

SECTION 600: SERVICES ALLOWABLE UNDER THE OLDER AMERICANS ACT

602: General Requirements Applicable to All Services

602.1 : Department Approval of Area Agency Subgrants or Contracts

- A. The State agency may not require the Area Agency on Aging for to submit to it for prior review or approval any proposed subgrants or contracts with public or private nonprofit agencies or organizations.
- B. The Area Agency on Aging must submit to the State agency for prior approval any proposed contracts with profit making organizations to provide services under the area plan as outlined in Section 1100 of the Illinois Department on Aging Policies Manual.

602.2 : Licensure and Safety Requirements

All services provided under this chapter must meet any existing State and local licensure and safety requirements for the provision of those services.

602.3 : Outreach, Training, Coordination, and Multigenerational Requirements

All service providers under this chapter must comply with procedures established by the Area Agency on Aging --

- A. Outreach activities to ensure participation of eligible older persons with special emphasis on the following groups of the older population: [Older Americans Act, Section 306(a)(4)(B)]
  - 1. Older individuals with greatest economic need (with particular attention to low- income minority individuals and older individuals residing in rural areas).
  - 2. Older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas).
  - 3. Older individuals with severe disabilities.

As outlined in §102 (48) of the Older Americans Act, severe disability means a severe, chronic disability attributable to mental or physical impairment or a combination of mental and physical impairments, that---

- a. is likely to continue indefinitely; and
- b. results in substantial functional limitation in 3 or more of the major life activities outlined below:
  - i. self-care,
  - ii. receptive and expressive language,

- iii. learning,
- iv. mobility,
- v. self-direction,
- vi. capacity for independent living,
- vii. economic self-sufficiency, and
- viii. cognitive functioning.

- 5. Older individuals with limited English-speaking proficiency.
- 6. Older individuals with Alzheimer's Disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals).
- 7. Older individuals at risk of institutional placement.

B. Training and use of elderly and other volunteers and paid personnel; and

C. Coordination of services provided under the Older Americans Act with other local and State services that benefit older individuals.

D. Provision of multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in childcare, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

602.4 : Preference for Older Persons with Greatest Economic or Social Need [Older Americans Act, § 305(a)(2)(E)]

All service providers under this chapter must follow priorities set by the Department and the Area Agency on Aging for serving older persons with greatest economic or social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas). Service providers may use methods such as location of services and specialization in the types of services most needed by these groups to meet this requirement.

602.5 : Targeting Requirements [Older Americans Act, § 306(a)(4)(A)]

The service providers must:

- A. set objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement.
- B. include specific objectives for providing service to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

602.6 : Residency

The Area Agency has established and is following methods to assure that no requirements as to duration of residence or citizenship will be imposed as a condition of participation in the Area Agency's program for the provision of services.

602.7 : Voluntary Contributions for Services Under the Area Plan [Older Americans Act, § 315(b)]

A. Opportunity to Contribute: Each service provider must ---

1. Provide each older person with an opportunity to voluntarily contribute to the cost of the service;
2. Protect the privacy of each older person with respect to his or her contribution;
3. Establish appropriate procedures to safeguard and account for all contributions; and
4. Use all contributions to expand the services of the provider under this part and supplement (not supplant) funds received under the Older Americans Act. Nutrition service providers must use all contributions to increase the number of meals served, facilitate access to such meals, or to provide other supportive services directly related to nutrition services.

B. Contribution Schedules: Contributions shall be encouraged for individuals whose self-declared income is at or above 185% of the poverty line, at contribution levels based on the actual cost of services. Each service provider may develop a suggested contribution schedule for services provided under this part.

In developing a contribution schedule the provider must consider the income ranges of older persons in the community and the provider's other sources of income.

- C. Means Tests & Failure to Contribute: The service providers that receive funds under this part shall not means test for any service for which contributions are accepted or shall not deny any older person service because the older person will not or cannot contribute to the cost of service.
- D. Contributions as Program Income: Contributions made by older persons are considered program income.

602.8 : Cost Sharing for Services Under the Area Plan

A. Department Approval for Cost Sharing: The Department, in consultation with the Area Agency on Aging, is permitted to implement cost sharing for certain services funded under the Area Plan.

1. A service provider will not be allowed to implement cost sharing for services provided under the Area Plan without submitting a plan to implement cost sharing to the Illinois Department on Aging (IDoA) and with written approval from IDoA.
2. IDoA will establish a sliding scale for cost sharing, based solely on individual income and the cost of delivering services.

B. Service Exceptions for Cost Sharing: IDoA, the Area Agency on Aging, and service providers are not permitted to implement cost sharing for the following Area Plan services:

1. Information and Assistance, Outreach, Benefits Counseling, or Case Management services.
2. Ombudsman, Elder Abuse Prevention, Legal Assistance, or other consumer protection services.
3. Congregate Meals and Home Delivered Meals.
4. Any services delivered through tribal organizations.

C. Income Prohibitions for Cost Sharing:

1. IDoA, Area Agency on Aging, and service providers will not permit cost sharing by a low-income older individual if the income of such individual is at or below the Federal poverty line.
2. IDoA, Area Agency on Aging, and service providers may exclude from cost sharing low-income individuals whose incomes are above the Federal poverty line.
3. IDoA, Area Agency on Aging, and service providers must not consider any assets, savings or other property owned by older individuals when defining low-income individuals who are exempt from cost sharing, when creating a sliding scale for the cost sharing, or when seeking contributions from any older individual.

