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**100 OLDER AMERICANS ACT PROGRAMS**

**110 INTRODUCTION**

This Policy and Procedure Manual is an essential operational tool used for the efficient delivery of services to older adults in Colorado. The manual provides information necessary to administer the Older Americans Act (OAA) and Older Coloradans Act (OCA) through the Area Agencies on Aging (AAA), Area Plans on Aging, and services and programs for Coloradans.

The State Unit on Aging (SUA) is responsible for formulation of program policy and procedures with input from stakeholders and the Aging Policy Advisory Council (APAC). Policy and procedure changes may stem from several sources, including recently promulgated or revised Federal and State regulations, changes in accepted standards of practice, and emerging technology. Should any users of the Manual locate an item needing correction or clarification, please don't hesitate to contact us to discuss the matter. Should you have any policy-related questions, please contact the State Unit on Aging (SUA) at (303) 866-2800.

## **203 AREA AGENCIES ON AGING (AAA) GENERAL RESPONSIBILITIES**

### **203a REQUEST FOR PROPOSALS**

#### **POLICY:**

Older Americans Act pass through funds are awarded in an open, competitive, and fair manner via the Request for Proposals (RFP) process. If the Area Agency on Aging's (AAA) governing organization dictates the Request for Proposals (RFP) process, the Area Agency on Aging (AAA) may use those guidelines in place of the State Unit on Aging (SUA) guidelines stated below. Awards are made to applicants whose proposals include components of the service(s) outlined in the Request for Proposals (RFP) and who best meet the specifications of the Request for Proposals (RFP). The Area Agency on Aging Advisory Council is directly responsible for reviewing proposals and recommending awarding of funds. Awarding funds through the Request for Proposals (RFP) process during the plan year may be required when:

- A. Funds are allocated to the Area Agency on Aging (AAA) at the beginning of the Fiscal Year;
- B. There is significant expansion of a service(s) already funded;
- C. Funding a new service(s); or,
- D. Funding of an existing service is transferred from a defunct or terminated provider.

#### **PROCEDURE:**

- A. To initiate a Request for Proposals (RFP), the Area Agency on Aging (AAA):
  - 1. Develops specifications for each service to be procured which clearly define the service and how units of service are measured. The specifications include the minimum units of services to be provided, the minimum unduplicated number to be served, and geographic service areas as appropriate; and
  - 2. Develops a Request for Proposals (RFP) guide and grant application package;
- B. Announces the availability of funds and documents the announcement in newspapers in the Planning and Service Area (PSA), and concurrently sends a news release to the editor of at least two newspapers and to existing and potential service providers known to the Area Agency on Aging (AAA) in the Planning and Service Area (PSA);
  - 1. The announcement runs at least two times in daily papers or two weeks in weekly papers prior to the closing of the application period and in a sufficient number of papers to ensure complete coverage within the Planning and Service Area (PSA); and
  - 2. The announcement begins at least 21 calendar days prior to the closing of the application period and is repeated at least once no less than five (5) calendar days prior to the date of the proposers' conference.
  - 3. All announcements include:
    - a. A listing of services for which funding is available and the geographic areas that must be covered for each service;
    - b. The address at which service specifications and proposal guide may be obtained;
    - c. The closing date and time for application submittal;

- d. The name and telephone number of a person to contact for additional information; and
  - e. The date, time, and location of the proposers' conference, and notification that attendance at the conference is required in order to be considered for funding;
- 4. Makes proposal guides available for pick up at the Area Agency on Aging (AAA) office;
- 5. Mails copies of the proposal guide upon request; and
- 6. Conducts a conference for proposers prior to the deadline for submitting applications and requires applicants to attend the conference in order to be considered for funding;
- C. Provides other reasonable technical assistance to applicants who request assistance, in writing, no later than seven calendar days prior to the closing of the application period;
- D. At the close of the application period, evaluates and rates all proposals according to standard criteria based on requirements of the proposal guide. The Area Agency on Aging (AAA) disqualifies incomplete proposals from evaluation and funding.
- E. The Area Agency on Aging Advisory Council reviews the proposals and makes recommendations on funding to the Area Agency on Aging's (AAA) governing organization. All decisions related to funding recommendations are conducted in accordance with applicable State and Federal conflict of interest laws. The Area Agency on Aging Advisory Council review is conducted during a scheduled meeting with a quorum present.
- F. The Area Agency on Aging's (AAA) governing organization:
  - 1. Or a subcommittee of the governing organization, reviews all proposals and the recommendations of the Area Agency on Aging's (AAA) staff and advisory council;
  - 2. Reviews specifications and the requirements of the proposals. (All decisions related to funding awards are made in accordance with applicable State and Federal laws and regulations.);
  - 3. Recommends funding of proposals that best meet or exceed the service requirements, Federal conflict of interest laws and regulations, and maintains documentation through signed resolutions and minutes of meetings;
  - 4. Shall have at least a quorum present at the meeting. The Area Agency on Aging's (AAA) board of directors may not delegate its responsibilities related to funding awards; and
  - 5. Issues notification of funding to applicants who are approved for service provision.
- G. The Area Agency on Aging (AAA) submits to the State Unit on Aging (SUA) for approval all proposed funding awards to for-profit, full-service providers at least 21 days prior to the scheduled issue of funding awards.
  - 1. This rule does not apply to public or not-for-profit providers who sub grant or contract with a for-profit entity for a component(s) of the full Title III service, such as a for-profit food service; and
  - 2. The sub grant or contract provides an opportunity for appeal to applicants whose proposals for funding are denied.

- H. If no complete proposals are submitted for a service(s) or if the Area Agency on Aging Advisory Board determines that no proposals for a service(s) meet the specifications of the Request for Proposals (RFP), the Area Agency on Aging (AAA), with State Unit on Aging (SUA) approval, has the option of:
1. Requesting authority to provide a direct service as provided in Staff Manual Volume 10.204.1;
  2. Revising the initial specifications for the same service(s) and reissuing a new Request for Proposal (RFP);
  3. Initiating community development activities to create a potential provider of the service(s) as specified in the Request for Proposal (RFP); or,
  4. In the interim, requesting approval from the State Unit on Aging (SUA) to temporarily provide the service as a direct service.

## **203b EMPLOYMENT POLICIES AND PROCEDURES**

### **POLICY:**

Each Area Agency on Aging (AAA) and Title III project, contractor, or grantee, maintains a system of personnel administration, which complies with all State and Federal statutes.

### **PROCEDURE:**

The contracted agency shall notify the State Unit on Aging (SUA) of an Area Agency on Aging (AAA) director or project director vacancy.

## **203c PROPERTY MANAGEMENT STANDARDS**

### **POLICY:**

Area Agencies on Aging (AAA) and Title III projects shall follow Federal policy governing title, use and disposition, for real and tangible personal property whose acquisition cost was borne in whole or in part as a direct charge to Title III funds.

### **PROCEDURE:**

- A. Area Agency on Aging (AAA) and Title III Project staff shall follow all policy outlined in United States Department of Health and Human Services (USDHHS) Federal Regulation 45, Colorado Fiscal Rule (CFR) Part 74, Subpart O;
- B. Area Agency on Aging (AAA) and Title III Project staff shall follow all policy outlined in Federal Register Office of Management and Budget (OMB) Circular A-110, Attachment N; and

- C. Area Agency on Aging (AAA) and Title III Project staff shall utilize documentation to maintain a physical inventory of equipment purchased with Title III funds in compliance with Federal regulations. The Area Agencies on Aging (AAA) may choose to use hard copy or a computer generated version of the inventory, however, the computer-generated format must include all of the information that is pertinent to the Area Agencies on Aging (AAA) reporting requirements.

## **205 OVERSIGHT OF SERVICE PROVIDERS**

### **205a PROVIDER ON-SITE ASSESSMENT CRITERIA**

#### **POLICY:**

- A. The Area Agencies on Aging (AAA) shall conduct provider on-site monitoring and assessments as described in Volume 10 and this Manual.
- B. The Area Agencies on Aging (AAA) shall develop monitoring and assessment methods and instruments appropriate for each of the services.

#### **PROCEDURE:**

On-site provider assessments by the Area Agencies on Aging (AAA) shall include review of:

- A. Procedures manuals (both operational and fiscal), including Request for Proposal (RFP) processes (if applicable), with special attention to any changes since the last monitoring or assessment;
- B. Quality of services and client satisfaction, as defined in contract or grant;
- C. Efforts to reach targeted populations, including those in greatest need;
- D. Sample case files (selected randomly by Area Agencies on Aging (AAA));
- E. Service data entry records for reconciliation with billing documentation;
- F. Accounting processes for service units delivered and supporting documentation for billing;
- G. Cash handling processes, including appropriate requests for voluntary contributions;
- H. Tracking of program income, including expenditure;
- I. Fiscal audits (as appropriate);
- J. Service provider staff interviews;
- K. In-kind contribution valuation documentation (e.g. donated space/equipment; utilities);
- L. Personnel changes, including assurance that new staff have requisite qualifications, background checks (if appropriate), etc.;
- M. Capital expense and disposition (control) of property (if appropriate);
- N. Verification of routine notification to consumers regarding their rights in the complaint/appeal process;
- O. Complaint tracking mechanisms or logs and verification of availability and retention of these records; and
- P. Stipulations regarding provider monitoring and on-site assessment requirements shall be included in contracts or grants.

**205b**      **WAIT LISTS**

**POLICY:**

The Area Agencies on Aging (AAA) shall develop a process which will ensure that Older Americans Act (OAA) targeted populations are a priority on the wait list including people in emergency situations where the health, safety, and welfare of the applicant may be at risk using the following criteria:

**CRITERIA:**

- Wait lists are established when services are available and cannot be provided to all eligible consumers.
- Wait list procedures must be equitable to all eligible consumers.
- Eligible consumers should be placed on a wait list. Eligibility may be determined through a phone or mail assessment.
- Wait lists are required when services are provided through the Older Coloradans Act (OCA) or Older Americans Act (OAA).
- Priority must be given to those targeted by the Older Americans Act and Older Coloradans Act, with due consideration given to the time kept on a wait list.
- AAAs will develop a process to ensure individuals on the wait list are served expeditiously including reapplication if appropriate.

**PROCEDURE:**

The Area Agencies on Aging (AAA) will ensure that:

- A. Contractors are informed and provided with the wait list policies;
- B. Contracts contain stipulations requiring wait lists to be developed, maintained, and readily available to the Area Agencies on Aging (AAA) or State Unit on Aging (SUA); and
- C. Area Agencies on Aging (AAA) on-site provider evaluations include a wait list review.

Wait List Consumer Information to be included:

- A. Region number and name of the Area Agency on Aging (AAA) service provider or contractor;
- B. Date placed on list;
- C. Service requested;
- D. Consumer name;
- E. Consumer telephone number; and
- F. Follow up contact dates.

The wait list documentation may be kept via hard copy or electronic means; however, electronic copies must be printable. Wait list documentation must be retained.

## **205c REMOVAL OF PERSONS FROM WAIT LISTS**

### **POLICY:**

Area Agencies on Aging (AAA) shall define and develop a process to ensure consumers are removed from the wait list on an equitable basis.

### **PROCEDURE:**

The criteria for removal may include the following:

- A. Placed in services. The person is receiving services.
- B. The person requests removal. The person no longer desires the service.
- C. Service needs change. The person no longer needs the particular service for which they have been waiting.
- D. Loss of Contact. The person or family is unable to be contacted, after a reasonable number of attempts (e.g. telephone number is disconnected and/or alternate contact person does not know the whereabouts of the person).
- E. No longer eligible. The person is no longer eligible for services (e.g. no longer a caregiver).
- F. Death.
- G. Service no longer offered. The Area Agency on Aging (AAA), through established processes, makes a determination that the service will no longer be offered.
- H. When a consumer is removed from a wait list, records must include documentation as to the reason for removal.

## **206 CONSUMER CONFIDENTIALITY**

### **POLICY:**

Area Agencies on Aging (AAA) and service providers shall maintain the confidentiality of individual consumers' information.

### **PROCEDURE:**

The Area Agency on Aging (AAA) shall ensure that no information about an eligible consumer is disclosed by the Area Agency on Aging (AAA) or provider without the informed written consent of the consumer. The Area Agency on Aging (AAA) shall:

- A. Assure that such information is gathered only with informed consent of the consumer;
- B. Assure that such information is used for purpose(s) gathered;
- C. Assure that adequate security of records maintained to prevent unauthorized use;
- D. Limit access to consumer records and identifiable information only to program staff; and those with program clearance; and
- E. Ensure that consumer files are kept under lock and key after use.



## **207 TARGETING OF SERVICES**

### **POLICY:**

The Area Agencies on Aging (AAA) shall assure compliance with Federal and State requirements to target the following special populations of older adults:

- A. Greatest economic need;
- B. Greatest social need;
- C. Low-income minority;
- D. Frail; and
- E. Older adults residing in rural areas (defined as older adults that reside in any area not defined as urban by the State Demographer's Office.)

### **PROCEDURE:**

- A. Include requirements for targeting in each Request for Proposal (RFP) package.
  - 1. Contract with service providers to include provisions assuring the required targeting of consumers; and
  - 2. Evaluate the targeting of consumers by service providers at a minimum on an annual basis.
- B. Develop a plan in cases where appropriate targeting has not occurred or request a plan from the service provider, identifying how targeting requirements will be met in a specified period of time.
- C. Provide steps in the Area Agency on Aging's Area Plan that outlines specific steps to target consumers of the greatest economic and social need, low-income minority, frail, and rural consumers.

## **209 COORDINATION**

### **POLICY:**

The Area Agencies on Aging (AAA) shall perform activities that will maximize the availability of services to older adults residing in the Planning and Service Area (PSA), and reduce duplication.

### **PROCEDURE:**

- A. Identify Federal, State and local programs that could impact persons in the Planning and Service Area (PSA);
- B. Research and obtain alternative funding that will support existing program services and/or the development of new services that will impact older adults within the Planning and Service Area (PSA);
- C. Participate in joint information sharing and planning interagency organizations;
- D. Extend Area Agencies on Aging (AAA) sponsored training opportunities to local health and social service agencies who serve and advocate for older adults; and
- E. Extend Area Agencies on Aging (AAA) sponsored training opportunities to businesses and other private entities.

## **210 PROGRAM DEVELOPMENT**

### **POLICY:**

The Area Agencies on Aging (AAA) shall continue to establish new services for the improvement, expansion, or integration of new services to meet needs, if resources allow.

### **PROCEDURE:**

Criteria for funding program development of services shall include, but not be limited to:

- A. Development and implementation of activities that are specific to the accomplishment of service(s) provided as well as goals and objectives;
- B. Request for approval to utilize Title III, Part B funds on Program Development; and
- C. Providing assurances that the Area Agencies on Aging (AAA) will not expend funds from Title III, Part B allocation to support Program Development and Coordination until it has first spent 10% of the total of its combined allotments under Title III on the administration of area plans.

## **213 EMERGENCY PREPAREDNESS / DISASTER RELIEF**

### **POLICY:**

- A. Emergency Preparedness and Continuity of Operations Planning (EP) will facilitate continued health, safety and welfare of consumers, especially consumers deemed “vulnerable” during declared emergencies. Area Agencies on Aging (AAA) shall designate staff as Emergency Preparedness and Continuity of Operations (EP) Coordinators. Emergency Preparedness and Continuity of Operations (EP) Coordinators are responsible for emergency preparedness and continuity of operations planning for the Area Agencies on Aging (AAA) and proactively bringing the likely needs of older adults in their regions to the attention of county emergency managers to ensure the health, safety, and welfare of Older Americans Act and Older Coloradans Act consumers. The Emergency Preparedness and Continuity of Operations (EP) Coordinator is the primary point of contact with the State Unit on Aging (SUA) and county emergency managers.
- B. Each county has a unit designated as the Office of Emergency Management (OEM). A plan manager within the county office is responsible for overseeing the county emergency preparedness and continuity of operations plans developed under the direction of the Colorado Office of Emergency Management (COEM). The county emergency manager is the likely contact for coordination efforts by Area Agencies on Aging (AAA) Emergency Preparedness and Continuity of Operations (EP) Coordinator. The Division of Homeland Security and Emergency Management website contains information on emergency preparedness at <http://www.dhsem.state.co.us/>.

- C. In the event of a disaster of such proportions that the President approves an Executive Order declaring any county within a Planning and Service Area (PSA) a "Federal disaster area", the State Unit on Aging (SUA) may be notified by the Administration for Community Living (ACL) of the availability of "disaster funds". These funds, if awarded, are typically granted without match requirements.

**PROCEDURE:**

- A. Emergency Preparedness and Continuity of Operations (EP) Coordinators shall identify the community persons responsible for emergency planning and services in the Planning and Service Area (PSA); at a minimum this includes the local Office of Emergency Management and county emergency managers. The Emergency Preparedness and Continuity of Operations (EP) Coordinator shall inform these officials of the role of Area Agencies on Aging (AAA), including, but not limited to, the services provided (by city), the size of the Older Americans Act (OAA) and Older Coloradans Act (OCA) eligible population, and any special concerns such as isolated or frail older adults. Other entities that Area Agencies on Aging (AAA) may wish to consult include: the Council of Governments (COG); American Red Cross, Salvation Army, and Interfaith Task Forces;
- B. Emergency Preparedness and Continuity of Operations (EP) Coordinators will coordinate EP planning with nutrition project providers, transportation service providers, and the local emergency preparedness management organization(s). Area Agencies on Aging (AAA) will ensure that nutrition projects and transportation providers add documentation to their policy and procedures manuals to verify completion of this planning. As appropriate, Emergency Preparedness and Continuity of Operations (EP) planning shall be made a part of contracts between Area Agencies on Aging (AAA) and providers.
- C. Emergency Preparedness and Continuity of Operations (EP) Coordinators shall plan for the availability of services to older adults in weather-related and other emergencies, where feasible and appropriate, within their Planning and Service Area (PSA).
- D. Emergency Preparedness and Continuity of Operations (EP) Coordinators shall implement the emergency plan when notified by State or local officials that an emergency has occurred or has been officially declared, and shall carry out the following activities as feasible and appropriate:
1. Determine the impact of the emergency on the Area Agencies on Aging (AAA) network and the services provided;
  2. Make immediate arrangements to handle incoming calls from emergency officials, older adults, and their families;
  3. Communicate with the emergency manager of the affected area in accordance with the Area Agencies on Aging (AAA) Emergency Preparedness and Continuity of Operations (EP) Plan;
  4. Determine the special needs of vulnerable older adults known to the Area Agencies on Aging (AAA) and offer the resources of the Area Agencies on Aging (AAA) to assist with these special needs of vulnerable older adults;
  5. Provide information and make referral to incoming inquiries including follow-up when requested to incoming inquiries;
  6. Provide outreach and transportation services;
  7. Provide follow-up to older adults;

8. Report to the State Unit on Aging (SUA) and Administration for Community Living (ACL) on emergency related activities when requested by State Unit on Aging (SUA) and/or Administration for Community Living (ACL).
- E. Emergency Preparedness and Continuity of Operations (EP) Coordinators shall oversee the development of Area Agencies on Aging (AAA) Emergency Preparedness and Continuity of Operations (EP) coordination documents for inclusion in Area Agencies on Aging (AAA) policy and procedure manuals. This documentation shall include a list of the names and contact information of emergency managers and current information of the status of preparedness of the Area Agencies on Aging (AAA). This information shall be submitted to the State Unit on Aging (SUA) not later than **August 31<sup>st</sup>** of each year in a format requested by the State Unit on Aging (SUA).

## **214 CONFLICT OF INTEREST**

### **POLICY:**

Older Americans Act (OAA) and Older Coloradans Act (OCA) programs shall have an obligation to conduct business in a manner that both recognizes and prohibits actual or potential conflict of interest.

- A. An actual or potential conflict of interest occurs when a Regional Advisory Council (RAC) member is in a position to influence a decision that may result in a personal gain for that Regional Advisory Council (RAC) member or relative as a result of the region's business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.
- B. No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if the Regional Advisory Council (RAC) members have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to the chairperson of the Regional Advisory Council (RAC) as soon as possible the existence of any actual or potential conflict of interest so that the designated policy can be followed.
- C. Members of the Area Agencies on Aging Regional Advisory Councils who are board members of agencies, or otherwise affiliated with an agency, that have submitted applications for an award of funds to the Area Agencies on Aging (AAA) shall not take part in the review process that evaluates such applications and shall abstain from casting a vote to approve or disapprove of such application. Neither shall there be participation in any evaluation, assessment, or review of an Area Agency on Aging (AAA) grantee's operations on the part of an Area Agency on Aging's Regional Advisory Council member, nor participation in any other activity that can be considered a conflict of interest because of such member's official relationship with the grantee organization.
- D. Members may still be involved in the review, evaluation, and assessment process for services where a conflict of interest does not exist.

**PROCEDURE:**

To ensure that the Area Agencies on Aging (AAA), State Unit on Aging (SUA), and/or Colorado Long Term Care Ombudsman (CLTCO) are compliant with observance of conflict of interest policies, the following adherences shall be observed.

- A. No officer, employee, or other representative of the State Unit on Aging (SUA), Colorado Long Term Care Ombudsman (CLTCO), or an Area Agency on Aging (AAA) shall give the appearance of a conflict of interest under the Older Americans Act (OAA) or the Older Coloradans Act (OCA).
- B. Staff members of the State Unit on Aging (SUA) shall not serve on a policy board or advisory council of an Area Agencies on Aging (AAA) or other organization, which receives Older Americans Act (OAA) or the Older Coloradans Act (OCA) funds, or has submitted a grant application or contract proposal for such funds.
- C. Members of Area Agencies on Aging Advisory Councils, who are also employees, board members, or serve on subcommittees of agencies that have submitted contract proposals to the Area Agency on Aging shall not take part in the process of evaluating applications or proposals in the service category in which the proposal was submitted, and shall abstain from voting to approve or disapprove of the proposal, as well all proposals in the service category in which the proposal was submitted.

**215 AREA AGENCY ON AGING ADVISORY COUNCIL**

**POLICY:**

The Area Agency on Aging (AAA) shall establish and support an advisory council. The Area Agency on Aging (AAA) shall participate in the establishment of, and collaboration with, the other advisory groups identified below.

**PROCEDURE:**

The membership of the Advisory Council and the Area Agencies on Aging (AAA) shall ensure that potential conflicts of interest are identified and resolved. To ensure that older adult individual concerns are addressed and needs are met, Advisory Council membership shall include:

- A. Older adults;
- B. Low-income minority individuals;
- C. Individuals living in geographically isolated areas; and
- D. Individuals eligible to participate in the program.

**215a      ADDITIONAL ADVISORY GROUPS**

- A.    The Colorado Commission on Aging (CCOA), which has been established by statute to serve as the primary advisory group for the Older Americans Act at the State level.
- B.    The County Council on Aging, or other similar entity that advocates for older adults in a county.
  - 1.    The Area Agency on Aging (AAA) is encouraged to assist in the development of county councils within the planning and service area.
  - 2.    Membership on the County Council on Aging is encouraged to be composed of at least 50 percent persons aged 60 or above, and include those of greatest economic or social need, and minority individuals in proportion to their number in the county or region.

**300 FISCAL ADMINISTRATION AND MANAGEMENT**

**POLICY:**

In consultation with Area Agencies on Aging and in accordance with guidelines issued by Administration for Community Living (ACL), the State Unit on Aging (SUA) uses the best available data to develop and publish for review and comment a formula for distribution within the State of funds received under Title III that takes into account:

- A. The geographical distribution of older adults in the state; and
- B. The distribution among the Planning and Service Area (PSA) of older adults with greatest economic need and older adults with greatest social need, with particular attention to low-income minority older adults.

**PROCEDURE:**

The State Unit on Aging (SUA) implements this section by:

- A. Obtaining input from the Area Agencies on Aging (AAA), including demographic data, for use in developing the Intrastate Funding Formula (IFF);
- B. Following guidelines from the regional office of the Administration for Community Living regarding development of the Intrastate Funding Formula;
- C. Considering the geographic distribution among Planning and Service Area (PSA) of persons 60 years of age and older in the development of the Intrastate Funding Formula;
- D. Considering the distribution among Planning and Service Area (PSA) of older adults in greatest economic need, based on older adults at or below the poverty level as defined by the United States' Bureau of Census. Particular attention is paid to low-income minority older adults and older adults residing in rural areas, in the development of the Intrastate Funding Formula;
- E. Considering the distribution among Planning and Service Area (PSA) of older adults in greatest social need. Particular attention is paid to low-income minority older adults and older adults residing in rural areas, in the development of the Intrastate Funding Formula (IFF);
- F. Developing an Intrastate Funding Formula (IFF), which includes funds retained for State and Area Agencies on Aging (AAA) administration, and for the State Long-Term Care Ombudsman Program with the following considerations:
  - 1. A 10% allotment is retained by the State Unit on Aging (SUA) for administrative costs.
  - 2. Additional funds, up to three-fourths of one percent (0.75%) of Title III Part B and C funds, may be retained as a supplement to administer the State Plan on Aging. Prior to retention of these additional funds, the State shall consult with the Colorado Commission on Aging (CCOA) and obtain approval from the State Board of Human Services and the Assistant Secretary of Health and Human Services, and notify the Area Agencies on Aging (AAA);
  - 3. No more than ten percent of the funds remaining after providing for State Unit on Aging (SUA) administrative costs are awarded for meeting Area Agencies on Aging (AAA) administrative costs; in awarding administrative funds, each Planning and Service Area (PSA) is apportioned a minimum of \$40,000 unless available funds are insufficient to provide for such an apportionment;

4. If the funding allocated does not meet the minimum level, funds shall be deducted from the allocations of other Area Agencies on Aging (AAA) based on the percentage by which each Area Agency on Aging (AAA) exceeds the minimum funding as determined by the State Unit on Aging (SUA);
  5. Each Planning and Service Area (PSA) in existence as of July 1, 1985, shall be considered a Planning and Management Region (PMR) and shall receive the \$40,000.00 allocation;
  6. In Planning and Service Areas (PSA) served by two (2) or more Area Agencies on Aging (AAA), the base of \$40,000.00 shall be split between the Area Agencies on Aging (AAA)
  7. If a Planning and Service Area (PSA) includes a geographic area that is part of a Planning and Management Region (PMR), the allocation shall be determined by the ratio of the total of the weighted population factors to the total of the same factors for the entire Planning and Management Region (PMR), multiplied by \$40,000.00; and
  8. If a Planning and Service Area (PSA) is composed of two Planning and Management Regions, the allocation shall be \$80,000.00 (2 X \$40,000.00).
- G. Allocating the remaining Title III, Part B and C funds according to the following ratios using population statistics supplied by the State Demographer's Office:
1. 40% -- Population age 60 and over;
  2. 15% -- Rural population age 60 and over;
  3. 15% -- Minority population age 60 and over;
  4. 15% -- Low-income population age 60 and over; and
  5. 15% -- Population age 75 and over.
- H. Not deducting funds from Title III, Part D for Area Plan administration.
- I. Disseminating the formula for review and comment by the public. The publication includes:
1. A descriptive statement of the formula's assumptions and goals;
  2. Documentation regarding the application of greatest economic need;
  3. Documentation regarding the application of greatest social need;
  4. A numerical statement of the actual funding formula to be used;
  5. A listing of the population, economic, and social data used for each Planning and Service Area (PSA); and
  6. A demonstration of the allocation of funds to each Planning and Service Area (PSA), pursuant to the funding formula.
- K. Submitting the formula to the Federal Assistant Secretary for Aging for approval; and implementing the formula in allocating Title III and Title VII Federal Older Americans Act (OAA) funds.



**300a**      **AREA AGENCIES ON AGING (AAA) COMMERCIAL AND  
CONTRACTUAL ACTIVITIES**

**POLICY:**

- A. Area Agencies on Aging (AAA) and Title III projects may engage in commercial and contractual activities compatible with the development or enhancement of comprehensive and coordinated service delivery systems for older adults. Commercial and contractual activities do not include activities an Area Agency on Aging (AAA) or Title III project performs pursuant to the Older Americans Act (OAA) Program. This section applies to Title III projects only when Title III facilities and staff are utilized in the performance of commercial and contractual activities.
- B. Income generated from Older Americans Act (OAA) funded programs provided to non-Older Americans Act (OAA) consumers is considered akin to program income service reimbursement. The complete cost of the service is reimbursed to the Older Americans Act (OAA) funded program. No Older Americans Act (OAA) funds are construed as having paid for a non-Older Americans Act (OAA) service. Contract income above the actual cost of the service does not fall under the provision of Section 315 of the Older Americans Act of 1965 as amended 2006.

**PROCEDURE:**

- A. The Area Agency on Aging (AAA) or Title III project performing commercial or contractual activities provides assurances to:
  - 1. Demonstrate the quantity or quality of Older Americans Act (OAA) services to be provided will be enhanced as a result of such contract relationship;
  - 2. Disclose the identity of each nongovernmental entity with which the agency has a contract or commercial relationship relating to providing services to older adults;
  - 3. The nature of such contract or relationship; and
  - 4. All sources and expenditures of funds the Area Agencies on Aging (AAA) receives or expends to provide services to older adults for the purpose of monitoring compliance with the Older Americans Act (OAA), including conducting an audit.
  - 5. Maintain the integrity and public purpose of Older Americans Act (OAA) services provided;
  - 6. Not use Older Americans Act (OAA) funds received to pay any part of a cost, including an administrative cost, incurred to carry out a contract or commercial relationship.
  - 7. Area Agencies on Aging (AAA) require Older Americans Act (OAA) service providers to submit annual verification of the service cost computed in accordance with Generally Accepted Accounting Principles (GAAP) by a non-biased, qualified person, such as a Certified Public Accountant (CPA).

8. Area Agencies on Aging (AAA) review the service cost methodology annually in accordance with Generally Accepted Accounting Principles through a qualified individual such as a Certified Public Accountant (CPA) to either approve it or disapprove it and work with the service provider to obtain suitable information. The final computation, once approved by the Area Agencies on Aging (AAA), is submitted to the State Unit on Aging (SUA) annually in the Area Agencies on Aging (AAA) approved Funding Request; and
- B. Preference in receiving Older Americans Act (OAA) services will not be given to particular older adults as a result of a contract or commercial relationship.

### **300b FINANCIAL MANAGEMENT STANDARDS**

#### **POLICY:**

Each Area Agency on Aging (AAA) and Title III project maintains an accounting system, which is in compliance with Generally Accepted Accounting Principles (GAAP). All Title III funds, and State and local funds expended to earn or match such funds, must be accounted for in accordance with the Federal standards.

#### **PROCEDURE:**

Area Agencies on Aging (AAA) and Title III projects implement financial management standards in accordance with the Federal standards outlined in the United States Department of Health and Human Services (USDHHS) Federal Regulation 45, Colorado Fiscal Rules Part 74, all subparts, and Federal Register Office of Management and Budget Circulars A-87 and A-122000.

### **300c PROCUREMENT STANDARDS**

#### **POLICY:**

Area Agencies on Aging (AAA) and Title III projects shall follow applicable Federal policy governing the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part by Title III funds.

#### **PROCEDURE:**

- A. Area Agencies on Aging (AAA) and Title III projects shall implement procurement standards as outlined in USDHHS Federal Regulation 45, CFR Part 74 and Federal Register OMB Circular A-110. In addition:
- B. Area Agencies on Aging (AAA) shall ensure free and open competition for all service providers via the Area Agency's standard Request for Proposals; and
- C. Area Agencies on Aging (AAA) and Title III projects shall make positive effort to utilize small business, women, and minority-owned businesses as sources of supplies and services.

## **301 ALLOTMENT OF FUNDS FOR TITLE III AND TITLE VII SERVICES**

### **301a FUNDING REQUESTS**

#### **POLICY:**

- A. To receive funding, Area Agency on Aging directors are required to submit a One-Year Funding Request for the Older Coloradans and Title III Older Americans Act Programs.
- B. Administrative funds have been made available to the Area Agencies on Aging (AAA) from the State Funding for Senior Services (SFSS) appropriation. The One-Year Funding Request for Older Coloradans includes a budget statement that allows Area Agencies on Aging (AAA) to transfer the allocated administrative to service funds.
- C. The Title III Older Americans Act (OAA) requirement includes: transfer request for Title III between Parts B and C, an administrative budget, service delivery and cost projections, and targeting evaluations.

