



ACL Final Rule to Update the Older Americans Act Regulations

On February 6, 2024, the Administration for Community Living (ACL) [released](#) a [final rule](#) ([overview](#)) to update the regulations implementing its Older Americans Act (OAA) programs. The new regulations will take effect on March 15, 2024, but regulated entities have until October 1, 2025, to comply. The OAA authorizes programs and services that help older adults age in place, ombudsman services that support older adults who live in long-term care facilities, and additional services for caregivers and older adults. The release of the final rule reflects input received through a request for information, a series of listening sessions, and more than 750 comments received in response to the June 2023 Notice of Proposed Rule Making (NPRM) from a range of stakeholders.

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Overview

Finalized Changes

Overview of the Final Rule:

ACL finalized the rule with the same structure and framework as the proposed rule and made changes to the proposed rule’s provisions according to public comments. ACL clarified the flexibilities accessible during a major disaster, increased funds under Title III related to nutrition, and clarified the definition of “greatest social need” among other terms.



The final rule includes modifications related to statutory changes, clarifications, and guidance in response to technical assistance requests from interested parties. The compliance date of the finalized rule is October 1, 2025.

Subpart A – Introduction § 1321.1 Basis and purpose of this part.

ACL finalized Section 1321.1 to establish requirements of Title III of the Act to allocate grants to State and community programs on aging. ACL included consistency across statutory terminology such as naming evidence-based disease prevention and health promotion and caregiver services, including family caregivers as a service population, and identifying State agency roles in implementing Title III and Title VII of the Act.

§ 1321.3 Definitions.

ACL finalized, with updates, definitions of important terms in § 1321.3 to reflect changes to the statute, key practices in program administration under the Act, and feedback from commenters.

ACL included clarifications related to “conflicts of interests” (COI) and requirements for State agencies and AAAs to ensure all entities are catering to the needs of the older people they serve. ACL also clarified the term “cost sharing” through referencing restrictions on how cost sharing may be implemented, and compliances State agencies must follow. ACL made revisions to ensure a more inclusive definition of “family caregiver.”

ACL finalized revisions to the definition of “greatest economic need” and finalized that State agencies are allowed to define target populations of greatest economic need more specifically. Additionally, ACL finalized that State agencies can set policies to further define target populations of “greatest social need” based on local factors and noneconomic considerations. In the final rule, ACL expanded the definition of “in-home supportive services” and incorporated the statutory definition of “severe disability.”

Subpart B – State Agency Responsibilities § 1321.5 Mission of the State agency.

ACL finalized, with minor revisions, Section 1321.5 regarding the State agency’s mission and role as a leader for aging issues in the State that includes provisions for the State agency designating AAAs in States with multiple PSAs to help achieve the mission. ACL made revisions that correspond with the reauthorizations of the statute such as the inclusion of family caregivers as a service population per 2000 amendments.

§ 1321.7 Organization and staffing of the State agency.



ACL finalized, with modifications, the provision on organization and staffing of the State Agency for consistent verbiage, and to clarify the State agency's responsibilities to implement the Ombudsman program. ACL finalized Section 307(a)(13)37 and Section 73138 of the Act to direct that State agencies have Legal Assistance Developer and other personnel to create legal assistance programs for older individuals. ACL stated that it will offer technical assistance to State agencies as they attempt to satisfy these requirements.

§ 1321.9 State agency policies and procedures.

ACL finalized that State agencies are responsible for enacting plans, policies, procedures, administrative tasks, coordination efforts, and evaluation of activities related to the mission of this Act. ACL aimed to consolidate the requirements of the Act that deem the specifics of which State agencies should have certain policies and procedures.

ACL updated the language to incorporate statutory updates, clarify the State agency's role in developing initiatives related to elder abuse prevention and legal assistance programs, affirm that the State agency can allow procedures to be created at the AAA level, unless specifically barred, and note the State agency's duty to monitor compliance of activities. ACL finalized, with modifications, that State agencies must have established policies for data collection and reporting that align with ACL's requirements.

ACL noted that other than the Ombudsman program and other specified cases, State agencies may implement specific policies at the AAA level. ACL finalized that AAAs, consistent with State agency policy, can establish goals for providing services to older individuals with greatest economic need and greatest social need. ACL finalized that AAAs must be granted approval by the State Agency to provide direct services and clarified that the State agency must communicate about how agencies can receive approval. ACL also required State agencies to release procedures related to funding awards for the Nutrition Services Incentive Program (NSIP), Title III, and Title VII under the Act.

ACL finalized Section 307(a)4 of the Act to mandate data collection and reports of State agency and AAA projects. The requirements include that data must be collected at a minimum of once each fiscal year and that ACL can give technical assistance to State agencies.

ACL finalized, with modifications, section 305(a)(2)(C)-(D) of the Act to require the distribution of Title III funds within the state to occur via IFF, if the state has multiple PSAs, or via funds distribution plan, for single PSA States. ACL clarified the regulatory text regarding this provision.



ACL clarified that any State or local public resources utilized to fund a program with a means test cannot be used to meet match requirements. ACL also modified the text to clarify that a State or AAA agency can determine matches in excess of required amounts and to clarify match requirements for each type of grant award under Title III of the Act.

Background/Rationale

ACL received positive feedback from commenters regarding the flexibility to work with State and local leaders to design innovative approaches to increase services for older adults. ACL agreed and encouraged collaboration at the State and local levels. ACL aimed to provide flexibility to State agencies in terms of policy and procedure development. The final rule from ACL provided State and area agencies tools for collaboration to achieve the mission set forth in the Act.

Commenters voiced concern that the rule gives States agencies too much control. ACL responded that State agencies and AAAs must work together to support the provisions of the ACT. ACL expressed that it would provide technical assistance and support to States and AAAs.

Commenters expressed a need to receive more guidance about the collection of data. ACL responded that it developed a system for this purpose and implemented reporting requirements for State agencies.

ACL received comments expressing concerns about the elimination of the definition of “severe disability.” ACL re-incorporated the definition of “severe disability” in the final rule and further clarified how states can define individuals of “greatest social need” and “greatest economic need.” ACL received comments to broaden the identification of in-home supportive services. ACL agreed and modified the definition of “in-home supportive services.”

ACL received feedback that the cost and amount of time regulated entities may need to implement the final rule could be burdensome. ACL responded that it is up to the State to implement potentially burdensome provisions of the final rule and that any costs associated with the rule should not be immense. ACL noted it revised the compliance date of the rule until October 1, 2025, to allow more time for entities and States to comply with the provisions. ACL also stated that State agencies can put forward a request for a corrective action plan if they need additional time.



Provisions Revised to Reflect Statutory Changes and/or for Clarity Under Grants to State and Community Programs on Aging

Finalized Changes

§ 1321.9(c)(2)(iii) Transfers

ACL redesignated, and revised § 1321.45 of the existing regulation into § 1321.9(c)(2)(iii), as indicated here. The Act allows for transfer of service allotments to provide some flexibility to meet State and local needs. ACL listed the requirements if a State agency wishes to make transfers between allotments, which include (1) the parts and subparts of Title III which are subject to transfer of allocations; (2) the maximum percentage of an allocation which may be transferred between parts and subparts; and (3) a confirmation that such limitations apply in aggregate to the State.

ACL clarified that § 308 of the Act requires that States do their best to simplify the process used to transfer Title III funds. ACL also specifically clarified that States must allocate limited resources to the greatest nutritional needs for transfers between C-1 and C-2.

§ 1321.9(c)(2)(iv) State, Territory, and area plan administration

ACL finalized the requirements for State agencies to use when calculating the maximum amounts and applicable activities that AAAs may use Title III funds for, in regards to state, territory, and area plan administration. Activities include planning, coordination, and oversight of direct services. The amount allocated may be taken from any Title III award (provided that it is in the same year) and at any time during the grant period. The only exception to this list exists for area plan allocation to part D (which provides funding for evidence-based disease prevention and health promotion programs). ACL determined that, for states with multiple PSAs, the maximum amount of funds the State agency may allocate is 10% of the total amount allocated for AAAs.

§ 1321.9(c)(2)(v) Minimum adequate proportion

ACL finalized a rule requiring State agencies to make policies and procedures for implementing funds towards access services, in-home support services, and legal assistance.

§ 1321.9(c)(2)(vi) Maintenance of effort

ACL redesignated and revised § 1321.49 into § 1321.9(c)(2)(vi), a rule requiring State agencies to develop fiscal policies and procedures related to minimum maintenance of effort amounts States must expend. ACL clarified that excess amounts reported in other reports do not apply to the amounts used in calculating this minimum, unless specified by the State for that purpose.

§ 1321.9(c)(2)(vii) State Long-Term Care Ombudsman Program



ACL finalized a rule requiring State agencies to develop fiscal policies and procedures to spend at least the minimum amount required for the long-term care Ombudsman Program under §307(a)(9) of the Act. Further, ACL clarified that State agencies must supply the Ombudsman with information necessary to complete the Ombudsman requirements and that the fiscal activities relating to the operation of the Office comply with the requirements of § 1324.13(f).

§ 1321.9(c)(2)(viii) Rural minimum expenditures

ACL finalized a rule requiring State agencies to develop fiscal policies and procedures related to: (1) the minimum amount of expenditures allowed for services for older individuals residing in rural areas; (2) projecting the amount of the services; and (3) a plan for implementing the services. In order to do this, ACL required that State agencies establish a process to define a "rural area."

ACL clarified that the definition of "rural" for the purposes of the reporting mechanism of the Older Americans Act Performance System (OAAPS) is not the same as the definition of "rural areas" that State agencies are tasked with defining for the purpose of administering services under this Act. ACL clarified that the OAAPS is for State and area agencies to use to submit annual reports, whereas "rural areas," as defined by State agencies is for any other purpose. ACL clarified that the definition of "rural," may be different among State agencies, but does not impact individual State agencies abilities to comply with the minimum expenditure amount.

ACL required that State agencies include a definition of "greatest economic need," and "greatest social need," in their IFFs.

§ 1321.9(c)(2)(ix) Reallotment

ACL finalized a requirement that state agencies that wish to do a voluntary release of funds must communicate with ACL. ACL also finalized that state agencies in need of any funds that have been voluntarily released must submit an annual report to ACL on whether they are able to receive and expend those funds in accordance to their IFF or funds distribution plan.

§ 1321.9(c)(2)(x) Voluntary contributions

ACL finalized a rule that allows for the solicitation of voluntary contributions by beneficiaries for services, provided that the solicitation is non-coercive. ACL clarified that services may not be denied if a participant chooses not to contribute, and State agencies must make participants aware of this. ACL determined that voluntary contribution amounts must be based on the actual cost of services. ACL recommended that participants of voluntary contributions have a self-declared income above 185% of the federal poverty line.



§ 1321.9(c)(2)(xi) Cost sharing

ACL finalized the cost sharing provisions that were added in the 2000 amendments to the Act, declining commenter's requested changes.

§ 1321.9(c)(2)(xii) Use of program income

ACL revised the fiscal requirements that apply to program income, which include voluntary contributions and cost sharing payments. ACL clarified that State agencies are required to report contributions as program income and set forth restrictions on the use of program income.

ACL revised the language of this section to clarify that contributions must be used to expand a service funded under the Title III grant award pursuant to which the income originally was collected.

§ 1321.9(c)(2)(xiii) Private pay programs

ACL added paragraph (c)(2)(xiii) to this provision to provide guidance as to policies and procedures that should be in place to ensure that private pay programs offered by AAAs and service providers do not compromise core responsibilities under the Act.

§ 1321.9(c)(2)(xiv) Contracts and commercial relationships

ACL clarified that the policies and procedures that State agencies must establish related to all contracts and commercial relationships in subsection § 1321.9(c)(2)(xiv).

ACL clarified their interpretation of the statutory language and the Federal interests in responsible oversight of any contract or commercial relationship that falls within the category of "agreements" described in section 212. A State agency should not arbitrarily deny approval of an agreement that satisfies the requirements of section 212 and of the State's own policies and procedures.

§ 1321.9(c)(2)(xv) Buildings, alterations or renovations, maintenance, and equipment

ACL added paragraph § 1321.9(c)(2)(xv) to provide clarification to ensure that funding will be used for costs that support allowable activities. In this paragraph, ACL included a requirement that a Notice of Federal Interest be filed at the time of acquisition of a property or prior to construction, as applicable.

ACL revised the introductory statement of this section and made a technical correction to the cross-references in § 1321.9(c)(2)(xv)(D) to specify the applicability of this provision. ACL also added a provision at § 1321.9(c)(2)(xv)(F) to specify that prior approval by the Assistant Secretary for Aging does not apply.

