# **SECTION 30: AREA AGENCIES ON AGING**

**30.01 DESIGNATION**

Area Agencies on Aging (AAA's) are public or private nonprofit agencies or organizations designated by the Bureau of Elder and Adult Services, in accordance with Section 305(a)(2)(A) of the Older Americans Act, to receive grants or contracts to build a comprehensive system of services for older people in a designated Planning and Service Area (PSA).

**(A)** **Application for Designation.** Any unit of local government or Indian tribal organization that applies for designation as a planning and service area will be subject to the following policy:

**(1)** Any Indian tribal organization as defined in Section 102(7) of the Older Americans Act or unit of local government seeking designation as a planning and service area (PSA) must submit an application in writing to the Bureau of Elder and Adult Services that includes:

**(a)** Description of organization requesting a change in the PSA;

**(b)** Clear statement of reasons that the organization seeks to have a change in the PSA; and

**(c)** Explanation of how the views of older citizens and public officials were taken into account.

**(2)** In making its decision regarding the request for designation, the BUREAU OF ELDER AND ADULT SERVICES shall:

**(a)** Comply with Older Americans Act regulations, especially 1321.27;

**(b)** Review current PSA designations;

**(c)** Conduct a public hearing in the proposed PSA; and

**(d)** Issue a decision.

**(3)** If a unit of government or Indian tribal organization is denied designation, the hearing procedures defined in the Older Americans Act regulations shall apply.

**(B)** **Appeal to the Commissioner of AoA.** Any applicant for designation as a PSA whose application is denied by the BUREAU OF ELDER AND ADULT SERVICES may appeal the denial to the Commissioner of AoA under the procedures established in 45 CFR 1321.31. Before filing an appeal with the Commissioner, the applicant must first request complaint resolution following procedures specified in Section 40.02 of this manual and a hearing before the Department's Office of Administrative Hearings following procedures specified in Section 40.03 of this manual.

**(C)** **Changes in PSAs.** The BUREAU OF ELDER AND ADULT SERVICES will document the basis for a decision to change PSA boundaries; however, the BUREAU OF ELDER AND ADULT SERVICES may alter existing PSA boundaries only after giving consideration to:

**(1)** The view of public officials of units of general purpose local governments, the general public, and others expressed orally or in writing at a public hearing;

**(2)** The recommendation of the Area Agency Advisory Council (AAAC) in the affected PSA;

**(3)** The distribution in the State of people age 60 or older, including those with greatest economic need;

**(4)** The incidence of need for services provided under the Older Americans Act and the resources available to meet those needs in the PSA; and

**(5)** The boundaries of units of general purpose local government, regional planning areas, Indian reservations, existing economic development districts, and areas within the State established for planning and administering human services.

The BUREAU OF ELDER AND ADULT SERVICES shall file a notice of intent either to maintain or amend the designation of existing PSA boundaries with the Commissioner on Aging before submission of the State Plan. Within thirty (30) days of the filing of the notice of intent with the Commissioner on Aging, the BUREAU OF ELDER AND ADULT SERVICES shall submit to older people, government officials, the aging services providers and the general public for comment the details of the BUREAU OF ELDER AND ADULT SERVICES' intention to maintain or to amend the designation of existing PSA boundaries.

**30.02 FUNCTIONS AND RESPONSIBILITIES OF AAAS**

The functions and responsibilities of AAA's include but are not limited to:

**(A)** **Coordination and Provision of Services.** Coordination and provision of services as required by the Older Americans Act and Title 22 M.S.R.A. c. 1457, through the development and implementation of an area plan reflecting integration and coordination with health and social service delivery systems existing in local communities. The AAA must develop and maintain effective working relationships with all Federal, state and local agencies and programs that serve or affect older people;

**(B)** **Review and Comment on Applications of Other Entities.** Review and comment on any applications from any agency or organization within the PSA to any state or Federal department or agency for assistance related to meeting the needs of older people;

**(C)** **Monitoring of Related Activities.** Monitor, evaluate, and comment on policies, programs, hearings, levies, and community actions, of public and private agencies that significantly affect the lives of older people;

**(D)** **Use of Local Resources.** Generate and use local resources, including existing agencies, organizations and local funding sources, to meet the needs of the elderly in the PSA;

**(E)** **Conduct of Public Hearings**. Conduct public hearings on the needs of older people; and

**(F)** **Represent the Interests of Older People.** Represent the interests of older people to public officials, public and private agencies or organizations.