#### **PROCEDURE:**

The Area Agencies on Aging (AAA) shall complete the Federal Title III Funding Request Application and the State Funding for Senior Services Funding Request Application using the State Unit on Aging (SUA) criteria. The State Unit on Aging (SUA) must receive one original version of the Funding Request for Title III (Part B, C1, C2, D and E), and the State Funding for Senior Services (SFSS) by the required date.

## **303 IN-KIND CONTRIBUTIONS**

#### **POLICY:**

In-kind contributions shall be properly recorded and in line with Federal regulations and Volume 10.

#### **PROCEDURE:**

Decisions made regarding allowable in-kind match shall be supported with detailed documentation and in compliance with the rules. Documentation should be kept in the Area Agency on Aging (AAA) office and readily available should there be an audit.

- A. Services provided by volunteers or other unpaid staff for which the grantee or subgrantee would otherwise have to pay shall be valued at rates consistent with those ordinarily paid for similar work by the grantee organization in the same labor market. These rates may include fringe benefits.
- B. Donated goods, which shall be valued at the fair market value of the goods at the time of donation.

- C. Donated space or equipment, when the donor retains title, shall be valued at the fair rental value of the equipment or space. When the title is transferred to the grantee agency, and approval of such match is obtained from the grantor agency, the donated asset shall be valued at fair market value at the time of donation. Approval may only be given by the grantor agency if the purchase of the asset would be approved as an allowable direct cost. If approval of the grantor is not obtained, only depreciation of use allowance may be counted as match for such donated assets.
- D. Goods, services, or fixed assets funded from other Federal sources shall not be used as in-kind match.
- E. In-kind contributions must be documented to identify the in-kind contribution and show how the value placed on the in-kind contribution was determined.
- F. The value of donated goods or services is not reimbursable either as a direct or indirect cost of the grant.
- G. Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost-sharing or matching requirement of an Older Americans Act (OAA) grant if they have been or will be counted towards satisfying a cost-sharing or matching requirement of another Federal grant, a Federal procurement contract, or any other award of Federal funds.

### **303a IN-KIND DOCUMENTATION AND RECORD KEEPING REQUIREMENTS**

#### **POLICY:**

Area Agencies on Aging (AAA) shall keep accurate documentation of in-kind contributions.

#### **PROCEDURE:**

- A. Services – Records shall identify the nature of the duty performed, hours worked, hourly rate, date of service and shall be signed by both the volunteer and a supervisor.
- B. Donated Space or Equipment – Letters from appraisers or realtors must indicate the fair market value of the donated space or equipment based on comparable rates in the community.
- C. Utilities – copies of the actual utility bills shall be obtained for purposes of documenting the value of donated utilities.

**306 CARRY-OVER FUNDS**

**POLICY:**

- A. Area Agencies on Aging (AAA) and their contractors are allowed to carry-over unexpended funds from the most recently completed budget year into the current program budget under prescribed circumstances. Unexpended funds are funds that are obligated and encumbered but not yet disbursed by the Area Agencies on Aging (AAA) or their contractors at the end of the budget year, and remain unliquidated for more than 30 days after the end of the funding period.

**PROCEDURE:**

- A. The Area Agency on Aging (AAA) submits for approval to the State Unit on Aging (SUA), a final financial report for the most recently completed program or Area Plan year, which includes documentation of unexpended funds.
- B. The Area Agency on Aging (AAA) submits to the State Unit on Aging (SUA), for approval, a budget amendment outlining the proposed disposition of the unexpended funds.
- C. The State Unit on Aging (SUA) issues a funding letter to the Area Agencies on Aging (AAA) authorizing the obligation, or carry-over, of the unexpended funds into the current program or Area Plan year.
- D. Only Title III Older Americans Act (OAA) Federal funds are eligible for carry-over.
- E. Area Agencies on Aging (AAA) may not carry-over Nutrition Services Incentive Program (NSIP) cash in lieu of commodities funds. Unexpended Nutrition Services Incentive Program (NSIP) funds revert to the Nutrition Services Incentive Program (NSIP).
- F. Area Agencies on Aging (AAA) may not carry-over State funds. Unexpended State funds revert to the State of Colorado.
- G. Unexpended Area Agency on Aging (AAA) Title III-B administrative and direct service funds may not be carried over as direct service funds. Such funds may be reverted to Title III-B service funds, or passed through, which may be sub-contracted by the Area Agencies on Aging (AAA) via the Request for Proposals process.
- H. Carry-Over funds are Title III funds that are not expended during the budget year and may be available during the next budget year.
- I. In cases of repeated and unjustified unexpended Area Plan funds, the State Unit on Aging (SUA) may elect to reduce the percentage of total State Title III-B funds available for use in the Area Agencies on Aging (AAA) administration and direct service budgets.

## **310 CONSUMER CONTRIBUTION**

### **POLICY:**

The Area Agency on Aging (AAA) shall ensure that minimum standards and procedures are established for the responsible collection of, handling, and safeguarding of consumer contributions and non-eligible recipient fees. The Area Agencies on Aging (AAA) should review the provider agreements and/or contracts to ensure that the voluntary contribution policy is included.

### **PROCEDURE:**

When implementing voluntary contributions, the Area Agency on Aging (AAA), or entity that such agency has contracted with, shall ensure the following standards and procedures are met.

- A. Solicitations for voluntary contributions may occur at regular intervals and be clearly communicated.
- B. Envelopes, tickets, or vouchers may be offered to consumers who may wish to make a private voluntary contribution.
- C. Contribution boxes or receptacles may be placed in an area observable for security purposes, but private for contribution purposes.
- D. All eligible consumers shall be given the opportunity to voluntarily contribute to the cost of selected services received. For example, the solicitation for voluntary contributions may include, but is not limited to: signs at the provider sites; individual or form letters to the consumer; or verbal communication to the consumer. The solicitation may include factual information related to the cost of delivering the service but must be non-coercive with respect to the voluntary nature of the contribution.
- E. Voluntary contributions methods are determined through consultation with stakeholders within the Planning and Service Area. The Area Agencies on Aging (AAA) will monitor and approve voluntary contribution solicitation practices and materials upon development, implementation, and during the provider evaluation process.
- F. The Area Agencies on Aging (AAA) shall not means test for any service for which voluntary contributions are accepted. Assets, savings, other property owned by a consumer, or income shall not be considered when identifying potential consumers. The Area Agencies on Aging (AAA) shall continue to target and prioritize consumers using consumer-reported eligibility information.
- G. Services may not be denied to a consumer due to the consumer's reluctance or inability to contribute toward the cost of the service. With limited funding resources, the Area Agencies on Aging (AAA) shall prioritize targeted individuals designated in the Older Americans Act (OAA): Older adults with greatest economic need and older adults with greatest social need, including low-income minority individuals and older adults residing in rural areas. If needs exceed Older Americans Act (OAA) program resources, targeted individuals may receive priority, regardless of the consumer's ability to pay.

- H. Frequency of contribution solicitations may be determined by the Area Agencies on Aging (AAA) and stakeholders. For example, this may occur during initial intake, during the delivery of service, by mail or distribution each month or other intervals, or ongoing. Consumer privacy and confidentiality is protected with respect to the consumer's contribution or lack of contribution. For example, to facilitate private, confidential contributions, voluntary contributions may be mailed at a later date. Site collection receptacles may be placed away from reception area. If providers accept voluntary contributions, they may keep logs of acceptance of tickets, vouchers, or envelopes, regardless of whether or not they contain a contribution.
- I. Appropriate procedures are established to safeguard and account for all contributions. Cash handling procedures shall be monitored by the Area Agencies on Aging (AAA) during the provider evaluation process and ongoing as needed.
- J. Collected contributions are used to expand the service for which the contributions were given. Consumers may be notified that their contributions will be used to provide additional services for other consumers.
- K. Written material in languages other than English shall be made available where appropriate.

### **310a GUEST FEES**

#### **POLICY:**

Non-eligible recipients shall be charged the full cost of service.

#### **PROCEDURE:**

- A. The AAA shall develop a cost per unit of service.
- B. For congregate and home delivered meal services the standardization on the calculation of the total meal cost and guest fee the 'Total Meal Cost and Guest Fee Determination Tool' has been developed. This tool shall be completed annually by each Older Americans Act nutrition program and will determine the total meal cost and guest fee to be charged to all non-eligible individuals each State Fiscal Year beginning July 1<sup>st</sup> through June 30<sup>th</sup>. At a minimum, the required match of 10%, including both in-kind and local cash, shall be included in the calculation. The amount of the guest fee shall not be less than the suggested donation. The completed tool shall be available for review by Area Agencies on Aging (AAA), the State Unit on Aging (SUA), Federal regulatory agencies, and others needing it for purposes of audit or compliance review.
- C. Guest fees are used to expand the service for which the fees were given.
- D. Guests are not required to belong to Older Americans Act (OAA) targeted groups.
- E. When resources cannot accommodate guests and eligible consumers, consumers take priority and are the first served.
- F. Guest fees are required. They are not voluntary or confidential.
- G. All non-eligible individuals are considered guests. The full cost of the meal shall be charged to all non-eligible individuals because Title III-C and State Funds for Senior Services (SFSS) shall not be used to provide services to non-eligible individuals.

## **314 FISCAL AND PERFORMANCE REPORTING REQUIREMENTS**

### **POLICY:**

The Area Agency on Aging (AAA) shall collect descriptive data utilizing a system compatible with State Unit on Aging (SUA).

### **PROCEDURE:**

- A. Establish and maintain a uniform system for the collection of data that will accurately reflect the project and financial operations.
- B. Retain provider applications, fiscal and programmatic records until formal notice is received by the Department advising that records are no longer necessary for audit purposes. If records are being maintained in an electronic format, such as Electronic Health Records, these records must be retained until the Department advises disposition and be available for review by the Area Agency on Aging, State Unit on Aging, Federal regulatory agencies, and others needing it for purposes of audit or compliance review.
- C. Submit of monthly reimbursement requests on a timely basis. The Department shall be notified three days prior to the deadline to request approval for an extended deadline.
- D. Establish a tracking system to monitor carry-over by part. These records will be available for review at the time of on-site evaluations.
- E. Use approved Department consumer information assessment forms and train providers and staff regarding the appropriate and correct use of these forms.
- F. Document and retain evidence of program cash, local match, and in-kind contributions.
- G. Provide training and technical assistance to staff and providers regarding approved data entry methods. This training should include information on how to maintain accurate information in the data management system. Attendance sign-in sheets must be maintained as documentation that training occurred.

## **314a BUDGET REVISION**

### **POLICY:**

- A. The following types of budget revisions will require the approval of the State Unit on Aging (SUA) through a revised Funding Request application, and a revised Title III Project or Area Agency budget:
  1. A budget increase of more than ten percent in any single line approved line item;
  2. A change in the project period and budget year dates;
  3. A change in the recipient of award; and
  4. A significant change in the personnel or equipment line items.

### **PROCEDURE:**

- A. The Area Agency on Aging (AAA) submits a proposed budget with any of the outlined revisions listed in Section 301a of the State Unit on Aging Policy and Procedure Manual to the State Unit on Aging (SUA) for approval.
- B. If the revision(s) is approved, the contracted agency issues a revised Funding Letter; and the Area Agencies on Aging (AAA) revises the budget as approved.



**316      FISCAL AUDITS**

**POLICY:**

Audits of Area Agencies on Aging (AAA) shall be conducted in accordance with Federal requirements for audits of states, local governments, and nonprofit organizations and as directed by the State Unit on Aging (SUA).

**PROCEDURE:**

- A. An independent auditor shall audit all Area Agencies on Aging (AAA) at least every two years. If conducted every two years, the audit shall include both years.
- B. Each direct contractor of the State Unit on Aging (SUA) shall be audited at least every two years in accordance with Federal requirements for audits of states, local governments and nonprofit organizations, and as directed by the State Unit on Aging (SUA). If conducted on a two year basis, the audit shall include both years.
- C. The Area Agency on Aging (AAA) shall be responsible for scheduling audits of their agency and shall budget for the use of an independent registered certified public accountant to carry out the audit.
- D. The Area Agency on Aging (AAA) shall ensure that their providers receiving financial assistance awards are audited in accordance with CDHS Manual, Services for the Aging, Volume 10.
- E. The audit of an Area Agency on Aging (AAA) shall include a representative sample of the transactions under sub grants that are less than lower limits established by the Federal Office of Management and Budget (OMB) for such audits, if the aggregate of the providers is material according to the auditor's judgment.
- F. Costs of auditing providers may be charged to the contractor if the audit meets all requirements in Colorado Department of Human Services (CDHS) Manual, Services for the Aging, Volume 10, and Section 10.316. If multiple funding sources are covered by the audit, an equitable portion of the audit costs may be charged to the grant.

**316a      AUDIT GUIDELINES**

**POLICY:**

All Area Agencies on Aging (AAA) regardless of the amount of Federal funding received shall have an audit conducted annually.

**PROCEDURE:**

- A. Audit reporting packages shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit.
- B. The agency receiving the audit is ultimately responsible for the Schedule of Expenditures of Federal Awards in the audit report. The Area Agencies on Aging (AAA) or provider must assure that the Catalog of Federal Domestic Assistance (CFDA) grant numbers in each of the categories of funding received through the State agency are reported on separate lines. Except for United States Department of Agriculture (USDA) commodities, the amount recorded on the Schedule of Expenditures of Federal Awards must equal the respective final expenditure reports submitted to the State.
  1. The Federal share of the expenditures reimbursed by the State should be reported on the schedule. Area Plan administration, Nutrition Services Incentive Program (NSIP) cash, United States Department of Agriculture (USDA) commodities, Title III-E Family Caregiver Support, Title VII Elder Abuse Prevention and Long-term Care Ombudsman programs are 100% Federally funded. Title III-B, Support Services and Senior Centers; Title III C1, Congregate Nutrition; C2, Home-Delivered Meals; ARRA Congregate Nutrition C1; ARRA C2 Home-Delivered Meals; and Part D, Health Promotion/Disease Prevention are 94.4447% Federally funded.
  2. The audit of an Area Agencies on Aging (AAA) shall include a representative sample of the transactions under subgrants that are less than lower limits established by the Federal Office of Management and Budget (OMB) for such audits, if the aggregate of the subgrants is material according to the auditor's judgment.
  3. Two copies of the CY Audit Report are due to the Colorado Department of Human Services (CDHS) within thirty days of after the receipt of the auditor's report(s), or nine months after the end of the audit period.
  4. Catalog of Federal Domestic Assistance (CFDA) numbers for use in the audit are listed below:

**CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA)**

TYPE	CFDA #	DESCRIPTION
Title VII (100% Federal funds)	93.041 93.042	Elder Abuse - Chapter 3 Long-term Care Ombudsman – Chapter 2
Title III-E (100% Federal funds)	93.052	National Family Caregiver Support Program
Recovery – Title III aging congregate nutrition services	93.707	ARRA Congregate Meals for C1
Recovery – Title III Aging Home Delivered Nutrition Services for States (100% Federal Funds) for C2 Home delivered Meals	93.705	Congregate Home-Delivered Meals for C2
NSIP (100% Federal funds)	93.053	NSIP – Nutrition Services
Title III (94.4447% Federal Funds Except for Area Plan Administration.)	93.043	Disease Prevention/Health Promotion – Part D
Title III (94.4447% Federal Funds Except for Area Plan Administration.)	93.044	Supportive Services – Part B and Area Plan Administration (100% Federal funds)
Title III (94.4447% Federal Funds Except for Area Plan Administration.)	93.045	Nutrition – Parts C1 and C2

**316b AUDIT AND FISCAL REPORTS DISTRIBUTION**

**POLICY:**

Audit reports of Area Agencies on Aging (AAA) and audit and fiscal review reports of Title III projects are transmitted to the State Unit on Aging (SUA) within 180 days after the end of the calendar year being audited or within 30 days after the completion of the audit or fiscal review report.

**PROCEDURE:**

- A. Each audit report is accompanied by properly executed copies of supporting detail, as appropriate.
- B. Multiple copies of Area Agency on Aging (AAA) and Title III project audit and fiscal review reports are submitted to the State Unit on Aging (SUA) in quantities prescribed.
- C. Audit and fiscal review reports are submitted by the auditor to the organization audited, and to those requiring or arranging for the audit or fiscal review.
- D. Contractors submit copies of audit or fiscal review reports to State Unit on Aging (SUA).
- E. Audit and fiscal review reports are made available for public inspection within 30 days after completion of the report.
- F. Requests for time extensions are submitted to the State Unit on Aging (SUA) when the audit report or fiscal review report cannot be submitted within 180 days after the calendar year.

**316c      RESOLUTION OF AUDIT FINDINGS**

**POLICY:**

Clearance of audit reports and resolution of audit findings on Area Agencies on Aging (AAA) and Title III projects is the responsibility of the State Unit on Aging (SUA).

**PROCEDURE:**

- A. The Area Agency on Aging (AAA) reviews audit and fiscal management reports.
- B. The Area Agency on Aging (AAA) makes available audit and fiscal review reports during On-Site Evaluation.
- C. The Area Agency on Aging (AAA) monitors the compliance of the provider with audit and fiscal review findings or recommendations within six months of the completion of the audit or fiscal review.
- D. The Area Agency on Aging (AAA) monitors the compliance of the provider with the Federal Office of Management and Budget Circular A-133.
- E. The State Unit on Aging (SUA) regularly reviews the audit clearance activities of each Area Agency on Aging (AAA).
- F. The State Unit on Aging (SUA) reserves the right to suspend funds or to effect de-designation of any Area Agencies on Aging (AAA) demonstrating unwillingness or inability to resolve reasonable audit or fiscal review recommendations concerning Title III projects within a six-month period after the completion of the audit or fiscal review.

**316d      FRAUD, ABUSE, OR ILLEGAL ACTS**

**POLICY:**

All fraud, abuse, or illegal acts, including all questioned costs found as the result of the audit, shall be immediately reported to the appropriate officials.

**PROCEDURE:**

- A. All fraud, abuse or illegal acts shall be documented in a written report;
- B. The report shall be submitted with the audit report according to the timetable;
- C. Prompt notice of illegal acts or other irregularities shall be given by the auditor to the Area Agency on Aging (AAA) or contracted provider management officials above the level of the involvement;
- D. The Area Agency on Aging (AAA), in turn, shall promptly consult with the contracted provider; and
- E. Any illegal acts or irregularities involving programs either at the Area Agency on Aging (AAA) or Title III Project level are to be reported in writing to the State Unit on Aging (SUA) within ten (10) days of the date on which the recipient becomes aware of such illegal acts or irregularities.

**316e      FISCAL SANCTIONS**

**POLICY:**

Serious miscarriages of implementation of programs that Area Agencies on Aging provide or oversee may result in a return of administration dollars or dollars paid for inappropriate services from the Area Agencies on Aging to the State Unit on Aging.

1. Serious miscarriages include, but are not limited to:
  - a. Embezzlement, or,
  - b. Misappropriation of funds, or
  - c. Violations that may negatively impact the health or safety of consumers;
  - d. Provision of services to ineligible consumers.
  - e. Repeated compliance issues over two or more consecutive years as determined by the State Unit on Aging. These may include, but are not limited to:
    - i. Lack of on-site evaluation of providers or contractors by the AAA; or
    - ii. Lack of criminal background checks provided as stated in Policy and Procedure Manual 401.15 General Background Checks; or
    - iii. Incorrect billing by provider or Area Agency on Aging; or
    - iv. Failure to complete or enter assessments or reassessments in a timely manner; or
    - v. Failure to provide nutrition counseling and/or nutrition education; or
    - vi. Failure to provide required training to homemakers; or
    - vii. Failure to provide required In-Home services supervisory visits.

**PROCEDURE:**

1. The State Unit on Aging will notify the Area Agency on Aging of concerns that may involve fiscal sanctions and the amount of fiscal sanctions to be imposed. The SUA will allow the Area Agency on Aging thirty calendar days to respond.
2. The State Unit on Aging will respond to the Area Agency on Aging's response within ten working days. If the Area Agency on Aging's response does not appropriately address the fiscal sanction concerns, the State Unit on Aging will take back administrative funds in the amount cited in the notification under procedure 1, or a lesser amount depending upon the Area Agency on Aging's response.
3. The amount of the fiscal sanction taken from the Area Agency on Aging's administrative line will be distributed to other Area Agencies on Aging by the IntraState Funding Formula.

4. If the Area Agency on Aging is dissatisfied with the imposition of a fiscal sanction, a written appeal may be filed with the SUA Director within 10 calendar days of the receipt of the initial decision.
  - a. The appeal shall be investigated and resolved by the SUA Director or designee. If a designee is selected, a supervisory level designee in the SUA not involved in the original complaint resolution shall resolve the appeal.
  - b. The SUA Director or designee shall complete a review of the complaint and complaint resolution, including all pertinent documentation or new information that may be available, and provide a written response to the complainant within 15 working days of receipt of the appeal.
  - c. This written response shall include notification of the complainant's rights to an Administrative Law Judge hearing if he/she is dissatisfied with the resolution of the appeal, and instructions for requesting such a hearing.

## **401.12 GENERAL ASSESSMENTS**

### **POLICY:**

- A. The Area Agencies on Aging (AAA) shall require providers and contractors to conduct assessments using the most current Consumer Information Assessment form for consumers receiving registered services and ensure data is entered appropriately and in a timely manner into the State Unit on Aging (SUA) approved data system.
- B. The Area Agencies on Aging (AAA) shall require providers that are utilizing electronic formats, such as Electronic Health Records, to gather the same information found on the most current Consumer Information Assessment and ensure data is entered appropriately and in a timely manner into the State Unit on Aging (SUA) approved data system.

### **PROCEDURE:**

The State Unit on Aging (SUA) has developed an assessment tool to register the consumer into the State Unit on Aging (SUA) approved data system. The tool identifies potential services available to the consumer. To ensure consistency in the collection of data, the questions contained in the assessment form cannot be changed. Area Agencies on Aging (AAA) may add questions to the assessment form to meet the needs in their specific area.

The Area Agencies on Aging (AAA) shall be required to:

- A. Determine which providers or contractors will be required to conduct the consumer information assessments.
- B. Conduct training with the providers and contractors that will be required to complete the consumer information assessments and input the data into the State Unit on Aging (SUA) approved data system.
- C. If a consumer has already filled out the consumer information assessment through another provider an additional assessment is not required.
- D. Ensure consumers receiving in-home services (i.e. chore, homemaker, respite, and home delivered meals) must be assessed every six (6) months.

## **401.15 GENERAL BACKGROUND CHECKS**

### **POLICY:**

The Area Agency on Aging (AAA) shall conduct criminal background checks on their employees, volunteers, and providers of non-vouchered services.

### **PROCEDURE:**

- A. To improve the safety of vulnerable persons served by the Older Americans Act (OAA), the Area Agency on Aging (AAA) shall conduct background checks of service provider staff utilizing the following steps.
- B. Prior to the delivery of services, a records check through the Colorado Bureau of Investigation (CBI) or another background check system that provides information at the same level of detail or higher than the Colorado Bureau of Investigation (CBI) records check, shall be conducted for all employees, volunteers, and contractors providing services delivered via one-to-one contact or any of the following services:
  - 1. Personal care services;
  - 2. Homemaker services;
  - 3. Adult day services;
  - 4. Transportation;
  - 5. Home delivered Meals;
  - 6. One-to-one legal services;
  - 7. One-to-one counseling;
  - 8. Chore services or home modifications that are provided through a contracted agency;
  - 9. Respite care;
  - 10. Long-term Care Ombudsman services;
  - 11. Support group leaders; and
  - 12. Evidence-based leaders.
- C. If an employee, volunteer, or contractor has resided in Colorado for less than two years, a background check similar to the Colorado Bureau of Investigation (CBI) records check shall be completed in the state in which the individual previously resided in addition to the records check through the Colorado Bureau of Investigation (CBI).



- D. When the records check indicates a current employee, potential employee, volunteer, or contractor has been arrested for any offense indicated at Colorado Revised Statutes (CRS) Section 27-90-110 and Section 27-90-111, the employer shall follow-up with the jurisdiction in which the offense occurred to identify whether the individual was convicted of the offense.
  - 1. If a potential employee, volunteer, or contractor, or contractor's employee has been convicted of any offense listed at Section 27-90-111-(9)(b) CRS as amended, or other similar offenses as identified by the Area Agency on Aging (AAA), that individual shall be disqualified.
  - 2. If a potential employee, volunteer, contractor, or contractor's employee has been convicted of any offense listed at Section 27-90-111 (9)(c ) C.R.S. (as amended), or other offenses as identified by the Area Agency on Aging (AAA), that individual shall be disqualified if less than ten years has passed since the final discharge of all terms of the sentence imposed as a result of the conviction.
- E. Employees, volunteers, or contractors responsible for transporting consumers shall possess a valid Colorado driver's license, and shall not have had any alcohol/substance related offenses in the past three years, or two or more convictions or chargeable accidents within the past two years.
- F. If an Area Agency on Aging (AAA) or service provider provides a voucher system to a consumer for the provision of services, the Area Agency on Aging (AAA) or service provider shall notify the consumer in writing that the consumer selects the provider of services and that neither the Area Agency on Aging (AAA) nor the service provider is the employer of the provider of services delivered through the voucher process.
- G. The Area Agency on Aging (AAA) or service provider shall retain documentation identifying the written agreement between the Area Agency on Aging (AAA) and the consumer stating that the Area Agency on Aging (AAA) is not the employer of record for these services and that the consumer agrees to reimburse the provider for services delivered.
- H. After a record check has been completed for an employee, volunteer, or contractor, future record checks shall not be required for that individual unless otherwise determined by the Area Agency on Aging (AAA).
- I. For employees, volunteers, or contractors providing services, excluding Long-term Care Ombudsman Services, prior to July 1, 2005, a signed statement by the employee, volunteer, or contractor shall be obtained by the provider agency indicating that the individual has not been convicted of any of the offenses indicated in Section 401.15 of the State Unit on Aging Policy and Procedure Manual.
- J. Paid or volunteer Long-term Care Ombudsmen shall not be allowed to be "grandfathered" with regard to this requirement. Therefore, regardless of hire date, all Long-term Care Ombudsmen shall have a CBI records check or another background check from a system that provides information at the same level of detail or higher

## **401.2 GENERAL TARGETING OF SERVICES**

### **POLICY:**

Area Agencies on Aging (AAA) and service providers may include funding that targets specific groups (e.g. CSBG - Community Service Block Grants within their total Older Americans Act (OAA) budget; however, no one can be denied Older Americans Act (OAA) services as a result of including this funding. If funding is included that targets specific groups, there must be documentation that verifies and indicates there is no means-testing. If congregate and home delivered meals were provided with targeted funding and no one was denied services, and these meals were not means-tested and meet all other Older Americans Act (OAA) requirements that are Nutrition Services Incentive Program (NSIP) eligible. Projects may request documentation of age on the State Unit on Aging-approved Consumer Information Assessment form.

## **401.7 PROVIDER RESPONSIBILITIES AND REQUIREMENTS**

### **POLICY:**

Providers shall:

- A. Operate and provide services in compliance with applicable Federal, State and local regulations and standards for the specific services provided to participants under the Older Americans Act (OAA) programs;
- B. Have, if applicable, current required licenses from the Colorado Department of Public Health and Environment (CDPHE);
- C. Conduct background checks of all individuals as referenced in 401.15 as required by State and Federal law;
- D. Abide by all terms of their grant, sub-grant, or contract with the State Unit on Aging (SUA) or Area Agency on Aging (AAA); and
- E. Comply with all applicable Federal and Colorado Revised Statutes (CRS).

### **PROCEDURE:**

- A. Maintain personnel records for each employee to include:
  - 1. Documentation of training;
  - 2. Documentation of supervision; and
  - 3. Documentation of current licensure, if applicable.
- B. Develop written policies and procedures for the following:
  - 1. Recruiting, selecting, retaining, and terminating employees;
  - 2. Access to, duplication, and dissemination of information from the client's records in accordance with State statutes on Confidentiality of Information at 26-1-114, Colorado Revised Statutes (CRS), as amended; Protecting and promoting participant's rights as described in CDHS Manual, Services for the Aging, Volume 10.
  - 3. Emergency response procedures; and

4. Handling and reporting of critical incidents, including accidents, suspicion of abuse, neglect or exploitation, and criminal activity.
- C. Documentation requirements
  1. Maintain a log of all complaints and critical incidents, which shall include documentation of the resolution of the problem.
  2. Maintain records for each older adult served including the following:
    - a. Initial assessment and all reassessments;
    - b. Individual service plan;
    - c. Name, address, phone number, and other identifying Information about the client;
    - d. Name, address, and phone number of the older adult's case manager(s), if applicable; and
    - e. Documentation of services provided, including where, when, to whom, and by whom the service was provided; and the exact nature of the specific tasks performed, the amount or units of service, and the day, month, and time of day the services were rendered.

## **402 CAREGIVING SERVICES**

### **POLICY:**

The Area Agencies on Aging (AAA) shall provide caregiver services that fall into one of five different service categories.

### **PROCEDURE:**

- A. The five service categories for caregiver services are:
  1. Information provided to caregivers about available services, including public education and provision of information at health fairs and other similar designations as determined by the State. Included in the definition of information is "outreach", defined as interventions for the purpose of identifying potential caregivers and encouraging their use of existing services and benefits.
  2. Assistance given to caregivers in gaining access to services links the individuals to the opportunities and services available to the maximum extent practical ensures that the individual receives the services needed, and makes the opportunities available to the individuals by establishing adequate follow-up procedures.
  3. Counseling includes the organization of support groups and caregiver training to assist the caregivers in making decisions and solving problems relating to their caregiver roles.

4. Respite Care provides temporary, substitute supports, or living arrangements to provide a brief period of rest for caregivers. It can be in the form of in-home, adult day care, or institutional respite. The respite period may be an overnight stay or may be taken on an intermittent, occasional, or emergency basis by the hour. Respite care services may include the following activities:
  - a. In-home services, including services provided by volunteers or in-home service providers; adult day care services; and institutional respite care.
5. Supplemental Services are provided on a limited basis, not to exceed 10% of the Title III-E allocation, to complement the care provided by caregivers. Supplemental Services includes goods or services to assist the caregiver and/or the care recipient, as needed. Examples include: blood pressure measuring instruments, insulin test kits, dental work, eyeglasses, and medications. Under the National Family Caregiver Support Program (NFCSP) these services or supports could be provided on a limited basis for either the caregiver or care receiver.

## **402.1 CAREGIVING SERVICES ELIGIBILITY**

### **POLICY:**

- A. The National Family Caregiver Support Program (NFCSP) was established with the reauthorization of the Older Americans Act in 2000. The goal of the National Family Caregiver Support Program (NFCSP) is to provide services to caregivers of older adults and grandparents raising grandchildren to enhance caregiving skills and alleviate the stresses associated with being a caregiver. Services provided through the National Family Caregiver Support Program (NFCSP) fall into five different categories: Information, Access, Counseling/Training, Respite, and Supplemental Services. Although there is no requirement that each of the five categories provide services, the amount of expenditures in Supplemental Services cannot exceed 10% of the allocation.
- B. The Area Agency on Aging (AAA) or its providers shall ensure that caregivers who receive services funded through the National Family Caregiver Support Program (NFCSP) meet the eligibility criteria applicable to each service.

**PROCEDURE:**

- A. Eligibility for caregiver services include:
  - 1. Grandparents or older adults who are a relative caregiver of a child by blood or marriage, who is 55 years of age or older, and who:
    - a. Lives with the child; and,
    - b. Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; or
    - c. Has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.
- B. Family caregivers who are adult family members or other individuals, providing informal in-home, and community care to an older adult (60 years of age or older) who is “frail” and determined to be functionally impaired because of:
  - 1. An inability to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
  - 2. Due to cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to others.
  - 3. In the case of a family caregiver of an older adult, respite care and supplemental services under the National Family Caregiver Support Program (NFCSP) shall be provided only if the care recipient is functionally impaired and meets either of the following conditions:
    - a. Unable to perform at least two Activities of Daily Living (ADL) without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
    - b. Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to himself or herself or another individual.