§ 1321.9(c)(2)(xvi) Supplement, not supplant



ACL plans to address requests for guidance regarding this requirement through technical assistance, as needed.

§ 1321.9(c)(2)(xvii) Monitoring of State plan assurances

ACL finalized that the State agency must have policies and procedures to monitor compliance with these assurances. ACL made a technical edit to remove “and area” from the proposed language in this provision, as monitoring of area plan assurances is addressed in § 1321.9(c)(4).

§ 1321.9(c)(2)(xviii) Advance funding

ACL finalized that State agencies may advance funding to meet immediate cash needs of AAAs and service providers, and if a State agency chooses to do so, the State agency must have policies and procedures that comply with all applicable Federal requirements.

§ 1321.9(c)(2)(xix) Fixed amount subawards

ACL added a new § 1321.9(c)(2)(xix) which states that fixed amount subawards up to the simplified acquisition threshold are allowed.

§ 1321.9(c)(3) State plan process; § 1321.9(c)(4) Area plan process

ACL added paragraphs § 1321.9(c)(3) and (4) to ensure the integrity and transparency of the State plan process and, in States with multiple PSAs, of the area plan process. ACL finalized that the State agency is required to have policies and procedures that align with the requirements for State and area plans in §§ 1321.27, 1321.29, and 1321.65. ACL revised these requirements to clarify that State and area agencies must establish and comply with a reasonable minimum time period (at least 30 calendar days unless a waiver has been granted) for public review of and comment on State and area plans.

§ 1321.11 Advocacy responsibilities.

ACL redesignated Section 1321.13 of the existing regulation (Advocacy responsibilities) here as § 1321.11, which sets forth the advocacy responsibilities of State agencies. ACL made minor revisions to these provisions to include activities related to the National Family Caregiver Support Program.

§ 1321.13 Designation of and designation changes to planning and service areas.

ACL redesignated Section 1321.29 of the existing regulation (Designation of planning and service areas) as § 1321.13 and retitled the section to better reflect the content of the revised provision. ACL revised this section to affirm the State agencies’ obligations to have policies and procedures in place to ensure that the State agency process of designating and changing PSAs will be transparent. ACL also included factors that a State agency should take into account when it considers changing a PSA designation, consistent with the aims of the Act.



§ 1321.15 Interstate planning and service area

ACL redesignated Section 1321.43 of the existing regulation (Interstate planning and service area) is here as § 1321.15. ACL revised this provision to clarify the nature of an interstate PSA (per section 305(b) of the Act), 174 as well as the process for requesting the Assistant Secretary for Aging to designate an interstate PSA.

§ 1321.17 Appeal to the Departmental Appeals Board on planning and service area designation.

ACL redesignated and modified Section 1321.31 (Appeal to Commissioner) as § 1321.17 (Appeal to the Departmental Appeals Board on planning and service area designation). ACL finalized State agencies authority to divide the State into distinct PSAs to administer the Act's services and benefits.

ACL revised § 1321.17 to clarify that PSA designation changes may be appealed. ACL made a change in this provision that delegates appeals of State agency decisions for designation of PSAs to the HHS Departmental Appeals Board (DAB) in accordance with the procedures set forth in 45 CFR part 16.

§ 1321.19 Designation of and designation changes to area agencies.

ACL redesignated Section 1321.33 of the existing regulation (Designation of area agencies) here as § 1321.19 and retitled the section to better reflect the content of the revised provision. ACL revised this provision to clarify the State agencies' obligations to have policies and procedures in place to ensure that the process of designating AAAs will be transparent, will hold the State agency accountable for its decisions, and will afford due process to affected. ACL finalized the existing restriction against a regional or local State office serving as a AAA.

§ 1321.21 Withdrawal of area agency designation.

ACL redesignated Section 1321.35 of the existing regulation (Withdrawal of area agency designation) is redesignated here as § 1321.21. ACL made changes to paragraph (a) of this section to clarify the circumstances under which a State agency may withdraw a AAA designation. ACL also included a clarification in paragraph (b) that changes to the designation of a AAA must be included in the State plan on aging or an amendment to the State plan, with appropriate cross-references.

ACL modified the final rule to remove the following sentence from § 1321.21(d)(3), "Reasonable attempts include conducting a procurement for an applicant to serve as an area agency no less than once per State plan on aging period."

§ 1321.25 Duration, format, and effective date of the State plan

ACL finalized changes to update cross-references to other provisions, to reflect updates to statutory language, and to clarify the authority of the Assistant Secretary for Aging to provide



instructions to State agencies regarding the formation, duration, and formatting of State plans.

§ 1321.27 Content of State plan

ACL finalized that the State plan must provide evidence that is informed by, and based on, area plans in States with multiple PSAs, explain how individuals with greatest economic need and greatest social need are determined and served, include the State agency's IFF or funds distribution plan, demonstrate outreach to older Native Americans and coordination with Title VI programs, under the Act, certify that program development and coordination activities will meet requirements, specify the minimum proportion of funds that will be expended on certain categories of services, provide information if the State agency allows for Title III, part C-1 funds to be used as set forth in § 1321.87(a)(1)(i), describe how the State agency will meet its responsibilities for the Legal Assistance Developer, explain how the State will use its elder abuse prevention funding awarded pursuant to Title VII of the Act, and describe how the State agency will conduct monitoring of the assurances to which they attest.

ACL finalized and clarified the Assistant Secretary for Aging's authority to establish objectives for State plans.

ACL finalized that the State plan must define greatest economic need and greatest social need for the following populations: people with disabilities, people who experience language barriers, people who experience cultural, social, or geographical isolation, including due to racial or ethnic status, Native American identity, religious affiliation, sexual orientation, gender identity, or sex characteristics, HIV status, chronic conditions, housing instability, food insecurity, lack of access to reliable and clean water supply, lack of transportation, or utility assistance needs, interpersonal safety concerns, rural location; and people otherwise adversely affected by persistent poverty or inequality.

ACL finalized a requirement for State agencies to certify as a part of their State plans that they will meet certain requirements including what funding sources can be used for program development and coordination activities and what conditions apply to use of these funds. Funds for program development and coordination activities may only be expended as a cost of State plan administration, area plan administration, or Title III, part B supportive services, under limited circumstances.

ACL finalized a new requirement for State agencies to provide certain information regarding any permitted use of Title III, part C-1 funds (funds for meals served in a congregate setting) for shelf-stable, pick-up, carry-out, drive-through, or similar meals as permitted by new § 1321.87(a)(1)(i).

108 § 1321.29 Public participation



ACL finalized that the public must be given a reasonable minimum period of time (at least 30 calendar days, unless a waiver has been granted by the Assistant Secretary for Aging) within which to review proposed State plans and that State plan documents be readily available to the public for review. ACL clarified that State agencies must procure public input on a “periodic” basis and defines “periodic” as a minimum of once each fiscal year.

§ 1321.31 Amendments to the State plan

ACL finalized clarifications to the circumstances under which amendments to the State plan are necessary, which amendments require prior approval by the Assistant Secretary for Aging, and which amendments only need to be submitted for purposes of notification.

Specifically, amendments requiring prior approval are those necessary to reflect new or revised statuses or regulations as determined by the Assistant Secretary for Aging; an addition, deletion of change to a State agency’s goal, assurance, or information requirement statement, a change in the State agency’s IFF or funds distribution plan for Title III funds, a request to waive State plan requirements, or other required changes.

Specifically, amendments for purposes of notification only are those necessary to reflect a change in a State law, organization, policy, or State agency operation, a change in the name or organizational placement of the State agency, distribution of State plan administration funds for demonstration projects, a change in a PSA designation, a change in AAA designation, or exercising of major disaster declaration flexibilities.

§ 1321.35 Notification of State plan or State plan amendment approval or disapproval for changes requiring Assistant Secretary for Aging approval.

ACL finalized changes for consistency with other related provisions that address appeals to the Assistant Secretary for Aging regarding disapproval of State plans or amendments.

§ 1321.39 Appeals to the Departmental Appeals Board regarding State plan on aging.

ACL finalized changes to the appeals process, delegating the Departmental Appeals Board to hear the appeal and potentially refer an appeal to the DAB’s Alternative Despite Resolution Division for mediation prior to issuing a decision.

§ 1321.41 When a disapproval decision is effective.

ACL finalized removal of reference to the “Commissioner for Aging” and replaced it with “the Departmental Appeals Board” to align with previous changes.

§ 1321.43 How the State agency may appeal the Departmental Appeals Board’s decision.

ACL finalized removal of reference to the “Commissioner for Aging” and replaced it with “the Departmental Appeals Board” to align with previous changes.



§ 1321.45 How the Assistant Secretary for Aging may reallocate the State agency's withheld payments.

ACL finalized minor, non-substantive changes to the provision to reflect statutory updates.

§ 1321.49 Intrastate funding formula.

ACL finalized changes to assist State agencies in developing IFFs in compliance with the Act's requirements, to clarify the options available to State agencies, and to aid them in implementation of their IFFs.

Specifically, ACL specified that the State agencies must include the IFF in the State plan, in accordance with guidelines issued by the Assistant Secretary for Aging and using the best available data; that the formula applies to supportive, nutrition, evidence-based disease prevention and health promotion, and family caregiver services provided under Title III of the Act; and that a separate formula for evidence based disease prevention and health promotion may be used.

ACL clarified the elements of the IFF which include a descriptive statement and application of the State agency's definitions of greatest economic need and greatest social need; a statement that discloses any funds deducted for allowable purposes of State plan administration, the Ombudsman program, or disaster set aside funds, whether a separate formula for evidence-based disease prevention and health promotion is used; how the NSIP funds will be distributed; a numerical mathematical statement that describes each factor for determining how funds will be allotted and the weight used for each factor; a listing of the data to be used for each PSA in the State; a statement of the allocation of funds to each PSA in the State; and the source of the best available data used to allocate the funding.

ACL identified prohibitions related to the IFF, which include that the State agency may not: withhold funds from distribution through the formula, except where expressly allowed for State plan administration, disaster set aside funds or the Ombudsman program; exceed State plan and area plan administration caps; use Title III, part D funds for area plan administration; distribute funds to any entity other than a designated AAA, except where expressly allowed for State plan administration funds, Title III, part B Ombudsman program funds, and disaster set-aside funds; and use funds in a manner that is in conflict with the Act.

ACL specified that other requirements that apply to distribution of NSIP funds, including that cash must be promptly and equitably disbursed to nutrition projects under the Act and provisions related to election of agricultural commodities.

§ 1321.51 Single planning and service area States.



ACL clarified that single PSA State agencies, as part of their State plan, must include a funds distribution plan that mirrors many of the requirements of the IFF for States with multiple PSAs, minus distributions to AAAs. ACL set forth that single PSA State agencies may revise their funds distribution plans, subject to their policies and procedures and prior approval of the Assistant Secretary for Aging.

Subpart C- Area Agency Responsibilities § 1321.55 Mission of the area agency.

ACL removed language from the original paragraph related to a AAA's obligations with respect to focal points. ACL made minor revisions to this provision to align with updates to statutory terminology and requirements resulting from reauthorizations.

§ 1321.57 Organization and staffing of the area agency.

ACL finalized its proposal to redesignate § 1321.55 of existing regulation, as § 1321.57. Additionally, the revision eliminated a prohibition within paragraph (a)(2), allowing multipurpose agencies functioning as Area Agencies on Aging (AAAs) more flexibility in their operations, provided they adhere to State agency policies. Furthermore, minor revisions were finalized at § 1321.57(a)(1) to account for the addition of family caregivers as a service population pursuant to the 2000 amendments to the Act (Pub. L. 106-501).

§ 1321.61 Advocacy responsibilities of the area agency.

ACL finalized minor revisions to § 1321.61 as per the 2000 amendments to the Act (Pub. L. 106-501) to reflect the inclusion of family caregivers as a service population, along with updates to cross-references in the provision.

§ 1321.63 Area agency advisory council.

ACL finalized its proposal to redesignate 1321.57 to § 1321.63, incorporating new language regarding the obligation of Area Agencies on Aging (AAAs) to seek public input for area plans. Minor modifications were made to clarify the advisory council's composition requirements, including the inclusion of individuals and representatives from community organizations serving the AAA's designated area. Additionally, revisions were made to reflect the inclusion of family caregivers as a service population following the 2000 amendments to the Act (Pub. L. 106-501).