**30.03 POLICIES AND PROCEDURES WITHIN AAAS**

The AAA will develop and maintain written policies in each of the areas described in this section. Copies are to be kept on file for review by the Bureau of Elder and Adult Services, and submitted in part or whole when specifically requested by the Bureau of Elder and Adult Services.

**(A) Area Agency Staffing.** Each AAA must have a staffing plan that identifies and gives the basis for the number and type of staff assigned to carry out AAA responsibilities and functions. The staffing plan must be submitted as part of each area plan and maintained on file in the agency.

**(1)** At a minimum the staffing plan must include:

**(a)** Provision for giving preference in employment to qualified people age 60 or older, subject to merit system or personnel policy requirements.

**(b)** A full time director qualified by education and progressively responsible management experience with social service or elderly programs. In the absence of a duly appointed director, a person shall be designated by the Board of Directors as acting director.

**(c)** An adequate number of staff qualified by education or experience to carry out the functions and responsibilities of the AAA.

**(d)** Job descriptions for each position including job title, responsibilities, qualifications, supervision, salary range, work tasks and hours of employment.

**(2)** Funds are awarded to AAA's based upon their demonstrated ability to perform desired functions. Prior approval of the Bureau of Elder and Adult Services is required if the staffing plan is substantially altered through planned changes or inability to recruit or retain qualified staff. If deemed necessary by the Bureau of Elder and Adult Services a formal amendment of the Area Plan may be required.

**(B)** **Personnel Policies.** Each AAA shall have written policies, consistent with state and Federal law, approved by the Board or governing body, and available upon request to the Bureau of Elder and Adult Services. These policies include:

**(1)** Hiring procedures;

**(2)** A salary plan, or wage schedule must be available. Salaries should be prudent and comparable to the salaries for similar positions in the community;

**(3)** Benefits, such as vacation, sick leave, holidays, and administrative time off, specifying the circumstances under which these benefits may be used;

**(4)** Orientation, staff training and development plans;

**(5)** Schedule and method of staff performance evaluations;

**(6)** Grievance procedures for handling any grievance or complaint of employees of the agency;

**(7)** Provisions relating to volunteers working in the agency; and

**(8)** Assure that staff, volunteers and board and advisory council members participate in training to meet the specific needs of that agency.

**(C)** **Affirmative Action Plan.** Each AAA must have and carry out an affirmative action plan on employment that complies with the requirements of the Department of Human Services' affirmative action policies and appropriate Federal regulations.

**(D)** **Emergency or Disaster Plan.** Each AAA must have a plan to deal with emergency or disaster situations affecting staff, volunteers and elderly people.

**(E)** **Program Policies and Procedures.** Each AAA must have written program policies and procedures for all agency programs.

**(F)** **Needs Assessment and Resource Inventory.** Each AAA must have and implement written methods of developing and updating a resource inventory and needs assessment.

**30.04 COMMUNITY FOCAL POINTS**

In order to facilitate ready access to services provided under the area plan, and encourage optimal collocation and coordination of services for older people, the AAA must designate, if feasible, a focal point for comprehensive service delivery in each community. Each AAA is to be a focal point in the community, centrally located in the PSA, and should be accessible to the handicapped as required under Section 504 of the Rehabilitation Act.

**(A)** **Designation of Focal Points.** In designating community focal points, the AAA must:

**(1)** For the purposes of this section and with the approval of the Bureau of Elder and Adult Services, define community.

**(2)** Specify in the area plan the facility designated to be a community focal point in each community selected under 1 above.

**(3)** Provide for wide dissemination to the public of a list of focal points their purpose, locations and hours of operation.

**(B)** **Developing Collocation of Services.** In order to encourage the maximum collocation and coordination of services for older people in community focal points the AAA must:

**(1)** Establish guidelines for focal point operating schedules that are convenient for older people in the community and provide sufficient access to enable older people to obtain needed services;

**(2)** Assure the community focal point has direct access to existing information and referral and emergency services programs; and

**(3)** Encourage service providers to collocate their services at the community focal point and coordinate with other services provided at the focal point.

**30.05 AREA AGENCY ADVISORY COUNCIL (AAAC)**

The AAA must establish an Area Agency Advisory Council (AAAC) for the PSA. At least 50% of the members on the Council must be age 60 and over; and, membership must conform to the requirements of Section 306(a)(6)(F) of the Older Americans Act. The AAAC's duties shall be consistent with those set forth in Federal Regulations, section 1321057.

**30.06 AAA BOARD OF DIRECTORS**

The Board of Directors, which is the Board of the AAA, shall be elected through an open process that affords all elderly in the PSA an opportunity to make nominations for vacancies on the Board. The membership of the Board of Directors must be broadly reflective of the community. Members must have expressed interest and commitment to the elderly and the issues they face.

