

## **SECTION 22. OLDER AMERICANS ACT ASSURANCES**

Pursuant to the Older Americans Act Amendments of 2006 (OAA), the Area Agency on Aging assures that it will:

### A. Assurances

#### 1. OAA 306(a)(2)

Provide an adequate proportion, as required under OAA 2006 307(a)(2), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

(A) services associated with access to services (transportation, health services (including mental health services) outreach, information and assistance, (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible) and case management services);

(B) in-home services, including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(C) legal assistance; and assurances that the area agency on aging will report annually to the State agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

#### 2. OAA 306(a)(4)(A)(i)(I)

(aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

(bb) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

(II) include proposed methods to achieve the objectives described in (aa) and (bb) above.

#### 3. OAA 306(a)(4)(A)(ii)

Include in each agreement made with a provider of any service under this title, a requirement that such provider will—

(I) specify how the provider intends to satisfy the service needs of low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in the area served by the provider;

(II) to the maximum extent feasible, provide services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in accordance with their need for such services; and

(III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas within the planning and service area;

#### 4. OAA 306(a)(4)(A)(iii)

With respect to the fiscal year preceding the fiscal year for which such plan is prepared—

- (I) identify the number of low-income minority older individuals in the planning and service area;
- (II) describe the methods used to satisfy the service needs of such minority older individuals; and
- (III) provide information on the extent to which the area agency on aging met the objectives described in assurance number 2.

5. OAA 306(a)(4)(B)

Use outreach efforts that —

(i) identify individuals eligible for assistance under this Act, with special emphasis on—

- (I) older individuals residing in rural areas;
- (II) older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
- (III) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
- (IV) older individuals with severe disabilities;
- (V) older individuals with limited English proficiency;
- (VI) older individuals with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
- (VII) older individuals at risk for institutional placement; and

(ii) inform the older individuals referred to in sub-clauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance;

6. OAA 306(a)(4)(C)

Ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals and older individuals residing in rural areas;

7. OAA 306(a)(5)

Coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities, and individuals at risk for institutional placement with agencies that develop or provide services for individuals with disabilities;

8. OAA 306(a)(9)

Carry out the State Long-Term Care Ombudsman program under OAA 2006 307(a)(9), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2000 in carrying out such a program under this title;

9. OAA 306(a)(11)

Provide information and assurances concerning services to older individuals who are Native Americans (referred to in this paragraph as “older Native Americans”), including—

(A) information concerning whether there is a significant population of older Native Americans in the planning and service area and if so, the area agency on aging will pursue activities, including outreach, to increase access of those older Native Americans to programs and benefits provided under this title;

- (B) to the maximum extent practicable, coordinate the services the agency provides under this title with services provided under title VI; and
- (C) make services under the area plan available, to the same extent as such services are available to older individuals within the planning and service area, to older Native Americans.

10. OAA 306(a)(13)(A-E)

- (A) maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;
- (B) disclose to the Assistant Secretary and the State agency—
  - (i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and
  - (ii) the nature of such contract or such relationship;
- (C) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this title by such agency has not resulted and will not result from such contract or such relationship;
- (D) demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and
- (E) on the request of the Assistant Secretary or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;

11. 306(a)(14)

Not give preference in receiving services to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;

12. 306(a)(15)

Funds received under this title will be used—

- (A) to provide benefits and services to older individuals, giving priority to older individuals identified in OAA 2006 306(a)(4)(A)(i); and
- (B) in compliance with the assurances specified in OAA 2006 306(a)(13) and the limitations specified in OAA 2006 212;

**B. Additional Assurances:**

**Requirement: OAA 305(c)(5)**

In the case of a State specified in subsection (b)(5), the State agency; and shall provide assurance, determined adequate by the State agency, that the area agency on aging will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area.

**Requirement: OAA 307(a)(7)(B)**

(i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;

- (ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and
- (iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.