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

ACL finalized consolidating and redesignating existing regulations related to the evaluation of unmet needs (§ 1321.52) and the submission of area plans (§ 1321.59). The combined regulation, now designated as § 1321.65, outlines specific requirements for state agencies in developing area plans, including identifying populations with economic and social needs,



evaluating unmet needs, involving the public in plan development, specifying services, funding distribution, and ensuring compliance with nutrition program changes.

ACL finalized in paragraphs (c) and (d) the inclusion of new requirements related to nutrition programs, specifying the provision of information on alternative meal service options in area plans. The update also reflects statutory changes related to hunger, food insecurity, malnutrition, social isolation, and self-directed care in area plans.

ACL finalized in paragraph (e) that area plans must be coordinated with and reflect State plan goals.

§ 1321.71 Purpose of services allotments under Title III.

ACL finalized the redesignation of § 1321.63 to § 1321.71, specifically addressing the purpose of services allotments under Title III with revisions made to align with statutory updates related to services under Title III and to maintain consistency with other regulatory changes.

§ 1321.73 Policies and procedures

ACL finalized the redesignation of § 1321.65 provisions related to responsibilities of service providers under area plans to § 1321.73 and § 1321.79 which outlines requirements for Area Agencies on Aging (AAAs) and local service providers to develop and implement policies and procedures aligned with State agency policies (§ 1321.9). The specific requirements previously listed in sections (b)-(g) were moved to other sections.

ACL finalized that State agency and AAAs are now mandated to establish monitoring processes, and the results are encouraged to be made public, promoting accountability and responsible use of public funds as required by the Act.

§ 1321.75 Confidentiality and disclosure of information.

ACL finalized redesignating existing regulations related to confidentiality procedures in § 1321.75. The revised section establishes updated requirements for State agencies and AAAs (Area Agencies on Aging) regarding the protection of sensitive information collected from older adults and family caregivers.

ACL finalized mandates which ensure that policies and procedures that service providers promote the rights of older individuals, including the right to confidentiality. Compliance with all applicable Federal requirements is required, and State agencies may impose additional laws and guidance for handling Personal Identifiable Information (PII) and personal health information.

ACL finalized exceptions to confidentiality requirements, allowing disclosure with informed consent, court orders, and for program monitoring and evaluation purposes. Covered entities must comply with all applicable Federal requirements. § 1321.75 also permits sharing



individual information and records with other State and local agencies, community-based organizations, and healthcare providers, encouraging the development of memoranda of understanding for such purposes.

§ 1321.79 Responsibilities of service providers under State and area plans.

ACL finalized redesignating and retitling a provision from § 1321.65 to § 1321.79 and § 1321.73 for clarity in regulations related to the responsibilities of service providers under area plans. Minor revisions reflect statutory updates regarding family caregiver services under Title III, emphasizing meeting the needs of individuals in greatest economic and social need. The change encourages providers to offer self-directed services when feasible and emphasizes compliance with local adult protective services requirements. The rule specifies that the provision applies to both State and area plans, noting circumstances where service providers may operate under a State plan. Additionally, reporting requirements previously in paragraph (a) have been moved to § 1321.73, addressing accountability requirements for service providers.

§ 1321.83 Client and service priority.

ACL finalized redesignating a provision from § 1321.69 to § 1321.83 in existing regulations related to service priorities for frail, homebound, or isolated elderly individuals. The revised section addresses inquiries about prioritizing services for different groups, especially in response to the demand created by the COVID-19 Public Health Emergency (PHE). § 1321.83 clarifies that entities have the flexibility to set their own service priorities. It specifies that State agencies are responsible for establishing service priorities but can delegate discretion to Area Agencies on Aging (AAAs) and service providers at the local level. Additionally, revisions account for the inclusion of the National Family Caregiver Support Program and establish priorities for serving family caregivers based on the 2000 amendments to the Act (Pub. L. 106-501).

§ 1321.93 Legal assistance.

CMS acknowledged revisions made to Section 1321.93 of existing regulations concerning legal assistance for older adults, which are being updated to better align with the objectives of the Older Americans Act (OAA). These revisions aim to clarify the responsibilities of State agencies, Area Agencies on Aging (AAAs), and legal assistance providers in delivering legal aid to qualifying older individuals. The OAA emphasizes the rights of older adults to freedom, independence, and protection against abuse and neglect, underscoring the crucial role of legal assistance programs in upholding these rights. CMS explained that the revisions seek to streamline processes, provide technical assistance for effective coordination among stakeholders, and ensure clarity and consistency in the provision of legal assistance to older adults.



CMS noted specific requirements for State agencies and AAAs in allocating funds for legal assistance, maintaining contractual agreements with legal assistance providers, and overseeing the provision of legal aid. Emphasis is placed on serving populations with the greatest economic or social needs, including minority older individuals, LGBTQI+ older adults, and those with limited English proficiency or living in isolated settings. Furthermore, CMS highlighted the prioritization of areas of law such as long-term care, alternatives to guardianship, and defense against guardianship, reflecting the diverse legal needs of older adults.

Additionally, CMS addressed ethical considerations and standards for legal assistance providers, prohibiting the solicitation of fees from clients and ensuring adherence to professional conduct rules. It emphasized the importance of maintaining confidentiality and avoiding conflicts of interest while providing legal aid to older adults. Furthermore, CMS emphasized the prohibition of using OAA funds for political contributions, lobbying, or activities unrelated to legal assistance. Overall, the revisions aim to enhance the effectiveness and accessibility of legal assistance programs for older adults while upholding ethical standards and promoting their rights to autonomy and self-determination.

CMS acknowledged the importance of legal assistance provided by paralegals, law students, and other non-legal professionals under the direct supervision of attorneys, as outlined in § 1321.93(a)(2) and other relevant sections. This recognition aligns with the goal of ensuring high-quality legal representation for older individuals while adhering to the Rules of Professional Conduct set forth in the Older Americans Act. Despite a commenter's request for more detailed information about the Rules of Professional Conduct established by State judicial systems and bar associations, CMS declined, citing the scope of the regulations.

Regarding collaboration with other agencies and programs, CMS noted the potential for AAA information and referral services, State Health Insurance Assistance Programs, ADRCs, Long-Term Care Ombudsman Programs, and Centers for Independent Living to work with legal assistance programs to provide comprehensive services. While one commenter suggested that AAAs should be allowed to facilitate legal services through non-legal providers if appropriate, CMS emphasized the importance of ensuring that legal interventions meet the standards outlined in the Act and are provided by qualified professionals under proper supervision. This includes representation in judicial proceedings, such as opposing guardianship for older adults, which may require the expertise of attorneys and non-lawyers supervised by attorneys to address effectively.

CMS emphasized the importance of utilizing pro bono attorneys as outlined in Section 307(a)(11) of the Act, which requires contracts for legal assistance services to promote coordination with the private bar for pro bono or reduced fee services for older Americans. In



alignment with this requirement, Section 1321.93(e)(2)(iv) of the regulations mandates that selected legal assistance providers make reasonable efforts to engage the private bar for pro bono or reduced fee services. While acknowledging the value of pro bono attorneys in increasing representation for Older Americans Act (OAA) clients, CMS reminded State agencies and AAAs that Section 307(a)(2)(C) of the Act mandates the designation of a minimum proportion of Title III, part B funds for direct legal services.

Furthermore, CMS clarified that reliance solely on pro bono attorneys to provide legal assistance would not fulfill the requirement to fund legal assistance programs, as stipulated in Section 306(a)(2)(C) of the Act. AAAs receiving allotted funds are obliged to dedicate this amount, termed the "adequate proportion," to contracting for legal assistance provision. Moreover, according to Section 1321.93(d)(1), which outlines standards for legal assistance provider selection, providers must demonstrate the capacity to retain staff with requisite expertise. A program relying exclusively on pro bono attorneys would not meet this requirement, underscoring the necessity of a balanced approach to funding and staffing legal assistance programs.

CMS emphasized the necessity of ensuring adequate minimum funding to maintain a robust legal assistance program in accordance with the Older Americans Act (OAA). However, CMS opted not to delineate detailed processes for State agencies in this regulation, citing variations in the size and needs of the older population in each state, and the absence of similar requirements for other services. Nonetheless, CMS committed to providing technical assistance to State agencies to help them achieve the objective of securing adequate minimum funding for legal assistance. While acknowledging comments regarding insufficient funding for legal assistance programs, CMS noted that such concerns fell outside the scope of the regulation.

CMS declined to make the requested change, citing Section 307(a)(11)(D) of the Older Americans Act (OAA), which stipulates that OAA-supported legal assistance should be provided "to the extent practicable" in addition to any legal assistance funded by sources other than the Act. This provision acknowledges the need for flexibility to ensure adequate and high-quality legal assistance for all older Americans with economic or social need and does not establish OAA legal assistance as a "last resort." Moreover, the Act requires reasonable efforts to maintain existing levels of legal assistance for older individuals, which aligns with the feedback received.

Furthermore, CMS agreed with a legal services provider who highlighted the significance of OAA Title III, part B funding for legal aid, noting how it enabled them to expand services to a larger number of older clients. The commenter appreciated the flexibility afforded to legal



assistance programs in utilizing funds for each case and coordinating with other sources of funding. CMS expressed gratitude to the commenters for their input on this matter.

CMS acknowledged the input regarding § 1321.93(d)(1) and amended the subsection as requested. The delineated priority legal areas in § 1321.93(d)(2) aligned with those specified in section 307(a)(11)(E) of the OAA; contrary to one commenter's assertion, the proposed rule did not expand upon these areas. However, within each community, the AAA-contracted legal assistance provider could determine, in consultation with relevant stakeholders, how to focus on implementing the required case priorities to meet the needs of older individuals with economic or social need in their community.

Furthermore, the balancing of priorities could have evolved over time as circumstances changed. For instance, legal assistance providers may have prioritized different areas such as Medicaid fair hearings, representation in medical debt cases, or addressing evictions and homelessness among older adults, depending on the prevalent issues in their respective communities. CMS's objective was to ensure that the legal assistance providers contracted by AAAs possessed expertise in specified areas of importance to older people with the greatest economic or greatest social need who received services under the OAA.

CMS reiterated the use of "defense of guardianship" in the regulations, aligning with language from the OAA. They acknowledged the confusion surrounding the term and thus added a separate subsection to define it more clearly. This definition encompasses guardianship prevention, including advance directives and supportive decision arrangements chosen by older individuals. Additionally, CMS agreed that guardianship encompasses conservatorship and similar fiduciary proceedings, leading to revisions in the terminology used in the regulations. Furthermore, a technical correction was made to ensure accurate cross-referencing within the regulations.

CMS acknowledged ACL's strong support for person-centered planning, particularly in § 1321.77(b), which provides older adults and family caregivers with the opportunity to develop such plans discussing services under the Act. While acknowledging the importance of including the views of older adults and family caregivers on guardianship and alternatives, CMS clarified that person-centered plans developed in the context of certain Medicaid benefits fall outside the scope of these regulations. Regarding the request to involve the person subject to guardianship to the maximum extent possible, CMS noted that this aligns with existing obligations of attorneys under Rules of Professional Conduct. They clarified that state law, rather than federal law, governs the involvement of individuals under guardianship with their guardian, thus stating that this request exceeds the scope of the regulations. Furthermore, CMS emphasized that attorneys representing persons under guardianship maintain all ethical duties to their clients as dictated by their state's Rules of Professional



Conduct, and the appointment of an attorney for individuals subject to a guardianship petition is governed by state law, not federal law.

CMS expressed gratitude for the comments and stated that they have revised the relevant provisions based on them. They acknowledged that attorneys representing individuals proposed for and subject to guardianship typically aim to seek diversion from and alternatives to guardianship. However, CMS recognized and agreed that limitations on guardianship may be suitable in certain circumstances.

CMS acknowledged and appreciated the concerns raised by the commenter. They emphasized their regulatory approach, which aims to promote alternatives to guardianship and support limitations on its imposition. Regarding conflicts of interest (COIs), CMS explained that their provisions are designed to prevent conflicts that could arise if an Area Agency on Aging (AAA) receives external funding to serve as a guardian, while also contracting with legal assistance entities that advocate for alternatives to guardianship or seek to revoke existing guardianships. CMS noted that similar conflicts could arise if a legal assistance program funded by the Legal Services Corporation (LSC) brings a petition for guardianship while the Older Americans Act (OAA)-funded component is asked to represent the individual subject to the guardianship. They clarified that Rules of Professional Conduct and standard legal services processes would apply to address such conflicts among clients.