**402.1a ELIGIBILITY ADULT DAY CARE SERVICES**

**POLICY:**

- A. Eligibility for Adult Day Care services is restricted to those persons who fit the definition of “frail” within the Older Americans Act (OAA):
- B. The term “frail” means, with respect to an older adult in a state, that the older adult is determined to be functionally impaired because the individual:
  - 1. Is unable to perform at least two Activities of Daily Living (ADL) without substantial human assistance, including verbal reminding, physical cueing, or supervision; or at the option of the State, is unable to perform at least three such activities without such assistance; or
  - 2. Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual (Section 102.a.22 of the Older Americans Act of 1965 as amended 2006).
- C. For purposes of determining eligibility, Activities of Daily Living (ADL) shall include:
  - 1. Mobility;
  - 2. Transfers;
  - 3. Bladder care;
  - 4. Bowel care;
  - 5. Bathing;
  - 6. Dressing;
  - 7. Eating; and
  - 8. Hygiene.

**PROCEDURE:**

- A. Eligibility for in-home respite and adult day care services shall be as follows: the individual must be determined to be frail by having two or more of the Activities of Daily Living (ADL).
- B. Assessments for consumers shall be completed and documented in the State Unit on Aging (SUA) approved data system.
- C. For other in-home services, eligibility requirements shall be determined by the Area Agency on Aging (AAA).

## **402.2 CAREGIVING SERVICES PROVIDER RESPONSIBILITIES AND REQUIREMENTS**

### **POLICY:**

The Area Agencies on Aging (AAA) shall ensure that providers of caregiver services maintain documentation supporting services delivered to caregivers.

### **PROCEDURE:**

Caregivers receiving counseling, respite care, or supplemental services shall be registered in the State Unit on Aging (SUA) approved data system. Registration of a caregiver includes:

- A. Collection of demographic information including name, address, ethnicity or race, poverty status, living situation, and rural status.
- B. Association of the caregiver to a care recipient in the SUA approved data system.
- C. The care recipient, whose caregiver is receiving respite care or supplemental services, shall have a completed Consumer Information Assessment, which identifies the care recipient as frail according to the eligibility requirements for caregiver services identified in the Colorado Department of Human Services Manual (CDHS), Services for the Aging, Volume 10.
- D. The care recipient shall be either an individual over the age of 60 who relies on the caregiver for services; or, a grandchild, under the age of 18 who is being raised by an individual 60 years or older.
- E. Neither the caregiver nor the care recipient is required to provide the information above, however the Area Agency on Aging (AAA) is required to report services provided through Title III-E in the SUA approved data system and documentation shall be retained by the provider agency identifying that the eligibility requirements for caregiver services have been met.
- F. Services providing Information or Assistance for consumers shall be entered as an aggregate group in the SUA approved data system.

## **404 CHORE SERVICES (IN-HOME)**

### **POLICY:**

Chore services are those services designed to increase the safety of the older adult(s) living at home such as assistance with heavy housework, yard work or sidewalk maintenance, and may include:

- A. Cleaning appliances, including ovens, and defrosting and cleaning refrigerators;
- B. Cleaning and securing carpets and rugs;
- C. Cleaning and waxing wood or tile floors;
- D. Washing windows or walls;
- E. Moving or rearranging furniture to provide safe entry, mobility, and egress;
- F. Turning mattresses;

- G. Cleaning closets and drawers;
- H. Cleaning attics, basements, porches, and outbuildings to remove fire and
- I. Health hazards;
- J. Cleaning exterior surfaces, such as removing mildew from siding or decking;
- K. Installing or removing existing screens, storm doors, or windows;
- L. Replacing fuses, light bulbs, repairing electric plugs, or frayed cords;
- M. Grass cutting and leaf raking;
- N. Clearing walkways of ice, snow, and leaves;
- O. Clearing interior and exterior debris following natural disasters;
- P. Trimming overhanging tree branches; and,
- Q. Changing batteries in smoke or carbon monoxide detectors.

**PROCEDURE:**

- A. Chore service activities are one-time, seasonal, or occasional in nature, and shall be planned with input from the older adult based on an evaluation of the consumer's strengths and needs, and the degree of physical and/or cognitive impairment of the consumer.
- B. Chore services may be provided to older adults residing in rental properties if a determination is made that the modifications are not the responsibility of the landlord, Management Company, or public housing authority according to a valid lease agreement.

**404a CHORE SERVICES (HOME MODIFICATION SERVICES)**

**POLICY:**

Home modification services include repairs, maintenance, renovation, adaptations, and modifications or improvements in the older adult's home setting which:

- A. Are necessary to ensure the health, welfare, and safety of the individual;
- B. Enable the older adult to function with greater independence in his or her home; and
- C. Prevent institutionalization of the older adult.

**PROCEDURE:**

- A. Home modification services shall not exceed the amount established by the State Unit on Aging (SUA).
- B. Services may include:
  - 1. Installation of ramps;
  - 2. Installation of grab-bars and other durable medical equipment if approved by the Area Agency on Aging (AAA) and not a covered benefit of the individual's health plan or health insurance;
  - 3. Widening of doorways;
  - 4. Modification of bathroom facilities; and
  - 5. Electrical and plumbing repairs or installation of specialized electric and plumbing systems, which are necessary to accommodate medical equipment and supplies necessary for the welfare of the consumer.



- C. The following home modifications shall not be reimbursable with Older Americans Act (OAA) funds:
1. Major repairs of houses and/or furnishings to include replacement of a furnace, roof, floor, or foundation, or installation of central air conditioning;
  2. Remodeling of bare rooms;
  3. Construction of a second ramp if a first ramp is available, safe, and usable;
  4. Construction, repair or maintenance of outbuildings such as garages, carports, animal shelters, or greenhouses;
  5. Installation, repair or maintenance of nonessential appliances (e.g., decorative light fixtures or television sets);
  6. New construction or beautification of property or activities strictly for cosmetic purposes such as landscaping, planting a garden, purchase of gardening equipment, a complete paint job, ornamental shutters or trim, fancy porch supports, carpeting, patio, and/or mending fences unless directly essential to the older adult's safety;
  7. Home modification services, as described in this section, shall not be reimbursed or reported as chore maintenance services or material aid;
  8. Home modification services may be provided to older adults residing in rental properties if a determination is made that the modifications are not the responsibility of the landlord, management company or public housing authority, according to a valid lease agreement; and
  9. Older Americans Act (OAA) funds shall not be used to pay for home modifications if such modifications are offered or covered through other Federal or State programs which the older adult receives.

#### **404.4 CHORE SERVICES ELIGIBILITY**

**POLICY:**

The procedure below is used to determine chore services eligibility.

**PROCEDURE:**

- A. Eligibility for chore services shall be as follows: Documentation that the consumer is unable to perform the task that the service provides (e.g. cannot mow the lawn due to limited endurance.) Assessments for consumers shall be completed and documented in the State Unit on Aging (SUA) approved data system. For other in-home services, eligibility requirements shall be determined by the Area Agency on Aging (AAA).

**405 COUNSELING SERVICES**

**POLICY:**

Counseling is the provision of services to assist older adults to address issues, concerns, or make decisions. All older adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults requesting services, preference and priority shall be given to those eligible individuals of greatest social and economic need with particular attention to individuals who are low-income, frail, and residing in rural areas. All counseling services shall be registered services.

**PROCEDURE:**

- A. Individuals providing counseling services whether paid staff or volunteers shall be knowledgeable and trained to provide the specific type of counseling services offered to the older adult.
- B. Counseling does not include nutrition counseling, caregiver services, and case management activities such as Aging and Disability Resources for Colorado (ADRC).
- C. Consumers receiving counseling services shall complete the State Unit on Aging (SUA) approved Consumer Information Assessment and be documented in the SUA approved data system as a registered service linked to the individual consumer.

**406 DISEASE PREVENTION/HEALTH PROMOTION SERVICES – TITLE III-D**

**POLICY:**

- A. The Area Agency on Aging (AAA) shall establish and provide evidence-based disease prevention and health promotion programs at multipurpose senior centers, congregate meal sites, through home delivered meals programs or other appropriate sites. At a minimum, all evidence-based programs must have demonstrated through evaluation to be effective for improving the health and wellbeing or reducing disease, disability, and/or injury among older adults, and must be ready for translation, implementation, and/or broad dissemination by community-based organizations using appropriately credentialed practitioners. All disease prevention/health promotion services shall be registered services. Evidence-based disease prevention and health promotion services may include:
  - 1. Routine health screening conducted by licensed healthcare providers that have such screenings within their scope of practice. Health screenings that can be provided include: blood pressure checks, cholesterol screening, cancer, diabetes, bone density, and blood lipid panels;
  - 2. Nutrition counseling for older adults and their primary caregivers conducted by a Registered Dietitian (RD);
  - 3. Evidence-based programs including: programs for the prevention, management, and reduction of the effects of chronic diseases; alcohol and substance abuse reduction; mental health and/or depression; smoking cessation; weight loss and control; improved nutrition; caregiver programs; and stress management;

4. Evidence-based physical fitness programs;
5. Evidence-based falls prevention and falls management programs;
6. Evidence-based medication management programs and/or medication management conducted by a licensed health care professional that has medication management in their scope of practice, such as a pharmacist;
7. Direct oral health care provided by a licensed dental professional may be provided, such as, cleanings, fluoride varnishes, fillings, and extractions.

**PROCEDURE:**

The Area Agencies on Aging (AAA):

- A. Receive input from other entities in the Planning and Service Area (PSA) involved with disease prevention and health promotion regarding targeting of funds;
- B. Consider use of funds to expand successful evidence-based disease prevention and health promotion activities currently funded by Title III-B or other sources in the community, and seeks technical assistance, as appropriate, from the State Unit on Aging (SUA) staff;
- C. Submit the One-Year Funding Request Application to the State Unit on Aging (SUA) to include:
  1. Services funded;
  2. Projected expenditures for each service; and
  3. Specific objectives to target services to the medically underserved older adults in the Planning and Service Area (PSA). The definition of medically underserved used to allocate the funding is in keeping with the intent of assisting medically underserved older adults.
- D. Consumers receiving health promotion/disease prevention services shall complete the State Unit on Aging (SUA) approved Consumer Information Assessment and be documented in the SUA approved data system as a registered service linked to the individual consumer using the designated and approved sub-service.

**406.1 DISEASE PREVENTION/HEALTH PROMOTION SERVICES ELIGIBILITY**

**POLICY:**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults requesting services, preference and priority shall be given to those eligible individuals of greatest social and economic need with particular attention to individuals who are low-income, frail, and residing in rural areas. All disease prevention/health promotion services shall be registered services.

**406.2 DISEASE PREVENTION/HEALTH PROMOTION PROVIDER RESPONSIBILITIES  
AND REQUIREMENTS**

**POLICY:**

- A. All providers shall operate in full compliance with all applicable Federal, State, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. Consumer receiving health promotion/disease prevention services shall complete the State Unit on Aging (SUA) approved Consumer Information Assessment and be documented in the SUA approved data system as a registered service linked to the individual consumer using the designated and approved sub-service.

**407 HOME HEALTH AIDE SERVICES (IN-HOME)**

**POLICY:**

- A. The Home Health Aide provider must operate and furnish services in compliance with all applicable Federal, State, and local laws and regulations.
- B. The Home Health Aide providers must comply with accepted professional standards and principles that apply to professionals furnishing services as a Home Health Aide provider.

**PROCEDURE:**

- A. Ensure that Home Health Aides have completed a course of training, and received a nurse's aide certification, conducted by an educational or health care institution which implements the basic nurse aide curriculum prescribed and approved by the State Board of Nursing.
- B. Home Health Aide providers shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regarding privacy of records, if applicable.
- C. A Registered Nurse (RN) shall supervise the home health aide provider by visiting the client's home no less than every 62-calendar days. Each supervisory visit must occur while the home health aide is providing care. Documentation of the supervisory visit shall be maintained in the client's file.
- D. Home Health Aide services are provided to eligible consumers to meet physical needs.
- E. Home Health Aide services shall include direct assistance with the following activities:
  - 1. Basic medical care procedures, including vital sign monitoring, catheter care, digital stimulations, enemas, oral suctioning and simple skin care routines;
  - 2. Skilled personal care procedures;
  - 3. Skilled grooming;
  - 4. Skilled bowel and bladder care;
  - 5. Assistance with skilled mobility and transfers.
  - 6. Home Health Aide services shall not duplicate services that can be provided by personal care or homemaker services.
  - 7. Consumers who receive Home Health Aide services through Medicaid, Medicare or Private insurance shall not be qualified to receive Home Health Aide Services through Older Americans Act (OAA) or State Funding for Seniors Services (SFSS).

**407.1 HOME HEALTH AIDE SERVICES ELIGIBILITY**

**POLICY:**

- A. Eligibility for In-Home services is restricted to those persons who fit the definition of “frail” within the Older Americans Act (OAA):
- B. The term “frail” means, with respect to an older adult in a state, that the older adult is determined to be functionally impaired because the individual:
  - 1. Is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or at the option of the State, is unable to perform at least three such activities without such assistance; or
  - 2. Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual (Section 102.a.22 of the Older Americans Act of 1965 as amended 2006).
- C. For purposes of determining eligibility, Activities of Daily Living (ADL) shall include:
  - 1. Mobility;
  - 2. Transfers;
  - 3. Bladder care;
  - 4. Bowel care;
  - 5. Bathing;
  - 6. Dressing;
  - 7. Eating; and
  - 8. Hygiene.

**PROCEDURE:**

- A. Eligibility for Home Health Aide services shall be as follows: the individual must be determined to be frail by having two or more of the Activities of Daily Living (ADL) and the need for skilled services as indicated by a licensed physician’s orders for the services.
- B. Assessments for consumers shall be completed and documented in the State Unit on Aging (SUA) approved data system.
- C. For other In-Home Services, eligibility requirements shall be determined by the Area Agency on Aging (AAA).

**408      HOMEMAKER SERVICE (IN-HOME)**

**POLICY:**

The quality of services provided and safety of consumers shall be ensured.

**PROCEDURE:**

- A. Homemaker provider agencies shall document that all homemakers have received a minimum of eight hours of training or have passed a skills validation test prior to delivery of services in the provision of Homemaker Services, to include at a minimum the following:
  - 1. Basic techniques in light housecleaning including, but not limited to dusting, vacuuming, mopping, and cleaning of bathroom and kitchen areas;
  - 2. Basic nutritional requirements including shopping, meal preparation, and proper food handling and storage techniques;
  - 3. Dishwashing, bed making, and laundry;
  - 4. Basic techniques of identifying and correcting potential safety hazards in the home;
  - 5. First aid and emergency procedures and basic infection control techniques, including universal precautions; and
  - 6. Screening for situations requiring assistance.
- B. A person, who at a minimum, has received the training or passed the skills validation test required of homemakers, shall be qualified to supervise all employees. Supervision shall include, but not be limited to:
  - 1. Arrangement and documentation of training;
  - 2. Informing staff of policies concerning advance directives and emergency procedures;
  - 3. Oversight of scheduling and notification to clients of changes;
  - 4. Meetings and conferences with staff as necessary;
  - 5. Investigation of complaints;
  - 6. Counseling with staff on difficult cases, and potentially dangerous situations;
  - 7. Communications with case managers as necessary;
  - 8. Oversight of record keeping by staff; and
  - 9. Supervisory visits shall be made to the participant's home at least every six months or more often as necessary for problem resolution, skills validation of staff, observation of the home's condition, and assessment of participant's satisfaction with services.

## **408.1      HOMEMAKER SERVICE ELIGIBILITY**

### **POLICY:**

- A. Eligibility for homemaker services is restricted to those persons who:
  - 1. Are unable to perform at least two Instrumental Activities of Daily Living (IADL) without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
  - 2. Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual (Section 102.a.22 of the Older Americans Act of 1965 as amended 2006).
- B. Instrumental Activities of Daily Living (IADL) shall include:
  - 1. Meal preparation;
  - 2. Housework;
  - 3. Laundry;
  - 4. Shopping;
  - 5. Medication management;
  - 6. Appointment management;
  - 7. Money management;
  - 8. Access resources/Transportation; and
  - 9. Telephone.

### **PROCEDURE:**

Eligibility for Homemaker Services is as follows: the individual must be determined to be eligible by having two or more of the Instrumental Activities of Daily Living (IADL).

- A. Assessments for consumers shall be completed and documented in the State Unit on Aging (SUA) approved data system.

**409 INFORMATION AND ASSISTANCE SERVICES**

**POLICY:**

- A. Information and assistance service is one-on-one contact with an individual that:
  - 1. Provides the individual with current information on opportunities and services available to individuals within their communities, including information relating to assertive technology;
  - 2. Assesses the problems and capacities of the individual;
  - 3. Links the individual to the services that are available;
  - 4. To the maximum extent practicable, ensures that the individual receives the services needed; and
  - 5. Additional services include client advocacy, interpreting, telephone and caregiver support.
- B. The Area Agencies on Aging (AAA) shall maintain current information about opportunities, benefits, and services available to older adults and their caregivers. In an area in which five percent or more of older adults speak a given language (other than English) as their principal language, information, and assistance service shall also be provided in that language.

**PROCEDURE:**

- A. The Area Agencies on Aging (AAA) shall provide information and assistance, which includes one on one contacts between an information and assistance provider and participant or the participant's caregiver. The Area Agencies on Aging (AAA) may provide the information and assistance through a variety of methods, such as:
  - 1. The evaluation of the problems and capacities of older adults. The Area Agency on Aging (AAA) must then refer those individuals to the appropriate assistance and provide information to the older adults.
  - 2. Developing, maintaining, and providing current information about opportunities, benefits, services, and resources available to older adults and their caregivers within the community;
  - 3. Referring individuals to needed services, including initiating an arrangement between the older adult or caregiver and the service provider, if necessary advocating with agencies on the behalf of the older adult;
  - 4. Follow-up, where practical to ensure that the older adult and/or caregiver has been able to access the services available;
  - 5. Assessing the quality and effectiveness of the service provided.
  - 6. Providing any additional assistance to the older adult and/or caregiver in locating or accessing needed services when applicable and appropriate.



**410 MATERIAL AID SERVICES**

**POLICY:**

Material aid services shall consist of aid in the form of goods or food such as direct distribution of commodities, surplus food, and distribution of clothing, smoke detectors, eyeglasses, hearing aids, oral health, or security devices, etc. All older adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults requesting services, preference and priority shall be given to those eligible individuals of greatest social and economic need with particular attention to individuals who are low-income, frail, and residing in rural areas. All material aid services shall be registered services.

**PROCEDURE:**

- A. Consumers receiving material aid services shall complete the State Unit on Aging (SUA) approved Consumer Information Assessment and be documented in the SUA approved data system as a registered service linked to the individual consumer using the designated and approved sub-service.
- B. Material aid shall not be used to purchase grocery vouchers.

**411 NUTRITION SERVICES (CONGREGATE)**

**POLICY:**

The Area Agencies on Aging (AAA) shall:

- A. Establish and operate nutrition projects which, five (5) days or more a week provide at least one hot or other appropriate meal per day and any additional meal which the contractor may elect to provide, except in a rural area where such frequency is not feasible and the State Unit on Aging (SUA) approves a lesser frequency;
- B. Determine, in consultation with the nutrition provider and the Area Agency on Aging Advisory Council, the number of congregate sites to be established within the Planning and Service Area (PSA) and the days of operation;
- C. Notify the State Unit on Aging (SUA) of the intent to open a new site or close an existing site 30 days in advance if the opening or the closure is not in the approved One-Year Funding Request Application. The State Unit on Aging (SUA) shall have the authority to waive the 30-day prior notification requirement;
- D. Assure orientation is provided on Colorado Department of Human Services Manual Services for the Aging Volume 10 and the State Unit on Aging Policy and Procedure Manual to congregate meals service staff.
- E. Monitor compliance with Colorado Department of Human Services Manual Services for the Aging Volume 10 and the State Unit on Aging Policy and Procedure Manual.
- F. Provide ongoing technical assistance to Title III projects regarding Colorado Department of Human Services Manual Services for the Aging Volume 10 and the State Unit on Aging Policy and Procedure Manual.

- G. Submit a written request for a waiver for any nutrition project, which proposes in the funding request application to provide less than five (5) meals per week at any nutrition project. The request includes documentation of the rural nature of the site or other factors which may justify the waiver of this requirement and is submitted at least 30-days prior to the change in meal frequency.
- H. Notify the State Unit on Aging (SUA) of all meal site closures or service delivery disruptions whether or not due to an emergency but when such disruptions will last for two service days or more (i.e. holiday or training closures).

#### **411a CHANGE OF STATUS (CONGREGATE)**

##### **POLICY:**

Any site change of status in the congregate and home delivered meals programs are based upon objective, quantifiable, socio-demographic, and needs assessment data. Thirty days prior to the change of status of a nutrition site the Area Agency on Aging (AAA) submits to the State Unit on Aging (SUA) an analysis of data considered by the project in recommending each proposed change.

##### **PROCEDURE:**

- A. The Area Agencies on Aging (AAA) shall document:
  - 1. The reason(s) for each proposed change;
  - 2. Existing meal services for older adults in the Planning and Service Area (PSA), for each change;
  - 3. All potentially eligible areas within the Planning and Service Area (PSA) with no current services, for opening or relocation;
  - 4. A list and ranking of all unserved areas in the order of their priority for future funding, for opening or relocation;
  - 5. The number and proportion of low-income minority, low income, and older adults in greatest economic or social need for each currently served and currently unserved area, for each change;
  - 6. The total number of persons age 60 years or older in the total Planning and Service Area (PSA), and in each current and prospective service area, for each change;
  - 7. A revised grant to include the budget justification for each change;
  - 8. The proposed date of each change;
  - 9. Current health department and fire inspection reports, for opening or relocation;
  - 10. Transportation services available for older adults affected by each change;
  - 11. Governing board recommendations for each change; and
  - 12. Any other information the State Unit on Aging (SUA) deems necessary to evaluate the proposed expansion.
- B. Upon review of the analysis, the State Unit on Aging (SUA) may disapprove or conditionally approve the request for site change.

## **411.1 NUTRITION SERVICES (CONGREGATE) ELIGIBILITY**

### **POLICY:**

Individuals are eligible to participate in the congregate meals service in one of the categories listed in this Subsection A, (1-5) of the State Unit on Aging Policy and Procedure Manual.

- A. Persons eligible to participate in the congregate meals program with an opportunity to voluntarily contribute the suggested amount include:
  - 1. Persons 60 years of age or older and their self-declared spouses of any age;
  - 2. Disabled persons under 60 years of age who reside with persons over 60 years of age, when the care and maintenance of the disabled person otherwise prevents the older adult from participating in the program and when the participation of such individuals does not prevent the participation of older adults and their spouses. The disabled person must accompany the eligible older consumer to the site;
  - 3. Disabled persons under 60 years of age who reside in housing facilities occupied primarily by older adults and at which congregate nutrition services are provided when such participation does not prevent the participation of older adults and their spouses;
  - 4. Persons under 60 years of age who provide meal related volunteer services and individuals providing volunteer services at congregate meal sites during meal hours when the participation of such individuals does not prevent the participation of older adults and their spouses; and
  - 5. Staff members of the nutrition program who are 60 years of age or older when such participation does not prevent the participation of other older adults and their spouses.
- B. If resources are not available to serve all eligible individuals requesting the service, preference shall be given to those of greatest social or economic need. The Nutrition Program will have a process in place to ensure that target populations are a priority.
- C. Other non-eligible persons who may participate in the program but who shall pay the full cost of meals (Guest Fee) include:
  - 1. Staff members of the nutrition program who are under 60 years of age when such participation does not prevent the participation of older adults and their spouses;
  - 2. Visitors when such participation does not prevent the participation of older adults and their spouses; and
  - 3. Older adults who are in the care of an agency or organization that is receiving reimbursement for the cost of the consumer's meal, such as Nursing Homes, Residential Care Facilities (Assisted Living Residences), and Adult Day Care programs. In this situation, the agency or organization is billed for the full cost of the consumer's meal. The agency or organization is also responsible for making meal reservations and for providing attendant assistance as needed. These meals are not Nutrition Services Incentive Program (NSIP) eligible.

**PROCEDURE:**

- A. Persons listed in Section 411.1 A, (1-5) shall complete the State Unit on Aging (SUA) approved Consumer Information Assessment and be documented in the SUA approved data system. Congregate meals is a registered service and shall be linked to the individual consumer and/or volunteer.
- B. Persons listed in Section 411.1 A, (1-5) are informed of the nutrition site's reservation process in order to participate in the meal program. Nutrition site volunteers and staff members 60 years of age or older participate in the meal program during regular meal service hours only after it has been determined that all eligible consumers have been served. Staff members under 60 years of age and non-eligible individuals participating in the meal program shall pay the full cost of the meal and may participate only after the site manager has determined that all eligible consumers have been served.

**411.2 NUTRITION SERVICES (CONGREGATE) CONSUMER CONTRIBUTION**

**POLICY:**

- A. Each Area Agency on Aging (AAA) shall ensure that minimum standards and procedures are established for the responsible collection, handling, and safeguarding of consumer contributions and non-eligible recipient fees. Solicitations for voluntary contributions may occur at regular intervals and be clearly communicated.
- B. The following standards and procedures shall be adhered to for the agency and/or contractors.

**PROCEDURE:**

- A. All eligible consumers shall be given the opportunity to voluntarily contribute to the cost of selected services received. For example, the solicitation for voluntary contributions may include, but is not limited to: signs at the provider sites; individual, or form letters to the consumer; or verbal communication to the consumer. The solicitation may include factual information related to the cost of delivering the service, but must be non-coercive with respect to the voluntary nature of the contribution.
- B. Voluntary contributions methods are determined through consultation with stakeholders within the Planning and Service Area. The Area Agencies on Aging (AAA) will monitor and approve voluntary contribution solicitation practices and materials upon development, implementation, and during the provider evaluation process.
- C. Envelopes, tickets, or vouchers may be offered to consumers who may wish to make a private voluntary contribution.
- D. Contribution boxes or receptacles may be placed in an area observable.
- E. The Area Agencies on Aging (AAA) shall not means test for any service for which voluntary contributions are accepted. Assets, savings, other property owned by a consumer, or income shall not be considered when identifying potential consumers. The Area Agencies on Aging (AAA) shall continue to target and prioritize consumers using consumer-reported eligibility information.

- F. Services may not be denied to a consumer due to the consumer's reluctance or inability to contribute toward the cost of the service. With limited funding resources, the Area Agencies on Aging (AAA) shall prioritize targeted individuals designated in the Older Americans Act (OAA): Older adults with greatest economic need and older adults with greatest social need, including low-income, low-income minority individuals and older adults residing in rural areas. If needs in the Planning and Service Area exceed Older Americans Act program resources, targeted individuals may receive priority, regardless of the consumer's ability to pay.
- G. Frequency of contribution solicitations may be determined by the Area Agency on Aging (AAA) and stakeholders. For example, this may occur during initial intake, during the delivery of service, by mail or distribution each month or other intervals, or ongoing.
- H. Consumer privacy and confidentiality is protected with respect to the consumer's contribution or lack of contribution. For example, to facilitate private, confidential contributions, voluntary contributions may be mailed at a later date. Site collection receptacles may be placed away from reception area. If providers accept voluntary contributions, they may keep logs of acceptance of tickets, vouchers, or envelopes, regardless of whether or not they contain a contribution.
- I. Appropriate procedures are established to safeguard and account for all contributions. Cash handling procedures shall be monitored by the Area Agencies on Aging (AAA) during the provider evaluation process and ongoing as needed.
- J. Collected contributions are used to expand the service for which the contributions were given. Consumers may be notified that their contributions will be used to provide additional services for other consumers.
- K. When a consumer receives more than one home-delivered meal per day, the Nutrition Project may request a voluntary contribution for the second meal. However, the consumer may not be coerced for the contribution.
- L. Written material in languages other than English shall be made available where appropriate.

#### **411.4 NUTRITION SERVICES (CONGREGATE) GUEST FEES**

##### **POLICY:**

Fees amounting to the full cost of the service are charged to non-eligible recipients. Guest fees are used to expand the service for which the fees were given. Minimum fees for congregate meals, home delivered meals, and supportive services shall be determined using guidelines and procedures established by the State Unit on Aging (SUA).

##### **PROCEDURE:**

- A. Guests are not required to belong to Older Americans Act (OAA) targeted groups.
- B. When resources cannot accommodate guests and eligible consumers, eligible consumers take priority and are the first served.
- C. Guest fees are required. They are not voluntary or confidential.

- D. Congregate and home delivered meals programs shall complete the 'Total Meal Cost and Guest Fee Determination Tool' annually. This tool will determine the total meal cost and guest fee to be charged to all non-eligible individuals each State Fiscal Year beginning July 1st through June 30th. At a minimum, the required match of 10%, including both in-kind and local cash, shall be included in the calculation.
- E. The amount of the Guest Fees shall not be less than the suggested donation.
- F. The completed tool shall be available for review by Area Agencies on Aging (AAA), the State Unit on Aging (SUA), Federal regulatory agencies, and others needing it for purposes of audit or compliance review.

#### **411.6 NUTRITION SERVICES INCENTIVE PROGRAM (NSIP)**

##### **POLICY:**

Nutrition Services Incentive Program (NSIP) rewards, through cash or commodities, the effective performance of Title III-C nutrition projects in the efficient delivery of nutritious meals to older adults. The Administration for Community Living (ACL) shall distribute Nutrition Services Incentive Program (NSIP) funds through the State Unit on Aging (SUA) to the Area Agencies on Aging (AAA) based on the State Unit on Aging (SUA) determined formula. Nutrition Services Incentive Program (NSIP) rewards are based on the effective performance of Title III-C nutrition projects in the efficient delivery of nutritious meals to older adults.

##### **PROCEDURE:**

- A. Projects receive Nutrition Services Incentive Program (NSIP) cash or cash and commodity allocations of food commodities from the State based on the number of eligible meals actually served in the previous year in relationship to the total number of meals actually served by all Title III-C projects reported to the Administration for Community Living.
- B. The State may survey the Area Agencies on Aging (AAA) and the Nutrition Projects for the Cash, Commodity, or Cash and Commodity options. The State Unit on Aging (SUA) makes the final decision of which method is used to make the Nutrition Services Incentive Program (NSIP) award.
- C. Nutrition Services Incentive Program (NSIP) funds shall be used to expand meals, expand access to meals, or maintain the number of meals with increases in food costs.
- D. Nutrition Services Incentive Program (NSIP) funds shall be used to purchase foods of United States origin.
- E. Projects develop management procedures pertaining to tracking Nutrition Services Incentive Program (NSIP) purchases on United States produced food products
- F. Each Area Agency on Aging (AAA) shall receive Nutrition Services Incentive Program (NSIP) funds based on the prior Federal Fiscal Year National Aging Program Information System (NAPIS) report of meal counts.

- G. If prior Federal Fiscal Year counts are not available, the State Unit on Aging (SUA) may base initial disbursements on two years prior National Aging Program Information System (NAPIS) meal counts. Adjustments shall be made to subsequent rounds of Nutrition Services Incentive Program (NSIP) disbursements to reflect prior year National Aging Program Information System (NAPIS) meal counts.
- H. Nutrition projects maintain documentation of Nutrition Services Incentive Program (NSIP) reimbursable meals based on Title III consumer eligibility.
- I. Each Area Agency on Aging (AAA) shall ensure the accuracy and completeness of meal count data reported in the State Unit on Aging (SUA) approved data system which supplies National Aging Program Information System (NAPIS) meal counts.
- J. If the Area Agencies on Aging (AAA) determines that National Aging Program Information System (NAPIS) meal count data is inaccurate, the discrepancy must be documented and reported to the State Unit on Aging (SUA) prior to the National Aging Program Information System (NAPIS) reporting deadline.
- K. If the National Aging Program Information System (NAPIS) meal count report is significantly lower than budgeted, the Area Agency on Aging (AAA) and nutrition provider shall determine if contract amounts and production levels should be decreased.
- L. Administration for Community Living (ACL) may distribute Nutrition Services Incentive Program (NSIP) funds in part or in whole to the State Unit on Aging (SUA).
- M. Means-tested meals or meals that are included as a part of per diems are not eligible for Nutrition Services Incentive Program (NSIP).

