

## § 1321.5

regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

*Service provider*, as used in section 306(a)(1) of the Act with respect to the provision of supportive and nutrition services, means an entity that is awarded a subgrant or contract from an area agency to provide services under the area plan.

*Severe disability*, as used to carry out the provisions of the Act, means a severe chronic disability attributable to mental and/or physical impairment of an individual that:

- (a) Is likely to continue indefinitely; and
- (b) Results in substantial functional limitation in 3 or more of the following major life activities:
  - (1) Self-care,
  - (2) Receptive and expressive language,
  - (3) Learning,
  - (4) Mobility,
  - (5) Self-direction,
  - (6) Capacity for independent living, and
  - (7) Economic self-sufficiency.

### § 1321.5 Applicability of other regulations.

Several other regulations apply to all activities under this part. These include but are not limited to:

- (a) 45 CFR part 16—Procedures of the Departmental Grant Appeals Board;
- (b) 45 CFR part 74—Administration of Grants, except subpart N;
- (c) 45 CFR part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services: Effectuation of title VI of the Civil Rights Act of 1964;
- (d) 45 CFR part 81—Practice and Procedures for Hearings Under Part 80 of this title;
- (e) 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Participation;
- (f) 45 CFR part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance;
- (g) 45 CFR part 92—Uniform Administrative Requirements for Grants and

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Cooperative Agreements to State and Local Governments;

(h) 45 CFR part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities; and

(i) 5 CFR part 900, subpart F, Standards for a Merit System of Personnel Administration.

### Subpart B—State Agency Responsibilities

#### § 1321.7 Mission of the State agency.

(a) The Older Americans Act intends that the State agency on aging shall be the leader relative to all aging issues on behalf of all older persons in the State. This means that the State agency shall proactively carry out 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, communities throughout the State. 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) The State agency shall designate area agencies on aging for the purpose of carrying out the mission described above for the State agency at the sub-State level. The State agency shall designate as its area agencies on aging only those sub-state agencies having the capacity and making the commitment to fully carry out the mission described for area agencies in §1321.53 below.

(c) The State agency shall assure that the resources made available to area agencies on aging under the Older Americans Act are used to carry out the mission described for area agencies in §1321.53 below.

#### § 1321.9 Organization and staffing of the State agency.

(a) The State shall designate a sole State agency to develop and administer the State plan required under this part and serve as the effective visible advocate for the elderly within the State.

(b) The State agency shall have an adequate number of qualified staff to carry out the functions prescribed in this part.

(c) The State agency shall have within the State agency, or shall contract or otherwise arrange with another agency or organization, as permitted by section 307(a)(12)(A), an Office of the State Long-Term Care Ombudsman, with a full-time State ombudsman and such other staff as are appropriate.

(d) If a State statute establishes a State ombudsman program which will perform the functions of section 307(a)(12) of the Act, the State agency continues to be responsible to assure that all of the requirements of the Act for this program are met regardless of the State legislation or source of funds. In such cases, the Governor shall confirm this through an assurance in the State plan.

#### § 1321.11 State agency policies.

(a) The State agency on aging shall develop policies governing all aspects of programs operated under this part, including the ombudsman program whether operated directly by the State agency or under contract. These policies shall be developed in consultation with other appropriate parties in the State. The State agency is responsible for enforcement of these policies.

(b) The policies developed by the State agency shall address the manner in which the State agency will monitor the performance of all programs and activities initiated under this part for quality and effectiveness. In monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long-term care facility, shall be available only to the director of the State agency on aging and one other senior manager of the State agency designated by the State director for this purpose. In the conduct of the monitoring of the ombudsman program, the confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in section 307(a)(12) of the Act shall be strictly adhered to.

#### § 1321.13 Advocacy responsibilities.

(a) The State agency shall:

(1) Review, monitor, evaluate and comment on Federal, State and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which the State agency considers to be appropriate;

(2) Provide technical assistance to agencies, organizations, associations, or individuals representing older persons; and

(3) Review and comment, upon request, on applications to State and Federal agencies for assistance relating to meeting the needs of older persons.

(b) No requirement in this section shall be deemed to supersede a prohibition contained in a Federal appropriation on the use of Federal funds to lobby the Congress.

#### § 1321.15 Duration, format and effective date of the State plan.

(a) A State may use its own judgment as to the format to use for the plan, how to collect information for the plan, and whether the plan will remain in effect for two, three or four years.

(b) An approved State plan or amendment, as identified in §1321.17, becomes effective on the date designated by the Commissioner.

(c) A State agency may not make expenditures under a new plan or amendment requiring approval, as identified in §1321.17 and §1321.19, until it is approved.

#### § 1321.17 Content of State plan.

To receive a grant under this part, a State shall have an approved State plan as prescribed in section 307 of the Act. In addition to meeting the requirements of section 307, a State plan shall include:

(a) Identification by the State of the sole State agency that has been designated to develop and administer the plan.

(b) Statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the Commissioner through the rulemaking process.

(c) A resource allocation plan indicating the proposed use of all title III