CMS acknowledged the responses from the commenters and expressed gratitude. They emphasized the importance of identifying the least restrictive means to pursue rights, such as those described. CMS stressed that legal assistance providers funded by the Older Americans Act (OAA) should consistently strive to avoid guardianship unless they can demonstrate that no other option is available. However, CMS declined the request from Centers for Independent Living (CILs) to be identified as entities capable of filing guardianship petitions, stating that petitioning for guardianship goes against the mission of CILs to promote autonomy and self-direction. They intend to offer technical assistance to provide additional clarification based on the comments received.

CMS acknowledged that many state statutes require documentation from all parties involved in guardianship proceedings. They accepted these comments and have modified the language accordingly. Additionally, commenters suggested making the exception to defense of guardianship a separate section for clarity. CMS accepted these suggestions as well. Consequently, they have amended § 1321.93(d)(2)(ii)(A) to create a new § 1321.93(d)(2)(ii)(C), outlining the limited circumstances in which a legal assistance program may file a guardianship petition on behalf of an older individual, specifically when other adequate representation is unavailable, and when the provider documents the circumstances as described above.



CMS acknowledged the concerns expressed by these commenters and affirmed that the regulations require legal assistance providers to furnish the necessary accommodations. They agreed with the commenters regarding the importance of providing interpretation and translation services through qualified individuals. This is particularly crucial given the technical nature of legal discussions. CMS emphasized that employing untrained laypersons for interpretation and translation could lead to adverse outcomes and would be inconsistent with civil rights obligations.

CMS declined to make an edit requested by a commenter on the removal of the requirement in Section 1321.93(f)(4)(ii)(A)(5) that legal assistance providers may only testify before a government agency, legislative body, or committee when specifically requested to do so by the entity, noting that the language aligns with other requirements applicable to recipients of federal funding.

Background/Rationale

§ 1321.9(c)(2)(iii) Transfers

ACL received a lot of comments that the rules regarding the transfers between Title III, parts C-1 and C-2 and between Title III, and parts B and C, were too restrictive. ACL noted that § 308(b) of the Act is the statutory basis behind any transfer provisions revisions. This section already does not allow the State agency to delegate authority to make a transfer to a AAA or any other entity and is the authority requiring State agencies to simplify the transfer process.

§ 1321.9(c)(2)(iv) State, Territory, and area plan administration

ACL received comments expressing concern about the amount of spending for private contracts. ACL highlighted that commercial contracts are permitted but not required, and highlighted that the level of funding and requirements for State policies and procedures are limiting enough.

ACL received several differing comments about if the amount of funding allocated was too high or low. ACL noted that the maximum amounts allocated for State and area plan administration are specified in the Act, and ACL does not have the authority to modify such amounts.

§ 1321.9(c)(2)(v) Minimum adequate proportion

ACL received several comments about the impact of a lack of leadership continuity in State agencies and the harmful potential of minimum expenditure and minimum proportion requirements. ACL noted that §307(a)(2)(C) of the Act requires each State plan to specify a minimum proportion and that cannot be changed by ACL. Further, ACL highlighted that



minimum expenditure requirements are already imposed by State agencies and are not a new burden.

ACL explained that funding for caregiver services is already covered by Title III, part E funds. Further, State agencies may choose to allocate Title III, part B funds towards that if they choose.

§ 1321.9(c)(2)(vi) Maintenance of effort

ACL denied this edit to the requirements based on the statutory language of the Act which provides that “[a] State’s allotment under section 304 [of the Act] . . . shall be reduced by the percentage (if any) by which its expenditures for such year from State sources. . . are less than its average annual expenditures.”

§ 1321.9(c)(2)(vii) State Long-Term Care Ombudsman Program

ACL received several comments expressing concern that the language was unclear. ACL prioritized the ease of understanding if the Act is ever reauthorized in removing the specific fiscal year.

§ 1321.9(c)(2)(viii) Rural Minimum Expenditures

ACL received comments that the language was unclear and could lead to State agencies lacking necessary information. ACL added that State agencies are the best determinants of which processes to use to determine the costs of services. ACL further guided State agencies to § 307(a)(3)(B) of the Act for further information on how to comply. ACL believes that maximum flexibility must be given to States in this regard because of their expertise on their neighborhoods and aging populations.

ACL clarified that OAAPS uses rural-urban commuting area (RUCA) codes defined at the ZIP code level to determine whether an individual program participant resides in a rural or non-rural area. ACL further clarified that for those clients for whom demographic data must be reported into OAAPS, all State agencies must use this definition and tool to report on “rural” program participants. Where the two definitions are distinct from each other, State agencies need only use the OAAPS definition for reporting.

ACL discussed that this requirement addresses the concerns that older adults that may be struggling more than others are adequately addressed.

ACL noted that subsection (A) requires the State agency to establish a process and control for determining the definition of rural areas within their State in part so that the State agency



will be able to comply with the rural minimum expenditure requirement. Further, ACL described that § 307(a)(3) requires State agencies to provide assurances about their compliance with the minimum expenditure plan.

ACL discussed that the needs of metropolitan areas can be addressed in §§ 1321.49 and 1321.51, which require State agencies to develop the IFF or funds distribution plan, through a process that allows for input from area agencies, interested parties, and the public.

ACL received feedback that the definition of rural is inaccurate and harmful to the OAAPS reporting system. ACL disagreed with this assessment.

§ 1321.9(c)(2)(ix) Reallotment

ACL clarified that a State agency must distribute any reallotted funds in accordance with the IFF or funds distribution plan, required in § 1321.49 or § 1321.51.

§ 1321.9(c)(2)(x) Voluntary contributions

ACL received several comments in support of this provision and its express distinction from cost-sharing programs. ACL received multiple comments requesting clarification of the portion of the provision encouraging voluntary contributions for those who have self-reported incomes above 185% of the FPL. Some commenters suggested modification or removal of this rule.

ACL wrote that States have a long history of voluntary contribution programs. Voluntary contributions allow participants to show their support for the programs and expansion to others in the community.

ACL received a few comments objecting to the solicitation of contributions by Ombudsman programs.

Commenters expressed confusion regarding the distinctions between voluntary contributions and cost sharing. ACL clarified in §1321.9(c)(2)(x) that voluntary contributions are allowed as long as the method of solicitation is noncoercive. ACL also lists services for which the Act prohibits cost sharing. One commenter requested that AAAs be allowed to implement cost sharing for Title III, part C nutrition programs (congregate and home-delivered meals). However, Section 315(a) of the Act prohibits cost sharing for congregate and home-delivered meals.



ACL responded to numerous concerns from AAAs regarding inconsistent State agency approaches to contracts and commercial relationships, as well as concerns from State agencies about the level of risk and associated oversight required by encouraging a review and approval process that complies with the statutory requirements found in section 212 and throughout Title III.

Many commenters raised concerns about the appropriate degree of State oversight and the role of the State agency. ACL agrees that State agency oversight policies and procedures should be streamlined, transparent, not overly burdensome to either the State or the subrecipients of Federal funds. ACL believes that requiring State agencies to establish clear policies and procedures for approval processes, developed in consultation with AAAs, will expedite the establishment of important partnerships.

Commenters were interested in minimizing the State's oversight role regarding contracts and commercial relationships described in section 212 of the Act¹⁴⁴ that are executed by AAAs without expending OAA funding. ACL disagreed with commenters who described State oversight in this area as an overreach.

ACL noted that both section 212 and section 306(a) establish an important oversight role for State agencies. ACL explains the intention of this provision is to help ensure that the activities in which recipients and subrecipients of funding under the Act engage further the intended benefits of the Act and do not compromise core responsibilities or the statutory mission of State agencies, AAAs, and service providers.

ACL received technical assistance and clarification requests from State agencies and AAAs seeking to apply funding awarded under Title III to costs related to buildings and equipment (such as maintenance and repair). ACL responded that the Act provides limited standards regarding this use of funding and added paragraph § 1321.9(c)(2)(xv) to provide clarification. One commenter expressed concern that § 1321.9(c)(2)(xv) does not adequately address equipment.

ACL declined to revise § 1321.9(c)(2)(xviii) despite commenters expressing concern that this section includes requirements that may be difficult to comply with, given the diverse needs of area agencies.

ACL received comments supporting PSA designation appeals to the DAB. ACL believes the HHS DAB provides impartial, independent review of disputed decisions under more than 60 statutory provisions and this change will provide clarity and consistency to State agencies and AAAs and is aligned with the intent of the Act.



ACL provided greater clarity in § 1321.19 to assist State agencies in understanding the designation process pursuant to section 305 of the Act and the types of agencies permitted by the Act to serve as AAAs.

§ 1321.25 Duration, format, and effective date of the State plan

Commenters supported this provision and recommended additional coordination opportunities; ACL highlighted that they intend to provide technical assistance regarding implementation of this provision.

§ 1321.27 Content of State plan

State agencies must develop and administer a multi-year State plan on aging which delineates goals and objectives related to assisting older individuals and family caregivers. The Act directs agencies and AAAs to focus attention, advocacy, and service provision toward those in greatest economic need and greatest social need. The listed populations within the Act include those identified in Executive Order 13985 *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. The final rule establishes standard expectations for whom State agencies must include in their definitions of greatest economic need and greatest social need, while allowing State agencies flexibility to include additional populations specific to their circumstances. Upon identifying these populations, the State plan must include how the State agency will target services to these populations.

As part of this, State agencies engage in program development and coordination activities to meet the needs of older adults. State agencies are also encouraged to translate activities, data, and outcomes into proven best practices, which can be used to leverage additional funding and to build capacity for long-term care systems and services in the State.

In response to the COVID-19 Public Health Emergency (PHE), ACL provided guidance on innovative, permissible service delivery options that grantees could use to provide meals to older individuals and other eligible recipients of home-delivered meals with Title III, part C-2 funds. In response to comments from grantees and interested parties on the RFI, ACL included a new provision at § 1321.87 to allow these meal delivery methods through the use of Title III, part C-1 congregate meal funds, subject to certain terms and conditions. Since this represents an expansion of the permitted use of congregate meal funds, State agencies must provide information about this use of Title III, part C-1 funds in their State plans.

§ 1321.29 Public participation

The Act requires State agencies to periodically solicit the views of older individuals, family caregivers, service providers, and the public regarding the development and administration of the State plan and the implementation of programs and services under the Act.



Commenters requested more specificity and direction regarding the requirement that State agencies obtain input on a periodic basis; ACL defined this in the final rule as at a minimum, once each fiscal year. Commenters also highlighted the importance of ensuring that individuals from underserved communities, as well as Tribal governments, have an opportunity to participate.

§ 1321.31 Amendments to the State plan

Several commenters expressed concern regarding delayed response times due to a State plan amendment requirements for funding set aside to address disasters. Several commenters also requested ACL clarify the timeframes for State plan amendment submissions. ACL replied that using funds set aside to address disasters does not require prior approval and they intend for this requirement to facilitate transparency and community in times of emergency, not delay response time.

§ 1321.35 Notification of State plan or State plan amendment approval or disapproval for changes requiring Assistant Secretary for Aging approval.

Commenters requested that ACL commit to an established or specific response time frame for State plan and State plan amendment submissions that require prior approval; ACL noted that they will use reasonable efforts to respond to State plan and State plan amendment submissions that require prior approval within 90 calendar days of receipt.

113 § 1321.39 Appeals to the Departmental Appeals Board regarding State plan on aging.

Historically, the Assistant Secretary for Aging would have facilitated the appeals process. Appeals have been delegated to the Departmental Appeals Board (DAB) in accordance with the procedures set forth in 45 CFR part 16. Delegation of appeals to the DAB will continue to fulfill the statutory mandate to afford a State agency reasonable notice and opportunity for a hearing, while streamlining administrative functions and providing robust due process protections. ACL believes this change will provide clarity and consistency to State agencies and is aligned with the intent of the Act.

§ 1321.49 Intrastate funding formula.

ACL finalized changes that the State agency must include the IFF in the State plan, in accordance with guidelines issued by the Assistant Secretary for Aging and using the best available data, that the formula applies to supportive, nutrition, evidence-based disease prevention and health promotion, and family caregiver services provided and health promotion may be used.

Changes are designed to assist State agencies in developing IFFs in compliance with the Act's requirements, to clarify the options available to State agencies, and to aid them in implementation of their IFFs.



Commenters highlighted the need for a transparent process for the development of the IFF in a State, and more transparency in the content of the IFF.

§ 1321.51 Single planning and service area States.

Most of the language of the existing provision relates to confirming the approval of an application of a State which, on or before October 1, 1980 was a single PSA, to continue as a single PSA if the State agency met certain requirements. Only State agencies currently designated as a single PSA State may have such status; accordingly, ACL removed this language and clarified the specific requirements that apply to operating as a single PSA State.

Based on questions they have received from such State agencies, ACL clarified that single PSA State agencies must meet requirements for AAAs, unless otherwise specified.