## **411.7 NUTRITION SERVICES (CONGREGATE) GENERAL PROVIDER RESPONSIBILITIES AND REQUIREMENTS**

### **411.7a MEAL PLANNING:**

#### **POLICY:**

The congregate meals project conducts appropriate meal planning for the congregate meals service by soliciting the advice and expertise of: a Registered Dietitian; persons competent in the field of nutrition; persons competent in the field of food service; meal participants; and other individuals knowledgeable with regard to the needs of older adults. Consumer direction and consumer choice shall be encouraged when providing congregate meal services. Examples of enhanced nutrition choices include offering a soup and salad bar or soup and sandwich bar as an alternative to a hot meal, providing evening meals or breakfasts, or providing entrée choices.

#### **PROCEDURE:**

- A. Menus are prepared or approved prior to meal service by a Registered Dietitian, Dietetic Technician Registered, or a nutritionist who considers the special needs of older adults and ensures that each meal served contains at least one-third (33 1/3%) of the current daily recommended dietary allowances as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.

- B. Nutritional adequacy is documented with computer analysis by the project Registered Dietitian (RD), Dietetic Technician Registered, or Nutritionist. Nutrient analysis reports (i.e. Multi-Column Report) must list the food items that make up the nutrient analysis. Maintenance of optimal nutritional status through menu planning is reflected in menus moderate in fat, salt, and simple sugars and high in fiber. Approved menus are posted at nutrition sites. Signed, analyzed menus are available for Area Agency on Aging (AAA) and State Unit on Aging (SUA) review.
- C. The nutrient analysis of each meal shall be provided to consumers at the same time the monthly menu is provided. At a minimum values for the following nutrients must be provided: calories, fat, carbohydrates, fiber, and sodium. Nutrient analysis information must be in the form of a handout so consumers are able to take the information with them. The full nutrient analysis must be available for those that request this information.
- D. Where feasible and appropriate, texture or nutrient modified diets prescribed by a physician are provided to meet the medical needs of eligible consumers. Feasibility and appropriateness are determined by the project Registered Dietitian (RD) and Nutrition Director. Monitoring of texture or nutrient modified diets is done by the project Registered Dietitian (RD).
- E. Religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of consumers at a congregate meal site are reflected in some foods in the menus.
- F. All menus are served as planned unless the Registered Dietitian (RD), Dietetic Technician Registered, or the nutritionist reviews and approves an appropriate substitution. A complete menu move from one day to another does not constitute a substitution. When substitutions are made, the project maintains records on-site which document the:
  - 1. Date of substitution;
  - 2. Original menu item(s); and
  - 3. Substituted menu item(s).
- G. Congregate meals service providers shall strive to operate efficiently and effectively. "Efficiently" refers to the relative total cost of providing a unit of service (meal); while "effectiveness" refers to the capacity to provide a defined service as intended by the Older Americans Act (OAA), which includes service quality, quantity, and timeliness.
- H. Production forecasting is conducted as accurately as possible and does not include a margin for oversized portions or second servings. Congregate meals service providers must establish procedures that forecast or estimate attendance to keep waste at a minimum. Leftover foods are not to be taken from the kitchen or congregate sites.
- I. All meals provided at the congregate site must be eaten at the site. "Carry out" meals are not allowed for any reason.
- J. A consumer may be offered a particular food, but that consumer may refuse the food and it does not need to be served.
- K. Consumers attending the congregate meal sites shall be advised and informed to keep a three-day supply of non-perishable foods and bottled water in case of inclement weather or other emergency that causes a temporary suspension of services. If feasible and determined by the Area Agency on Aging in their area plan, emergency meal packages may be provided.
- L. Nutrition providers may serve a second or third shelf-stable meal or deliver a frozen meal to older adults identified through nutrition screening to be at nutritional risk and/or socially or economically in need.



- M. The program shall establish a method to determine consumer satisfaction that will be used to maintain or improve the quality of foods and services.
- N. Where feasible, provisions are made for the celebration of special occasions for consumers, for example, birthdays and holidays.

#### **411.7b MONITORING OF FACILITIES**

##### **POLICY:**

Each congregate meals service provider develops and implements procedures to monitor compliance of facilities housing congregate meal sites with all applicable public health and sanitation codes, and, where feasible and appropriate, fire and safety codes.

##### **PROCEDURE:**

- A. Each congregate meals service provider develops a meal site safety and sanitation inspection checklist that reflects health and sanitation regulations, and, where feasible and appropriate, fire and safety regulations that each individual provider can reasonably be expected to monitor at each congregate meal site, and trains appropriate staff in its use for meal site monitoring and inspections.
- B. Safety and sanitation inspections of each congregate meal site must be conducted on a regular basis and shall be performed at least every six months. Congregate meal site safety and sanitation inspection checklists must be dated and kept on file for review by Area Agencies on Aging (AAA) or State Unit on Aging (SUA) staff.
- C. The congregate meals provider must correct deficiencies under its control in a timely manner.
- D. Outbreaks of suspected foodborne illness shall be reported to the local Health Department, Area Agency on Aging (AAA), and State Unit on Aging (SUA) when identified by the congregate meal provider.
- E. In rented and/or donated facilities, the congregate meals provider reports deficiencies to the owner and works with the owner to correct them in a timely manner.

**411.7c      FOOD PROCUREMENT**

**POLICY:**

All food procurement for the Nutrition Program shall be of good quality and shall be obtained from sources, which conform to Federal, State, and local regulatory standards and laws for quality, sanitation, and safety.

**PROCEDURE:**

- A. All food purchases are through approved commercial vendors;
- B. Nutrition Programs will develop a procedure to address food recalls;
- C. Home prepared foods, such as canned, frozen, or potluck dishes are not used; and
- D. No foods past their expiration or use-by date shall be used or served in the Nutrition Program.

**411.7d      LOCALLY GROWN & SOURCED PRODUCE**

**POLICY:**

Nutrition Programs choosing to utilize donated locally grown produce or purchase locally grown produce from suppliers in the Nutrition Program shall ensure all produce is wholesome and of good quality and has been obtained from growers or suppliers that have a food safety plan in place that includes food safety and handling protocols based on the FDA's Guide for Industry '*Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables*' that has been reviewed by the Nutrition Program. Nutrition Programs are encouraged to conduct an audit with the grower or supplier of the food safety plan, such as the United Fresh Produce Association's Harmonized Standard or other fresh produce food safety standard determined by the Nutrition Program. Produce shall be defined as fruits, vegetables, and/or herbs only.

**PROCEDURE:**

- A. Nutrition Programs will develop protocols to address food recalls with the growers and suppliers;
- B. All donated locally grown produce shall not have undergone any processing prior to donation, including but not limited to washing and/or cutting;
- C. When utilizing donated produce Nutrition Programs shall document the following:
  - 1. Item being donated;
  - 2. Date of donation;
  - 3. Amount of donation, i.e. number of pounds of produce;
  - 4. Agency, supplier, or grower making the donation; and contact information;
  - 5. Food safety and handling protocols of the donated produce within the Nutrition Program;
  - 6. Menu item donated produce was used in; and
  - 7. Date donation was served to clients.

This information shall be kept on file and be available for review by the Area Agency on Aging (AAA), the State Unit on Aging (SUA), Federal regulatory agencies, State and Local Public Health Departments, and others needing it for purposes of audit or compliance review; and
- D. Nutrition Programs may utilize produce grown by the Nutrition Program in a garden grown on-site and managed by the Nutrition Program. Gardens grown by the Nutrition Program must adhere to '*Good Agricultural Practices*' (GAP) and must develop food safety and handling protocols for garden to Nutrition Program utilization of produce that address growing, harvesting, and transport of produce. Nutrition Programs choosing to utilize a garden to grow produce that will be used in the Nutrition Program must seek prior approval from the State Unit on Aging and submit their food safety and handling protocols for approval and review.
- E. Nutrition education shall be provided annually to consumers about the growing, harvesting, and utilization of produce grown by the Nutrition Program and adhere to requirements found in 411.77 and 412.77.

**411.7e      SUPPORTIVE SERVICES**

**POLICY:**

Each nutrition project provides all supportive services feasible within the project's resources but must include, at a minimum, outreach services, and nutrition education for each nutrition site. Other services that may be provided are transportation, health screenings, consumer education, benefits counseling, recreation, and similar services. The project refers consumers to other community services as appropriate.

**PROCEDURE:**

- A. The project provides or arranges for ongoing outreach services at each nutrition site, which are sufficient to cover the project's service area.
- B. New project consumers are assessed using the approved Consumer Information Assessment form for service needs during the initial interview and are offered assistance in obtaining desired services, as appropriate.
- C. The project makes every effort to coordinate with other community services and to offer on-site space for services that benefit the project consumers, such as Low-Income Energy Assistance Program (LEAP) and Supplemental Nutrition Assistance Program applications, health insurance counseling, consumer education presentations, and health screenings.

**411.71 NUTRITION SERVICES (CONGREGATE) FOOD SAFETY AND  
SANITATION**

**411.71a COLORADO RETAIL FOOD ESTABLISHMENT RULES AND REGULATIONS**

**POLICY:**

Nutrition Programs shall adhere to the standards in the Colorado Department of Public Health and Environment's (CDPHE) most current Colorado Retail Food Establishment Rules and Regulations. Additional food safety procedures below shall be followed to ensure the health and well-being of the frail older adults and caregivers being served.

**PROCEDURE:**

- A. All food transported to sites, which becomes left over, except unopened, pre-packaged food, must be properly disposed of at the meal site.
- B. All food, which is uneaten, becomes left over and must be properly disposed of at the meal site. Cooked or prepared food shall not be taken from the meal site.
- C. Food safety education shall be provided at all meal sites for congregate meals and provided to all consumers for home-delivered meals through the Nutrition Program each State Fiscal Year. The education may include issues such as: proper handling of home delivered meals; taking leftover food from the dining centers; time and temperature related to food borne illness; cooking meats to proper temperature; washing fresh fruits and vegetables; and proper storage of food.
- D. Milk may not be stored at meal sites unless it is in commercial refrigeration that maintains the temperature at a maximum of 41 degrees Fahrenheit. Kitchen and site staff shall be trained to interpret the expiration date on milk cartons. Milk past the expiration date shall be disposed of.
- E. Each congregate meals service provider develops and implements procedures to monitor compliance of facilities housing congregate meal sites with all applicable public health and sanitation codes, and, where feasible and appropriate, fire and safety codes.
- F. Each congregate meals service provider develops a meal site safety and sanitation inspection checklist that reflects health and sanitation regulations, and, where feasible and appropriate, fire and safety regulations that each individual provider can reasonably be expected to monitor at each congregate meal site, and trains appropriate staff in its use for meal site monitoring and inspections. Safety and sanitation inspections of each congregate meal site must be conducted on a regular basis and shall be performed at least every six months.
- G. The congregate meals provider must correct deficiencies under its control in a timely manner.
- H. Outbreaks of suspected foodborne illness shall be reported to the local Health Department, Area Agency on Aging (AAA), and State Unit on Aging (SUA) when identified by the congregate meal provider.
- I. In rented and/or donated facilities, the congregate meals provider reports deficiencies to the owner and works with the owner to correct them in a timely manner.

- J. Congregate meal site safety and sanitation inspection checklists must be dated and kept on file for review by Area Agency on Aging (AAA) or State Unit on Aging (SUA) staff.
- K. Food preparation staff-work under the supervision of a certified food handler (e.g. ServeSafe or another Health Department sponsored food handler's class) who ensures the application of hygienic techniques and practices in food preparation and service.
- L. Food Safety in-service training shall be provided for all paid food service personnel every six months. All volunteers involved in the preparation or service or delivery of food for the Nutrition Program shall be provided food safety information at least annually.
- M. Holding time from the removal of temperature control until all meals are served shall not exceed four hours.
- N. Temperatures of hot and cold foods are taken and documented daily after food is placed on the steam table or immediately before serving. If temperatures fall below or above the recommended level, foods are heated or cooled to the proper temperature.
- O. Daily temperatures of hot and cold foods are documented in writing and kept at the Title III senior nutrition site and made available for review by Area Agencies on Aging (AAA) staff, Consulting Dietitian, or State Unit on Aging (SUA).

## **411.71b FOOD PREPARATION**

### **POLICY:**

All preparation and serving of food for the Nutrition Program meet all applicable State and local fire, health, sanitation, and safety regulations. Food preparation and delivery is to be performed in a cost efficient manner.

### **PROCEDURE:**

- A. Projects with multiple serving sites make every effort to consolidate all meal preparation at one facility. Such consolidation is undertaken only when delivery distances and holding times make it feasible.
- B. A reservation system may be used to prevent over-production and waste of food. This procedure may include using the meal site roster to allow consumers to reserve their next meal or several meals. If the consumer cannot participate in a meal, they may call the meal site or program office to cancel a reservation.
- C. The project director or designee attends appropriate fire, health, safety, and sanitation inspections and responds appropriately to all identified deficiencies.
- D. Tested, quality recipes, adjusted to yield the number of servings needed, must be used to achieve the consistent and desirable quality and quantity of meals. Uniform, standardized recipes that provide for required amounts per serving are used when feasible.

## **411.71c ADEQUATE FACILITIES**

### **POLICY:**

Each congregate meals service provider secures and maintains adequate facilities for the preparation and delivery of the meals service, nutrition education, nutrition counseling, and funded supportive services.

No Older Americans Act (OAA) or Older Coloradans Act (OCA) program site shall allow any person or organization to attempt to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure through in-kind or cash contributions, endorsements, publicity or similar activity on the premises of the program site.

### **PROCEDURE:**

- A. The contractor agency locates congregate meals service sites in areas accessible to the target group of eligible individuals in a community and, where possible, within walking distance for concentrations of such individuals.
- B. The contractor agency requests annual health and sanitation (and, as appropriate, fire and safety) inspections of project offices and congregate meal sites by appropriate local public agencies, using accepted local standards that take into account the use and occupancy of the site by Title III funded projects and are adequate to protect the health and safety of consumers.
  - 1. All inspection reports are on file with the contractor or sub-contractor agency.
  - 2. Contractor or sub-contractor agency responds as directed by the inspecting agency to all cited deficiencies under its control.
- C. The contractor agency prohibits smoking in all areas under its control (food preparation, serving, and dining areas) and, where feasible, clearly communicates this policy by posting appropriate signs and removing ashtrays.
- D. The project arranges for the separation of dining and food preparation areas at sites where food is prepared and served in the same facility.
- E. Where feasible, the project provides ample space and time for the provision of supportive services.
- F. The project assures that there are appropriate furnishings for older adults, including sturdy tables and chairs, and arranges the furnishings to provide adequate aisle space for persons using mobility aids such as walkers and wheelchairs.
- G. The project posts in conspicuous locations information regarding:
  - 1. The rights of eligible persons to equal opportunity and access to services;
  - 2. The full cost of the meal to be paid by ineligible persons, such as guests under 60 years of age who are served meals;
  - 3. The suggested contribution for eligible consumers toward the cost of the meal. All consumer contributions are for the cost of the meal and are not solicited for other items such as utilities or coffee;
  - 4. Menus for a minimum of one week in advance;
  - 5. Grievance procedures for consumers;
  - 6. An evacuation plan (where feasible and appropriate);
  - 7. An information and assistance telephone number; and
  - 8. The current license to operate a retail food establishment.

**411.71d SUFFICIENT STAFF**

**POLICY:**

Each Nutrition Program will maintain sufficient staff to carry out the required service activities.

**PROCEDURE:**

- A. Each Nutrition Program provider must employ a director who is empowered with the necessary authority to conduct the overall management, oversight, and administrative functions of the project, and to achieve compliance with all applicable rules and regulations. The Nutrition Program shall ensure that all food service supervisory personnel are trained and certified in a food safety and sanitation program.
- B. Each Nutrition Program provider must obtain the services of a Registered Dietitian (RD) or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, through employment, contract, or Memorandum of Understanding (MOU) to provide nutrition consultation, including:
  - 1. Planning and/or certification of menus and nutrition analysis that meet nutrition requirements and are appropriate for the program participants;
  - 2. Approval of the content or resource (i.e. cooperative extension, hospital, nursing home, or home health agency) of nutrition education materials;
  - 3. Conducting of nutrition education presentations at the congregate meal sites;
  - 4. Provision of nutrition education to home delivered program participants; and
  - 5. Provision of nutrition counseling to Nutrition Program participants and the maintenance of appropriate documentation. Nutrition Counseling can only be done by a Registered Dietitian (RD).
- C. Each congregate meals provider may assign additional essential program management, oversight and administrative duties to the Registered Dietitian (RD), Dietetic Technician Registered, or individual with comparable expertise, including:
  - 1. Monitoring food service to include food temperatures and portion sizes, and assessing of food quality and adherence to contract specifications;
  - 2. Assessing participant satisfaction and preferences;
  - 3. Training staff and volunteers in areas of food service management, nutrition, and sanitation;
  - 4. Monitoring of perpetual inventory and commodity utilization;
  - 5. Documenting site recommendations for improvement; and
  - 6. Technical assistance in any other area of program operations needed to maintain or achieve full compliance with all applicable rules and regulations.



## **411.71e USE OF DIETITIAN**

### **POLICY:**

The Older Americans Act (OAA) requires that meal providers solicit the advice and expertise of a dietitian or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services. The following describes the standards for the required nutrition professional.

### **PROCEDURE:**

- A. The Commission on Dietetic Registration defines the standards for the Registered Dietitian (RD) as an individual who:
  - 1. Has completed the minimum of a baccalaureate degree granted by a United States regionally accredited college or university;
  - 2. Has met current academic requirements (Didactic Program in Dietetics) as approved by The Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
  - 3. Completed a minimum of 900 supervised practice hours of pre-professional experience accredited/approved by the Commission on Accreditation/Approval for Dietetics Education of The American Dietetic Association;
  - 4. Successfully completed the Registration Examination for Dietitians; and
  - 5. Accrued 75 hours of approved continuing professional education every five years.
- B. A nutritionist is defined as an individual who:
  - 1. Has completed the minimum of a baccalaureate degree granted by a United States accredited college or university in foods and nutrition or home economics; and
  - 2. Has professional, verifiable experience of a minimum of six months in nutrition education, menu design, and menu analysis.
- C. A Dietetic Technician, Registered is defined as an individual who:
  - 1. Has completed a minimum of an Associate Degree granted by a US accredited college/university;
  - 2. Has completed a Dietetic Technician Program as accredited/approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
  - 3. Has successfully completed the Registration Examination for Dietetic Technicians;
  - 4. Has accrued 50 hours of approved continuing professional education every five years; or
  - 5. Has completed the minimum of a Baccalaureate degree granted by a U.S. regionally accredited college or university, or foreign equivalent;
  - 6. Has met current minimum academic requirements (Didactic Program in Dietetics) as approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;

7. Has completed a supervised practice program under the auspices of a Dietetic Technician Program as accredited/approved by The Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
  8. Has fully completed the Registration Examination for Dietetic Technicians; and
  9. Has accrued 50 hours of approved continuing professional education within a specific five-year reporting period.
- C. An individual with comparable expertise is defined as an individual who:
1. Meets the above defined positions for Dietetic Technician Registered or Nutritionist or;
  2. Is approved by the State Unit on Aging (SUA). Those not likely to receive approval include nurses, dietary managers, dietary supervisors, and cooks, unless they can prove an extensive, well-rounded education and experience in the major areas of dietetic practice.

## **411.74 NUTRITION SERVICES (CONGREGATE) MODIFIED DIETS**

### **POLICY:**

Medical nutritional foods and food for special dietary use is a modification of a diet and should be available to meet the needs of the consumer who may require a modification of a regular diet due to a medical condition.

### **PROCEDURE:**

- A. Approval for supplement or meal replacement shall be obtained as follows:
1. Written physician order must be received, kept on file, and contain the following content to be evaluated by Registered Dietitian (RD):
    - a. Physician's name;
    - b. Participant's name;
    - c. Participant's diagnosis and/or reason for necessity of supplement or meal replacement;
    - d. Nutrient type or name of supplement or meal replacement;
    - e. Volume of supplement or meal replacement;
    - f. Date of order; and,
    - g. Length of duration of order.

2. The Registered Dietitian (RD) shall evaluate the physician's order and approve or disapprove based on feasibility and appropriateness. The Nutrition Services Director and Registered Dietitian (RD) will evaluate each request for medical nutritional supplements or meal replacements, to determine if provision of such diets or supplements may decrease the number of meals served to other participants, increase costs of meal production, including Registered Dietitian (RD) and staff labor, or decrease program expansion. The Registered Dietitian (RD) will evaluate the appropriateness of the supplement or meal replacement based on the Nutrition Screening Initiative (NSI) screen, anthropometrics, and medical assessment of diagnoses, nutrient-medication interactions, and other factors according to the standards of nutrition practice. If the Registered Dietitian (RD) determines that the supplements or meal replacements are either not feasible or not appropriate, then the physician shall be notified and other alternative resources are referred to the participant. These resources include, but are not limited to: health insurance, nutrient dense food counseling, a food bank, or results of evaluation determining inappropriateness of supplement or meal replacement.
  3. The Registered Dietitian (RD) shall re-evaluate medical nutritional foods used as a supplement at least every six months. Regardless of the duration indicated in the physician's prescription, the Registered Dietitian (RD) will re-evaluate feasibility and appropriateness of supplements provided to participants at least every six months. This shall be documented in the consumer's file with a brief reason for continuation, e.g., "Participant continues to be under Ideal Body Weight (IBW) range and has difficulty consuming adequate nutrients due to medical condition."
- B. Monitoring shall be completed as follows:
1. The use of medical nutritional food as a meal replacement shall be reviewed and documented monthly by the Registered Dietitian (RD). The use of medical nutritional foods as a meal replacement will be a rare and extreme situation requiring close monitoring. The medical conditions associated with the use of medical foods as a meal replacement are usually temporary and compliance with a diet based on medical foods is poor. Evaluations to upgrade diet to solid or texture-modified foods must be ongoing to meet nutrition and quality of life needs.
- C. Determination for using medical nutritional foods shall be conducted as follows.
1. The Nutrition Program Director and Registered Dietitian (RD) will calculate the associated costs with medical nutritional foods, as part of the evaluation of feasibility and appropriateness.
  2. The use of Medical Nutritional Food as a supplement or meal replacement may be considered if determined to be necessary for the participant by the Registered Dietitian (RD) and Physician. Meal Supplementation should be provided after considering nutrient dense foods. Meal replacements should only be provided after considering other means of nutrition support; e.g. soft foods, ground foods, or assistance to resources that could treat the medical condition causing a participant's inability to tolerate regular texture foods, e.g. dentures.

3. The documented need for Medical Nutritional Foods or a Physician's Prescription does not obligate the Area Agencies on Aging (AAA) or Older Americans Act (OAA) Nutrition Programs to provide such foods.
  4. If a medical condition exists that precludes meeting the 33 1/3% of the Dietary Reference Intakes of each nutrient, then the Registered Dietitian (RD) and physician may designate the appropriate amount of medical food to meet the remaining nutrient needs due to the medical condition and qualify for Nutrition Services Incentive Program (NSIP) or Title III reimbursement. This information shall be documented in the participant's record.
- D. Payment and reimbursement for Medical Nutritional Foods shall be calculated as follows:
1. Participant donations towards medical nutritional foods are voluntary. If the Registered Dietitian (RD) and Nutrition Provider determine that supplements and/or medical nutritional meal replacements are feasible and appropriate and other resources have been considered, the participant should be informed of the suggested donation amount and voluntary donation policy. If the participant can only donate a portion of the suggested donation or none of the suggested donation, then the nutrition provider shall provide the supplement and/or meal replacement to the participant as stipulated in the Older Americans Act (OAA).
  2. Suggested donation amounts for Medical Nutritional Foods shall not exceed the cost of the product from the supplier, plus appropriate fees from the supplier, and documented overhead costs. Any rebates or incentives from the medical nutritional food supplier shall be used to offset the suggested donation rate for participants utilizing medical nutritional foods.
  3. The use of medical nutritional foods as a meal supplement in combination with a meal may only count, in total, as one meal if eligible for reimbursement. The nutrition supplement in conjunction with a congregate or home delivered meal does not qualify as more than one meal for reimbursement purposes. No additional Nutrition Services Incentive Program (NSIP) or Title III, C-1 or C-2 funds may be reimbursed based on supplements provided with meals. Regardless of the supplement volume consumed over time, or if the meals and supplements exceed the Dietary Reference Intakes (DRI), this does not meet the standard of an additional reimbursable meal.
  4. Reimbursement for an eligible meal funded by Older Americans Act (OAA) funds is permitted if the volume of the medical nutritional food as a meal replacement meets the 33 1/3% of the Dietary Reference Intakes (DRI) for one meal. If two meals are provided, the combined amount must meet 66 2/3% of the Dietary Reference Intakes (DRI) for two meals, and 100% of the Dietary Reference Intakes (DRI) to qualify as three eligible meals.
  5. Participants that are enrolled in means-tested programs where Medical Nutritional Foods would be covered as part of the program do not qualify to receive Medical Nutritional Foods as either supplementation or as meal replacement under the Older Americans Act (OAA). These consumers should be encouraged to contact their healthcare provider to acquire these through the other programs.

6. Participant health insurance should be billed for medical nutritional food when appropriate. Participant resources should be utilized efficiently in order to provide the most feasible and appropriate solution to meet nutritional needs. This includes maximizing health insurance benefits, county nursing services, county extension services, food banks, and physician and pharmacy benefits. The nutrition provider and Registered Dietitian (RD) should consider these and other resources before using Older Americans Act (OAA) programs for medical nutritional foods.

#### **411.76 NUTRITION SERVICES (CONGREGATE) PROVIDER RESPONSIBILITIES / REQUIREMENTS (NUTRITION COUNSELING)**

##### **POLICY:**

Nutrition counseling shall be provided by congregate and home delivered meals programs. Standardized care processes for nutrition counseling shall be determined by the State Unit on Aging (SUA).

##### **PROCEDURE:**

- A. Nutrition Counseling shall be provided by a Registered Dietitian (RD).
- B. Documentation requirements for nutrition counseling shall include entering units into the State Unit on Aging (SUA) approved data system. State Unit on Aging (SUA) approved Consumer Information Assessments for consumers receiving nutrition counseling shall be completed and documented in the SUA approved data system.
- C. Client files and associated documentation shall be kept locked at the Nutrition Program office. If client information is kept on electronic files all rules and regulations governing the protection of personal health information shall be followed.
- D. SUA approved consumer information assessments for consumers receiving nutrition counseling shall be completed and document in the SUA approved data system.
- E. Registered Dietitians (RD) providing nutrition counseling shall have Professional Liability Insurance.

**411.77     NUTRITION SERVICES (CONGREGATE) PROVIDER**  
**RESPONSIBILITIES / REQUIREMENTS (NUTRITION EDUCATION)**

**POLICY:**

The Nutrition Program provides nutrition education to congregate and home delivered meals program consumers.

**PROCEDURE:**

- A. Nutrition education is provided at least once per month by a Registered Dietitian (RD) or an individual with comparable expertise. A nutrition education presentation shall be provided at least one time each State Fiscal Year (July 1 through June 30) at each congregate meal site.
- B. Nutrition education is provided to both congregate and home delivered meals consumers and shall be based on the needs of the participants.
- C. Documentation of provided Nutrition Education shall be kept on file for the State Unit on Aging (SUA) prescribed length of record retention. Documentation shall include:
  - 1. Tracking of monthly Nutrition Education units in the State Unit on Aging (SUA) prescribed data system;
  - 2. Date of presentation or distribution of nutrition education;
  - 3. Name and title of presenter or topic of nutrition education distributed;
  - 4. Number of participants in attendance or if nutrition education is distributed to congregate and/or home delivered consumers, the number of participants receiving the materials and;
  - 5. If nutrition education is sent to congregate and/or home delivered consumers a copy of the distributed material should be kept.

## **411.9 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)**

### **POLICY:**

Each nutrition project offers information to ensure that the maximum number of older adults within the project area benefit from the United States Department of Agriculture (USDA) Supplemental Nutrition Assistance Program (SNAP) as members of households certified for such assistance under United States Department of Agriculture regulations.

### **PROCEDURE:**

The nutrition project shall:

- A. Offer information in obtaining SNAP benefits to each consumer at the time of intake;
- B. Follow through upon request with assisting those consumers who desire to apply for Supplemental Nutrition Assistance Program benefits, such as contacting the local County Department of Human Services office for eligibility requirements, and assisting consumers in securing appropriate written verification of income;
- C. Ensure that nutrition sites accepting SNAP benefits shall follow the provisions related to the use and handling of SNAP benefits, as prescribed by the State and local agency authorized to operate the program, are met; and
- D. Not utilize part D or Material Aid funds for grocery vouchers.

## **412 NUTRITION SERVICES (HOME DELIVERED)**

### **POLICY:**

The home delivered meals service includes the provision of at least one hot or other appropriate meal to eligible homebound persons in their own home five or more days per week except in rural areas where such frequency is not feasible, and a lesser frequency is approved by the State Unit on Aging (SUA).

### **PROCEDURE:**

The procedures for implementing this section include the Area Agencies on Aging (AAA):

- A. Establishing and operating nutrition projects on five (5) or more days a week (except in a rural area where such frequency is not feasible and a lesser frequency is approved by the State Unit on Aging (SUA)), provide at least one (1) home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental foods and any additional meals the Contractor may elect to provide;
- B. Assuring orientation is provided on Colorado Department of Human Services Manual, Services for the Aging, Volume 10, and the State Unit on Aging Policy and Procedure Manual to home delivered meals service staff;
- C. Monitoring compliance with Colorado Department of Human Services Manual, Services for the Aging, Volume 10, and the State Unit on Aging Policy and Procedure Manual.

- D. Providing ongoing technical assistance to Title III projects on regarding the Colorado Department of Human Services Manual, Services for the Aging, Volume 10, and the State Unit on Aging Policy and Procedure Manual.
- E. Submitting a written request for a waiver for any nutrition project, this is identified in the funding request application to provide less than five (5) meals per week at any nutrition project. The request includes documentation of the rural nature of the site or other factors, which may justify the waiver of this requirement, and is submitted at least 30 days prior to the change in meal frequency; and,
- F. Notifying the State Unit on Aging (SUA) of all meal site closures or service delivery disruptions whether or not due to an emergency but will last for two service days or more (i.e. holiday or training closures).

## **412a CHANGE OF STATUS**

### **POLICY:**

Any site change of status in the congregate and home delivered meals programs is based upon objective, quantifiable, socio-demographic, and needs assessment data. Thirty days prior to the change of status of a nutrition site, the Area Agency on Aging (AAA) submits to the State Unit on Aging (SUA) an analysis of data considered by the project in recommending each proposed change.

### **PROCEDURE:**

- A. The Area Agencies on Aging (AAA) shall document:
  - 1. The reason(s) for each proposed change;
  - 2. Existing meal services for older adults in the Planning and Service Area (PSA) for each change;
  - 3. All potentially eligible areas within the Planning and Service Area (PSA) with no current services for opening or relocation;
  - 4. A list and ranking of all unserved areas in the order of their priority for future funding for opening or relocation;
  - 5. The number and proportion of low-income minority, low income, and older adults in greatest economic or social need for each currently served and currently unserved area, for each change;
  - 6. The total number of persons age 60 years or older in the total Planning and Service Area (PSA), and in each current and prospective service area, for each change;
  - 7. A Revised Funding Request Application to include the budget justification for each change;
  - 8. The proposed date of each change;



9. Current health department and fire inspection reports, for opening or relocation;
  10. Transportation services available for older adults affected by each change;
  11. Governing board recommendations for each change;
  12. Any other information the State Unit on Aging (SUA) deems necessary to evaluate the proposed expansion; and
- B. Upon review of the analysis, the State Unit on Aging (SUA) may conditionally approve or disapprove the request for site change.