**(A)** **Bylaws.** The AAA must develop and make public bylaws that specify the role and functions of the Board of Directors, number of members, officers and functions, procedures for selection of members, term of membership, and notification and frequency of meetings. A copy of the bylaws and any amendments thereto shall be on file at the Bureau of Elder and Adult Services.

**(B)** **Responsibilities.** The Board of Directors is the legal entity responsible for the conduct of all affairs of the AAA and for assuring that the agency carries out its functions and responsibilities. The Board is responsible for acting upon the recommendations of the AAAC.

**(C)** **Training**. There shall be a written plan for training of Board members that includes, at a minimum, orientation to the Title III service delivery system and gerontology, applicable State and Federal laws and regulations and policies, roles and responsibilities of AAA's and the Board.

**(D)** **Expenses**. Reasonable costs of travel, meals and other appropriate expenses incurred by members of the Board of Directors in carrying out these duties may be included as administrative costs to the agency.

**30.07 AREA PLANS**

Each AAA must have an area plan approved by the Bureau of Elder and Adult Services that complies with all applicable Federal and State laws and regulations in order to be a designated AAA.

**(A)** **Area Plan Development**. AAA's will develop area plans for periods of time specified by the Bureau of Elder and Adult Services. Deadlines for submission and the format to be used will be provided or approved by the Bureau of Elder and Adult Services.

**(B)** **Amendments.** AAA's must report proposed area plan changes, including changes to program components and patterns of service provided directly or purchased, to the Bureau of Elder and Adult Services before they are implemented. A formal amendment must be submitted, publicly reviewed and approved if:

**(1)** New or amended State or Federal statutes require a new provision or conflict with any aspect of the existing area plan;

**(2)** The AAA proposes to add, modify, or delete any area plan goals or objectives; and/or

**(3)** The AAA proposes changes in funding or policy changes;

**(C)** **Public Review of the Area Plan and Amendments.**

**(1)** The AAA must hold a minimum of two public hearings at times and in locations within their PSA that will afford older people and other interested parties a reasonable opportunity to participate. The AAA must hold additional public hearings if they are requested by five people. To the extent possible, the AAA will help in arranging transportation for older people to these hearings. At least twenty days notice regarding the date, time and location must be given to the public, including senior centers, clubs, meal sites, and other community groups and agencies and nursing homes and boarding homes before the hearings.

**(2)** The AAA shall submit its area plan and any amendments thereto to all members of its AAAC for review and comment. A representative of the AAAC shall be present at each public hearing.

**(3)** The proposed plan and any amendments must be submitted for review and comment to:

**(a)** The State Planning Office, for the Intergovernmental review process. A courtesy copy can be sent to regional planning commissions;

**(b)** Regional Program Managers at the regional offices of the Department of Human Services in the PSA;

**(4)** All interested parties shall be afforded at least ten days after the public hearing to comment on the proposed area plan and/or amendments.

**(5)** All comments received must be summarized and a brief response must be provided explaining why changes will or will not be made. The summary and response to comments must be submitted to the Bureau of Elder and Adult Services as soon as available; final approval of the area plan will not be granted until this material has been reviewed by the Bureau of Elder and Adult Services.

**(D)** **Responsibility of the Bureau of Elder and Adult Services.** In the area plan process, the Bureau of Elder and Adult Services is responsible for:

**(1)** Obtaining approval from the Administration on Aging for the period of time to be included in the State and Area Plans;

**(2)** Provide AAA's with information regarding the required period, format and submission schedule of area plans;

**(3)** Review proposed area plans and amendments;

**(4)** Provide AAA's with written notice within two weeks of receiving the final plan submitted according to the schedule agreed upon as in 30.07(A) that proposed area plans or amendments are acceptable or not acceptable.

**(a)** If an area plan is not acceptable, the Bureau of Elder and Adult Services will:

**(i)** Identify the specific areas that must be changed;

**(ii)** Provide technical assistance as reasonable and if requested;

**(iii)** If necessary, extend the current area plan; and

**(iv)** If the AAA fails to provide an acceptable plan before the end of the extension, the Bureau of Elder and Adult Services will begin procedures for withdrawal of designation. The current plan will be in effect until the withdrawal of designation process is resolved.

**(b)** If an area plan amendment is not acceptable, the Bureau of Elder and Adult Services will inform the AAA that the amendment is unacceptable and may not be implemented and state the reasons for the decision.