**Requirement: OAA 307(a)(11)(A)**

- (i) enter into contracts with providers of legal assistance, which can demonstrate the experience or capacity to deliver legal assistance;
- (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Assistant Secretary; and
- (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis.

**Requirement: OAA 307(a)(11)(B)**

That no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency on aging makes a finding, after assessment, pursuant to standards for service promulgated by the Assistant Secretary, that any grantee selected is the entity best able to provide the particular services.

**Requirement: OAA 307(a)(11)(D)**

To the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and

**Requirement: OAA 307(a)(11)(E)**

Give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.

**Requirement: OAA 307(a)(12)(A)**

In carrying out such services conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for -

- (i) public education to identify and prevent abuse of older individuals;
- (ii) receipt of reports of abuse of older individuals;
- (iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and
- (iv) referral of complaints to law enforcement or public protective service agencies where appropriate.

**Requirement: OAA 307(a)(15)**

If a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area -

(A) To utilize in the delivery of outreach services under Section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability.

(B) To designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include:

- (i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and
- (ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effective linguistic and cultural differences.

**Requirement: OAA 307(a)(18)**

Conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to Section 306(a)(7), for older individuals who -

(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

(B) are patients in hospitals and are at risk of prolonged institutionalization; or

(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.

**Requirement: OAA 307(a)(26)**

That funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the State agency, or an area agency on aging, to carry out a contract or commercial relationship that is not carried out to implement this title.

**Requirement: OAA 307(a)(27)**

Provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

**C. Code of Federal Regulations (CFR), Title 45 Requirements:**

**CFR [1321.53(a)(b)]**

(a) The Older Americans Act intends that the area agency on aging shall be the leader relative to all aging issues on behalf of all older persons in the planning and service area. This means that the area agency shall proactively carry out, under the leadership and direction of the State agency, a wide range of functions related to advocacy, planning, coordination, interagency linkages, information sharing, brokering, monitoring and evaluation, designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, each community in the Planning and Service Area. These systems shall be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.

(b) A comprehensive and coordinated community-based system described in paragraph (a) of this section shall:

- (1) Have a visible focal point of contact where anyone can go or call for help, information or referral on any aging issue;
- (2) Provide a range of options;
- (3) Assure that these options are readily accessible to all older persons: The independent, semi-dependent and totally dependent, no matter what their income;
- (4) Include a commitment of public, private, voluntary and personal resources committed to supporting the system;
- (5) Involve collaborative decision-making among public, private, voluntary, religious and fraternal organizations and older people in the community;
- (6) Offer special help or targeted resources for the most vulnerable older persons, those in danger of losing their independence;
- (7) Provide effective referral from agency to agency to assure that information or assistance is received, no matter how or where contact is made in the community;
- (8) Evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person;
- (9) Have a unique character which is tailored to the specific nature of the community;
- (10) Be directed by leaders in the community who have the respect, capacity and authority necessary to convene all interested individuals, assess needs, design solutions, track overall success, stimulate change and plan community responses for the present and for the future.

**CFR [1321.53(c)]**

The resources made available to the area agency on aging under the Older Americans Act are to be used to finance those activities necessary to achieve elements of a community based system set forth in paragraph (b) of this section.

**CFR [1321.53(c)]**

Work with elected community officials in the planning and service area to designate one or more focal points on aging in each community, as appropriate.

**CFR [1321.53(c)]**

Assure access from designated focal points to services financed under the Older Americans Act.

**CFR [1321.53(c)]**

Work with, or work to assure that community leadership works with, other applicable agencies and institutions in the community to achieve maximum collocation at, coordination with or access to other services and opportunities for the elderly from the designated community focal points.

**CFR [1321.61(b)(4)]**

Consult with and support the State's long-term care ombudsman program.

**CFR [1321.61(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 nonprofit agencies and organizations contained in OMB Circular A-122.

**CFR [1321.69(a)]**

Persons age 60 and older who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated, shall be given priority in the delivery of services under this part.