#### **412.1 NUTRITION SERVICES (HOME DELIVERED) ELIGIBILITY**

##### **POLICY:**

The Area Agencies on Aging (AAA) establishes eligibility requirements for home delivered meals consumers, which include, at a minimum:

- A. Persons age 60 years or older who are homebound or who are geographically isolated;
- B. Disabled persons under age 60 years who reside with eligible consumers; and
- C. Spouses of home delivered meals consumers if, according to Area Agencies on Aging (AAA) criteria, receipt of the meals are in the best interest of the consumers.

##### **PROCEDURE:**

- A. Persons who wish to receive home delivered meals service complete the State Unit on Aging (SUA) approved consumer information assessment form. A caregiver, case manager, or social services staff may assist with completing the form. Assessments from other service providers may be accepted if the content provides the same information as the Consumer Information Assessment form.
- B. The requirement for an assessment may be waived if the eligible nutrition program consumer is temporarily incapacitated at home. Receipt of home-delivered meals for more than 30 days requires that the provider assess the consumer's status to determine if the individual is homebound.
- C. Consumers are evaluated at least every six (6) months to determine continued eligibility.
- D. Persons who are no longer homebound are referred to the Congregate Meals Program, if feasible.

## **412.2 NUTRITION SERVICES (HOME DELIVERED) CONSUMER CONTRIBUTION**

### **POLICY:**

Each Area Agency on Aging (AAA) shall ensure that minimum standards and procedures are established for the responsible collection of, handling, and safeguarding of consumer contributions and non-eligible recipient fees. Solicitations for voluntary contributions may occur at regular intervals and be clearly communicated.

The following standards and procedures shall be adhered to for the agency and/or contractors:

### **PROCEDURE:**

- A. All eligible consumers shall be given the opportunity to voluntarily contribute to the cost of selected services received. For example, the solicitation for voluntary contributions may include, but is not limited to: signs at the provider sites, individual, or form letters to the consumer, or verbal communication to the consumer. The solicitation may include factual information related to the cost of delivering the service, but must be non-coercive with respect to the voluntary nature of the contribution.
- B. Solicitations for voluntary contributions may occur at regular intervals and be clearly communicated.
- C. Contribution boxes or receptacles may be placed in an area observable
- D. Voluntary contributions methods are determined through consultation with stakeholders within the Planning and Service Area (PSA). The Area Agencies on Aging (AAA) will monitor and approve voluntary contribution solicitation practices and materials upon development, implementation, and during the provider evaluation process.
- E. The Area Agencies on Aging (AAA) shall not means test for any service for which voluntary contributions are accepted. Assets, savings, other property owned by a consumer, or income shall not be considered when identifying potential consumers. The Area Agencies on Aging (AAA) shall continue to target and prioritize consumers using consumer-reported eligibility information.
- F. Services may not be denied to a consumer due to the consumer's reluctance or inability to contribute toward the cost of the service. With limited funding resources, the Area Agencies on Aging (AAA) shall prioritize targeted individuals designated in the Older Americans Act (OAA): older adults with greatest economic need and older adults with greatest social need, including low-income, low-income minority individuals and older adults residing in rural areas. If needs in the planning and service area exceed Older Americans Act (OAA) program resources, targeted individuals may receive priority, regardless of the consumer's ability to pay.
- G. Frequency of contribution solicitations may be determined by the Area Agencies on Aging (AAA) and stakeholders. For example, this may occur during initial intake, during the delivery of service, by mail or distribution each month or other intervals, or ongoing.

- H. Consumer privacy and confidentiality is protected with respect to the consumer's contribution or lack of contribution. For example, to facilitate private, confidential contributions, voluntary contributions may be mailed at a later date. Site collection receptacles may be placed away from reception area. If providers accept voluntary contributions, they may keep logs of acceptance of tickets, vouchers, or envelopes, regardless of whether or not they contain a contribution.
- I. Appropriate procedures are established to safeguard and account for all contributions. Cash handling procedures shall be monitored by the Area Agencies on Aging (AAA) during the provider evaluation process and ongoing as needed.
- J. Collected contributions are used to expand the service for which the contributions were given. Consumers may be notified that their contributions will be used to provide additional services for other consumers.
- K. When a consumer receives more than one home-delivered meal per day, the Nutrition Project may request a voluntary contribution for the second meal. However, the consumer may not be coerced for the contribution.
- L. Written material in languages other than English shall be made available where appropriate.

#### **412.4 NUTRITION SERVICES (HOME DELIVERED) GUEST FEES**

##### **POLICY:**

Fees amounting to the full cost of the service are charged to non-eligible recipients. Guest fees are used to expand the service for which the fees were given. Minimum fees for congregate meals, home delivered meals, and supportive services shall be determined using guidelines and procedures established by the State Unit on Aging (SUA).

##### **PROCEDURE:**

- A. Guests are not required to belong to Older Americans Act (OAA) targeted groups.
- B. When resources cannot accommodate guests and eligible consumers, consumers take priority and are the first served.
- C. Guest fees are required. They are not voluntary or confidential.
- D. Congregate and home delivered meals programs shall complete the 'Total Meal Cost and Guest Fee Determination Tool' annually. This tool will determine the total meal cost and Guest Fee to be charged to all non-eligible individuals each State Fiscal Year beginning July 1st through June 30th. At a minimum, the required match of 10%, including both in-kind and local cash, shall be included in the calculation.
- E. The amount of the Guest Fees shall not be less than the suggested donation.
- F. The completed tool shall be available for review by Area Agencies on Aging (AAA), the State Unit on Aging (SUA), Federal regulatory agencies, and others needing it for purposes of Audit or compliance review.

**412.6 NUTRITION SERVICES (HOME DELIVERED) NUTRITION SERVICES  
INCENTIVE PROGRAM (NSIP)**

**POLICY:**

Nutrition Services Incentive Program (NSIP) rewards, through cash or commodities, the effective performance of Title III-C nutrition projects in the efficient delivery of nutritious meals to older adults. The Administration for Community Living (ACL) shall distribute Nutrition Services Incentive Program (NSIP) funds through the State Unit on Aging (SUA) to the Area Agencies on Aging (AAA) based on the State Unit on Aging (SUA)-determined formula. Nutrition Services Incentive Program (NSIP) rewards are based on the effective performance of Title III-C nutrition projects in the efficient delivery of nutritious meals to older adults.

**PROCEDURE:**

- A. Projects receive Nutrition Services Incentive Program (NSIP) cash or cash and commodity allocations of food commodities from the State based on the number of eligible meals actually served in the previous year in relationship to the total number of meals actually served by all Title III-C projects reported to the Administration for Community Living (ACL).
- B. The State may survey the Area Agencies on Aging (AAA) and the Nutrition Projects for the Cash, Commodity, or Cash and Commodity options. The State Unit on Aging (SUA) makes the final decision of which method is used to make the Nutrition Services Incentive Program (NSIP) award.
- C. Nutrition Services Incentive Program (NSIP) funds shall be used to expand meals, expand access to meals, or maintain the number of meals with increases in food costs.
- D. Nutrition Services Incentive Program (NSIP) funds shall be used to purchase foods of United States origin.
- E. Projects develop management procedures pertaining to tracking Nutrition Services Incentive Program (NSIP) purchases on United States-produced food products.
- F. Each Area Agency on Aging (AAA) shall receive Nutrition Services Incentive Program (NSIP) funds based on the prior Federal Fiscal Year National Aging Program Information System (NAPIS) report of meal counts.
- G. If prior Federal Fiscal Year counts are not available, the State Unit on Aging (SUA) may base initial disbursements on two years prior National Aging Program Information System (NAPIS) meal counts. Adjustments shall be made to subsequent rounds of Nutrition Services Incentive Program (NSIP) disbursements to reflect prior year National Aging Program Information System (NAPIS) meal counts.
- H. Nutrition projects maintain documentation of Nutrition Services Incentive Program (NSIP) reimbursable meals based on Title III consumer eligibility.
- I. Each Area Agency on Aging (AAA) shall ensure the accuracy and completeness of meal count data reported in the State Unit on Aging (SUA) approved data system, which supplies National Aging Program Information System (NAPIS) meal counts.

- J. If the Area Agency on Aging (AAA) determines that National Aging Program Information System (NAPIS) meal count data is inaccurate, the discrepancy must be documented and reported to the State Unit on Aging (SUA) prior to the National Aging Program Information System (NAPIS) reporting deadline.
- K. If the National Aging Program Information System (NAPIS) meal count report is significantly lower than budgeted, the Area Agency on Aging (AAA) and nutrition provider shall determine if contract amounts and production levels should be decreased.
- L. The Administration for Community Living (ACL) may distribute NSIP funds in part or in whole to the State Unit on Aging (SUA).
- M. Means-tested meals or meals that are included as a part of per diems are not eligible for Nutrition Services Incentive Program (NSIP).

## **412.7 NUTRITION SERVICES (HOME DELIVERED) PROVIDER RESPONSIBILITIES AND REQUIREMENTS**

### **412.7a MEAL PLANNING**

#### **POLICY:**

The home delivered meals service conducts appropriate meal planning for the home delivered meals service by soliciting the advice and expertise of: a Registered Dietitian (RD); persons competent in the field of nutrition; persons competent in the field of food service; meal participants; and other individuals knowledgeable with regard to the needs of older adults. Consumer direction and consumer choice shall be encouraged when providing home delivered meal services. Examples of enhanced nutrition choices include offering choices of types of meals offered, providing entrée choices, and allowing the consumer to have input into the types of meals they are receiving.

#### **PROCEDURE:**

- A. Menus are prepared or approved prior to meal service by a Registered Dietitian (RD), Dietetic Technician Registered, or a nutritionist who considers the special needs of older adults and ensures that each meal served contains at least one-third (33 1/3%) of the current daily recommended dietary allowances as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.
- B. Nutritional adequacy is documented with computer analysis by the project Registered Dietitian (RD), Dietetic Technician Registered, or nutritionist. Nutrient analysis reports (e.g. Multi-Column Report) must list the food items that make up the nutrient analysis. Maintenance of optimal nutritional status through menu planning is reflected in menus moderate in fat, salt, and simple sugars and high in fiber. Approved menus are posted at nutrition sites. Signed, analyzed menus are available for Area Agencies on Aging (AAA) and State Unit on Aging (SUA) review.

- C. The nutrient analysis of each meal shall be provided to consumers at the same time the monthly menu is provided. At a minimum, values for the following nutrients must be provided: calories, fat, carbohydrates, fiber, and sodium. Nutrient analysis information must be in the form of a handout so consumers are able to have this information readily available. The full nutrient analysis must be available for those that request this information.
- D. Where feasible and appropriate, texture or nutrient modified diets prescribed by a physician are provided to meet the medical needs of eligible consumers. Feasibility and appropriateness are determined by the project Registered Dietitian (RD) and Nutrition Director. Monitoring of texture or nutrient modified diets is done by the project Registered Dietitian (RD).
- E. Religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of consumers are reflected in some foods in the menus.
- F. All menus are served as planned unless the Registered Dietitian (RD), Dietetic Technician Registered, or the nutritionist reviews and approves an appropriate substitution. A complete menu move from one day to another does not constitute a substitution. When substitutions are made, the project maintains records on-site which document the:
  - 1. Date of substitution;
  - 2. Original menu item(s); and
  - 3. Substituted menu item(s).
- G. Home delivered meals service providers shall strive to operate efficiently and effectively. "Efficiently" refers to the relative total cost of providing a unit of service (meal); while "effectiveness" refers to the capacity to provide a defined service as intended by the Older Americans Act (OAA), which includes service quality, quantity, and timeliness.
- H. Production forecasting is conducted as accurately as possible and does not include a margin for oversized portions or second servings. Home delivered meals service providers must establish procedures that forecast or estimate the number of meals to be produced to keep waste at a minimum.
- I. A consumer may be offered a particular food, but that consumer may refuse the food and it does not need to be served.
- J. Where feasible, provisions are made for the celebration of special occasions for consumers, for example, birthdays and holidays.
- K. Home delivered meals may be hot, cold, frozen, dried, canned, or fresh with a satisfactory storage life.
- L. Home delivered meal service may include the delivery of more than one meal for each day's consumption provided that proper storage and heating facilities are available in the recipient's home.
- M. Home delivered meal providers shall establish a method to determine consumer satisfaction that will be used to maintain or improve the quality of foods and services.
- N. Emergency meals shall be provided to consumers in the home delivered meal program each State Fiscal Year. Emergency meals shall be shelf-stable. Distribution times may vary by region based upon local needs.

#### **412.7b MONITORING OF FACILITIES**

##### **POLICY:**

Each home delivered meals service provider develops and implements procedures to monitor compliance of facilities with all applicable public health and sanitation codes, and, where feasible and appropriate, fire and safety codes.

##### **PROCEDURE:**

- A. The home delivered meals provider must correct deficiencies under its control in a timely manner.
- B. Outbreaks of suspected foodborne illness shall be reported to the local Health Department, Area Agency on Aging (AAA), and State Unit on Aging (SUA) when identified by the home delivered meals provider.
- C. In rented and/or donated facilities, the home delivered meals provider reports deficiencies to the owner and works with the owner to correct them in a timely manner.

#### **412.7c FOOD PROCUREMENT**

##### **POLICY:**

All food procurement for the Nutrition Program shall be of good quality and shall be obtained from sources, which conform to Federal, State, and local regulatory standards and laws for quality, sanitation, and safety.

##### **PROCEDURE:**

- A. All food purchases are through approved commercial vendors;
- B. Nutrition Programs will develop a procedure to address food recalls;
- C. Home prepared foods, such as canned, frozen, or potluck dishes are not used.; and
- D. No foods past their expiration or use-by date shall be used or served in the Nutrition Program.

**412.7d      LOCALLY GROWN & SOURCED PRODUCE**

**POLICY:**

Nutrition Programs choosing to utilize donated locally grown produce or purchase locally grown produce from suppliers in the Nutrition Program shall ensure all produce is wholesome and of good quality and has been obtained from growers or suppliers that have a food safety plan in place that includes food safety and handling protocols based on the FDA's Guide for Industry '*Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables*' that has been reviewed by the Nutrition Program. Nutrition Programs are encouraged to conduct an audit with the grower or supplier of the food safety plan, such as the United Fresh Produce Association's Harmonized Standard or other fresh produce food safety standard determined by the Nutrition Program. Produce shall be defined as fruits, vegetables, and/or herbs only.

**PROCEDURE:**

- A. Nutrition Programs will develop protocols to address food recalls with the growers and suppliers;
- B. All donated locally grown produce shall not have undergone any processing prior to donation, including but not limited to washing, root cropping, and/or cutting;
- C. When utilizing donated produce Nutrition Programs shall document the following:
  - 1. Item being donated;
  - 2. Date of donation;
  - 3. Amount of donation, i.e. number of pounds of produce;
  - 4. Agency, supplier, or grower making the donation; and contact information;
  - 5. Food safety and handling protocols of the donated produce within the Nutrition Program;
  - 6. Menu item donated produce was used in; and
  - 7. Date donation was served to clients.

This information shall be kept on file and be available for review by the Area Agency on Aging (AAA), the State Unit on Aging (SUA), Federal regulatory agencies, State and Local Public Health Departments, and others needing it for purposes of audit or compliance review;
- D. Nutrition Programs may utilize produce grown by the Nutrition Program in a garden grown on-site and managed by the Nutrition Program. Gardens grown by the Nutrition Program must adhere to '*Good Agricultural Practices*' (GAP) and must develop food safety and handling protocols for garden to Nutrition Program utilization of produce that address growing, harvesting, and transport of produce. Nutrition Programs choosing to utilize a garden to grow produce that will be used in the Nutrition Program must seek prior approval from the State Unit on Aging and submit their food safety and handling protocols for approval and review; and
- E. Nutrition education shall be provided annually to consumers about the growing, harvesting, and utilization of produce grown by the Nutrition Program and adhere to requirements found in 411.77 and 412.77.



#### **412.7e SUPPORTIVE SERVICES**

##### **POLICY:**

Each nutrition project provides all supportive services feasible within the project's resources but must include, at a minimum, outreach services, and nutrition education for each nutrition site. Other services that may be provided are transportation, health screenings, consumer education, benefits counseling, recreation, and similar services. The project refers consumers to other community services as appropriate.

##### **PROCEDURE:**

- A. The project provides or arranges for ongoing outreach services at each nutrition site, which are sufficient to cover the project's service area.
- B. New project consumers are assessed using the approved consumer information assessment form for service needs during the initial interview and are offered assistance in obtaining desired services, as appropriate.
- C. The project makes every effort to coordinate with other community services and to offer services that benefit the project consumers, such as Low-Income Energy Assistance Program (LEAP) and Supplemental Nutrition Assistance Program Applications.

#### **412.71 FOOD SAFETY AND SANITATION**

##### **POLICY:**

Nutrition Programs shall adhere to the standards in the Colorado Department of Public Health and Environment's most current Colorado Retail Food Establishment Rules and Regulations. Additional food safety procedures below shall be followed to ensure the health and well-being of the frail older adults and caregivers being served.

##### **PROCEDURE:**

- A. Food safety education shall be provided to all consumers for home-delivered meals through the nutrition program each State Fiscal Year. The education may include issues such as: proper handling of home delivered meals, time, and temperature related to food borne illness, cooking meats to proper temperature, washing fresh fruits and vegetables, and proper storage of food.
- B. Milk may not be stored at meal sites unless it is in commercial refrigeration that maintains the temperature at a maximum of 41 degrees Fahrenheit. Kitchen and site staff shall be trained to interpret the expiration date on milk cartons. Milk past the expiration date shall be disposed of.
- C. The home delivered meals provider must correct deficiencies under its control in a timely manner.

- D. Outbreaks of suspected foodborne illness shall be reported to the local Health Department, Area Agencies on Aging (AAA), and State Unit on Aging (SUA) when identified by the home delivered meal provider.
- E. In rented and/or donated facilities, the home delivered meals provider reports deficiencies to the owner and works with the owner to correct them in a timely manner.
- F. Food preparation staff who work under the supervision of a certified food handler (e.g. ServeSafe or another Health Department sponsored food handler's class) who ensures the application of hygienic techniques and practices in food preparation and service.
- G. Food safety in-service training shall be provided for all paid food service personnel every six months. All volunteers involved in the preparation or service or delivery of food for the Nutrition Program shall be provided food safety information at least annually.
- H. Holding time from the removal of temperature control until all meals are delivered shall not exceed four hours.
- I. Temperatures of hot and cold foods are taken and documented daily after food is placed on the steam table or immediately before serving. If temperatures fall below or above the recommended level, foods are heated or cooled to the proper temperature.
- J. Daily temperatures of hot and cold foods are documented in writing and kept at the Title III senior nutrition site and made available for review by Area Agencies on Aging staff, consulting Dietitian, or State Unit on Aging (SUA).

#### **412.71a FOOD PREPARATION**

##### **POLICY:**

All preparation and serving of food for the Nutrition Program meet all applicable State and local fire, health, sanitation, and safety regulations. Food preparation and delivery is performed in a cost efficient manner.

##### **PROCEDURE:**

- A. Projects with multiple serving sites make every effort to consolidate all meal preparation at one facility. Such consolidation is undertaken only when delivery distances and holding times make it feasible.
- B. A reservation system may be used to prevent over-production and waste of food. If the consumer cannot participate in a meal, they may call the meal site or program office to cancel a reservation.
- C. The project director or designee attends appropriate fire, health, safety, and sanitation inspections and responds appropriately to all identified deficiencies.
- D. Tested, quality recipes, adjusted to yield the number of servings needed, must be used to achieve the consistent and desirable quality and quantity of meals. Uniform, standardized recipes that provide for required amounts per serving are used when feasible.

## **412.71b PACKAGING AND DELIVERY**

### **POLICY:**

Home delivered meals are packaged and delivered to ensure temperature control, prevent contamination, control spillage, and to maintain integrity of the meals. Home delivered meals shall not be left at the consumer's home if the consumer is not home. In isolated circumstances the following service delivery exceptions may be granted: 1) the consumer is not home due to medical treatment and prior arrangements have been made, meals may be left with a neighbor or alternate person; and, 2) in rural areas where there is no congregate meal site and clients are eligible for home delivered meals due to geographic isolation the consumer may pick-up their meals at a community focal point.

### **PROCEDURE:**

This section is implemented by including procedures for:

- A. Packaging and handling up to the point of delivery of the meals;
  - 1. Hot foods begin transport at a minimum of 135 degrees Fahrenheit;
  - 2. Cold foods begin transport at a temperature no higher than 41 degrees Fahrenheit;
  - 3. Frozen foods are maintained frozen and hard; and
  - 4. Following approved procedures utilizing time as a public health control.
- B. Performing temperature checks on a random basis to ensure food is delivered at appropriate temperatures, that equipment used to hold temperatures when transporting meals is functioning properly, and that the length of the route allows for the integrity of the meals to be maintained. Documentation of these checks is maintained by the provider and monitored by the Area Agency on Aging (AAA) and is made available for review by the Area Agency on Aging staff, consulting Dietitian, and the State Unit on Aging (SUA);
- C. Packaging and packing cold, hot, and frozen foods separately;
- D. Packaging meals individually and in secondary insulated food carriers to meet established safety and sanitation standards;
- E. Delivering meals within four hours of removal from temperature control;
- F. Dating all disposable meal containers; and
- G. Requesting a waiver from the State Unit on Aging prior to allowing home delivered consumers eligible due to geographic isolation to pick up their meals in rural areas where there is no congregate meal site.

**412.71c ADEQUATE FACILITIES**

**POLICY:**

Each home delivered meals service provider secures and maintains adequate facilities for the preparation and delivery of the meals service, nutrition education, nutrition counseling, and funded supportive services.

No Older Americans Act (OAA) or Older Coloradans Act (OCA) Program site shall allow any person or organization to attempt to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity or similar activity on the premises of the program site.

**PROCEDURE:**

- A. The contractor agency requests annual health and sanitation (and, as appropriate, fire and safety) inspections of project offices and kitchens by appropriate local public agencies, using accepted local standards that take into account the use and occupancy of the site by Title III funded projects and are adequate to protect the health and safety of consumers.
  - 1. All inspection reports are on file with the contractor or sub-contractor agency.
  - 2. Contractor or sub-contractor agency responds as directed by the inspecting agency to all cited deficiencies under its control.
- B. The current license to operate a retail food establishment shall be posted.
- C. The contractor agency prohibits smoking in all areas under its control (food preparation, serving, and dining areas) and, where feasible, clearly communicates this policy by posting appropriate signs and removing ashtrays.
- D. The project arranges for the separation of dining and food preparation areas at sites where food is prepared and served in the same facility.
- E. Where feasible, the project provides ample space and time for the provision of supportive services.
- F. The project provides each home delivered consumer information regarding:
  - 1. The rights of eligible persons to equal opportunity and access to services;
  - 2. The full cost of the meal to be paid by ineligible persons, such as guests under 60 years of age, who are served meals;
  - 3. The suggested contribution for eligible consumers toward the cost of the meal. All consumer contributions are for the cost of the meal and are not solicited for other items such as utilities and coffee;
  - 4. Menus for a minimum of one week in advance;
  - 5. Grievance procedures for consumers; and
  - 6. An information and assistance telephone number.

**412.71d SUFFICIENT STAFF**

**POLICY:**

Each Nutrition Program will maintain sufficient staff to carry out the required service activities.

**PROCEDURE:**

- A. Each Nutrition Program provider must employ a director who is empowered with the necessary authority to conduct the overall management, oversight, and administrative functions of the project, and to achieve compliance with all applicable rules and regulations. The Nutrition Program shall ensure that all food service supervisory personnel are trained and certified in a food safety and sanitation program.
- B. Each Nutrition Program provider must obtain the services of a Registered Dietitian (RD), or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, through employment, contract, or Memorandum of Understanding (MOU) to provide nutrition consultation, including:
  - 1. Planning and/or certification of menus and nutrition analysis that meet nutrition requirements and are appropriate for the program participants;
  - 2. Approval of the content or resource (e.g. cooperative extension, hospital, nursing home, or home health agency) of nutrition education materials;
  - 3. Conducting of nutrition education presentations at the congregate meal sites;
  - 4. Provision of nutrition education to home delivered program participants; and
  - 5. Provision of nutrition counseling to Nutrition Program participants and the maintenance of appropriate documentation. Nutrition counseling can only be done by a Registered Dietitian (RD).
- C. Each home delivered meals provider may assign additional essential program management, oversight and administrative duties to the Registered Dietitian (RD), Dietetic Technician Registered, or individual with comparable expertise, including:
  - 1. Monitoring food service to include food temperatures and portion sizes, and assessing of food quality and adherence to contract specifications;
  - 2. Assessing participant satisfaction and preferences;
  - 3. Training staff and volunteers in areas of food service management, nutrition, and sanitation;
  - 4. Monitoring of perpetual inventory and commodity utilization;
  - 5. Documenting recommendations for improvement; and
  - 6. Technical assistance in any other area of program operations needed to maintain or achieve full compliance with all applicable rules and regulations.

## **412.71e USE OF DIETITIAN**

### **POLICY:**

The Older Americans Act (OAA) requires that meal providers solicit the advice and expertise of a Dietitian or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services. The following describes the standards for the required nutrition professional.

### **PROCEDURE:**

The Commission on Dietetic Registration defines the standards for the Registered Dietitian (RD) as an individual who:

- A. Has completed the minimum of a baccalaureate degree granted by a United States regionally accredited college or university;
- B. Has met current academic requirements (Didactic Program in Dietetics) as approved by The Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
- C. Completed a minimum of 900 supervised practice hours of pre- professional experience accredited/approved by the Commission on Accreditation/Approval for Dietetics Education of The American Dietetic Association;
- D. Successfully completed the Registration Examination for Dietitians; and
- E. Accrued 75 hours of approved continuing professional education every (5) five years.

A nutritionist is defined as an individual who:

- A. Has completed the minimum of a baccalaureate degree granted by a United States accredited college or university in foods and nutrition or home economics; and
- B. Has professional, verifiable experience of a minimum of six (6) months in nutrition education, menu design, and menu analysis.

A Dietetic Technician, Registered is defined as an individual who:

- A. Has completed a minimum of an Associate Degree granted by a US accredited college/university;
- B. Has completed a Dietetic Technician Program as accredited/approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
- C. Has successfully completed the Registration Examination for Dietetic Technicians;
- D. Has accrued 50 hours of approved continuing professional education every five years; or
- E. Has completed the minimum of a Baccalaureate degree granted by a U.S. regionally accredited college or university, or foreign equivalent;
- F. Has met current minimum academic requirements (Didactic Program in Dietetics) as approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;

- G. Has completed a supervised practice program under the auspices of a Dietetic Technician Program as accredited/approved by The Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
- H. Has fully completed the Registration Examination for Dietetic Technicians; and
- I. Has accrued 50 hours of approved continuing professional education within a specific five-year reporting period.

An individual with comparable expertise is defined as an individual who:

- A. Meets the above defined positions for Dietetic Technician Registered or Nutritionist or;
- B. Is approved by the State Unit on Aging. Those not likely to receive approval include nurses, dietary managers, dietary supervisors, and cooks, unless they can prove an extensive, well-rounded education and experience in the major areas of dietetic practice.

#### **412.74 NUTRITION SERVICES (HOME DELIVERED) PROVIDER RESPONSIBILITIES AND REQUIREMENTS (MODIFIED DIETS)**

##### **POLICY:**

Medical nutritional foods and food for special dietary use is a modification of a diet and should be available to meet the needs of the consumer who may require a modification of a regular diet due to a medical condition.

##### **PROCEDURE:**

- A. Approval for supplement or meal replacement shall be obtained as follows:
  - 1. Written physician order must be received, kept on file, and contain the following content to be evaluated by Registered Dietitian (RD):
    - a. Physician's name;
    - b. Participant's name;
    - c. Participant's diagnosis and/or reason for necessity of supplement or meal replacement;
    - d. Nutrient type or name of supplement or meal replacement;
    - e. Volume of supplement or meal replacement;
    - f. Date of order; and,
    - g. Length of duration of order.

- B. The Registered Dietitian (RD) shall evaluate the physician's order and approve or disapprove based on feasibility and appropriateness. The nutrition services director and Registered Dietitian will evaluate each request for medical nutritional supplements or meal replacements, to determine if provision of such diets or supplements may decrease the number of meals served to other participants, increase costs of meal production, including Registered Dietitian (RD) and staff labor, or decrease program expansion. The Registered Dietitian (RD) will evaluate the appropriateness of the supplement or meal replacement based on the Nutrition Screening Initiative (NSI) screen, anthropometrics, and medical assessment of diagnoses, nutrient-medication interactions, and other factors according to the standards of nutrition practice. If the Registered Dietitian (RD) determines that the supplements or meal replacements are either not feasible or not appropriate, then the physician shall be notified and other alternative resources are referred to the participant. These resources include, but are not limited to: health insurance, nutrient dense food counseling, a food bank, or results of evaluation determining inappropriateness of supplement or meal replacement.
- C. The Registered Dietitian (RD) shall re-evaluate medical nutritional foods used as a supplement at least every six months. Regardless of the duration indicated in the physician's prescription, the Registered Dietitian (RD) will re-evaluate feasibility and appropriateness of supplements provided to participants at least every six (6) months. This shall be documented in the consumer's file with a brief reason for continuation, e.g.; "Participant continues to be under Ideal Body Weight (IBW) range and has difficulty consuming adequate nutrients due to medical condition."
- D. Monitoring shall be completed as follows:
  - 1. The use of medical nutritional food as a meal replacement shall be reviewed and documented monthly by the Registered Dietitian (RD). The use of medical nutritional foods as a meal replacement will be a rare and extreme situation requiring close monitoring. The medical conditions associated with the use of medical foods as a meal replacement are usually temporary and compliance with a diet based on medical foods is poor. Evaluations to upgrade diet to solid or texture-modified foods must be ongoing to meet nutrition and quality of life needs.
- E. Determination for using medical nutritional foods shall be conducted as follows.
  - 1. The nutrition program director and Registered Dietitian (RD) will calculate the associated costs with medical nutritional foods, as part of the evaluation of feasibility and appropriateness.
  - 2. The use of medical nutritional food as a supplement or meal replacement may be considered if determined to be necessary for the participant by the Registered Dietitian (RD) and physician. Meal supplementation should be provided after considering nutrient dense foods. Meal replacements should only be provided after considering other means of nutrition support; e.g. soft foods, ground foods, or assistance to resources that could treat the medical condition causing a participant's inability to tolerate regular texture foods, e.g. dentures.
  - 3. The documented need for medical nutritional foods or a physician's prescription does not obligate the Area Agencies on Aging (AAA) or Older Americans Act (OAA) nutrition programs to provide such foods.



