assuring maximum coordination and responsiveness to older individuals and family caregivers.

(b) *Composition of council.* The council shall include individuals and representatives of community organizations from or serving the planning and service area who will help to enhance the leadership role of the area agency in developing community-based systems of services targeting those in greatest economic need and greatest social need. The advisory council shall be made up of:

- (1) More than 50 percent older individuals, including minority individuals who are participants or who are eligible to participate in programs under this part, with efforts to include individuals identified as in greatest economic need and individuals identified as in greatest social need in § 1321.65(b)(2);

(2) Representatives of older individuals;

(3) Family caregivers, which may include older relative caregivers;

(4) Representatives of health care provider organizations, including providers of veterans' health care (if appropriate);

(5) Representatives of service providers, which may include legal assistance, nutrition, evidence-based disease prevention and health promotion, caregiver, long-term care ombudsman, and other service providers;

(6) Persons with leadership experience in the private and voluntary sectors;

(7) Local elected officials;

(8) The general public; and

(9) As available:

(i) Representatives from Indian Tribes, Pueblos, or Tribal aging programs; and

(ii) Older relative caregivers, including kin and grandparent caregivers of children or adults age 18 to 59 with a disability.

(c) *Review by advisory council.* The area agency shall submit the area plan and amendments for review and comment to the advisory council before it is transmitted to the State agency for approval.

(d) *Conflicts of interest.* The advisory council shall not operate as a board of directors for the area agency. Individuals may not serve on both the advisory council and the board of directors for the same entity.

**§ 1321.65 Submission of an area plan and plan amendments to the State agency for approval.**

(a) The area agency shall submit the area plan on aging and amendments specific to each planning and service area to the State agency for approval following procedures specified by the State agency in the State agency policies prescribed by § 1321.9.

(b) State agency policies and procedures regarding area plan requirements will at a minimum address the following:

(1) Content, duration, and format;

(2) That the area agency shall identify populations within the planning and service area at greatest economic need and greatest social need, which