In response to comments, ACL specified that the public be given a reasonable minimum period of time (at least 30 calendar days, unless a waiver has been granted by the Assistant Secretary for Aging) for review and comment of any proposed changes to the funds distribution plan.

Subpart C- Area Agency Responsibilities § 1321.55 Mission of the area agency.

The existing language set forth in § 1321.53(c) regarding a AAA's obligations with respect to focal points goes well beyond the requirements with respect to focal points that are set forth in section 306(a) of the Act. Focal points in previous § 1321.53(c) focused on the need for brick-and-mortar facilities such as multipurpose senior centers. In light of the social service systems climate in which AAAs operate today, the existing language limiting these focal points to facilities could impede a AAA's ability to develop and enhance comprehensive and coordinated community-based systems in, or serving, its PSA, as contemplated by the Act. Accordingly, ACL removed the language from this paragraph related to a AAA's obligations with respect to focal points.

§ 1321.57 Organization and staffing of the area agency.

Comments were received regarding the proposed elimination of a requirement in § 1321.55(a)(2), which prohibited a separate organizational unit within a multipurpose agency from having any purpose other than serving as an Area Agency on Aging (AAA) with some expressing concerns about potential restrictions on State agency approval authority. ACL acknowledged the flexibility the change provides, emphasizing existing safeguards in the Act and regulations.

In response to suggestions to amend § 1321.57(a)(1) to allow area agencies to provide programs to populations beyond older adults and family caregivers, ACL noted the Act's



statutory authority for area agencies to serve adults aged 60 and older, including those with disabilities, and made a minor revision to account for family caregivers.

In response to suggestions to eliminate § 1321.57(b) due to concerns about costs associated with administrative functions, ACL acknowledged the financial considerations but maintained the provision, emphasizing the need for qualified staff to fulfill area agency responsibilities.

§ 1321.61 Advocacy responsibilities of the area agency.

ACL clarified the advocacy roles outlined in the Act and stated that appeals processes are established at the State level. In response to comments highlighting barriers to implementing advocacy responsibilities, ACL clarified that advocacy responsibilities are specific to each Planning and Service Area (PSA). Consistent revisions were made to § 1321.19, § 1321.49, § 1321.63, and § 1321.65 for clarity and consistency.

§ 1321.63 Area agency advisory council.

Commenters expressed concerns about potential conflicts of interest (COI) arising from Title III service delivery representatives and representatives of health care provider organizations serving on area agency advisory councils, highlighting worries about bias in awarding OAA funds. ACL declined suggestions to exclude these representatives, emphasizing their fundamental role in developing community-based systems of services. ACL's response underscores the separation of advisory councils from funding decisions, citing COI safeguards in existing regulations. ACL also declined additional restrictions on advisory council roles, instead offering technical assistance regarding each entity's functions and corresponding best practices.

ACL clarified the advisory council's primary focus on assisting the area agency, added a prohibition against the council operating as a board of directors, and committed to offering technical assistance on this topic in response to comments seeking clarification on the advisory council's role, distinctions from a board of directors, and public hearing requirements for the area plan.

ACL noted openness to flexibility in council composition and retained the inclusion of family caregivers, specifically older relative caregivers, in advisory councils based on the 2000 amendments to the Act in response to comment regarding a majority of advisory council members being older persons and inclusion of family caregivers.

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

ACL revised § 1321.65 to specify requirements for each PSA for consistency in response to commenters seeking clarification on how the provisions apply to AAAs serving multiple PSAs. ACL also clarified expectations for area plans, maintaining that responsibility remains with the



State and area agencies in response to concerns about the difficulty of data collection and recommendations for broader language for local flexibility.

Commenters raised concerns about the capacity and training required for data collection to assess unmet needs to meet § 1321.65(b)(3) which requires area plans to provide an assessment and evaluation of unmet need for supportive services, nutrition services, evidence-based disease prevention and health promotion, family caregiver support, and multipurpose senior centers. ACL acknowledged this concern, modifying language to give area agencies the flexibility to conduct assessments and evaluation of unmet need based upon considerations within the PSA, also offering technical assistance regarding best practices and tools for data collection.

In response to concerns regarding the proposed minimum time period for public participation in area plan development at § 1321.65(b)(4) and its impact on administrative capacity, ACL revised the language to specify a reasonable minimum period (at least 30 calendar days), also noting that technical assistance will be provided for timely solicitation and reporting related to public participation.

§ 1321.71 Purpose of services allotments under Title III.

ACL states that these revisions accommodate additions like the National Family Caregiver Support Program and the inclusion of family caregivers as a service population, as mandated by the 2000 amendments to the Act (Pub. L. 106-501). Furthermore, additional minor revisions aim to enhance clarity, including adjustments for distinctions in how Title III funds are awarded based on whether a state is a single PSA State or has AAAs, with references to language on IFFs (Information and Referral Functions), funds distribution plans, and the provision of direct services by State agencies and AAAs.

Commenters expressed support for including family caregivers as a service population, sought clarification on funding for information technology systems under Title III, expressed concern about the omission of the Ombudsman program as an allowable supportive service, and suggested specifying that the IFF referenced in § 1321.71(c) is the one set forth at § 1321.49. ACL clarified the eligibility of information technology systems for Title III direct services funds, confirmed the inclusion of the Ombudsman program in allowable services under Title III, part B, and accepted commenters suggestion to specify that the IFF referenced in § 1321.71(c) is the one set forth at § 1321.49.

§ 1321.73 Policies and procedures

Commenters sought clarification on expectations for an "independent qualitative and quantitative monitoring process." Requests were made for clarification on whether assessments and assessment policies should be made public and for the development of a



core set of services with standardized quality measures. ACL clarified the expectation that State agencies and AAAs conduct monitoring, allowing flexibility to respond to local needs. ACL noted the Act's core required services while acknowledging the latitude for states to determine implementation based on local circumstances. ACL declined to impose additional requirements beyond the Act.

Additional comments sought improvements in services like meal presentation. ACL acknowledged the importance of such services and emphasized person-centered approaches as set forth in § 1321.77. ACL clarified the provision at § 1321.73(c) to highlight the importance of the participant experience and preferences in monitoring participant needs.

§ 1321.75 Confidentiality and disclosure of information.

ACL clarifies that revisions in § 1321.75 explain the obligation of State agencies, AAAs, and other relevant entities to safeguard confidentiality, explicitly prohibiting the disclosure of protected information. For example, providers of ombudsman services are prohibited from revealing information protected under specific provisions, and legal assistance providers are not required to disclose information protected by attorney-client privilege.

In response to comments encouraging organizations to abide by Tribal data sovereignty policies, ACL added a statement at § 1321.75(f) urging State agencies to consult with Tribes on applicable data sovereignty expectations.

ACL removed the reference to HIPAA and clarified that State agencies must comply with all relevant Federal requirements while encouraging awareness of potential HIPAA obligations for OAA recipients in response to concerns about confusion by expressly including HIPAA.

§ 1321.79 Responsibilities of service providers under State and area plans.

Commenters raised concerns about the sharing of information with local Adult Protective Services (APS) without the older person's consent, particularly for legal assistance and ombudsman services in § 1321.79(d). In response, ACL clarified § 1321.79(d) to align with local APS requirements, with exceptions outlined in § 1321.93. While additional declined to make further changes to the provision, expressing an intention to address suggestions and requests for clarification through technical assistance.

§ 1321.83 Client and service priority.

Comments on the provision were mixed, with some expressing support and others expressing confusion, particularly regarding priorities outlined in subsection (c). In response, ACL replaced "When" with "If" in § 1321.83(c)(3) to clarify that service to older relative caregivers is optional. ACL notes that, due to limited resources, the Act does not mandate service to older relative caregivers, but if provided, priority should be given to those caring for individuals with severe disabilities.



Commenters also inquired about whether funds for the Ombudsman program under Title III, part B are subject to the requirements at § 1321.83(b). ACL responded by revising § 1321.83(b) to explicitly exclude Ombudsman program services, stating that they are subject to provisions at part 1324.

ACL declined making further changes to § 1321.83 based on additional suggestions, program management recommendations, and implementation questions received. ACL indicated the intention to address additional suggestions and requests for clarification through sub-regulatory guidance and technical assistance.

§ 1321.93 Legal assistance.

Commenters raised concerns regarding the proposed definition of legal assistance in § 1321.93(a)(2), which solely referred to legal advice and/or representation provided by an attorney. They highlighted that non-lawyers, such as paralegals and law students, may also offer legal advice or representation in certain situations, as permitted by state law. This prompted calls for an amendment to accommodate the potential involvement of non-lawyers in legal assistance activities under the Act.

Another commenter expressed concerns regarding the continued ability to utilize pro bono attorneys.

Several commenters expressed concerns regarding the variation in the amount of funding allocated by each State agency for legal assistance, as outlined in proposed § 1321.93(b)(2) and (c)(1). They highlighted the challenge this presents for legal assistance providers in adequately representing those with the greatest economic and social needs across priority areas established in the Older Americans Act (OAA) and corresponding regulations. Commenters emphasized the importance of adequate funding rather than just meeting minimum requirements. They suggested that regulations should offer clear guidance on how States can establish an appropriate minimum proportion of funding for legal assistance to ensure sufficient support for a reasonable number of full-time attorneys statewide.

Commenters voiced support for the regulations' provisions mandating formalized agreements to facilitate coordination and collaboration among various aging service providers. They cited partnerships with long-term care ombudsmen, Adult Protective Services (APS) programs, Senior Health Insurance Programs (SHIPs), law enforcement, State Attorneys, Centers for Independent Living (CILs), and other entities. Specifically, they endorsed § 1321.93(b)(1), which outlines requirements for legal services. However, one commenter proposed a requirement that Older Americans Act (OAA) funds be utilized as a last resort for providing services to older individuals, ensuring that OAA funds are not used if the provider has Legal Services Corporation (LSC) funding available.



ACL mandates in § 1321.93(d) that selected legal assistance providers must employ staff with expertise in specific areas of law pertinent to older individuals with economic or social need, including public benefits, resident rights, and alternatives to institutionalization. Additionally, ACL requires these providers to demonstrate proficiency in priority areas outlined in the Older Americans Act (OAA), such as income and public entitlement benefits, healthcare, long-term care, and others.

While many commenters supported the list of statutorily mandated substantive areas for legal assistance providers, some suggested amendments. One commenter proposed expanding § 1321.93(d)(1) to encompass all priority areas outlined in section 307(a)(11)(E) of the Act, rather than the three areas specified. Others raised concerns about the list, suggesting that AAAs should consider the specific needs of their communities or that finding attorneys with requisite knowledge might be challenging in rural areas. One commenter advocated for adding consumer law as a priority area to support older adults wishing to age in their homes, while another recommended including pensions as a priority area.

Additionally, some commenters expressed concerns that the further definition of defense of guardianship in § 1321.93(d)(2)(i) might prioritize these cases over other priority areas outlined in the Act.

Several commenters expressed confusion regarding the term "defense of guardianship" as outlined in § 1321.93(d)(2)(i). They interpreted it as contradictory to the proposed rule's aim of promoting self-determination and alternatives to guardianship. Suggestions were made to revise the wording to "defense against guardianship" or to allocate funding towards measures preventing guardianship. Additionally, recommendations were made to clarify that "guardianship" encompasses conservatorship and similar fiduciary proceedings. Moreover, commenters proposed updating the terms "proposed protected persons" and "protected persons" to "older individuals at risk of guardianship" and "older individuals subject to guardianship," respectively, in line with the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA).

Several commenters suggested expanding beyond the proposed definition of defense of guardianship. They proposed requirements such as memorializing beliefs about guardianship in person-centered plans, maximizing involvement of the person subject to guardianship, and mandating legal representation for all individuals involved in guardianship proceedings.

A commenter suggested revisions to the regulations, specifically in § 1321.93(d)(2)(i), to require seeking limitation of guardianship both during its initial establishment and in



subsequent petitions for modification. Additionally, they recommended amending § 1321.93(d)(2)(ii)(A) and (B) to emphasize the promotion of limited guardianship.

Various organizations representing older individuals or people with disabilities provided comments on guardianship in response to the discussion about the term "defense of guardianship" in the proposed rule. All commenters expressed agreement that guardianship should be avoided whenever possible. Some suggested alternatives to guardianship, including those mentioned in the proposed regulations, while others proposed complementary approaches such as increased education on advance planning and honoring individual preferences. Many highlighted the important role of aging and disability organizations in advocating for and safeguarding the interests of older individuals. Regarding the role of legal assistance and Area Agencies on Aging (AAAs) in defending guardianship, one commenter agreed that public guardianship should be a last resort and emphasized the importance of maintaining clear boundaries between AAA functions and guardianship to prevent conflicts of interest. However, they objected to prohibiting AAAs from serving as guardians, particularly for older adults facing significant barriers to functioning and lacking other forms of support.