4. If a medical condition exists that precludes meeting the 33 1/3% of the Dietary Reference Intakes (DRI) of each nutrient, then the Registered Dietitian (RD) and physician may designate the appropriate amount of medical food to meet the remaining nutrient needs due to the medical condition and qualify for Nutrition Services Incentive Program (NSIP) or Title III reimbursement. This information shall be documented in the participant's record.
- F. Payment and reimbursement for medical nutritional foods shall be calculated as follows.
  1. Participant donations towards medical nutritional foods are voluntary. If the Registered Dietitian (RD) and nutrition provider determine that supplements and/or medical nutritional meal replacements are feasible and appropriate and other resources have been considered, the participant should be informed of the suggested donation amount and voluntary donation policy. If the participant can only donate a portion of the suggested donation or none of the suggested donation, then the nutrition provider shall provide the supplement and/or meal replacement to the participant as stipulated in the Older Americans Act (OAA).
  2. Suggested donation amounts for medical nutritional foods shall not exceed the cost of the product from the supplier, plus appropriate fees from the supplier, and documented overhead costs. Any rebates or incentives from the medical nutritional food supplier shall be used to offset the suggested donation rate for participants utilizing medical nutritional foods.
- H. The use of medical nutritional foods as a meal supplement in combination with a meal may only count, in total, as one meal if eligible for reimbursement. The nutrition supplement in conjunction with a congregate or home delivered meal does not qualify as more than one meal for reimbursement purposes. No additional Nutrition Services Incentive Program (NSIP) or Title III, C-1 or C-2 funds may be reimbursed based on supplements provided with meals. Regardless of the supplement volume consumed over time, or if the meals and supplements exceed the Dietary Reference Intakes (DRI), this does not meet the standard of an additional reimbursable meal.
- I. Reimbursement for an eligible meal funded by Older Americans Act (OAA) funds is permitted if the volume of the medical nutritional food as a meal replacement meets the 33 1/3% of the Dietary Reference Intakes (DRI) for one meal. If two meals are provided, the combined amount must meet 66 2/3% of the Dietary Reference Intakes (DRI) for two meals, and 100% of the Dietary Reference Intakes (DRI) to qualify as three (3) eligible meals.
- I. Participants that are enrolled in means-tested programs where Medical Nutritional Foods would be covered as part of the program do not qualify to receive Medical Nutritional Foods as either supplementation or as meal replacement under the Older Americans Act (OAA). These consumers should be encouraged to contact their healthcare provider to acquire these through the other programs.

- J. Participant health insurance should be billed for medical nutritional food when appropriate. Participant resources should be utilized efficiently in order to provide the most feasible and appropriate solution to meet nutritional needs. This includes maximizing health insurance benefits, county nursing services, county extension services, food banks, and physician and pharmacy benefits. The nutrition provider and Registered Dietitian (RD) should consider these and other resources before using Older Americans Act (OAA) Programs for medical nutritional foods.

## **412.76 NUTRITION COUNSELING**

### **POLICY:**

Nutrition Counseling shall be provided by Congregate and Home Delivered Meals programs. Standardized care processes for nutrition counseling shall be determined by the State Unit on Aging (SUA).

### **PROCEDURE:**

- A. Nutrition counseling shall be provided by a Registered Dietitian (RD).
- B. Documentation requirements for nutrition counseling shall include entering units into the State Unit on Aging (SUA) approved data system. State Unit on Aging (SUA) approved Consumer Information Assessments for consumers receiving nutrition counseling shall be completed and documented in the SUA approved data system.
- C. Client files and associated documentation shall be kept locked at the Nutrition Program office. If client information is kept on electronic files all rules and regulations governing the protection of personal health information shall be followed.
- D. SUA-approved Consumer Information Assessments for consumers receiving nutrition counseling shall be completed and documents in the SUA-approved data system.
- E. Registered Dietitians (RD) providing Nutrition Counseling shall have Professional Liability Insurance.

**412.77 NUTRITION SERVICES (HOME DELIVERED) PROVIDER  
RESPONSIBILITIES AND REQUIREMENTS (NUTRITION EDUCATION)**

**POLICY:**

The Nutrition Program provides Nutrition Education to Congregate and Home Delivered Meals Program consumers.

**PROCEDURE:**

- A. Nutrition Education is provided at least once per month by a Registered Dietitian (RD) or an individual with comparable expertise. A nutrition education presentation shall be provided at least one time each State Fiscal Year (July 1<sup>st</sup> through June 30<sup>th</sup>) at each Congregate Meal Site.
- B. Nutrition Education is provided to both Congregate and Home Delivered Meals consumers and shall be based on the needs of the participants.
- C. Documentation of provided Nutrition Education shall be kept on file for the State Unit on Aging (SUA) prescribed length of record retention. Documentation shall include:
  - 1. Tracking of monthly Nutrition Education units in the State Unit on Aging (SUA) prescribed data system;
  - 2. Date of presentation or distribution of Nutrition Education;
  - 3. Name and title of presenter or topic of Nutrition Education distributed;
  - 4. Number of participants in attendance or if Nutrition Education is distributed to congregate and/or home delivered consumers, the number of participants receiving the materials and;
  - 5. If Nutrition Education is sent to congregate and/or home delivered consumers a copy of the distributed material should be kept.

**412.91 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)**

**POLICY:**

Each nutrition project offers information to ensure that the maximum number of older adults within the project area benefit from the United States Department of Agriculture SNAP Program as members of households certified for such assistance under United States Department of Agriculture (USDA) Regulations.

**PROCEDURE:**

The nutrition project shall:

- A. Offer information in obtaining SNAP benefits to each consumer at the time of intake;
- B. Follow through upon request with assisting those consumers who desire to apply for SNAP benefits, such as contacting the local County Department of Human Services office for eligibility requirements, and assisting consumers in securing appropriate written verification of income;
- C. Ensure that nutrition sites accepting SNAP shall follow the provisions related to the use and handling of SNAP benefits, as prescribed by the State and local agency authorized to operate the program, are met; and
- D. Not utilize Part D or Material Aid funds for Grocery Vouchers.

**414 PERSONAL CARE SERVICES (IN-HOME)**

**POLICY:**

- A. A person who, at a minimum, has received the training or passed the skills validation test required of personal care staff shall supervise all employees giving personal care. Supervision shall include, but is not limited to:
  - 1. Orientation of staff to agency policies and procedures;
  - 2. Arrangement and documentation of training;
  - 3. Informing staff of policies concerning advance directives and emergency procedures;
  - 4. Oversight of scheduling, and notification to clients of changes; or close communication with scheduling staff;
  - 5. Written assignment of duties on a client-specific basis;
  - 6. Meetings and conferences with staff as necessary;
  - 7. Investigation of complaints and critical incidents;
  - 8. Counseling with staff on difficult cases, and potentially dangerous situations; and
  - 9. Communication with case managers, the physicians, and other providers on the service plan, as necessary to assure appropriate and effective care.

**PROCEDURE:**

- A. Supervisory visits shall be made to the participant's home at least every three months or more often as necessary, for problem resolution, skills validation of staff, participant specific or procedure-specific training of staff, observation of the participant's condition and care, and assessment of satisfaction with services. At least one of the assigned personal staff shall be present at supervisory visits.
- B. Staff rendering personal care services to older adults shall receive at least 20 hours of training or pass a skills validation test prior to service delivery in the following:
  - 1. Basic personal care procedures, including bathing, skin care, hair care, nail care, mouth care, shaving, dressing, and feeding;
  - 2. Assistance with ambulation, exercises, and transfers
  - 3. Bowel and bladder care;
  - 4. Medication;
  - 5. Homemaking and protective oversight;
  - 6. Basic nutritional requirements, including meal planning, shopping and food storage;
  - 7. Basic first aid, training in infection control, and emergency procedures;
  - 8. Basic techniques of identifying and correcting potential safety hazards in the home; and
  - 9. Techniques in lifting.

## **414.1 PERSONAL CARE SERVICES ELIGIBILITY**

### **POLICY:**

- A. Eligibility for in-home services is restricted to those persons who fit the definition of “frail” within the Older Americans Act (OAA):
  - 1. The term “frail” means, with respect to an older adult in a state, that the older adult is determined to be functionally impaired because the individual:
- B. Is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or at the option of the State, is unable to perform at least three such activities without such assistance; or
- C. Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual (Section 102.a.22 of the Older Americans Act of 1965 as amended 2006).
- D. For purposes of determining eligibility, Activities of Daily Living (ADL) shall include:  
Mobility;
  - 1. Transfers;
  - 2. Bladder care;
  - 3. Bowel care;
  - 4. Bathing;
  - 5. Dressing;
  - 6. Eating; and
  - 7. Hygiene.

### **PROCEDURE:**

- A. Eligibility for personal care services shall be as follows: the individual must be determined to be frail by having two or more of the Activities of Daily Living (ADL).
- B. Assessments for consumers shall be completed and documented in the State Unit on Aging (SUA) approved data system.

**415      TRANSPORTATION SERVICES**

**POLICY:**

Except private vehicles, all transportation providers rendering services to Older Americans Act (OAA) participants shall have all licenses, approvals, or certifications required by Federal, State, and local law or regulation. All transportation services shall be registered services.

**PROCEDURE:**

- A. Consumers receiving transportation services shall complete the State Unit on Aging (SUA) approved Consumer Information Assessment and be documented in the SUA approved data system as a registered service linked to the individual consumer.
- B. All transportation providers requiring licensure by the Public Utilities Commission (PUC) of the State of Colorado shall:
  - 1. Transport Older Americans Act (OAA) participants only within the geographic service area approved for that provider by the Public Utilities Commission (PUC);
  - 2. Maintain documentation that their drivers meet all qualifications and examinations required by Federal and State Policies and Regulations;
  - 3. Comply with all liability insurance requirements specified by the Public Utilities Commission (PUC); and
  - 4. Meet all vehicle maintenance and safety requirements.
- C. All transportation providers not requiring licensure by the Public Utilities Commission (PUC) shall ensure that their drivers, vehicles, and auxiliary equipment meet all applicable regulations and standards for passenger and vehicle safety, as well as all applicable safety inspection and maintenance requirements, and shall be in compliance with the State's mandated minimum Insurance Coverage.
- D. Vehicles and related auxiliary equipment shall meet applicable Federal, State and Local safety inspection and maintenance requirements, and shall be in compliance with State automobile insurance requirements.
- E. When transportation is provided by private vehicle, including those provided by volunteers, the following apply:
  - 1. The driver of the vehicle shall have a valid Driver's License;
  - 2. The vehicle shall display a current license plate tag as required by State law;
  - 3. The vehicle shall be equipped with safety belts and passenger safety devices as required by State and Federal Laws;
  - 4. The owner and/or transportation agency of the vehicle shall meet minimum State automobile insurance requirements; and
  - 5. Vehicles registered out-of-state and used for transportation of older adults in accessing Older Americans Act (OAA) programs and services, shall meet the minimum insurance requirements of the state where the car is registered.

## **418 COLORADO LEGAL ASSISTANCE DEVELOPER PROGRAM**

- A. The Colorado Department of Human Services (CDHS), Division of Aging and Adult Services (AAS) (hereinafter called the State) is responsible for establishing and funding the Office of the Colorado Legal Assistance Developer (CLAD) and is responsible for oversight of the Legal Assistance (LA) Program. The Older Americans Act (OAA) allows flexibility for the Legal Assistance (LA) Program to be operated by the State; the Colorado Legal Assistance Developer (CLAD), the Area Agency on Aging (AAA), or another entity through a contract, within established policies.
- B. In Colorado, the Legal Assistance (LA) Program is operated through a contract between the State and a selected contractor. The purpose of this arrangement is to provide maximum independence to the program and a close relationship to the Long-Term Care Ombudsman Program (LTCP). Each Area Agency on Aging (AAA) is responsible for providing and funding a local Legal Assistance (LA) Program within the respective Planning and Service Area (PSA).
- C. These policies and procedures govern the actions of the Legal Assistance (LA) Program, the State, the Colorado Legal Assistance Developer (CLAD), and the Area Agencies on Aging (AAA), entities designated as local providers of the Legal Assistance (LA) Program, and other parties involved in the operation of the Legal Assistance (LA) Program.

### **418.2 COLORADO LEGAL ASSISTANCE DEVELOPER RESPONSIBILITIES AND REQUIREMENTS**

#### **POLICY:**

The Colorado Legal Assistance Developer (CLAD) in accordance with the Statewide Standards for Title III B Legal Assistance in Colorado shall provide leadership, vision, oversight, and guidance for the Legal Assistance (LA) Program.

#### **PROCEDURE:**

The Colorado Legal Assistance Developer (CLAD) shall:

- A. Provide regular communications with and among Area Agencies on Aging (AAA), Legal Assistance (LA) Program providers, and the State regarding elder law issues and the Legal Assistance (LA) Program development and implementation.
- B. Oversee and coordinate statewide legal assistance planning and development of a high quality Legal Assistance (LA) Program with Area Agencies on Aging (AAA), Colorado Legal Services, Legal Assistance (LA) Providers, Legal Services Corporation programs, pro bono programs, the Colorado Bar Association (CBA), and the private bar.
- C. Provide technical assistance, training, and support to the State, Area Agencies on Aging (AAA), and Legal Assistance (LA) Providers regarding:
  - 1. Substantive legal issues impacting older adults;
  - 2. Development of effective Legal Assistance (LA) Program delivery models to maximize the availability of legal services;



3. Targeting of services to the most vulnerable populations, including setting case priorities;
  4. Enhancing community legal education and awareness of available assistance;
  5. Laws, regulations, and policies and procedures affecting program development and implementation of a Legal Assistance (LA) Program;
  6. Monitoring and assessing Legal Assistance (LA) Providers in accordance with the ethical rules that govern attorney-client relationships; and,
  7. Provide oversight of the development of an RFP, a contract between the Area Agencies on Aging (AAA) and the Legal Assistance (LA) Provider, and funding for Legal Assistance (LA) Providers.
- D. Develop tools for evaluation and evaluate Legal Assistance (LA) Providers through formal on-site assessments, self-assessments, periodic reports, and other means of oversight.
  - E. Develop training and/or provide information on future training opportunities to Legal Assistance (LA) Providers and other professionals, volunteers, long-term care ombudsmen, and older adults concerning the topics of elder rights and the requirements and benefits of laws and programs assisting older adults.
  - F. Develop strategies to expand available legal assistance and resolve legal issues facing older adults, such as promoting reduced-fee legal services, participating in impact litigation, creating coalitions for system advocacy, utilizing the media, and providing legislative advocacy.
  - G. Provide direct information and referral services or legal advice to the public, as needed and appropriate.
  - H. Provide information, assistance, and support to the Colorado Long-Term Care Ombudsman (CLTCO), as required by the Older Americans Act, Section 420.81, Local Long-Term Care Ombudsman Liability.
  - I. Develop recommendations for measuring outcomes and impact of Legal Assistance for use in planning and reporting of Legal Assistance (LA) Program Data, in coordination with the State, Area Agencies on Aging (AAA), and Legal Assistance (LA) Program providers.
  - J. Prepare an Annual Report on the Legal Assistance (LA) Program, including unmet statewide legal needs.

### **418.3 STATE UNIT ON AGING ROLES AND RESPONSIBILITIES**

#### **POLICY:**

The State Unit on Aging (SUA) in accordance with the Statewide Standards for Title III B Legal Assistance in Colorado shall establish the Office of the Colorado Legal Assistance Developer (CLAD) for the purpose of implementation and oversight of the Colorado Legal Assistance (LA) Program, through an effective structure, as determined by the State.

## **418.31 AREA AGENCIES ON AGING ROLES AND RESPONSIBILITIES**

### **POLICY:**

Each Area Agency on Aging (AAA) shall fund, manage, and supervise a Legal Assistance (LA) Program in accordance with Federal and State Requirements and the Statewide Standards for Title III B Legal Assistance in Colorado and ensure that Legal Assistance Services are available throughout the Planning and Service Area (PSA).

### **PROCEDURE:**

The Area Agencies on Aging (AAA) shall:

- A. Fund a Legal Assistance (LA) Program Provider(s) for delivery of Legal Assistance to older adults to minimally include:
  - 1. Providing funding at the level established by the State for Legal Assistance; and,
  - 2. Making reasonable efforts to maintain or increase as funding becomes available existing levels of legal assistance to older adults.
- B. Select a Legal Assistance (LA) Provider that meets the requirements of Federal and State Law and Regulations, and the Colorado Department of Human Services Manual, Services for the Aging, Volume 10, and the State Unit on Aging Policy and Procedure Manual, as demonstrated by:
  - 1. Possession of a Colorado law license in good standing and current malpractice insurance;
  - 2. Capacity to provide effective administrative and judicial representation in areas of law affecting older adults with economic or social need;
  - 3. Capacity to provide support to other advocacy efforts, such as the local long-term care Ombudsman Program, as required by Section 419, Legal Counsel and Immunity, of the State Unit on Aging Policy and Procedure Manual;
  - 4. Capacity to effectively provide legal services to institutionalized, isolated, and homebound older adults; and,
  - 5. Capacity to provide legal assistance in the principal language spoken by clients in areas where a majority of clients speak a language other than English as their principal language.
- C. Develop and execute a written agreement with the selected Legal Assistance (LA) Program Provider(s) that outlines the Legal Assistance (LA) Program Provider's responsibilities to minimally include:
  - 1. Direct legal representation of clients, as the primary responsibility;
  - 2. Direct supervision by an attorney of any paralegal providing services;
  - 3. Requirement to maintain and provide current and adequate proof of malpractice insurance coverage;
  - 4. Timely data input utilizing the State-mandated data system;
  - 5. Timely submission of program reports, as required by the Area Agencies on Aging (AAA), the State, or the Colorado Legal Assistance Developer (CLAD);
  - 6. Appropriate access to records and case files during required on-site assessments by the Area Agencies on Aging (AAA), the Colorado Legal Assistance Developer (CLAD), and the State without violating the attorney-client relationship and privilege or the confidentiality of attorney-client communications;

7. Requirement of a written plan to assure continuation of legal assistance services during extended LA provider absences. The plan shall be included in the local Legal Assistance (LA) Program Provider's Policy and Procedure Manual.
  8. Compliance with Colorado Department of Human Services Manual, Services for the Aging, Volume 10, the State Unit on Aging Policy and Procedure Manual CDHS Staff Manual Volume 10, the Statewide Standards for Title III B Legal Assistance in Colorado.
  9. Ensure program requirements related to Regulations and Policies for Legal Providers are incorporated into the contract at the time of renewal with an existing Legal Assistance (LA) Program Provider and at the time of a new contract development for a new Legal Assistance (LA) Program Provider; and,
  10. Secure consultation and written approval from the Colorado Legal Assistance Developer (CLAD), the Area Agencies on Aging (AAA), and the State prior to subcontracting any interest or obligation arising under the contract.
- D. Ensure, to the extent practicable, that legal assistance provided under the Legal Assistance (LA) Program will be in addition to any Legal Assistance (LA) provided to older adults from other funding sources.
- E. Develop a written scope of service plan, to be incorporated into the contract and reviewed at the time of contract renewal, to ensure that resources are effectively expended on legal issues faced by those most in need and for which other Legal Assistance is not available.
1. The Area Agencies on Aging (AAA) shall identify and prioritize specific types of legal needs within the Planning and Service Area (PSA), as allowed by the Section 307.11.e of the Older Americans Act of 1965 as amended 2006) and in the Statewide Standards for Title III B Legal Assistance in Colorado:
- F. The Area Agencies on Aging (AAA) shall notify the Colorado Legal Assistance Developer (CLAD) of:
1. Appointment of Legal Assistance (LA) Provider;
  2. Legal Assistance (LA) Provider resignation or termination; and,
  3. Proposed changes to the Legal Assistance (LA) Provider's written scope of service plan.

## **419 LEGAL ASSISTANCE PROGRAM**

### **419.1 LEGAL ASSISTANCE PROGRAM ELIGIBILITY**

#### **POLICY:**

Legal Assistance (LA) Program Providers shall provide available approved services to clients meeting eligibility requirements.

#### **PROCEDURE:**

- A. Client eligibility shall be determined by the following standards and requirements:
1. Client shall be age 60 or older, except when, it is necessary to take protective action on behalf of the older adult by representing a family member.
  2. If resources are not available to serve all eligible clients, priority shall be given to serving those clients in greatest social and economic need, with particular attention to low-income older adults and older adults residing in rural areas.
  3. Clients shall not be required to meet a means test as a condition of receiving legal services and shall be asked for financial information only:
    - a. As part of the process of providing legal advice, counseling, and representation;
    - b. For the purpose of identifying additional resources and benefits for which the client may be eligible; or,
    - c. To meet State requirements for reporting client characteristics.
  4. If the client's legal need falls within the written scope of service plan as defined in the Area Agencies on Aging (AAA) contract with the Legal Assistance (LA) Provider, the Legal Assistance (LA) Provider shall inform the client that they are eligible for legal services through the Legal Assistance (LA) Program.
  5. Clients shall be offered an opportunity to voluntarily contribute to the cost of the services provided, as outlined in Colorado Department of Human Services Manual, Services for the Aging, Volume 10, Section 10.419.4, Legal Assistance Program Services Costs and Voluntary Contributions.
  6. The Legal Assistance (LA) Provider shall decline to provide Legal Services through the Legal Assistance (LA) Program for otherwise eligible clients when:
    - a. The client's need is beyond the case priorities; or
    - b. Contract funding has been expended, unless prior written approval is received from the Area Agencies on Aging (AAA) to provide the Legal Assistance; or,
    - c. The complexity of the case may require a referral to an attorney with a different type of specialization and/or expertise.
    - d. The Legal Assistance (LA) Provider:
      - i. Represents the client through another legal program or funding source; or
      - ii. Refers the client to other legal resources.

- B. Legal Assistance (LA) Provider shall maintain client confidentiality, including the identities of individual clients, even when reporting in Social Assistance Management System (SAMS), and otherwise comply with the CDHS Staff Manual Volume 10, State Unit on Aging (SUA) Policy and Procedure Manual, the Colorado Rules of Professional Conduct (2008), and the Statewide Standards for Title III B Legal Assistance in Colorado.

### **419.3 PROVIDER RESPONSIBILITIES AND REQUIREMENTS**

#### **POLICY:**

The Legal Assistance (LA) Providers shall provide contracted Legal Assistance to older adults in compliance with Federal and State laws and regulations, established policy and procedure, the Colorado Rules of Professional Conduct (2008) and the Statewide Standards for Title III B Legal Assistance in Colorado.

#### **PROCEDURE:**

The Legal Assistance (LA) Provider shall:

- A. Have a Colorado Law license in good standing and current malpractice insurance.
- B. Demonstrate expertise to provide Legal Assistance to older adults and other advocacy entities in specific areas of law affecting older adults, including:
  - 1. Public benefits;
  - 2. Long-term care;
  - 3. Consumer law; and,
  - 4. Advance directives.
- C. Have the capacity and ability to provide Legal Assistance:
  - 1. To vulnerable older adults, including those adults that are institutionalized, isolated, and homebound;
  - 2. To older adults with disabilities in need of reasonable accommodation; and,
  - 3. In the principal language spoken by clients in areas where a majority of clients speak a language other than English as their primary language.
- D. Use the full spectrum of Legal Advocacy tools that promote the diligent and zealous representation of clients, as required under the Colorado Rules of Professional Conduct (2008), including litigation and administrative advocacy and client confidentiality.
- E. Have ready access for all appropriate staff to:
  - 1. United States Code Annotated (U.S.C.A);
  - 2. Code of Federal Regulation (CFR);
  - 3. Colorado Revised Statutes (CRS);
  - 4. Shepherds Law Citatory;
  - 5. State Program Rules and Policies; and
  - 6. Statewide Standards for Title III B Legal Assistance in Colorado.

#### **419.4 LEGAL ASSISTANCE PROGRAM SERVICES COSTS AND VOLUNTARY CONTRIBUTIONS**

##### **POLICY:**

Legal Assistance (LA) clients shall be offered an opportunity to voluntarily contribute to the cost of the services provided.

##### **PROCEDURE:**

The Area Agencies on Aging (AAA) and Legal Assistance (LA) Provider shall ensure that minimum standards and procedures are established for the responsible collection, handling, and safeguarding of client contributions, ensuring that:

- A. Clients are informed of the opportunity to contribute to the cost of services;
- B. Methods used to inform the client of the opportunity to contribute shall not discourage the utilization of the service;
- C. Services are not denied to a client due to reluctance or inability to contribute toward the cost of the service;
- D. Client privacy and confidentiality are protected with respect to the client's contribution or lack of contribution;
- E. Collected contributions are used to expand Legal Services;
- F. Written materials provided to clients regarding voluntary contributions are available in languages other than English, where appropriate; and,
- G. Cash handling procedures are reviewed by the Area Agencies on Aging (AAA) during the annual provider evaluation process.

#### **419.5 LEGAL ASSISTANCE PROGRAM DATA AND RECORDS**

##### **POLICY:**

The Area Agencies on Aging (AAA) and the Legal Assistance (LA) Provider(s) shall report data and case information in a manner that reflects program outcomes and requirements.

##### **PROCEDURE:**

- A. The Area Agencies on Aging (AAA) shall ensure that Legal Assistance data is recorded, without revealing the identity of individual clients, utilizing the State-mandated data system(s). When reporting units of service:
  - 1. An hour of Legal Service is equal to one unit; and,
  - 2. When providing community education, an hour of education provided to an audience of any number of persons is equal to one unit; and,
  - 3. When providing community education, an hour of preparation is allowed for every hour of education and is equal to one unit.

- B. An annual program report shall be compiled by the Area Agencies on Aging (AAA), with input from the Legal Assistance (LA) Provider, and provided to the State and the Colorado Legal Assistance Developer (CLAD) to include:
1. Number of unduplicated clients served during the prior Federal Fiscal Year (FFY);
  2. Number of service units provided during the prior Federal Fiscal Year (FFY);
  3. The cost per unit of service provided during the prior Federal Fiscal Year (FFY);
  4. Trends in Legal Assistance needs;
  5. Unmet Legal Assistance needs, to include:
    - a. Number of unduplicated clients that could not be served but who requested services during the prior Federal Fiscal Year (FFY);
    - b. Legal needs outside of the contracted case priorities; and,
  6. A narrative description of at least one case within the fiscal year based on criteria established by the State Unit on Aging (SUA) and the Colorado Legal Assistance Developer (CLAD).

## **419.7 PROGRAM OUTREACH AND TARGETING**

### **POLICY:**

The Area Agencies on Aging (AAA) and the Legal Assistance (LA) Provider shall develop the Legal Assistance (LA) Program Outreach Plan and notify targeted populations within the Planning and Service Area (PSA) of the availability of Legal Services.

### **PROCEDURE:**

- A. At the beginning of each contract period, the Area Agencies on Aging (AAA) and Legal Assistance (LA) Provider shall, in consultation with the Colorado Legal Assistance Developer (CLAD) and other interested parties, develop an outreach plan for targeted populations. The plan shall identify the:
1. Targeted population;
  2. Case priorities;
  3. Areas within the Planning and Service Area (PSA) where targeted groups reside; and
  4. Method(s) of outreach.
- B. The Area Agencies on Aging (AAA) and Legal Assistance (LA) Provider shall advertise the program and complete other logistics required for developing and implementing the Legal Services outreach plan.
- C. The Legal Assistance (LA) Provider is urged to provide limited community education to targeted population(s) on legal issues and rights to the extent that resources are available.
- D. The Legal Assistance (LA) Provider is urged to use attorneys and paralegals that reflect the age, ethnicity, spoken language, and locale of the targeted population(s) in the delivery of Legal Assistance.

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## **420 COLORADO LONG-TERM CARE OMBUDSMAN PROGRAM**

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### **420.2 COLORADO LONG TERM CARE OMBUDSMAN RESPONSIBILITIES AND REQUIREMENTS**

#### **POLICY:**

The State Ombudsman shall provide leadership, oversight, and guidance for the Ombudsman Program.

#### **PROCEDURE:**

- A. The State Ombudsman has primary responsibility for systems advocacy on behalf of Long-Term Care residents and the Ombudsman Program.
- B. The State Ombudsman shall ensure that the Ombudsman Program complies with the Ombudsman Code of Ethics and applicable Federal and State Laws, Policies, and Regulations by:
  - 1. Developing and implementing evaluation guidelines, policies, and procedures, with State approval;
  - 2. Implementing the Ombudsman section of the State Plan on Aging; and,
  - 3. Evaluating local Ombudsman Programs through formal on-site assessments, self-assessments, periodic reports, and other means of oversight.
- C. The State Ombudsman shall have sole discretion to certify or decline to certify individuals as representatives of the Ombudsman Program.
- D. The State Ombudsman shall have sole discretion to decertify individuals as representatives of the Ombudsman Program when decertification is voluntary. The State Ombudsman shall consult with the State prior to Non-Voluntary Decertification.
- E. The State Ombudsman shall provide additional oversight of the Ombudsman Program by:
  - 1. Resolving complaints regarding local Ombudsman programs and/or staff;
  - 2. Coordinating the statewide network of local Ombudsman; and,
  - 3. Requesting interpretation of Federal, Colorado Revised Statutes (CRS), Regulations, Rules, and Policies.
- F. The State Ombudsman shall assist the Ombudsman Program to stay current regarding issues and trends in Long-Term Care by providing:
  - 1. Annual certification training and/or identifying and approving other related training opportunities;
  - 2. Consultation and technical assistance on cases; and,
  - 3. Information and training materials about issues, trends, and best practices in long-term care to the Ombudsman network, the State, the Area Agencies on Aging (AAA), the Colorado Legislature, community agencies, the media, and the public.
- G. The State Ombudsman, personally or through a designee, shall provide representation for long-term care resident interests with boards, agencies, task forces, associations of Long-Term Care Facilities, regulatory agencies, and legislative bodies.



- H. The State Ombudsman shall oversee and ensure continuous coordination of local Ombudsman Services with the Protection and Advocacy System, Legal Assistance (LA) Programs, Adult Protective Services, State agencies responsible for licensing and certifying Long-Term Care Facilities, State and local law enforcement agencies, courts of competent jurisdiction, and other agencies, as appropriate.
- I. The State Ombudsman shall analyze, provide comment, and monitor the development of local, State, and Federal laws and regulations, making appropriate recommendations to the State, Colorado Legislature, and Federal agencies, as they pertain to Long-Term Care residents and the Ombudsman Program.
- J. The State Ombudsman shall make aggregate complaint and activities numbers available to Federal agencies, local Ombudsman Programs, Area Agencies on Aging (AAA), the State, and other interested parties upon request and approval by the State.
- K. The State Ombudsman shall prepare and distribute an Annual Report, which shall include, but is not limited to, those items required by the State:
  - 1. A description of the activities accomplished by the Ombudsman Program;
  - 2. A listing and analysis of data collected, including an evaluation of the trends, issues experienced, and the complaints made by or on behalf of residents;
  - 3. An analysis of the success of the program, including identifying barriers that prevent the optimal operation of the program; and,
  - 4. Recommendations for improving the quality of care and lives of residents and for protecting the health, safety, welfare, and rights of residents.
- L. The State Ombudsman shall oversee maintenance of Ombudsman Records.
  - 1. All Ombudsman Program records are the property of the Office of the Colorado Long-Term Care Ombudsman (CLTCO) and the State and may not be released, disclosed, duplicated, or removed without the written permission of the State Ombudsman or legal designee;
  - 2. The State Ombudsman shall confer, as appropriate, with legal counsel and the Colorado Attorney General's Office (AG) when a subpoena for records is received; and
  - 3. The State Ombudsman shall notify the State immediately upon receiving a request or subpoena for records or to testify in court by any Ombudsman Program representative.
- M. The State Ombudsman shall notify the State immediately regarding any denial of access to a facility and/or any real or threatened interference with the operation of the Ombudsman Program.
- N. The State Ombudsman shall notify the State immediately of any threatened or real legal action taken against an individual Ombudsman or the Ombudsman Program.
- O. The State Ombudsman shall notify the State immediately when advice and/or support from the Colorado Attorney General's Office (AG) is required.

**420.3      SELECTION AND DESIGNATION OF LOCAL LONG-TERM CARE  
OMBUDSMAN (LTCO)**

**420.31      LOCAL LONG-TERM CARE OMBUDSMAN (LTCO) RESPONSIBILITIES AND  
REQUIREMENTS**

**POLICY:**

The Ombudsman shall follow the Ombudsman Code of Ethics.