**(E)** **Progress Reports.** Each AAA will submit, in a format provided by the Bureau of Elder and Adult Services, an Annual Area Plan Report of progress made in completing the goals and objectives of the plan. Annual Area Plan Reports will be submitted by the thirtieth day of the month following the end of each plan year.

**30.08 REQUIREMENTS FOR GRANTS AND CONTRACTS**

**(A)** **Must Reflect Area Plan Goals and Objectives.** Grants and contracts for services to be funded by AAA's must reflect directly the goals and objectives of the area plan.

**(B)** **Grants and contracts must include:**

**(1)** Specific, measurable services that are consistent with area plan goals and objectives; and

**(2)** Costs that are appropriate and reasonable and comply with Federal and State fiscal policies.

**(C)** **Priority Clients.** Service providers must agree to give preference to clients who are age 60 or over and who are at greatest social or economic need, and/or of minority status.

**(D)** **Records and Reports.** Any materials, such as cooperative agreements, letters, memos, or minutes of meetings, which can serve as documentation of coordination will be retained in the AAA's files. Program and fiscal reports must be submitted to the Bureau of Elder and Adult Services as specified in this manual. The Bureau of Elder and Adult Services may request other reports as necessary.

**(E)** **Guidelines for Awarding Grants and Subcontracts.** Each AAA must have written guidelines covering procedures and criteria for awarding grants and subcontracts under the area plan that include:

**(1)** Timetables and roles of the AAAC and committees of the Board for review of subcontracts;

**(2)** Monitoring of and technical assistance to subcontractors; and

**(3)** Provisions for retention of records by subcontractors in compliance with 45 CFR Part 74.

**30.09 PROHIBITION AGAINST PROVISION OF DIRECT SERVICE**

AAA's shall provide only services directly related to their administrative functions that include advocacy, coordination, program development, outreach, and information and referral. Other services shall be made available to consumers through subcontracts or subgrants administered by the Bureau of Elder and Adult Services or the AAA's unless specifically waived. All waivers of the direct service prohibition shall be time limited.

**(A)** **Definitions.** For the purposes of this section the following definitions apply:

**(1)** An "adequate supply" is the amount of a given service determined to be necessary in a AAA's assessment of its PSA.

**(2)** A service is of "comparable quality" if it meets the criteria described in a AAA's Request for Proposals (RFP).

**(3)** "More economically" refers to a set quantity of service of comparable quality for a lower cost.

**(B) Conditions for Consideration of a Waiver.** A waiver of the prohibition against direct service for services other than advocacy, coordination, program development, outreach, and information and referral may be approved by the Bureau of Elder and Adult Services if, in the Bureau of Elder and Adult Services' judgment, the AAA shows that:

**(1)** A waiver is necessary to insure an adequate supply of a service;

**(2)** The AAA can provide services of comparable quality more economically than other providers in the community; and/or

**(3)** A waiver is necessary to stimulate the development of a new program or service through a pilot project or demonstration project.

**(C) Requesting a Waiver**. To request a waiver, the AAA must submit to the Bureau of Elder and Adult Services a memorandum describing the reasons for requesting a waiver, and may be required to submit:;

**(1)** Evidence that the AAA has contacted potential providers with details about the services to be provided, offered them technical assistance and advised the potential providers that they may not be required to serve the entire PSA as a condition of being selected as a service provider.

**(2)** Documentation of reasons given by potential providers for inability or unwillingness to provide the specified services.

**30.10 ELDERCARE**

**(A) Definition.** Eldercare is a service provided by a corporation on behalf of its employees who have caregiver responsibilities for older people. Eldercare benefits are provided through a contract under which a corporation, or an intermediary, makes third party payments to a AAA to provide directly or to arrange for the provision of specified services and/or programs to a defined group of employees on behalf of their older relatives.

**(B) Prior Approval.** A AAA must obtain prior written approval to initiate and conduct an Eldercare program. After an initial approval, the Bureau of Elder and Adult Services will review Eldercare services as part of each area plan cycle.

**(C) Requirements.** The Bureau of Elder and Adult Services approve Eldercare services only when the AAA can demonstrate that:

**(1)** No public funds will be used to develop or support the proposed Eldercare services unless they have been specifically awarded for that purpose;

**(2)** Contracts, agreements or other arrangements for Eldercare services do not restrict the AAA from providing similar services to other groups, corporations or individuals;

**(3)** The provision of Eldercare services will not compromise the agency's public purpose mission;

**(4)** Comply with Section 40.04 of this manual with respect to confidentiality of information received.

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