Several commenters provided examples of situations in which legal services programs funded by the Older Americans Act (OAA) might appropriately petition for guardianship. These examples included scenarios such as petitioning for guardianship over a minor relative, appealing Social Security or Medicaid decisions on behalf of individuals lacking decisional capability, preventing eviction or foreclosure, and addressing cases of adult maltreatment. Commenters emphasized that these actions were taken to enable older individuals to continue caregiving for dependents, retain public benefits, reside in preferred settings, and remain in the community. Some noted that pro bono attorneys might be willing to file for guardianship but could lack expertise in handling Medicaid or Social Security appeals. Others mentioned a shortage of attorneys in rural areas, leading to the necessity for legal services programs to file guardianship petitions. Additionally, several Centers for Independent Living (CILs) requested inclusion as entities capable of filing guardianship petitions.

Section 1321.93(d)(2)(ii)(A) includes an exception to defense of guardianship for older individuals seeking guardianship when no alternatives are appropriate, as outlined in section 321(a)(6)(B)(ii) of the Act. Commenters suggested strengthening the language to ensure this exception is used only in limited circumstances. They proposed requiring providers to document efforts made to explore less restrictive alternatives, reasons why none were suitable or available, and how they determined that no other adequate representation was available.



Section 1321.93(e) establishes standards for contracting between Area Agencies on Aging (AAAs) and legal assistance providers. Commenters, including legal assistance providers, supported the provision and specifically highlighted their endorsement of § 1321.93(e)(3)(i), which prohibits AAAs from requiring pre-screening or serving as the sole referral pathway for older adults to access legal assistance. They viewed this as crucial for avoiding unnecessary barriers and potential conflicts of interest. Additionally, they found the requirement in § 1321.93(e)(1)(v) regarding adherence to the Rules of Professional Conduct helpful in addressing situations where AAAs may request confidential client information without proper authorization. Regarding OAA-funded legal assistance programs within Legal Services Corporation (LSC) grantee entities, commenters appreciated § 1321.93(e)(3)(v)(c), which allows exemptions from certain restrictions on activities and client representation. They noted that such exemptions are vital for legal assistance providers to advocate for individuals in the greatest need, aligning with priorities identified in the Older Americans Act.

Section 1321.93(f) outlines legal assistance provider requirements, including ensuring meaningful access to legal assistance for older individuals with Limited English Proficiency (LEP) and other communication needs. Commenters expressed concerns about the challenges faced by individuals who are deaf and rely on American Sign Language (ASL) or Communication Real Time Access (CART), as well as those with visual impairments and other sensory disabilities in accessing legal assistance.

One commenter requested the removal of the requirement in Section 1321.93(f)(4)(ii)(A)(5) that legal assistance providers may only testify before a government agency, legislative body, or committee when specifically requested to do so by the entity. The commenter highlighted that legal assistance providers may possess valuable information and technical understanding of older adults' experiences with certain issues but may not always receive timely requests from relevant authorities.

New Provisions Added to Clarify Responsibilities and Requirements Under Grants to States and Community Programs on Aging

Finalized Changes

§ 1321.23 Appeal to the Departmental Appeals Board on area agency on aging withdrawal of designation

ACL finalized new regulations stating that the HHS Departmental Appeals Board (DAB) will preside over appeals under the OAA. The DAB may refer an appeal to its Alternative Dispute Resolution Division for mediation prior to issuing a decision.

§ 1321.37 Notification of State plan amendment receipt for changes not requiring Assistant Secretary for Aging approval



ACL finalized new regulations that provide for notification of receipt of State plan amendments that do not require Assistant Secretary for Aging approval.

§ 1321.47 Conflicts of interest policies and procedures for State agencies.

ACL finalized as proposed new regulations that establish mechanisms to avoid both actual and perceived COI and to identify, remove, and remedy any existing COI at organizational and individual levels. They include providing a mechanism for informing relevant parties of COI responsibilities and identifying and addressing conflicts when they arise. Procedures to mitigate COI could include establishing firewalls between or among individuals, programs, or organizations involved in the conflict, removing an individual or organization from a position, or termination of a contract.

§ 1321.53 State agency Title III and Title VI coordination responsibilities

ACL finalized clarifying language that coordination is required under the Act and that all entities are responsible for coordination, including State agencies, AAAs, service providers, and Title VI grantees, and that State agencies must have specific policies and procedures to guide coordination efforts within the State.

§ 1321.59 Area agency policies and procedures

ACL finalized new regulations stating that AAAs shall develop policies and procedures governing all aspects of programs operated under the Act, in compliance with State agency policies and procedures. It also clarifies that the scope of AAA responsibility includes consulting with other appropriate parties regarding policy and procedure development, monitoring, and enforcing their own policies and procedures.

§ 1321.67 Conflicts of interest policies and procedures for area agencies on aging

ACL finalized new regulations which explain the responsibilities of AAAs to meet the COI requirements in accordance with the responsibilities of State agencies to avoid and mitigate COI. AAAs must have policies and procedures to identify both organizational and individual COI. The policies must establish the actions and procedures the AAA will require employees, contractors, grantees, volunteers, and others in a position of trust or authority to take to remedy or remove such conflicts. ACL made amendments to require documentation of COI mitigation strategies, as necessary and appropriate, when a State agency, AAA, or Title III program operates an Adult Protective Services or guardianship program. IT also modified the regulation to require documentation of mitigation strategies when a State agency or AAA also houses the APS program.

§ 1321.69 Area agency on aging Title III and Title VI coordination responsibilities

Consistent with new State agency Title III and Title VI coordination responsibilities, ACL finalized new changes that set forth expectations for coordinating activities and delivery of



services under Title III and Title VI. ACL clarifies that coordination is required under the Act and that all entities are responsible for coordination, including State agencies, AAAs, service providers, and Title VI grantees.

§ 1321.77 Purpose of services – person- and family-centered, trauma-informed

ACL finalized new regulations clarifying that services under the Act should be provided in a manner that is person-centered and trauma-informed.

§ 1321.81 Client eligibility for participation

ACL finalized new regulations clarifying eligibility requirements under the Act and explaining that State agencies, AAAs, and service providers may adopt additional eligibility requirements, if they do not conflict with the Act, the implementing regulation, or guidance issued by the Assistant Secretary for Aging.

§ 1321.85 Supportive services

ACL finalized new regulations clarifying the supportive services set forth in Title III, part B, section 321 of the Act, which includes in-home supportive services, access services, and legal services. It also clarifies allowable use of funds, including for acquiring, altering or renovating, and constructing multipurpose senior centers and that those funds must be distributed through an approved IFF or funds distribution plan, as articulated in the State plan.

§ 1321.87 Nutrition services

ACL finalized new regulations clarifying the nutrition services set forth in Title III, part C of the Act which includes congregate meals, home-delivered meals, nutrition education, nutrition counseling, and other nutrition services. This provision also sets forth requirements for NSIP allocations.

§ 1321.89 Evidence-based disease prevention and health promotion services

ACL finalized new regulations clarifying evidence-based disease prevention and health promotion services set forth in Title III, part D of the Act, and states that programs funded under this provision must be evidence-based, as required in the Act as amended in 2016. It also clarifies allowable use of funds and that those funds must be distributed through an approved IFF or funds distribution plan, as articulated in the State plan.

§ 1321.91 Family caregiver support services

ACL largely finalized the proposals to clarify the family caregiver support services available under the Act, eligibility requirements for respite and supplemental services, allowable uses of funds, and the requirement to distribute funds through an approved IFF or other plan.

ACL revised (b) to state, “State agencies shall ensure that there is a plan to provide each of the services authorized under this part in each planning and service area, or statewide in



accordance with a funds distribution plan for single planning and service area States, subject to availability of funds under the Act.”

§ 1321.95 Service provider Title III and Title VI coordination responsibilities

ACL revised and reorganized the proposed language at § 1321.95(a) to read, “For locations served by service providers under Title III of the Act where there are Title VI programs, the area agency on aging’s and/or service provider’s policies and procedures, developed in coordination with the relevant Title VI program director(s), as set forth in § 1322.13(a), must explain how the service provider will coordinate with Title VI programs.”

ACL also created a reordered paragraph § 1321.95(b), and revised this provision to clarify the topics that the policies and procedures set forth in paragraph (a) “must at a minimum address[.]”

Additionally they have further made edits to specify how the service provider will provide outreach and referrals to tribal elders and family caregivers regarding services for which they may be eligible under Title III; clarify communication opportunities to include meetings, email distribution lists, and presentations; add how services will be provided in trauma-informed, as well as culturally appropriate, manner; and add “Opportunities to serve on advisory councils, workgroups, and boards.”

§ 1321.97 – 1321.105 Subpart E – Emergency and Disaster Requirements

ACL is largely finalizing as proposed the expectations for serving older adults during emergencies and disasters, and the flexibilities available during major disaster declarations (MDD) under ACL’s current authorities.

ACL removed the redundant language regarding submitting a State plan amendment at § 1321.99(b)(1) and revised the remaining items under (b) accordingly. They also revised newly ordered § 1321.99(b)(1) to read that the set aside funds that are awarded under this provision must comply with the requirements under § 1321.101. They also added the cross-references for the IFF provision (§ 1321.49) and funds distribution plan (§ 1321.51(b)) to § 1321.99(b)(2) for clarity regarding the status of and expectations for use of these funds.

ACL created new paragraphs (b) and (c) and have redesignated the subsequent provisions. In paragraph (b) they specified the flexibilities a State agency may exercise under a MDD. Section 1321.101(b)(1) allows any portion of open grant awards funds to be used for disaster relief services. § 1321.101(b)(2) permits the State agency to redirect and use its State plan administration funding for direct service provision. § 1321.101(b)(3) allows for the State agency’s awarding of funds set aside to address disasters, as set forth in § 1321.99, pursuant to a major disaster declaration incident period. Section 1321.101(b)(3)(i) provides for awarding of



funds to an area agency serving a PSA covered in whole or in part under a MDD without allocation through the IFF; § 1321.101(b)(3)(ii) provides for awarding of funds to a service provider, in single PSA States, without allocation through the funds distribution plan; and § 1321.101(b)(3)(iii) provides for the State agency to use funds for direct service provision, direct expenditures, and/or procurement of items on a statewide level, subject to requirements as specified in § 1321.101(b)(3)(iii)(A) through (D).

ACL created section 1321.101(c) to require the State agency to submit a State plan amendment as set forth in § 1321.31(b) to justify its use of funds and to provide transparency about the use of funding flexibilities. ACL revised § 1321.31(b) to clarify timeline for submission of such State plan amendments whenever necessary and within 30 calendar days of the action(s) listed in the provision.

ACL revised the language at § 1321.103 to read, “[...] policies and procedures, developed in communication with the relevant Title VI program director(s) as set forth in § 1322.13(c), in place[.]”

ACL removed § 1321.5, which lists other applicable regulations, because the provision is unnecessary and may create confusion or become outdated due to statutory or regulatory changes. They also removed § 1321.75, which describes State agency and AAA responsibilities to ensure that facilities who are awarded funds for multipurpose senior center activities obtain appropriate licensing and follow required safety procedures, and that proposed alterations or renovations of multipurpose senior centers comply with applicable ordinances, laws, or building codes.

Background/Rationale

§ 1321.23 Appeal to the Departmental Appeals Board on area agency on aging withdrawal of designation

ACL believes this will streamline administrative functions and provide robust due process protections to AAAs. Additionally, ACL believes this regulation will provide clarity and consistency to State agencies and AAAs.

§ 1321.37 Notification of State plan amendment receipt for changes not requiring Assistant Secretary for Aging approval

The existing regulation addresses submission of amendments to the State plan and notification of State plan or amendment approval; however, they lack a process for notification of receipt of State plan amendments that are required to be submitted, but not approved by the Assistant Secretary for Aging.

§ 1321.47 Conflicts of interest policies and procedures for State agencies.



Commenters mostly supported the proposed changes and appreciated the clarification related to COI for OAA grantees and subrecipients. Though some comments suggested additional changes to strength the rule, ACL declined to require additional COI provisions in State plans because such provisions, if determined appropriate by the State agency, are best determined at the State level. State agencies may include such provisions in their State plans if they believe it will assist in implementation and enforcement of the rule's COI requirements.