**PROCEDURE:**

- A. The Ombudsman shall respect the human dignity and individuality of each resident, regardless of social or economic status, personal characteristics, lifestyles, or choices.
- B. The Ombudsman shall respect and promote the resident's right to self-determination.
- C. The Ombudsman shall make every reasonable effort to ascertain and act in accordance with the resident's wishes. However, if a resident's wishes conflict with that of another or of a group of residents, the Ombudsman shall weigh the risks and benefits to all residents in determining what action to take.
- D. The Ombudsman shall provide Ombudsman Services unrestricted by his or her personal beliefs or opinions.
- E. The Ombudsman shall maintain competence in areas relevant to the Long-Term Care System, especially regulatory and legislative information and Long-Term Care Service options.
- F. The Ombudsman shall comply with all Federal, State laws, Regulations, Policies, and Procedures governing the Ombudsman Program, including policies of the sponsoring organization.
- G. The Ombudsman shall at all times maintain and promote the integrity of the Long-term Care Ombudsman Program.
- H. The Ombudsman shall not engage in criminal behavior involving violence or trust issues.
- I. The Ombudsman shall safeguard the resident's and/or complainant's right to privacy by not disclosing confidential information in relation to any complaint or investigation, including the identities of the complainants, witnesses, or residents involved, unless such persons give specific authorization for the release of such information.

**420.31a LEAD OMBUDSMAN**

**POLICY:**

Lead Ombudsman shall develop the Ombudsman Program, provide oversight for all paid and Volunteer Ombudsman, and ensure all Federal and State Statutes, Regulations, Policies, and Procedures, are upheld.

**PROCEDURE:**

- A. The Lead Ombudsman shall act in accordance with the Roles and Responsibilities of the Long-Term Care Ombudsman Policy.
- B. The Lead Ombudsman shall provide oversight of the Ombudsman Program through:
  - 1. Identification of local systems issues impacting the Ombudsman Program;
  - 2. Required increased routine visits to facilities with a history of serious or frequent complaints or deficient practices;
  - 3. Review of Ombudsmanager documentation and creation of quarterly data reports; and
  - 4. Identification of training needs and upcoming opportunities.
- C. The Lead Ombudsman shall meet monthly with Local Ombudsman to review and provide guidance regarding:
  - 1. Complaints received, resolutions acquired, and identified trends, if any;
  - 2. Health Facility Inspection Surveys within the region and required Ombudsman participation.
  - 3. Local systems issues impacting the Ombudsman Program;
  - 4. Ombudsmanager documentation and quarterly data reports; and,
  - 5. Training needs and upcoming opportunities.
- D. The Lead Ombudsman shall ensure Ombudsmen are fully trained by:
  - 1. Requiring Ombudsman attend training provided or approved by the State Ombudsman;
  - 2. Developing and providing local training, with State Ombudsman consultation and approval;
  - 3. Providing other professional development opportunities that have been approved by the State Ombudsman;
  - 4. Requiring that anyone accessing or entering data to the Local Ombudsman Program database is fully trained and approved by the State Ombudsman and the State; and,
  - 5. Providing first-line guidance and technical assistance.
- E. The Lead Ombudsman may recruit volunteers and arrange internships.
- F. The Lead Ombudsman shall recommend individuals for certification as Ombudsman and participate in any Decertification of an Ombudsman, as outlined in the Decertification Policy.
- G. Lead Ombudsman will identify possible systemic issues and confer with the State Ombudsman.

- H. Lead Ombudsman shall consult with the State Ombudsman for interpretation of State, Federal, and Colorado Department of Public Health and Environment (CDPHE) Regulations, Rules, and Policies, as necessary for clarification. To ensure consistency in the Ombudsman Program, the Lead Ombudsman shall defer to the State Ombudsman if there are differences in interpretation.

## **420.31b SURVEY AND LICENSING COORDINATION**

### **POLICY:**

Ombudsman shall coordinate with the Colorado Department of Public Health and Environment (CDPHE) to ensure complete facility oversight.

### **PROCEDURE:**

- A. The Ombudsman shall complete the pre-survey when notified by the State Ombudsman of an upcoming facility survey.
- B. Information regarding an upcoming survey is confidential and there is a \$2,000 fine for informing a facility of an upcoming survey.
- C. Ombudsman shall share information with the surveyors regarding systemic or chronic facility problems prior to a survey.
- D. Specific complaints or names shall not be shared, unless the resident or legal representative has granted permission.
- E. Permission to share information about a specific complaint during the next survey shall be obtained and documented at the time of a complaint investigation in order to avoid alerting the facility of an upcoming survey. See Investigating Complaints Policy Section 522.0.
- F. During and following the Facility Survey process, an Ombudsman:
1. May participate in individual or group interviews, if requested by Colorado Department of Public Health and Environment (CDPHE);
  2. Is strongly urged to attend the Survey Exit Conference held by Colorado Department of Public Health and Environment (CDPHE);
  3. Shall review the Survey, the Facility Plan of Correction, and information about any enforcement action taken; and,
  4. May discuss any concerns about Survey or Complaint Investigation findings that conflict with the Ombudsman's findings with the lead and/or State Ombudsman in order to develop next steps to resolve issues.
- G. When the Ombudsman cannot resolve a complaint, a referral may be made to Colorado Department of Public Health and Environment (CDPHE), using the process approved by the State Long-Term Care Ombudsman (LTCO). A copy of the referral shall be sent to the State Ombudsman.
- H. Ombudsman shall report any suspected existence of Unlicensed Long-Term Care Facilities to Colorado Department of Public Health and Environment (CDPHE).
- I. Ombudsman may provide comment during participation in the Survey process. All comments shall be in accordance with State Ombudsman Guidance and Established Policy.

## **420.32 STATE UNIT ON AGING ROLES AND RESPONSIBILITIES**

### **POLICY:**

The State Unit on Aging (SUA) shall establish the Office of the Colorado Long-Term Care Ombudsman (CLTCO) for the purpose of implementation and oversight of the Colorado Long-Term Care Ombudsman (CTCO) Program, through an effective structure, as determined by the State.

### **PROCEDURE:**

- A. The State shall provide oversight and participate in the efforts and activities of the State Ombudsman.
- B. The State shall ensure that the State Ombudsman can perform the duties of the position independently, without conflict of interest.
- C. The State shall provide support and funding, within the current appropriations, for the Ombudsman Program to provide for a full-time State Ombudsman and other personnel sufficient to enable the Office of the State Ombudsman to meet the requirements of the Older Americans Act (OAA) and the Colorado Long-Term Care Ombudsman (CLTCO) Program Act.
- D. The State shall provide data, including financial and program reports, and funding necessary to enable the State Ombudsman to prepare an Annual Report.
- E. The State shall support and fund Annual Certification Training developed by the State Ombudsman.
- F. The State shall fund and ensure adequate legal support and representation, without Conflict of Interest, to the State Ombudsman and other representatives of the Office of the State Ombudsman.
- G. When the Area Agencies on Aging (AAA) and/or Legal Provider is unable to provide legal advice to the local Ombudsman Program, the State shall ensure legal advice is provided through the established legal support for the State Ombudsman and/or the Colorado Attorney General's (AG) Office.
- H. The State shall ensure appropriate access to Licensed Long-Term Care Facilities by the Ombudsman Program representatives and shall provide penalties and enforcement for denial of access.
- I. The State shall ensure no certified Ombudsman is liable for actions arising from the good faith performance of his/her duties.

**420.33 AREA AGENCIES ON AGING ROLES AND RESPONSIBILITIES**

**POLICY:**

Each Area Agency on Aging that has a Licensed Nursing Home (including Swing-Bed Facilities) or Licensed Assisted Living Residence within its Planning and Service Area (PSA), shall adequately fund, manage, and supervise a Long-Term Care Ombudsman (LTCO) Program.

**PROCEDURE:**

- A. The Area Agencies on Aging (AAA) shall provide a Local Ombudsman Program directly or contract with a person or program that meets the Ombudsman qualifications as described herein.
- B. The Area Agencies on Aging (AAA) shall ensure that only certified Ombudsman represent the Ombudsman Program in facilities within the Planning and Service Area (PSA).
- C. Each Area Agency on Aging (AAA) shall maintain a minimum of two Certified Ombudsmen, either paid or volunteer, to ensure adequate coverage throughout the Planning and Service Area (PSA).
- D. Each Area Agency on Aging (AAA) shall appoint a Lead Ombudsman, approved by the State Ombudsman, to oversee the Regional Program and effectively provide the activities required of a Lead Ombudsman.
- E. The Area Agencies on Aging (AAA) shall adequately fund, manage, provide administrative supervision and contract management, and provide financial and human resource support to the Local Ombudsman Program.
- F. The Area Agencies on Aging (AAA) shall provide appropriate office space, office equipment, Internet access, operating and travel costs, training opportunities, and other program support or shall require this of a contractor.
- G. The Area Agencies on Aging (AAA) shall ensure legal advice and support is available to the Local Ombudsman, as follows:
  - 1. The Area Agencies on Aging (AAA) is urged to provide basic legal support and advice to Local Ombudsman Programs in the designated Planning and Service Area (PSA). When a legal concern must be escalated to the State after prior local advice has been provided, the local advice shall be subordinate to that of the legal counsel for the State Ombudsman and the Colorado Attorney General's (AG) Office.
  - 2. When the Area Agencies on Aging (AAA) believes the question is more complex than can or should be addressed by Local Legal Providers or the Area Agencies on Aging (AAA) Attorney, the State shall provide legal support and advice. All requests for State provided Legal Assistance shall be made through the State Ombudsman.
- H. The Area Agencies on Aging (AAA) shall require all staff involved with or parties to a contract for the Ombudsman Program to comply with the Ombudsman Code of Ethics and all applicable State and Federal laws, Regulations, and Policies and Procedures governing the Local Ombudsman Program.
- I. The Area Agencies on Aging (AAA) shall conduct a criminal background check in accordance with guidelines in the State Unit on Aging Policy and Procedure Manual and submit a copy of the background check report to the State Ombudsman prior to Certification.

- J. The Area Agencies on Aging (AAA) shall ensure that the Ombudsman Program operates free of conflict of interest and shall develop a contingency plan to ensure ongoing Ombudsman Services to residents until any identified conflict of interest is resolved.
- K. The Area Agencies on Aging (AAA) shall develop a written plan to assure coverage during Ombudsman absences. The Plan shall be included in the Ombudsman Program section of the Area Agency on Aging (AAA) Policy and Procedure Manual and will include contingency plans for:
  - 1. Scheduled absences;
  - 2. Unscheduled extended absences; and,
  - 3. Ombudsman vacancies.
- L. The State Ombudsman shall be notified of:
  - 1. Appointment of a Lead Ombudsman;
  - 2. New Ombudsman requests for certification;
  - 3. Ombudsman resignation or termination; and,
  - 4. Proposed changes to individual Ombudsman responsibilities.
- M. Upon the resignation, termination, or administrative leave of an Ombudsman the Area Agencies on Aging (AAA) or contractor shall:
  - 1. Take possession of the Ombudsman's certification card;
  - 2. Secure the files and ensure any and all written documentation or manuals related to the Ombudsman Program and/or Ombudsman activity are returned; and;
  - 3. Notify the State and the local systems administrator to cancel data systems access.
- 1. The Area Agencies on Aging (AAA) shall evaluate the Local Ombudsman Program as part of its routine on-site assessment of service providers and shall forward a copy of the assessment to the State Ombudsman. The assessment shall minimally include: A summary of all information obtained from long-term care facility residents, family members, and staff regarding the availability and responsiveness of the local Ombudsman program. Information may be obtained through focus groups, telephone calls, in person interviews or observation of independent Ombudsman performance. Information from providers may be obtained through anonymous surveys.
- 2. Case intervention outcomes as documented in the data management system; and,
- 3. Review of funding allocations to ensure adequate Ombudsman coverage.
- O. Yearly goals for the Ombudsman program shall be developed in conjunction with the Lead Ombudsman as part of the Area Agency on Aging (AAA) Area Plan and may address:
  - 1. Complaint handling;
  - 2. Required visits to Long-Term Care facilities;
  - 3. Public education and information, including increasing awareness of the program and long-term care issues;
  - 4. Resident and family council development and activities;
  - 5. Identification of systemic issues;
  - 6. Professional development and continuing education for local Ombudsman;
  - 7. Recruitment and supervision of volunteer Ombudsman;
  - 8. Grant development and/or identification of other funding opportunities;
  - 9. Program administration;
  - 10. Data system entry; and/or,
  - 11. Internal quality assurance.

- P. The Area Agencies on Aging (AAA) shall provide Ombudsman program reports, as required, to the State and State Ombudsman using the State-approved data management system(s).
- Q. The Area Agencies on Aging (AAA) shall ensure security and confidentiality of records related to the Ombudsman Program.
- R. The Area Agencies on Aging (AAA) shall notify the State Ombudsman immediately upon receiving a request or subpoena for records and shall not release records without written authorization from the State Ombudsman.
- S. The Area Agencies on Aging (AAA) shall notify the State Ombudsman immediately when there has been a request or subpoena for a local Ombudsman to testify in court and shall not allow the Ombudsman to testify without written authorization from the State Ombudsman and a court order.
- T. The Area Agencies on Aging (AAA) shall notify the State Ombudsman immediately of any complaint or threatened or real legal action against the Ombudsman Program or an individual Ombudsman.
- U. The Area Agencies on Aging (AAA) shall notify the State Ombudsman immediately of any denial of access to a facility and/or any real or threatened interference with the operation of the Ombudsman Program.

#### **420.34 LONG-TERM CARE OMBUDSMAN ROLES AND RESPONSIBILITIES**

##### **POLICY:**

Local Ombudsman shall conduct regular and timely visits to long-term care facilities to ensure the safety, welfare, and rights of residents are maintained.

##### **PROCEDURE:**

- A. Ombudsman shall carry their Certification Card and wear a large print identification badge each time they enter a facility and show the Certification Card to anyone that asks the reason for their presence.
- B. The Local Ombudsman shall make routine visits, within the region served, to all licensed:
  - 1. Nursing homes, including certified swing bed facilities offering extended care services where persons age 60 or older reside, at least monthly; and,
  - 2. Assisted Living Residences providing services to persons who are age 60 or older, at least quarterly.
- C. The Ombudsman shall conduct routine visits as outlined in the Routine Facility Visits policy.
- D. The Ombudsman shall respond to all complaints by conducting a Complaint Visit, as outlined in the Complaint Receipt and Review Policy.
- E. A routine visit may be made simultaneously and documented with a Complaint Visit, provided minimum requirements of the Routine Visit have been met.



- F. Upon request from the Colorado Long-Term Care Ombudsman (CLTCO), the Local Ombudsman shall participate in:
  - 1. All Colorado Department of Public Health and Environment (CDPHE) Nursing Home Licensing Surveys conducted within the region; and,
  - 2. Colorado Department of Public Health and Environment (CDPHE) Assisted Living Residence Licensing Surveys.
- G. The Local Ombudsman is urged to attend and participate in Resident and Family Council meetings. The Local Ombudsman shall advocate for the creation of these councils in facilities where they do not exist.
- H. The Local Ombudsman shall provide training and information to family members, long-term care facility staff, and community groups regarding facilities, resident's rights, and the role of the Ombudsman Program.
- I. Local Ombudsman may provide general community education regarding the local Ombudsman program roles and responsibilities without prior consultation and approval from the State Ombudsman.
- J. Local Ombudsman shall consult with the State Ombudsman for interpretation of State, Federal, and Colorado Department of Public Health and Environment (CDPHE) regulations, rules, and policies, as necessary for clarification.
- K. The Local Ombudsman shall receive approval from the State Ombudsman prior to taking a position on program issues involving systems advocacy or legislative efforts, including media contact regarding the same.
- L. The Local Ombudsman shall defer to the State Ombudsman, or designee, with regard to testimony on legislative or regulatory matters and contact with the media involving a position taken on behalf of the Ombudsman Program or a resident.

## **420.35 COORDINATION WITH OTHER AGENCIES**

### **POLICY:**

To most effectively advocate on behalf of long-term care residents, the Ombudsman Program shall coordinate with agencies and professional groups that provide services to and/or share common interests with long-term care residents.

### **PROCEDURE:**

- A. The Ombudsman Program shall provide community and professional education regarding the Ombudsman Program.
- B. Ombudsman shall develop positive relationships and coordinate services with professional groups and agencies, by:
  - 1. Participating on teams or advisory boards, with approval of the State Ombudsman;
  - 2. Developing knowledge of the roles of other agencies and professional groups; and/or,
  - 3. Participating in other activities designed to develop an effective working relationship.

## **420.5 LONG-TERM CARE OMBUDSMAN (LTCO) TRAINING**

### **POLICY:**

The Area Agency on Aging (AAA) or Area Agency on Aging (AAA) contractor shall hire individuals meeting minimum qualifications for certification as an Ombudsman.

### **PROCEDURE:**

- A. Individuals shall meet the following minimum qualifications to be considered for certification:
  - 1. Be age 18 or older;
  - 2. Pass a background check, as outlined in the State Unit on Aging Policy and Procedure Manual;
  - 3. Have no conflict of interest; and
  - 4. Have the ability to:
    - a. Comply with the Ombudsman Code of Ethics;
    - b. Comply with all applicable Federal and State Laws, Regulations, and Policies and Procedures; and,
    - c. Learn basic medical, pharmacological, and legal terms.
- B. Individuals should have:
  - 1. An empathy for and understanding of the needs of older adults and persons with physical and mental disabilities;
  - 2. A commitment to improving the quality of life and quality of care for residents in long-term care facilities;
  - 3. The ability to listen, be verbally articulate, and advocate in a professional, diplomatic, and non-adversarial manner;
  - 4. The ability to sort out extraneous matters in order to focus on a specific complaint; and,
  - 5. The ability to provide a resident with a sense of participation and self-determination in the Complaint Process.
- C. For the purpose of certification, (designation as a representative of the Office of the Colorado Long-Term Care Ombudsman (CLTCO)), individuals shall successfully complete the Ombudsman Certification Training Program as designated by the State Ombudsman:
  - 1. Review the Colorado Ombudsman Training Manual and any other specified training materials;
  - 2. Successfully complete all examination materials; and
  - 3. Directly observe an experienced certified Ombudsman while conducting activities of the Ombudsman Program for a minimum of ten (10) hours.
- D. The Lead Ombudsman, on behalf of the Area Agency on Aging (AAA) or Area Agencies on Aging (AAA) contractor, shall comply with instructions from the State Ombudsman with regard to submission of documentation of the following:
  - 1. Recommendation for certification from the Lead Ombudsman;
  - 2. Application or resume;
  - 3. Name, address, and phone number for at least two references and notes documenting references were checked and found satisfactory;

4. Signed agreement to follow the Ombudsman Code of Ethics;
  5. Signed and completed conflict of interest form indicating no conflict of interest; Completed examination materials, as required by the State Ombudsman; and
  6. Criminal background checks as outlined in State Unit on Aging Policy and Procedure Manual.
- D. Upon receipt of the documents and request for certification, the State Ombudsman may conduct a further evaluation and interview with the individual seeking certification. The examination and interview may cover:
1. Any aspect of the certification training;
  2. Any aspect of the Policy and Procedure Manual;
  3. The individual's qualifications and abilities; and,
  4. Additional reference check(s).
- E. The State Ombudsman shall have the sole discretion to certify or decline to certify the individual as an Ombudsman, as outlined in statute, regulations, and policies.
- F. The State Ombudsman shall sign and issue a Certification Card annually to all Ombudsmen certifying that they are a designated representative of the Ombudsman Program.
- G. The State Ombudsman shall renew the certification of local Ombudsman, if the candidate:
1. Has performed all job duties in a satisfactory manner;
  2. Is recommended by the Area Agency on Aging (AAA) and lead Ombudsman;
  3. Has completed the required fifteen hours of approved Ombudsman training during the prior State Fiscal Year (SFY); and
  4. Provides to the State Ombudsman annually a signed and completed conflict of interest form indicating no conflict of interest.

#### **420.5a DECERTIFICATION**

##### **POLICY:**

Ombudsman shall be decertified when he or she fails to meet the requirements of the position.

##### **PROCEDURE:**

- A. Ombudsman shall be decertified if he or she:
1. Takes an unauthorized leave of absence, resigns, or is terminated by the Area Agency on Aging (AAA) or Area Agency on Aging (AAA) contractor for reasons other than failing to meet the requirements of an Ombudsman; or
  2. Fails to meet any requirement of the Ombudsman Program, to include:
    - a. Competently performing program duties;
    - b. Following directions of the lead and/or State Ombudsman;
    - c. Falsifying records or individual qualifications;
    - d. Disclosing any conflict of interest or is found to have a conflict of interest that has not or cannot be remedied;
    - e. Violating any terms of the Ombudsman Code of Ethics, applicable Federal or State laws, regulations, rules, and/or policies; and/or,
    - f. Meeting the terms of a corrective action plan.

- B. If an Ombudsman fails to meet any requirements of the position, the State Ombudsman, relevant Area Agencies on Aging (AAA) and lead Ombudsman shall consult to determine if:
  - 1. Development of a corrective action plan would be appropriate; or
  - 2. Immediate decertification should be implemented.
- C. If a corrective action plan is appropriate, the plan shall include:
  - 1. Actions necessary to meet the position requirements, as appropriate to the concerns;
  - 2. A timetable for completing the actions;
  - 3. Procedures for monitoring Ombudsman actions as related to duties and the corrective action plan;
  - 4. Penalty(ies) for failure to meet the conditions of the corrective action plan; and,
  - 5. Signature of all parties indicating agreement with the corrective action plan.
- D. The Area Agencies on Aging (AAA) shall notify the State Ombudsman if the Ombudsman fails to meet any requirements of the corrective action plan.
- E. If decertification is recommended, the State Ombudsman shall review all documentation and shall make the sole and final decision as to decertification. The State Ombudsman shall consult with the State prior to non-voluntary decertification.
- F. The State Ombudsman shall provide the Ombudsman written notice of any refusal to certify or intent to decertify, with copies provided to the Area Agency on Aging (AAA), lead Ombudsman and the Director for the State Unit on Aging. Such notice shall specify:
  - 1. The reasons for the refusal to certify or intent to decertify; and,
  - 2. The effective date for such action.
- G. Ombudsman recommended for decertification shall surrender to the State Ombudsman, or designee, all case records, documentation of Ombudsman activities and complaint processing, and his or her identification badge and certification card.

**420.6 ACCESS**

**POLICY:**

Representatives of the Ombudsman Program shall have access to any licensed long term care facility or resident, without notice.

**PROCEDURE:**

- A. Ombudsman shall make an appointment with the facility administrator for the initial visit to any assisted living residence or nursing home to:
  - 1. Introduce themselves and the Ombudsman Program; and,
  - 2. Determine who shall act as the appropriate contact person(s) for the facility when complaints arise.
- B. Upon entering the long-term care facility, the Ombudsman may notify the administrator or other staff of their arrival.
  - 1. The Ombudsman shall wear their identification badge and carry their certification card, at all times;
  - 2. The Ombudsman shall have unescorted access to all areas of the facility; and,
  - 3. The Ombudsman is not required to provide information to facility staff regarding the purpose of the visit.
- C. If an Ombudsman is denied access to a facility or to a resident the Ombudsman shall notify the State Ombudsman immediately.
  - 1. The State Ombudsman may consult with legal counsel; and/or,
  - 2. Request assistance from the Colorado Attorney General's Office.

**420.6a ROUTINE FACILITY VISITS**

**POLICY**

The Ombudsman Program shall make prescribed routine visits to each licensed nursing home, including swing-bed facilities, and assisted living residence (ALR), including residential treatment facilities (RTF) in the designated Planning and Service Area (PSA).

**PROCEDURE:**

- A. Ombudsman shall adhere to the requirements to professionally represent the Colorado Long-Term Care Ombudsman Program and the Area Agency on Aging.
- B. Each licensed nursing home, including "swing bed" facilities, shall be visited at least one time per month.
- C. Each licensed assisted living residence shall be visited at least one time per quarter.
- D. Each licensed RTF shall be visited at least quarterly, when residents 60 years and over are living in the residence.
- E. Ombudsman may conduct and document a complaint-related visit and a routine visit in the same trip, time permitting. Additionally, other activities and consultations may be conducted concurrently.
- F. Ombudsman shall keep a record of dates and times visits are made to facilities.
- G. Ombudsman shall closely observe all appropriate aspects of the facility, including:
  - 1. Common areas, including functionality and cleanliness;
  - 2. Care provision, including resident cleanliness and comfort;
  - 3. Current Ombudsman Program poster, at eye level and easily accessible by residents and staff;
  - 4. Daily posting of nurse staffing;
  - 5. Activities provided according to activities calendar;
  - 6. Meal provision and posting of menus; and,
  - 7. Availability of the most recent Colorado Department of Public Health and Environment (CDPHE) facility survey.
- H. Ombudsman shall make contact with individual residents during each visit.
- I. Given availability and time, Ombudsman shall contact the resident council president for an update since the last visit.
- J. Ombudsman shall acknowledge any facility staff encountered, identifying themselves as an Ombudsman, as indicated by the identification badge. The certification card will be produced when requested by any facility staff member.
- K. The Ombudsman shall knock, await permission before entering a resident's room, and identify themselves.
- L. If a resident's room is not suitable for private consultation, or such consultation infringes on the rights of roommates, the Ombudsman shall seek an appropriate private place for a meeting.
- M. If the resident refuses to communicate with the Ombudsman, the Ombudsman shall honor the resident's wishes.
- N. The Ombudsman shall maintain confidentiality with individual residents, groups of residents, family, and/or staff.

**420.6b ACCESS TO RECORDS**

**POLICY:**

Ombudsman shall have access to medical, financial, and social records of a resident when relevant to a complaint investigation.

**PROCEDURE:**

- A. Access to resident records shall be obtained when the Ombudsman believes the information is necessary to the investigation of a complaint or the resolution of a dispute.
- B. The Ombudsman shall obtain or attempt to obtain consent to review a resident's record(s).
  - 1. When the resident is unable to provide consent, the resident's legal representatives may provide consent.
  - 2. The State Ombudsman may allow access to a resident's record without the consent of the resident's legal representative when:
    - a. A complaint is made against the legal representative;
    - b. There is reasonable cause to believe the legal representative is not acting in the resident's best interest; or
    - c. The legal representative is not available within three working days in a routine complaint investigation or within one working day in an urgent complaint investigation.
  - 3. If the resident is incapable of consenting, and has no legal representative, the Ombudsman shall request and obtain approval from the State Ombudsman before accessing the resident's record.
  - 4. The Ombudsman shall document that consent was obtained, and from whom.
- C. If an Ombudsman is denied access to a resident's record by a licensed facility, the Ombudsman shall notify the State Ombudsman immediately.
  - 1. The State Ombudsman may consult with legal counsel; and/or,
  - 2. After notifying the State, the State may request assistance from the Colorado Attorney General's Office.
- D. If the resident does not consent, the Ombudsman shall not review the record, but may investigate in other ways in accordance with complaint procedures.

## **420.7 LOCAL LTC OMBUDSMAN DATA AND RECORDS**

### **POLICY:**

All documentation created as a result of Ombudsman activities shall be confidential and shall not be disclosed except by order of the State Ombudsman and/or by a court.

### **PROCEDURE:**

- A. All records of the Ombudsman Program shall be kept in a locked and secure location when not in use.
- B. Mail, e-mail, or faxes that are addressed to an Ombudsman by name, title, or program, shall be delivered unopened and unread.
- C. All Ombudsman records are the property of the Office of the State Ombudsman and the State. The State Ombudsman shall have access to all records, at all times.
- D. The lead Ombudsman shall have access to records within his or her assigned PSA.
- E. An Ombudsman that is providing temporary coverage for another PSA shall be granted access to records of that PSA, to the extent necessary to provide such coverage and with permission from the State Ombudsman.
- F. Records may not be released, disclosed, duplicated, or removed without the written permission of the State Ombudsman.
  - 1. The State Ombudsman shall be contacted whenever a request for Ombudsman records is received;
  - 2. The State Ombudsman shall require the records request be made in writing; and,
  - 3. When the records request is being made by a resident that is physically or cognitively unable to put the request in writing, the resident's legal representative or the Ombudsman shall make a written request on his or her behalf.
- G. Upon receipt of a records request that would impose an undue burden on the Ombudsman program and provides very little or no impact on the health, safety, and welfare of the resident(s), the State Ombudsman may deny the request.
- H. Upon receipt of a records request by a person other than the resident or resident's legal representative, the local Ombudsman shall:
  - 1. Obtain written consent from the resident for release of information contained in the records;
  - 2. Obtain written consent from the resident's legal representative when the written consent for records release cannot be obtained because the resident is cognitively unable to provide consent in writing;
  - 3. Obtain written consent from the complainant for release of complainant information contained in the records; and/or,
  - 4. Document oral consent provided by the resident when written consent for records release cannot be obtained because the resident is physically unable to provide consent in writing.



- I. The State Ombudsman shall determine if release of all or part of the requested record is appropriate by assessing whether release:
  - 1. Would be in conflict with the wishes or interests of the resident(s) for whom records are being requested;
  - 2. Would be in conflict with the wishes or interests of any other resident(s) within the facility;
  - 3. Is likely to have a favorable outcome for the resident(s);
  - 4. Would provide information which could be obtained elsewhere;
  - 5. Could be accomplished while protecting the identity of the resident(s) or complainant(s) for whom there is no consent; and/or,
  - 6. Would impose an undue burden to the Ombudsman program and provides very little or no impact on the health, safety, and welfare of the resident(s).
- J. When all or part of a records request is granted, the State Ombudsman shall redact all identifying information for which resident and/or complainant consent was not obtained.
- K. Whenever a request for records or for Ombudsman testimony is made in the form of a subpoena, court order, or Open Records Act request, the State Ombudsman shall be notified immediately.
  - 1. The State Ombudsman shall consult with legal counsel;
  - 2. If appropriate, a motion to quash the subpoena or a motion for a protective order will be filed; and,
  - 3. In response to a court order, the court shall be notified, through proper channels, of the statutory provisions, policies, rules, and regulations concerning disclosure of information and a request may be made for the court to seal the Ombudsman records.

## **420.7a DATA MANAGEMENT**

### **POLICY:**

The local Ombudsman Program shall enter all Ombudsman cases, consultations, information and referrals, and other activities into the State mandated data system(s). The lead Ombudsman, or designee, shall keep full and accurate records, electronic and/or written, necessary for completing all required State and Federal reports.

### **PROCEDURE:**

- A. The following case and activity information shall be maintained in the State mandated data system, to include:
  - 1. Complaint activity, including but not limited to:
    - a. Complainant;
    - b. Complaint categories;
    - c. Verification; and,
    - d. Resolution.

2. Ombudsman activities, including but not limited to:
  - a. Training for staff and volunteers;
  - b. Technical assistance provided to staff and volunteers;
  - c. Training for facility staff;
  - d. Consultation to facilities, including topics; and,
  - e. Information and consultation to individuals, including type requested
3. Long-term care facility information, including but not limited to:
  - a. Identifying information regarding each licensed nursing home and assisted living residence within the PSA; and,
  - b. Number of beds in each licensed facility.
4. Ombudsman Program staff and funding, including:
  - a. Number of paid staff in full-time-equivalence (FTE);
  - b. Number of volunteers; and,
  - c. Funding for program, divided into appropriate categories.
- B. Ombudsman activity of any kind shall be entered into the State approved data system(s) within 30 days of completion of the activity.
- C. The local data system administrator, in collaboration with the lead Ombudsman, shall conduct a monthly review of data entered into the data system to:
  1. Check for any needed table updates;
  2. Check for accuracy in data entry; and,
  3. Evaluate data concerning Ombudsman complaints, information and assistance, and community and in-service education and compare with statewide statistics, previous year statistics, and the Area Plan to identify irregularities in case data and/or activities.
- D. If irregularities are identified, actions to address the irregularities shall be implemented, as appropriate:
  1. Review whether complaints, including Ombudsman-generated complaints, and other activities are being accurately recorded by all Ombudsman;
  2. Increase the frequency of routine visits;
  3. Ensure urgent complaints are being given highest priority for resolution;
  4. Identify causes for increased case closures due to resident complaint withdrawal, complaints not resolved, no action needed, and/or referral to other agency;
  5. Adjust funding to ensure adequate Ombudsman coverage to complete all program activities and responsibilities;
  6. Adjust staffing to ensure the impact of increased activity does not decrease the ability of the local Ombudsman program to adequately fulfill program responsibilities;
  7. Provide additional training and/or supervision for Ombudsman;
  8. Recommend decertification of Ombudsman;
  9. Identify possible systemic issues and confer with the State Ombudsman;
  10. Educate residents, families, and staff regarding the existence of and purpose of the Ombudsman Program;

11. Ensure residents, families, or staff feel safe and empowered to make complaints;
12. Ensure families and residents are being given sufficient resources and information to personally resolve complaints, where appropriate;
13. Increase involvement with resident and any family councils;
14. Increase community education and public information regarding the purpose of the Ombudsman Program;
15. Increase the number of in-service trainings for facility staff; and/or,
16. Develop and provide written materials on questions or complaints most commonly received to reduce time spent on information and assistance responses.