D. Cost Sharing Requirements: Area Agency on Aging for and service providers will:

1. Protect the privacy and confidentiality of each older individual with respect to the declaration or non-declaration of individual income and to any share of costs paid or unpaid by an individual.
2. Establish appropriate procedures to safeguard and account for cost share payments.
3. Use each collected cost share payment to expand the service for which such payment was given.
4. Not consider assets, savings, or other property owned by an older individual in determining whether cost sharing is permitted.
5. Not deny any service for which funds are received under the Older Americans Act for an older individual due to the income of such individual or such individual's failure to make a cost sharing payment.
6. Determine the eligibility of older individuals to cost share solely by confidential declaration of income and with no requirement for verification.
7. Widely distribute Department created written materials in languages reflecting the reading abilities of older individuals that describe the criteria for cost sharing, The Illinois Department on Aging's sliding scale, and the mandate described in #5, above.

602.9 : Maintenance of Non-Federal Support for Services Each service provider must –

- A. Assure that funds under this chapter are not used to replace funds from non-federal sources; and

- B. Agree to continue or initiate efforts to obtain support from private sources and other public organizations for services funded under this chapter.

602.10 : Advisory Role to Service Providers of Older Persons

Each service provider under the area plan must have procedures for obtaining the views of participants about the services they receive.

602.11 : Disaster Response and Assistance Activities

The Illinois Department on Aging, Area Agency on Aging, and their service providers have the legislative mandate to advocate on behalf of older persons who reside in Illinois and to work in cooperation with other state and federal programs to provide for the needs of older disaster victims.

- A. Disaster Plans: The Department, Area Agency on Aging, and service providers are required to have disaster plans, so as to expedite the delivery of necessary services when a disaster occurs. The disaster assistance efforts of Area Agency on Aging and service providers will complement the existing relief efforts provided by federal, state and voluntary organizations.
- B. Written Coordination Agreements: Area Agency on Aging and service providers must enter into written coordination agreements and regular, ongoing working relationships with Emergency Service Disaster Agencies (ESDAs), voluntary relief organizations (e.g. American Red Cross, Salvation Army and the Mennonites, etc.) and with local community-based organizations.
- C. Activation of Disaster Plans & Assessment of Needs During a Disaster: The Area Agency on Aging's and service providers' disaster plans will be activated by the Area Agency on Aging upon notification by the IDoA and/or local emergency services disaster officials. Activation of the disaster plan requires an assessment of the need to mobilize service provider resources and personnel, which will be done in coordination with the American Red Cross; state and local emergency services agencies and/or FEMA during a Presidential declared disaster. The assessment will determine the type of action necessary to serve the special needs of disaster victims, particularly our older persons.

"Local emergencies" is defined as significant natural and man-made disaster situations that occur within the planning and service area that affect the lives of senior citizens and their caregivers. The Area Agency on Aging may receive a request for assistance from local Emergency Services Disaster Agencies (ESDA), local American Red Cross Chapters, and the Department on Aging.

- D. Disaster Notification: The Area Agency on Aging will notify the IDoA of all local emergencies and/or regional disasters. They will be responsible for activating their disaster plan, providing advocacy and outreach services (face-to-face), follow-up and regular monitoring of service providers delivery of disaster related services, with guidance from IDoA. Based on the Area Agency's notification, the service provider will contact project directors with instructions and they in turn will work to carry out their assigned duties, including the mobilization of local volunteers to provide individualized services which are needed.

E. Delivery of Services in a Disaster: In all cases, the Area Agency on Aging will provide as much flexibility as possible under Title IV and other funding titles under the Older Americans Act to allow for service compliance, continuity and creativity in the delivery of services to older disaster victims for all of the involved Area Agencies (e.g. gap-filling services, etc.).

602.12 : Reports of Abuse, Neglect & Financial Exploitation

The Area Agency on Aging or Older Americans Act service provider who suspects the abuse, neglect, or financial exploitation of an eligible adult may report this suspicion to an agency designated to receive such reports under the Adult Protective Services Act or to the Department on Aging.

In carrying out their professional duties, Area Agency on Aging and Older Americans Act service providers are mandated reporters, if they have reason to believe that an eligible adult, who because of dysfunction is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation.

602.13 : References to "Family" in the Older Americans Act

In *United States v. Windsor*, the Supreme Court struck down as unconstitutional section 3 of the Defense of Marriage Act, which prohibited federal recognition of same-sex marriages and spouses. In keeping with the Supreme Court's analysis and reasoning in that decision, ACL's post-Windsor policy calls for treating same-sex marriages on the same terms as opposite-sex marriages to the greatest extent reasonably possible. Thus, ACL programs should recognize as family members individuals of the same sex who are lawfully married under the law of a state, territory, or foreign jurisdiction. This policy applies based on the jurisdiction of celebration. In other words, if individuals of the same sex are legally married in any jurisdiction, ACL will recognize the marriage, regardless of whether the individuals are domiciled or reside in a state or territory that does not recognize the marriage. Thus, when this guidance discusses individuals of the same sex who are "legally married," the intention is to include all legal marriages, regardless of the individuals' current domicile or residence.

The term "family" is used throughout the Older Americans Act. See, e.g., section 102(a)(11), (18) of the Older

Americans Act, 42 U.S.C. § 3002(a)(11) (definition of case management services, caregiver); section 201(d)(2)(B)(iii), 42 U.S.C. § 3011(d)(2)(B)(iii) (requirements for the Director of the Office of Long-Term Care Ombudsman Programs); section 302(3), 42 U.S.C., § 3022(3) (definition of family caregiver). ACL will recognize an individual of the same sex who is legally married as a member of one's family with respect to each such reference.