§ 1321.53 State agency Title III and Title VI coordination responsibilities

Commenters overwhelmingly expressed support for coordination between Title III and Title VI programs. Comments expressed concern regarding the lack of coordination with Title VI grantees by State agencies, low amounts of funding provided under Title III to Tribes, and lack of technical assistance on how Tribes can apply for available Title III funds. To make clear the responsibilities of State agencies under the Act, explicit expectations for coordination between Title III and Title VI programs are specified in this rule. This rule makes clear that all entities are responsible for coordination, including State agencies, AAAs, service providers, and Title VI grantees.

§ 1321.59 Area agency policies and procedures

Existing language establishes the AAA's role with relation to the State agency and service providers. However, ACL has received inquiries and feedback from AAAs and others that indicates a lack of clarity as to, for example, the scope of State agency versus AAA responsibility. Most commenters supported the proposed addition. However, a variety of commenters recommended that State agencies and program participants explicitly be consulted with surrounding the development of area agency policies and procedure. ACL maintains that the rule provides area agencies the flexibility to develop policies and procedures that align with the needs of their individual PSAs.

§ 1321.67 Conflicts of interest policies and procedures for area agencies on aging

AAAs have expanded their business activities over the last decade, necessitating additional guidance on preventing and mitigating COI so they may engage in the new activities and carry out the objectives of the Act.

§ 1321.69 Area agency on aging Title III and Title VI coordination responsibilities

The section complements the language for State agencies, and includes specific considerations for AAAs, such as opportunities for representatives of Title VI grantees to serve on AAA advisory councils, workgroups, and boards and opportunities to receive notice of Title III and other funding opportunities. To make clear the responsibilities of area agencies under the Act, explicit expectations for coordination between Title III and Title VI programs are included as new provisions in this rule. The provision is complementary with the provisions for



State agencies and service providers under Title III of the Act, as well as for Title VI grantees. This rule makes clear that all entities are responsible for coordination, including AAAs, State agencies, service providers, and Title VI grantees.

§ 1321.77 Purpose of services – person- and family-centered, trauma-informed

Consistent with the direction of amendments to section 101 of the Act as reauthorized in 2020, recipients are entitled to an equal opportunity to the full and free enjoyment of the best possible physical and mental health, which includes access to person-centered and trauma-informed services. ACL received comments supporting person-centered and trauma-informed services in the regulations, consistent use of these terms throughout the regulations, and in-depth training on diversity, equity, inclusion, and accessibility being offered to every person who provides services and programs for older adults.

§ 1321.81 Client eligibility for participation

To be eligible for services under the Act, recipients must be age 60 or older at the time of service, except in the case of limited services, such as nutrition and family caregiver support services. ACL received inquiries, requests for technical assistance, and comments demonstrating misunderstandings among State agencies, AAAs, service providers, and others in the aging network about eligibility requirements. For example, ACL received feedback expressing confusion as to whether any caregivers of adults of any age are eligible to receive Title III program services, which is not allowable under the Act.

§ 1321.85 Supportive services

ACL received various comments noting need for the types of in-home supportive services that may be provided under this provision, including help with housework like cleaning and laundry and home maintenance and repairs. Some commenters noted that while needed, such services are not available. ACL acknowledged that the need for such services is likely to exceed the available funding under the Act. With these regulations, ACL clarified how funds under the Act may be used, in coordination with the other provisions set forth at §§ 1321.27 and 1321.65 regarding identifying persons in greatest economic need and greatest social need who should be prioritized in receiving services under the Act, as well as the role of public participation in guiding how funds under the Act are used in State and area plans on aging.

§ 1321.87 Nutrition services

Based on experiences during the COVID-19 PHE and numerous requests for flexibility in provision of meals, ACL set forth that meals provided under Title III, part C-1 of the Act may be used for shelf-stable, pick-up, carry-out, drive-through or similar meals, if they are done to complement the congregate meal program and comply with certain requirements as set forth.



ACL also clarified that home-delivered meals may be provided via home delivery, pick-up, carry-out, or drive-through and that eligibility for home-delivered meals is not limited to those who may be identified as “homebound,” that eligibility criteria may consider multiple factors, and that meal participants may also be encouraged to attend congregate meals and other activities, as feasible, based on a person-centered approach and local service availability

NSIP allocations are based on the number of meals reported by the State agency which meet certain requirements, as specified. State agencies may choose to receive their allocation grants as cash, commodities, or a combination thereof. NSIP funds may only be used to purchase domestically produced foods (definition included in § 1321.3) used in a meal, as set forth under the Act. ACL intends for this provision to answer many questions raised by stakeholders regarding the proper use of funds under the NSIP.

§ 1321.89 Evidence-based disease prevention and health promotion services

Section 361 of the Act requires evidence-based programs and allows the Assistant Secretary for Aging to provide technical assistance on the delivery of such services in different settings and for different populations. ACL recently commissioned and is evaluating a study of the Evidence-Based Review Process to examine the existing review process and explore opportunities that would enhance the review process so it is equitable and responsive to program needs across different populations and settings, including Native American populations. The ACL-funded National Chronic Disease Self-Management Education Resource Center and National Falls Prevention Resource Center hold a bi-monthly Evidence-Based Program Advisory Council meeting that includes members of the National Resource Center on Native American Aging and Native American leadership and organizations on the unique needs of Native American populations in evidence-based programming. The ACL-supported Evidence-Based Program Registry lists health promotion and disease prevention programs that may be adapted and culturally tailored for different populations and settings.

§ 1321.91 Family caregiver support services

The aging network continues to face systemic issues that challenge their ability to provide all five service categories statewide (e.g. direct care workforce shortages, funding limitations, etc.). ACL expects that states will plan to have all five services available in each PSA, subject to the availability of funds from the OAA or other sources.

§ 1321.95 Service provider Title III and Title VI coordination responsibilities

ACL revised this section to clarify the responsibilities of service providers, including explicit expectations for coordination, and to use consistent terminology.

§ 1321.97 – 1321.105 Subpart E – Emergency and Disaster Requirements



ACL hopes to balance the specific lessons learned through the COVID-19 public health emergency, potential needs in other disaster situations, and the agency's current authorities and oversight requirements. While they agree the ideal service delivery mechanism, is for regular service provision through AAAs, using an approved IFF, or for single PSA States to use their approved funds distribution plan. However, they recognize that based on the aging network's experience during the COVID-19 PHE and in certain other disaster situations, circumstances may not allow for the timely and needed delivery of services to older adults and family caregivers. They believe the changes will ensure all levels of the aging network have policies and procedures to minimize service disruptions during an emergency or disaster situation.

Provisions Revised to Reflect Statutory Changes and/or for Clarity Under Grants to Indian Tribes and Native Hawaiian Grantees for Supportive, Nutrition, and Caregiver Services

Finalized Changes

§ 1322.1 Basis and purpose of this part

ACL revised the provision at § 1322.1 to read, "This program is established to meet the unique needs and circumstances of American Indian and Alaskan Native elders and family caregivers and of older Native Hawaiians and family caregivers, on Indian reservations and/or in service areas as approved in § 1322.7."

§ 1322.3 Definitions

ACL incorporated definitions for the following terms: access to services; Act; area agency on aging; domestically produced foods; eligible organization; family caregiver; Hawaiian Native or Native Hawaiian; Hawaiian Native grantee; in-home supportive services; major disaster declaration; multipurpose senior center; Native American; Nutrition Services Incentive Program; older Native Hawaiian; older relative caregiver; program income; reservation; state agency; Title VI director; and voluntary contributions. ACL made minor revisions to the definitions of the following terms: acquiring; altering or renovating; constructing; department; means test; service area; service provider; and tribal organization. ACL finalized without revision the definitions for the following term: budgeting period; Indian reservation; Indian Tribe; Older Indians; and project period.

ACL expanded the definition of in-home supportive services to be consistent with § 1321.3 to allow for collaboration with other programs and to align the minor modification of homes examples.



ACL revised the caregiver definitions in this section and at part 1321 to add “For purposes of this part, family caregiver does not include individuals whose primary relationship with the older adult is based on a financial or professional agreement.”

ACL revised the definition of multi-purpose senior centers at § 1322.3 to indicate “[...] as used in § 1322.25, facilitation of services in such a facility” and to allow virtual facilities as practicable to provide options for various service modalities.

ACL revised the definition of “voluntary contributions” to read, “[...] means donations of money or other personal resources given freely, without pressure or coercion, by individuals receiving services under the Act” and made a similar change to the definition in part 1321 for consistency.

§ 1322.5, § 1322.7, § 1322.9 Application & Hearing Requirements

ACL finalized the redesignated § 1322.5 for the finalized revised application requirements: specifying that applications must include program objectives, map and/or description of the geographic service area, documentation of supportive and nutrition service capabilities, assurances, tribal resolution, and signature from principal official.

ACL also redesignated § 1322.7 for Application Approval and made minor revisions to align with updated to the Act and clarify that at minimum annual performance and fiscal is required.

ACL redesignated § 1322.9 for existing hearing procedures and finalized technical corrections to remove unnecessary words and to align the section with 45 CFR part 16.

§ 1322.13 Policies and procedures

ACL combined §§ 1322.9 (Contributions), 1322.11 (Prohibition against supplantation), and 1322.17 (Access to information) and redesignated them as § 1322.13 (Policies and procedures). ACL also incorporated the areas for which a Tribal organization or Hawaiian Native grantee must have established policies and procedures into § 1322.13.

ACL finalized § 1322.13(c)(2) to provide clarity regarding policies and procedures for fiscal requirements such as voluntary contributions; buildings and equipment; and supplantation. Additionally § 1322.13(c)(2)(ii) addresses the need to ensure that the funding is used for allowable costs that support allowable activities; to ensure consistency in the guidance provided by ACL; and to affirm that altering and renovating activities are allowable for facilities providing services under this section.

ACL redesignated § 1322.15 for existing regulation on Confidentiality and Disclosure of Information and made minor revisions to align with updated definitions and the consolidation of part 1323. ACL also specify protections related to record confidentiality, noting that Tribal



organization or Hawaiian Native grantees may require the application of other laws and guidance relating to the collection, use, and exchange of personally identifiable information and personal health information. ACL removed reference to the National Institutes for Standards Cybersecurity and Privacy Frameworks in the finalized rule.

§ 1322.27 Nutrition services.

Existing nutrition service regulations were redesignated as § 1322.27 and revised to clarify that the services under Title VI parts A and B are intended to be comparable to those under Title III of the Act. Section 614(a)(8) of the Act. This requires nutrition services to be substantially in compliance with the provisions of part C of Title III, which includes congregate meals, home-delivered meals, nutrition education, nutrition counseling, and other nutrition services. ACL also revised § 1322.27(a)(4) to remove reference to the Nutrition Care Process, in alignment with the changes in part 1321.

ACL also clarified that home-delivered meals may be provided via home delivery, pick-up, carry-out, drive through, or as determined by the Tribal organization or Hawaiian Native grantee; that eligibility for home-delivered meals is determined by the Tribal organization or Hawaiian Native grantee and not limited to those who may be identified as “homebound;” that eligibility criteria may consider multiple factors; and that meal participants may also be encouraged to attend congregate meals and other activities, as feasible, based on a person-centered approach and local service availability.

ACL also clarified the requirements for NSIP allocations. Tribal organization or Hawaiian Native grantees may choose to receive their allocation grants as cash, commodities, or in combination, but they may only be used to purchase domestically produced foods used in a meal.

Background/Rationale

§ 1322.1, § 1322.3 Basis, Purpose, & Definitions

ACL sought to clarify the sovereign government-to-government relationship with Tribal organizations and similar Hawaiian Native grantees, consistent with statutory terminology and requirements, and to add reference to caregivers as a service population.

ACL revised § 1322.3 to reflect changes in statute, practices of the administration, stakeholder feedback, and consistency with Title III where appropriate. While several commenters recommended broadening the definition of caregivers, ACL chose not to incorporate their feedback as they believe the definition is sufficiently inclusive. They did incorporate additional language to avoid minimizing or inaccuracies related to whether a caregiver receives financial compensation.



§ 1322.5, § 1322.7, § 1322.9 Application & Hearing Requirements

Many commenters expressed concern with the requirements at § 1322.5(d)(1) that eligible organizations represent at least 50 individuals ages 60 and older to apply for funding, citing decreased life expectancy, and large numbers of elders ages 50 and older in need. While ACL acknowledged these concerns, they noted these proposals would require statutory changes. ACL also noted that funding formulas and distribution decisions are set by Congress and beyond the scope of this rule.

