

**§ 1322.15 Confidentiality and disclosure of information.**

A Tribal organization or Hawaiian Native grantee shall develop and maintain confidentiality and disclosure procedures as follows:

(a) A Tribal organization or Hawaiian Native grantee shall have procedures to ensure that no information about an older Native American or obtained from an older Native American by any provider of services is disclosed by the provider of such services in a form that identifies the person without the informed consent of the person or their legal representative, unless the disclosure is required by court order, or for program monitoring by authorized Federal or Tribal monitoring agencies.

(b) A Tribal organization or Hawaiian Native grantee is not required to disclose those types of information or documents that are exempt from disclosure by a Federal agency under the Federal Freedom of Information Act (5 U.S.C. 552).

(c) A Tribal organization or Hawaiian Native grantee shall not require a provider of legal assistance under this part to reveal any information that is protected by attorney client privilege.

(d) The Tribal organization or Hawaiian Native grantee must have policies and procedures that ensure that entities providing services under this title promote the rights of each older Native American who receives such services. Such rights include the right to confidentiality of records relating to such Native American.

(e) A Tribal organization's or Hawaiian Native grantee's policies and procedures may explain that individual information and records may be shared with other State and local agencies, community-based organizations, and health care providers and payers, as appropriate, in order to provide services.

(f) A Tribal organization's or Hawaiian Native grantee's policies and procedures must comply with all applicable Federal laws, codes, rules, and regulations, including the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. 1301 *et seq.*), as well as guidance as the Tribal organization or Hawaiian Native grantee determines, for the collection, use, and exchange of both Personal Identifiable

Information (PII) and personal health information in the provision of Title VI services under the Act.

**§ 1322.17 Purpose of services—person- and family-centered, trauma-informed.**

(a) Services must be provided to older Native Americans and family caregivers in a manner that is person-centered, trauma-informed, and culturally sensitive. Services should be consistent with culturally appropriate holistic traditional care and responsive to their interests, physical and mental health, social and cultural needs, available supports, and desire to live where and with whom they choose. Person-centered services may include community-centered and family-centered approaches consistent with the traditions, practices, beliefs, and cultural norms and expectations of the Tribal organization or Hawaiian Native grantee.

(b) Services should, as appropriate, be consistent with culturally appropriate holistic traditional care and provide older Native Americans and family caregivers with the opportunity to develop a person-centered plan that is led by the individual or, if applicable, by the individual and the individual's authorized representative. Services should be incorporated into existing person-centered plans, as appropriate.

(c) Tribal organizations and Hawaiian Native grantees should provide training to staff and volunteers on culturally appropriate holistic traditional care and person-centered and trauma-informed service provision.

**§ 1322.19 Responsibilities of service providers.**

As a condition for receipt of funds under this part, each Tribal organization and Hawaiian Native grantee shall assure that providers of services shall:

(a) Provide service participants with an opportunity to contribute to the cost of the service as provided in § 1322.13(c)(2)(i);

(b) Provide, to the extent feasible, for the furnishing of services under this Act, through self-direction;

(c) With the consent of the older Native American, or their legal representative if there is one, or in accordance

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with local adult protective services requirements, bring to the attention of adult protective services or other appropriate officials for follow-up, conditions or circumstances which place the older Native American, or the household of the older Native American, in imminent danger;

(d) Where feasible and appropriate, make arrangements for the availability of services to older Native Americans and family caregivers in weather-related and other emergencies;

(e) Assist participants in taking advantage of benefits under other programs;

(f) Assure that all services funded under this part are coordinated with other appropriate services in the community, and that these services do not constitute an unnecessary duplication of services provided by other sources; and

(g) Receive training to provide services in a culturally competent manner and consistent with §§ 1322.13 through 1322.17.

### § 1322.21 Client eligibility for participation.

(a) An individual must have attained the minimum age determined by the Tribal organization or Hawaiian Native grantee as specified in their approved application, to be eligible to participate in services under the Act, unless the Act otherwise provides an explicit exception. Exceptions are limited to the following specific services:

(1) Nutrition services:

(i) Services shall be available to spouses of any age of older Native Americans;

(ii) Services may be available to:

(A) A person with a disability who lives with an adult, age 60 or older, or who resides in a housing facility that is primarily occupied by older adults at which congregate meals are served; and

(B) A volunteer during meal hours.

(2) Family caregiver support services for:

(i) Adults caring for older Native Americans or individuals of any age with Alzheimer's or related disorder;

(ii) Older relative caregivers who are caring for children and are not the biological or adoptive parent of the child, where older relative caregivers shall no

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longer be eligible for services under this part when the child reaches 18 years of age; or

(iii) Older relative caregivers who are caring for individuals age 18 to 59 with disabilities, and who may be of any relationship, including the biological or adoptive parent.

(3) Services such as information and assistance and public education, where recipients of information may not be older Native Americans, but the information is targeted to those who are older Native Americans and/or benefits those who are older Native Americans.

(b) A Tribal organization or Hawaiian Native grantee may develop further eligibility requirements for implementation of services for older Native Americans and family caregivers, consistent with the Act and all applicable Federal requirements. Such requirements may include:

(1) Assessment of functional and support needs;

(2) Geographic boundaries;

(3) Limitations on number of persons that may be served;

(4) Limitations on number of units of service that may be provided;

(5) Limitations due to availability of staff/volunteers;

(6) Limitations to avoid duplication of services;

(7) Specification of settings where services shall or may be provided;

(8) Whether to serve Native Americans who have Tribal or Native Hawaiian membership other than those who are specified in the Tribal organization's or Hawaiian Native grantee's approved application; and

(9) Whether to serve older individuals or family caregivers who are non-Native Americans but live within the approved service area and are considered members of the community by the Tribal organization.

### § 1322.23 Client and service priority.

(a) The Tribal organization or Hawaiian Native grantee shall ensure service to those identified as members of priority groups through their assessment of local needs and resources.

(b) The Tribal organization or Hawaiian Native grantee shall identify criteria for being given priority in the delivery of services under Title VI, parts