Service Requirements

Commentors were concerned that the number of policies and procedures required would be burdensome to potential grantees. ACL acknowledged their concerns, but noted their commitment to providing all grantees with technical assistance to meet the requirements. Commentors expressed appreciation for the privacy protections, but one noted that grantees should not be required to follow the National Institutes for Standards Cybersecurity and Privacy Frameworks, as they are sovereign nations. ACL concurred with this comment and removed the reference from the final rule.

§ 1322.27 Nutrition services.

Commentors supported ACL's proposals to clarify the provision of nutrition services, and preserving some flexibilities. Some commentors sought to clarify whether NSIP funds may be used to purchase food from Tribes and Tribal organizations. ACL replied that is allowed and the purchase of traditional foods from Tribe and Tribal organization is encouraged. Other commentors expressed concerns about funding, staff capacity, and lack of flexibility to implement proposed program elements. ACL again noted they will provide technical assistance to address organizations' concerns around reporting and implementation requirements.

New Provisions Added to Clarify Responsibilities and Requirements Under Grants to Indian Tribes and Native Hawaiian Grantees for Supportive, Nutrition, and Caregiver Services

Finalized Changes

§ 1322.11 Purpose of services allotments under Title VI

ACL explained that services offered under Title VI include supportive, nutrition, and family caregiver support programs. The funds are meant to help Tribal organizations or Hawaiian Native grantees improve community-based systems for older Native Americans and their family caregivers.

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



ACL clarified that services provided under the Act must be focused on the person's needs and sensitive to any trauma they may have experienced. People receiving these services have the right to access the best physical and mental health care possible, which includes services that are person-centered and trauma informed.

§ 1322.19 Responsibilities of service providers.

ACL specified the responsibilities of service providers. They are required to give service participants a chance to help pay for the service, offer self-directed services, when possible, follow local Adult Protective Services rules when necessary, arrange for emergencies like bad weather, help participants take advantage of other programs, and work together with other relevant services.

§ 1322.21 Client eligibility for participation.

ACL explained that to get services under the Act, participants need to reach a minimum age set by the Tribal organization or Hawaiian Native grantee, except for certain services like nutrition and family caregiver support. ACL received questions and comments showing confusion about who can receive Title VI services. For instance, some wonder if younger caregivers can get services, which isn't allowed under the Act. Also, there are questions about non-Native Americans living in a Tribal organization's approved area who might be considered part of the community and eligible for services. The new rule, Section 1322.21, clarifies eligibility requirements and explains that Tribal organizations or Hawaiian Native grantees can add more requirements as long as they don't go against the Act, its rules, or guidance from the Assistant Secretary for Aging.

§ 1322.23 Client and service priority.

ACL finalized that organizations can prioritize services and create their own policies based on local needs and resources. It also lists the priorities for serving family caregivers according to section 631(b) of the Act for clarity and ease of reference.

§ 1322.29 Family Caregiver Support Services.

ACL finalized action section 631 of the Act, which focuses on family caregiver support services. It explains what services are offered, who is eligible for respite care and supplemental services, and how funds can be used.

§ 1322.31 Title VI and Title III coordination.

ACL laid out expectations for coordinating activities and service delivery under Title VI and Title III. It's based on existing responsibilities outlined in sections of the Act related to aging services. The rule emphasizes that coordination is mandatory and that all involved entities—Tribal organizations, Hawaiian Native grantees, State agencies, Area Agencies on Aging (AAAs), and service providers—are responsible for ensuring coordination. ACL rearranged the



first paragraph of Section 1322.31 and renamed it as Section 1322.31(a). Then, ACL reorganized the following paragraphs accordingly. ACL also changed the wording in the revised Section 1322.31(a) to state that Tribal organizations or Hawaiian Native grantees under Title VI must create policies and procedures together with the relevant State agency, area agency, or service provider(s) to explain how their Title VI program will work with Title III and/or VII funded services. They can meet these requirements by joining in tribal consultation with the State agency regarding Title VI programs. ACL also created a new paragraph, § 1322.53(b), and revised existing sections to ensure clarity on required policies and procedures. The revisions include outlining outreach and referrals for Tribal elders and family caregivers, ensuring cultural appropriateness and trauma-informed services, and specifying the involvement of the Title VI program director in policy development. ACL aims to enhance coordination between Title VI and Title III programs, providing technical assistance upon finalizing the rule. Additionally, ACL addresses the provision of Title III funding to Tribes, emphasizing coordination but noting limitations on mandatory funding to Title VI grantees outside existing procurement policies. ACL encourages Tribes and Tribal organizations to apply for Title III-funded services.

§ 1322.33 – 1322.39 Subpart D – Emergency and Disaster Requirements

ACL finalized expectations and flexibilities during disaster situations. Through consideration of different approaches, certain flexible measures, such as allowing carry-out or drive-through meals, were deemed innovative methods of service delivery permissible within the parameters of Title VI part A or B, without requiring special authorization during emergencies. These adjustments have been integrated into the revised regulations to provide clarity, particularly in § 1322.27, which outlines alternative meal delivery methods. While these changes enhance flexibility, some measures still necessitate a major disaster declaration (MDD). For instance, under section 310(c) of the Act, Tribal organizations or Hawaiian Native grantees require an MDD to utilize Title VI funds for disaster relief services in areas where older Native Americans and family caregivers are impacted.

Background/Rationale

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

The changes were made in response to comments advocating for culturally sensitive, person- and family-centered care for Native American elders and caregivers. Suggestions were also provided for using the term "holistic traditional care" to better reflect comprehensive caregiving practices. Concerns about the clarity of the provision's application were addressed, with the acknowledgment of diverse services and the need for flexibility. Grantees under Title VI are encouraged to implement these provisions as appropriate to their circumstances while ensuring consistency with federal requirements. Technical assistance will be provided to address further questions and ensure effective implementation.



§ 1322.19 Responsibilities of service providers.

ACL finalized these changes in response to comments supporting the clarification of service provider responsibilities under the Act. Suggestions were made to add two key responsibilities: cultural competence training and inclusion of nondiscrimination language. ACL acknowledged the importance of nondiscrimination policies as federal requirements for all service providers and recognized the necessity of cultural competence training to honor Tribal and Hawaiian Native differences. As a result, the text was revised to mandate that service providers receive training to deliver culturally competent services in alignment with specific Act sections.

§ 1322.21 Client eligibility for participation.

The changes were made in response to comments supporting clarification of eligibility requirements for Tribal organizations or Native Hawaiian grantees under the OAA, respecting Tribal sovereignty. Comments also encouraged broader service eligibility based on Tribal membership status, regardless of residency on Federally recognized reservations. The regulations clarified that elders receiving services do not need to reside on a reservation, recognizing the diversity of Tribal lands. ACL included a provision allowing Tribes to establish further eligibility criteria, providing maximum flexibility under the Act. No further edits were made, affirming a commitment to respecting Tribal sovereignty and flexibility in service provision.

§ 1322.23 Client and service priority.

Changes were prompted by comments supporting the flexibility granted to Tribal organizations and Native Hawaiian grantees in setting policies and prioritizing services based on local needs and resources. One commenter suggested adding language regarding assessments based on the greatest social or economic needs, while another recommended explicit inclusion of LGBTQI+ and Two-Spirit older adults, as well as those with HIV, in non-discrimination provisions and cultural competency training. ACL appreciated these inputs and encouraged prioritizing services for elders with the greatest social and economic needs, including the mentioned populations. While ACL declined to further specify implementation methods, it committed to offering technical assistance. This approach highlights flexibility in service delivery and acknowledges the importance of addressing the needs of vulnerable populations, backed by support through technical assistance.

§ 1322.29 Family Caregiver Support Services.

In response to comments, ACL noted support for the breadth of § 1322.29, which garnered positive feedback from commenters. However, one commenter expressed concern about the potential need for additional funds due to the expanded eligibility for services, particularly concerning flexible definitions of family caregiving. ACL appreciated the feedback but clarified that funding decisions lie beyond the scope of the rule. This exchange highlights the



recognition of potential financial implications but underscores that funding considerations are not addressed within the context of the rulemaking process.

§ 1322.31 Title VI and Title III coordination.

In response to comments, ACL acknowledged overwhelming support for coordination between Title VI and Title III programs, addressing concerns about insufficient funding, lack of coordination, and the need for technical assistance. Commenters recommended improving coordination procedures, emphasizing cultural appropriateness in service delivery, and providing technical assistance for State agencies. ACL expects coordination between the programs and revised provisions for consistency based on the feedback received.

New Provisions Added to Clarify Responsibilities and Requirements Under Allotments for Vulnerable Elder Rights Protection Activities

Finalized Changes

§ 1324.201 State agency responsibilities for the prevention of elder abuse, neglect, and exploitation.

ACL made changes to ensure compliance with Title VII, Chapter 3 of the Act, which addresses elder abuse, neglect, and exploitation. The new section, § 1324.201, clarifies that State agencies receiving Federal funds under this chapter must adhere to all relevant provisions of the Act, including those specified in section 721(c), (d), (e), as well as other applicable Federal requirements.

§ 1324.303 Legal Assistance Developer

ACL is implementing section 731 of the Act by adding a new regulation, § 1324.303, under Title VII, regarding the position of Legal Assistance Developer (LAD). The State agency designates the LAD and outlines its duties and activities in the State plan. The regulation delineates the LAD's responsibilities, which include providing training and technical assistance to legal assistance providers and coordinating with the Ombudsman program. The final rule includes prohibitions on conflicts of interest (COI), such as undertaking responsibilities that might compromise the LAD's duties. COI scenarios include serving as the director of the APS program, legal counsel to the Ombudsman program, or counsel in administrative appeals related to long-term care settings. Additionally, the LAD oversees advice, training, and technical assistance for legal assistance provided by the State agency, coordinates legal assistance for priority areas outlined in the Act, and collaborates with the legal assistance resource center established under section 420 of the Act.

§ 1321.3 Definitions.

ACL clarified the definition of "family caregiver," as an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual; an adult family member, or another individual, who is an informal provider of in-home and



community care to an individual of any age with Alzheimer’s disease or a related disorder with neurological and organic brain dysfunction; or an older relative caregiver. For purposes of this part, family caregiver does not include individuals whose primary relationship with the older adult is based on a financial or professional agreement.

ACL also defined “Older Relative Caregiver,” as a caregiver who is age 55 or older and lives with, is the informal provider of in-home and community care to, and is the primary caregiver for, a child or an individual with a disability. In the case of a caregiver for a child, it refers to the grandparent, step-grandparent, or other relative (other than the parent) by blood, marriage, or adoption, who serves as the primary caregiver due to the inability or unwillingness of the biological or adoptive parents. The caregiver must also have a legal relationship with the child, such as legal custody, adoption, guardianship, or informal guardianship. Similarly, for a caregiver of an individual with a disability, it encompasses the parent, grandparent, step-grandparent, or other relative by blood, marriage, or adoption of the individual with a disability.

ACL defined “greatest social need” as various factors that hinder individuals' well-being beyond economic constraints. These include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, which may stem from racial or ethnic status, Native American identity, religious affiliation, sexual orientation, gender identity, sex characteristics, HIV status, chronic conditions, housing instability, food insecurity, lack of access to reliable and clean water supply, transportation challenges, or utility assistance needs, as well as concerns regarding interpersonal safety, and rural location. Additionally, any status impeding an individual's ability to perform normal daily tasks or threatening their capacity to live independently falls within the scope of greatest social need, with further definitions determined by State and area plans based on local and individual factors.

Background/Rationale

§ 1324.201 State agency responsibilities for the prevention of elder abuse, neglect, and exploitation.

In response to comments, ACL acknowledged supportive feedback regarding the section addition. Recommendations were made to consider elder abuse prevalence within LGBTQI+ and HIV positive communities, as well as to partner with State and Tribal elder justice coalitions for coordination and guidance. ACL appreciated the support and clarified that Section 721 of the Act already mandates coordination, thus opting not to repeat statutory language.

§ 1324.303 Legal Assistance Developer

Section 1324.303, outlining the requirements for the LAD position, received mixed feedback, with some appreciating clarification but others expressing concerns about challenges,



including funding inadequacies and the part-time nature of the role. Many noted that LADs, often non-lawyers, faced difficulties in fully supporting legal assistance programs and coordinating with the Ombudsman program and Adult Protective Services (APS). Discussions also touched on the expectation of the LAD being a full-time attorney position and the terminology used in regulations. In response, ACL clarified the limitations of regulatory authority in addressing funding and staffing issues, emphasizing the importance of ensuring LADs possess necessary knowledge and resources for their duties, as the Act does not mandate specific qualifications or full-time status for the position.