## **420.7c      REPORTS**

### **POLICY:**

The local Ombudsman Program and the State Ombudsman shall provide Federal, State, visit compliance, and/or other reports as required.

### **PROCEDURE:**

- A. The local Ombudsman Program shall submit visit compliance reports on a quarterly basis, per directive, to the State Unit on Aging and State Ombudsman;
- B. The local Ombudsman Program shall submit an annual report with supplemental information, per directive, to the State Unit on Aging and State Ombudsman;
- C. The State Ombudsman, in conjunction with the State, shall submit an annual Federal report, per directive, to the Administration for Community Living (ACL).
- D. The State Ombudsman, in conjunction with the State shall develop an annual report for submission to the Colorado Legislature, which shall include, but is not limited to, the following:
  1. A summary and analysis of Federally required and other data, to include an evaluation of the trends and issues identified;
  2. An analysis of the barriers to quality care;
  3. Recommendations for improving the quality of the care and lives of residents and for protecting the health, safety, welfare, and rights of residents; and,
  4. A description of the activities, training provided, and the successes of the Ombudsman Program.

## **420.81 LOCAL LTC OMBUDSMAN LIABILITY**

### **POLICY:**

The State Ombudsman and certified Ombudsman shall have access to legal counsel and shall be immune from civil liability and criminal prosecution as a result of good faith efforts in performing Ombudsman duties.

### **PROCEDURE:**

- A. Legal counsel shall be provided through local and State legal resources:
  - 1. The Area Agencies on Aging (AAA) is urged to provide for legal advice and support to the local Ombudsman program and shall be the initial legal resource;
  - 2. The State shall provide legal advice and support to local Ombudsman program when the Area Agency on Aging (AAA) determines the question is more complex than can or should be addressed by local legal providers or Area Agency on Aging (AAA) attorney;
  - 3. The State, or designee, shall provide for legal advice and counsel to the State Ombudsman;
  - 4. The State shall provide for legal representation to the local Ombudsman program and the State Ombudsman when a criminal or civil proceeding has been filed; and,
  - 5. All requests for State provided legal assistance shall be made through the State Ombudsman.
- B. Legal counsel shall:
  - 1. Assist and protect Ombudsman in the performance of official duties, including:
    - a. Advice and consultation necessary to protect the health, safety, welfare, and rights of residents; and,
    - b. The pursuit of administrative, legal, and other appropriate remedies on behalf of residents.
  - 2. Provide adequate legal advice and representation to any Ombudsman against whom suit or other legal action is brought or threatened in connection with the performance of his or her official duties.
- C. When State legal representation is necessary for an Ombudsman, the State Ombudsman shall immediately notify the State.

## **420.9 INTERFERENCE WITH LONG-TERM CARE OMBUDSMAN**

### **POLICY:**

The lead Ombudsman shall notify the State Ombudsman immediately of any willful interference or suspected retaliation by a long-term care facility or other entity with respect to any resident or complainant for having filed a complaint with or provided information to the Ombudsman program.

### **PROCEDURE:**

- A. Willful interference or suspected retaliation is illegal and the lead Ombudsman shall immediately notify the State Ombudsman.
- B. The State Ombudsman shall attempt resolution of the issue.
- C. If informal resolution is unsuccessful, the State Ombudsman shall submit documentation of the situation to the Director of the State Unit on Aging.
- D. The Director of the State Unit on Aging, or designee, will review the documentation and may:
  - 1. Attempt resolution of the issue; and/or,
  - 2. Submit documentation to the Colorado Attorney General's Office for review and possible prosecution.

## **420.91 DISCLOSURE**

### **POLICY:**

Through the Colorado Coalition for Elder Rights and Adult Protection (CCERAP), the State Unit on Aging (SUA) supports and assists with funding for the training of various community professionals, e.g. attorneys, bankers, policemen, and county adult protection workers, regarding the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy.

The Colorado Long-Term Care Ombudsman or the Colorado Legal Assistance Developer Programs may be able to provide the Area Agencies on Aging (AAA) with resources or linkages to other organizations that could assist in resolving issues or developing alternatives regarding elder abuse, neglect, or exploitation.

### **PROCEDURE:**

- A. The Area Agencies on Aging (AAA) shall develop and enhance programs for the prevention of elder abuse, neglect, and exploitation, utilizing a comprehensive approach to identify and assist older adults who are subject to abuse, neglect, and exploitation, including older adults living in State licensed facilities or domestic or community-based settings.

- B. The Area Agencies on Aging (AAA) shall utilize funds authorized for this program to develop activities to strengthen and address issues with regard to prevention and treatment of elder abuse, neglect, and exploitation including financial exploitation.
- C. The Area Agencies on Aging (AAA) will provide elder abuse, neglect, and exploitation programs and initiatives that include at a minimum public education and outreach to identify and prevent elder abuse, neglect and exploitation. This may include brochures, videos, or other publications, produced by the Area Agency on Aging (AAA) or another agency, intended to educate or refer persons involved or concerned with elder abuse, neglect, or exploitation issues in the community.
- D. Ensure coordination of the services with those of other State and local programs and services for the protection of vulnerable older adults, including but not limited to the following: adult protective services programs; long-term care (LTC) Ombudsman programs; protection and advocacy programs or agencies; facility and long-term care provider licensure and certification programs; Medicaid fraud and abuse services (e.g. AARP and the Colorado Attorney General's Office, victim assistance programs; consumer protection, and State and local law enforcement programs); courts of competent jurisdiction; and other services provided by agencies and local programs to identify and assist vulnerable older adults.
- E. Conduct or referring individuals for training related to elder abuse prevention, etc., including caregivers, professionals, and paraprofessionals in relevant fields.
- F. Provide technical assistance to programs that provide or have the potential to provide services for victims of elder abuse, neglect, and exploitation, and for family members of the victims.
- G. Develop coordination with various adult-focused community groups with regard to this issue, who may be the first to become aware of situation involving elder abuse, neglect, or exploitation, e.g. senior centers, faith-based adult groups, and social groups targeting seniors.

**422 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)**

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**POLICY:**

The Senior Community Service Employment Program (SCSEP) is funded by the U.S. Department of Labor. The intent of the program is to provide employment and training to unemployed low-income individuals age 55 plus to enable them to reenter the workforce. The SCSEP provisions of the Older Americans Act are designed to enhance the employment opportunities for seniors by reinforcing connections with the broader workforce investment system, including government agencies, community service organizations, and nonprofit organizations.

The Area Agency on Aging (AAA) disseminates information to people interested in the SCSEP program. The Area Agencies on Aging (AAA) is encouraged to participate in the SCSEP program as a host agency and encourage the communities in the region to participate in SCSEP.

**PROCEDURE:**

The Area Agencies on Aging (AAA) ensure that appropriate efforts will be made to inform individuals, businesses, and communities interested in participating in SCSEP.

**422.62 SCSEP COMPLAINTS, ADVERSE ACTIONS AND APPEALS**

**POLICY:**

Participants shall be provided information concerning their complaint and grievance rights as part of the Senior Community Service Employment Program (SCSEP) Orientation and the Host Agency Orientation sessions. Complaint and appeal procedures for enrollees in the Senior Community Service Employment Program (SCSEP) shall be developed at the sub-project level to resolve issues arising between the host agency and an enrollee or applicant

**PROCEDURE:**

- A. Sub-project sponsors shall apply the complaint procedures and appeal process to resolve issues arising between the host agency and an enrollee or applicant. If an adverse action is taken against an enrollee, the enrollee and the sub-project grantee shall on an informal basis try to resolve the conflict. If a complaint/conflict has not been resolved satisfactorily on an informal basis, it should be submitted in writing to the sub-project grantee. The nature of the complaint, facts upon which it is based, the rules or regulations violated (if known), the requested remedy, name of the complainant and the date of the filing need to be clearly stated. The SCSEP supervisor/manager at the sub-project level shall schedule an informal hearing with the complainant within 15 days of receipt of the complaint.
- B. If the complaint has not been resolved at the local level, or the local level fails to issue a decision within 60 days, the complainant has 60 days to appeal to the State level at:  
Colorado Department of Human Services  
1575 Sherman Street, 10<sup>th</sup> Floor  
State Unit on Aging  
Denver, CO 80203
- C. If the State fails to issue a decision within 60 days or if the complainant is federally funded, the State's decision or lack thereof may be appealed beyond the State level to the Chief, Division of Older Worker Programs of the Department of Labor.
- D. The enrollee shall be provided a copy of the complaint resolution process. Unresolved complaints alleging violations of law other than discrimination shall be filed with the appropriate office of the U.S. Department of Labor at:  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington D.C. 20210
- E. Unresolved complaints alleging discrimination due to race, color, religion, gender, sexual orientation, national origin, disability, or age (except where age is a valid consideration under SCSEP) shall be filed with the Director, Office of Civil Rights at:  
Colorado Civil Rights Division Commission  
1560 Broadway, Room 1050, Denver, CO 80202-5143.



## **500 COMPLAINTS, APPEALS, AND HEARINGS**

### **501 CONSUMER COMPLAINTS**

#### **POLICY:**

The Area Agencies on Aging (AAA) shall develop, or require the development of, the procedure used by a service recipient to file a complaint through direct contact, by phone, electronic contact or in writing describing the process whereby individuals will be appropriately notified of their rights in the complaint and appeal process.

- A. Verification of routine notification to consumers regarding their rights in the complaint/appeal process.
- B. The telephone number and the address of the State Unit on Aging must be included in the complaint/appeal process.
- C. A review of complaint tracking mechanisms or logs; and
- D. Verification of availability and retention of these records for review.
- E. Complaint tracking procedures will require, at a minimum, the inclusion of the following complaint information documentation (log):
  1. Region number;
  2. Name of the Area Agencies on Aging (AAA) provider;
  3. Consumer contact information;
  4. Nature of complaint received;
  5. Date complaint received;
  6. Documented complaint response by provider or Area Agencies on Aging (AAA) by type of complaint, i.e. phone, written, or personal contact and documented resolution of complaint.
  7. The documentation (log) may be kept via hard copy or electronic means; however, it must be printable.

### **503 SERVICE PROVIDER COMPLAINTS AND APPEALS**

#### **POLICY:**

- A. The Area Agencies on Aging (AAA) shall develop a procedure for processing complaints of service providers.
- B. Service provider complaints shall be filed in writing directly with the service provider's contracting agency, (i.e., the Area Agency on Aging (AAA) or State Unit on Aging (SUA) within 30 calendar days of the date the incident occurred.
- C. The Area Agency on Aging (AAA) or State Unit on Aging (SUA) receiving the complaint shall investigate and resolve the complaint within 15 working days from the time the agency receives the complaint.
- D. If the service provider is a contractor of the Area Agencies on Aging (AAA), the complaint shall be investigated and resolved by the Area Agencies on Aging (AAA) Director or designee.

- E. If the service provider is a contractor of the State Unit on Aging (SUA), the complaint shall be investigated and resolved by a designated State Unit on Aging (SUA) staff person.
- F. Written notice of the resolution shall be sent to the service provider complainant. This notice shall include:
  - 1. A summary of the concern or issue;
  - 2. The results of the investigation into the complaint and the resolution of the concern; and
  - 3. Notification to the complainant of his/her right to appeal the decision if he/she is dissatisfied with the resolution, and instructions for filing such an appeal.

**PROCEDURE:**

- A. If the service provider is dissatisfied with the resolution of the complaint, a written appeal may be filed with the State Unit on Aging (SUA) Director within 10 calendar days of the receipt of the initial decision at:
  - Colorado Department of Human Services
  - State Unit on Aging
  - 1575 Sherman Street, 10<sup>th</sup> Floor, Denver, CO 80203
- B. The appeal shall be investigated and resolved by the State Unit on Aging (SUA) Director or designee. If a designee is selected, the appeal shall be resolved by a supervisory level designee in the State Unit on Aging (SUA) not involved in the original complaint resolution.
- C. The State Unit on Aging (SUA) Director or designee shall complete a review of the complaint and complaint resolution, including all pertinent documentation or new information that may be available, and provide a written response to the complainant within 15 working days of receipt of the appeal.
- D. This written response shall include notification of the complainant's rights to an Administrative Law Judge hearing as described at Staff Manual Volume 10, Section 10.501, if he/she is dissatisfied with the resolution of the appeal, and instructions for requesting such a hearing.

## **503.1 SERVICE PROVIDER COMPLAINT**

### **POLICY:**

The Area Agencies on Aging (AAA) shall develop, or require the service provider(s) to develop procedures for complaint/appeal tracking, timely disposition of complaints/appeals and documentation of such processes.

### **PROCEDURE:**

- A. The Area Agencies on Aging (AAA) will ensure that processes and procedures developed by their contractors contain the following:
  - 1. Contractors through documentation shall ensure that consumers are notified in writing as to their rights in the complaint/appeal process;
  - 2. Contractors shall post a written notice explaining the right to file a complaint or appeal;
  - 3. Contracts contain stipulations requiring written notification regarding complaints/appeals;
  - 4. Contracts contain stipulations regarding the appropriate tracking of complaints and complaint resolution; and
  - 5. Contracts contain stipulations as to retention of documentation.

## **504 LOCAL LONG-TERM CARE (LTC) OMBUDSMAN COMPLAINTS AND APPEALS**

### **POLICY:**

Ombudsman shall determine and implement a plan of action to resolve all verified or partially verified complaints.

### **PROCEDURE:**

- A. When the complaint does not require immediate action the Ombudsman shall, whenever feasible, encourage the complainant to act on his or her own behalf by:
  - 1. Discussing the complaint with the appropriate person(s) within the facility and/or other agencies; and/or,
  - 2. Utilizing the facility grievance procedure.
- B. When resolution by the complainant is not feasible, the Ombudsman shall develop a plan of action for resolution. The plan of action shall:
  - 1. Be developed in a way that has the most positive impact on the resident and/or complainant, other residents, and the facility;
  - 2. Be mutually agreed upon by the resident and Ombudsman;
  - 3. Anticipate barriers and involve appropriate personnel; and,
  - 4. Include technical assistance from the lead or State Ombudsman, as needed.

- C. When the complaint relates to a long-term care facility regulatory violation, the Ombudsman shall:
  - 1. Inform the resident and/or complainant that the complaint is a violation of regulations and should be reported to Colorado Department of Public Health and Environment (CDPHE) or other appropriate agencies;
  - 2. Seek resident and/or complainant permission to generate a complaint to CDPHE or other appropriate agencies; and,
  - 3. Provide the name of the complainant and/or resident to the appropriate agency, if consent is obtained; or
  - 4. When consent is not granted and the Ombudsman believes the complaint to be a serious or systemic issue, the Ombudsman shall generate a complaint to CDPHE and/or other appropriate agencies, without revealing the identity of the resident or complainant.
- D. Activities undertaken as part of the plan of action in resolution of complaints by local Ombudsman may include:
  - 1. Persuading or negotiating with a facility to change a particular long-term care facility behavior, pattern, or practice affecting a resident;
  - 2. Educating and empowering a resident and/or complainant to resolve problems independently;
  - 3. Referring the complaint to the appropriate regulatory agency for enforcement action;
  - 4. Encouraging the utilization of legal assistance by the resident and/or complainant; and/or,
  - 5. Communicating with community groups and professional organizations.
- E. Activities undertaken as part of a plan of action in resolution of complaints by the lead Ombudsman may include:
  - 1. Referring complaints for investigation to the Ombudsman or other agencies, when appropriate;
  - 2. Advocating for appropriate enforcement action by a regulatory agency;
  - 3. Providing technical assistance to the local Ombudsman on any phase of investigation; and/or,
  - 4. Referring the complaint to the State Ombudsman for technical assistance and/or possible legislative initiatives or regulatory changes.
- F. Activities undertaken as part of a plan of action in resolution of complaints by the State Ombudsman may include:
  - 1. Investigating complaints when:
    - a. A specific request for State Ombudsman involvement is made;
    - b. A conflict of interest with the local Ombudsman program exists; or,
    - c. Required as a quality assurance measure, such as when a local Ombudsman program has declined to investigate or attempt to resolve a complaint.
  - 2. Providing technical assistance and/or proposing legislative initiatives or regulatory changes.

- G. An Ombudsman program may decline to attempt resolution of a complaint if the Ombudsman determines any of the following:
  - 1. The complaint is frivolous or not made in good faith;
  - 2. The complaint was made so long after the occurrence of the incident that, in the Ombudsman's professional judgment, it is no longer reasonable to conduct an investigation; and/or
  - 3. An adequate investigation cannot be conducted because it requires specific professional expertise for investigation, such as an attorney or forensic accountant.
- H. Ombudsman activity on a complaint or case shall be closed within 30 days after the complaint:
  - 1. Has been resolved to the resident and/or complainant's satisfaction;
  - 2. Cannot be verified, is determined to be frivolous, or not made in good faith;
  - 3. Is deemed unlikely to be resolved to the satisfaction of the resident and/or complainant, even with further involvement of the Ombudsman;
  - 4. Is determined to be inappropriate for Ombudsman activity;
  - 5. Is referred to another agency and the Ombudsman anticipates no further contact with the agency to which the referral was made; and/or,
  - 6. Is withdrawn at the resident's and/or complainant's request.

## **504.1 LOCAL LONG-TERM CARE OMBUDSMAN COMPLAINTS**

### **POLICY:**

The Ombudsman Program shall receive and review all complaints made by or on behalf of older adults who are future, present, or former residents of long-term care facilities; and that relate to actions, inactions, or decisions that may adversely affect the health, safety, welfare, or rights of residents.

### **PROCEDURE:**

- A. The Ombudsman Program shall investigate complaints received by or on behalf of any resident(s) age 60 or older of a long-term care facility.
- B. The Ombudsman Program may investigate complaints received by or on behalf of resident(s) under 60 years of age of a long-term care facility only when such action will:
  - 1. Benefit older residents of long-term care facilities generally;
  - 2. Be the only avenue of assistance available to the complainant; and/or
  - 3. Not significantly diminish the Ombudsman Program's efforts on behalf of older adults.
- C. Complaints may be:
  - 1. Received verbally or in writing;
  - 2. Generated by residents, family members, friends of residents, long-term care facility staff, Ombudsman, or by any other person; or
  - 3. Made anonymously.

- D. Upon acceptance of a complaint, the Ombudsman shall immediately determine the type of complaint and appropriate time frame for response.
1. Urgent
    - a. A complaint alleging abuse or gross neglect, in which the Ombudsman has no reason to believe that a resident is at imminent risk; or
    - b. A complaint involving the threat of immediate transfer or discharge from a facility; or
    - c. A complaint that indicates a resident(s) is at immediate risk of losing life or limb, including fire, natural disaster, medical emergency, and/or criminal activity. The Ombudsman shall call or direct the reporter to call emergency responders, facility administrator, and/or other appropriate agencies. Ombudsman response to urgent complaints shall be made within one (1) working day after receipt of the complaint.
  2. Routine
    - a. A complaint that poses no immediate danger to the health or safety of the resident, including but not limited to:
      - i. Access to or misuse of personal needs funds;
      - ii. Failure to accommodate individual preferences for care or activities;
      - iii. Autonomy, dignity, and/or respect complaints; or
      - iv. Intermittent staffing shortages or care concerns.
    - b. Ombudsman response to routine complaints shall be made within five (5) working days after receipt of the complaint.
- E. In rare instances weather, illness, or other unforeseen, serious circumstances may delay on-site investigation. Should delay occur, the Ombudsman shall consult with the CLTCO regarding an alternate resolution, and shall:
1. Implement the written coverage plan, as outlined in the Roles and Responsibilities of the Area Agencies on Aging policy, or
  2. Initiate a telephone response:
    - a. Contact with the resident and/or complainant shall be attempted;
    - b. Resolution of the complaint may be sought, in accordance with the resident's wishes, through calls to persons that may be able to resolve or mitigate the situation, such as the facility administrator or other facility staff or another agency, such as Health Facilities Division; and
  3. Complete comprehensive documentation regarding the cause(s) for delay and the response to the complaint:
    - a. In hard copy case notes, if used;
    - b. In Ombudsmanager as a journal entry titled "Delayed Response" that shall document, in detail:
      1. The date;
      2. The delaying factor(s);
      3. Whether the coverage plan or telephone response was initiated; and
      4. The steps taken to resolve the complaint either through the coverage plan or telephone response.

4. Make an on-site visit with the resident, even if the complaint was resolved by telephone.
  - a. The follow up visit shall occur immediately following the unforeseen circumstance;
  - b. Comprehensive documentation of the follow-up visit shall be completed:
    1. In hard copy case notes, if used in Ombudsmanager as a journal entry titled "Delayed Response Follow Up" that shall document, in detail:
      - i. The date of the follow up;
      - ii. Any remaining issues or additional complaints to be resolved; and
      - iii. The complainant's satisfaction with the resolution.
- F. Calls regarding situations that do not impact a resident(s) of a long-term care facility are inappropriate for Ombudsman intervention. The complainant may be referred to another agency and the call shall be documented as an Information and Referral or Consultation activity.

## **505.1 COLORADO LONG-TERM CARE OMBUDSMAN COMPLAINTS**

### **POLICY:**

Any person with a concern regarding an Ombudsman's actions or inactions shall be given an opportunity to file a complaint.

### **PROCEDURE:**

- A. When a complaint is made regarding a local Ombudsman the following steps shall be taken:
  1. Ask the complainant to put the complaint in writing to the Area Agencies on Aging (AAA) director;
  2. If the complainant is unable, due to physical or cognitive impairment, to put the complaint in writing, the complaint shall be taken orally and put into writing by the Area Agencies on Aging (AAA);
  3. The Area Agencies on Aging (AAA) shall notify the State Ombudsman immediately and provide the details of the complaint; and,
  4. If the complaint was submitted in writing, the complainant shall be notified within five (5) working days by the Area Agencies on Aging (AAA) acknowledging the receipt of the complaint and process for investigation.
- B. The Area Agencies on Aging (AAA) shall immediately investigate the complaint to determine:
  1. The validity of the complaint; and,
  2. Appropriate response.
- C. The State Ombudsman shall be informed of the outcome of the investigation and be consulted in order to develop a response and/or appropriate course of action.

- D. Within 15 working days of receipt of the complaint, the complainant will be notified, in writing, with a copy to the State and State Ombudsman of:
  - 1. A summary of the concern or issue;
  - 2. The investigation outcome;
  - 3. Action(s) taken to resolve the complaint; and,
  - 4. Information regarding the complainant's right to have the recommended Resolution reviewed by the State Ombudsman. Information shall include:
    - a. A statement that a request for review must be postmarked within fifteen working days of notification of the resolution;
    - b. Contact information for the State Ombudsman; and,
    - c. Notice that failure to meet the deadline shall indicate acceptance of the complaint resolution.
- E. If a complainant requests a review by the State Ombudsman, the State Ombudsman shall:
  - 1. Review the complaint, investigation findings, and recommended resolution;
  - 2. Advise the Ombudsman, the lead Ombudsman, and Area Agencies on Aging (AAA) of agreement and/or disagreement with the original findings;
  - 3. Consult with the Area Agencies on Aging (AAA) to develop a new resolution, if appropriate; and,
- F. Within thirty (30) days advise the complainant of:
  - 1. The investigation outcome;
  - 2. Action(s) taken to resolve the complaint; and,
  - 3. Information regarding the complainant's right to have the recommended resolution reviewed by the State Unit on Aging Director. Information shall include:
    - a. A statement that a request for review must be postmarked within fifteen working days of notification by the State Ombudsman of the resolution;
    - b. Contact information for the State Unit on Aging Director;
    - c. Notice that the decision received as a result of review by the State Unit on Aging Director shall be final; and,
    - d. Notice that failure to meet the deadline shall indicate acceptance of the complaint resolution.
- G. If a complainant requests review by the State Unit on Aging Director, the Director or designee shall:
  - 1. Review the complaint, investigation findings, and recommended resolution;
  - 2. Advise the State Ombudsman of agreement and/or disagreement with the original findings;
  - 3. Consult with the State Ombudsman to develop a new resolution, if appropriate; and,
  - 4. Advise the complainant of:
    - a. The investigation outcome;
    - b. Action(s) taken to resolve the complaint; and,
    - c. The finality of the State Unit on Aging Director's decision.



**505.1a INVESTIGATING COMPLAINTS**

**POLICY:**

The Ombudsman shall investigate all complaints determined to be appropriate for intervention by the Ombudsman Program.

**PROCEDURE:**

- A. The Ombudsman shall respond timely to complaints, as outlined in the Complaint Receipt and Review policy.
- B. The Ombudsman shall ensure that conversations with the resident and/or complainant, either in person or by telephone, are held in a private area, as much as possible.
- C. The Ombudsman shall obtain consent for intervention from the resident or the resident's legal representative.
- D. When the resident is unable to provide consent and a legal representative has not been appointed or is unavailable, the Ombudsman shall:
  - 1. Assume that the resident wishes to have her or his health, safety, welfare, and rights protected;
  - 2. Seek evidence to indicate what the resident would have desired and advocate for the resident's wishes to the extent that the resident can express them; and,
  - 3. Send a letter to the legal representative within three working days documenting his or her efforts to reach the legal representative and action taken on behalf of the resident.
  - 4. The legal representative shall not be contacted when an allegation has been made against the legal representative.
- E. If the legal representative refuses to consent to Ombudsman intervention, the Ombudsman shall:
  - 1. Review the resident's chart for documentation of the legal representative's authority and to determine the type and extent of that authority.
  - 2. If the legal authority does not grant the legal representative the authority to refuse Ombudsman services, the Ombudsman shall:
    - a. Explain to the representative and the resident the type authority granted; and,
    - b. Educate the representative about the resident's rights.
  - 3. If the representative has the legal right to refuse Ombudsman services, the Ombudsman shall contact the Lead Ombudsman for guidance as to how to proceed; and,
  - 4. The Lead Ombudsman may implement an intervention or may consult the State Ombudsman for guidance as to how to proceed.

- F. Upon receiving consent for intervention, the Ombudsman shall meet with the resident and/or the resident's legal representative to:
  - 1. Explain the role of the Ombudsman is to act in accordance with the resident's wishes;
  - 2. Identify and inform the resident of conflicts of interest, if any;
  - 3. Advise the resident of his or her rights, including the right to confidentiality;
  - 4. Assist with identification and prioritization of issues;
  - 5. Determine the outcome the resident is seeking;
  - 6. Identify any previous attempts to resolve the issue, known to the resident; and,
  - 7. Complete applicable forms.
- G. During the investigation, the Ombudsman shall:
  - 1. Interview the resident, complainant, and other appropriate persons, including other residents and facility staff. A resident's perception may be used to verify a complaint, without independent verification;
  - 2. Identify any previous attempts, unknown to the resident, to resolve a similar issue;
  - 3. Meet with the resident to re-prioritize issues if additional, more urgent, concerns are identified during the investigation;
  - 4. Contact the Lead Ombudsman and/or the State Ombudsman for technical assistance, as needed;
  - 5. Identify and review state and Federal laws and regulations and any records pertinent to the complaint;
  - 6. Document interviews, meetings, contacts, and requests for information; and,
  - 7. As appropriate, obtain permission to share information about a specific complaint(s) during the next CDPHE survey and document the approval. This allows for providing CDPHE complaint information during surveys without alerting the facility of an upcoming survey.
- H. During an investigation and/or routine facility visits, the Ombudsman shall not:
  - 1. Provide direct care;
  - 2. Provide transportation;
  - 3. Make purchases on behalf of residents or facility staff;
  - 4. Provide money, meals, gifts, gratuities, or any other consideration to residents or facility staff;
  - 5. Physically examine a resident's body; or
  - 6. Become involved in facility staff's internal disputes that do not affect resident care.
- I. The Ombudsman shall seek the resident's consent to make or have a report made to Adult Protective Services (APS) and/or law enforcement when abuse or neglect is suspected, as follows:
  - 1. When a person other than the resident is the complainant, the Ombudsman shall encourage the complainant to make a report to APS and/or law enforcement;
  - 2. When the resident is the complainant, the Ombudsman shall seek the resident and/or resident's legal representative to make a report to APS and/or law enforcement;
  - 3. If the resident or resident's legal representative does not give consent, the Ombudsman shall make follow-up visits in an attempt to encourage the resident or resident's legal representative to consent.

- J. When abuse or neglect is suspected, the Ombudsman shall follow up to ensure a facility occurrence report or complaint is made or caused to be made to Colorado Department of Public Health and Environment (CDPHE).

## **506 AREA AGENCY ON AGING (AAA) DESIGNATION AND WITHDRAWAL**

### **POLICY:**

The State Unit on Aging designates Area Agencies on Aging (AAA) to carry out the mission of the Older Americans Act (OAA) and Older Coloradans Act (OCA) at the local level.

The State Unit on Aging (SUA) may not designate any regional or local office of the State as an Area Agencies on Aging (AAA). When the State Unit on Aging designates a new Area Agency on Aging (AAA), it gives the right of first refusal to a unit of general purpose local government if such unit can meet the requirements of Section 305(c) of the Older Americans Act (OAA), and the boundaries of such a unit and the boundaries of the designated Planning and Service Area (PSA) are reasonably contiguous. The following conditions of non-compliance shall be monitored and documented by the State Unit on Aging (SUA).

### **PROCEDURE:**

- A. If necessary, after appeals have been exhausted, an Area Agency on Aging designation may be withdrawn when:
1. The Area Agency on Aging (AAA) has consistently failed to carry out the mandates of State and Federal laws and regulations as specified in the Older Americans Act (OAA) and in these policy;
  2. The Area Agencies on Aging (AAA) fails to submit an Area Plan or One-Year Funding Request;
  3. The State Unit on Aging (SUA) has disapproved the Area Plan or One-Year Funding Request and the Area Agencies on Aging (AAA) refuses to modify its plan to comply with existing mandates; or.
  4. The Area Agencies on Aging (AAA) voluntarily terminates its contract or resigns as an Area Agency on Aging.
- B. The Area Agency on Aging shall have the right to appeal the decision of the withdrawal of designation through the appeals process.

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**700 RESPONSIBILITIES OF A STATE UNIT ON AGING**

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**701a DEVELOPING POLICIES AND STANDARDS:**

**POLICY:**

The State Unit on Aging (SUA) shall develop policies and program standards governing all aspects of programs operated under Title III of the Older Americans Act.

**PROCEDURE:**

- A. Convene intra and/or interagency work groups to review program issues and to make recommendations for policy development;
- B. Submit proposed policy to the appropriate Area Agencies on Aging (AAA) Network entities for review and comment;
- C. Submit proposed policy to Department of Human Services Board for review and comment; and
- D. Issue approved policy to the Area Agencies on Aging (AAA).

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**701b RESPONSIBILITIES TO THE PROVISIONS OF OAA**

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**POLICY:**

The State Unit on Aging has responsibilities related to the provisions of the Older Americans Act (OAA).

**PROCEDURE:**

In accordance with policy, regulations, and provisions relating to responsibilities of the Department, the Department shall:

- A. Develop a State Plan on Aging as prescribed by the Administration for Community Living;
- B. Administer the State Plan on Aging;
- C. Coordinate all State activities related to the purposes of the Older Americans Act (OAA) and actively pursue resource development at all levels of the network;
- D. Serve as an effective and visible advocate for older adults;
- E. Divide the State into planning and service areas for the purpose of designating Area Agencies on Aging (AAAs);
- F. Serve as a clearinghouse for the exchange of information pertinent to older adults;
- G. Provide consultation, technical assistance, and training to Area Agencies on Aging (AAA) and Title III project staffs related to their responsibilities under Title III of the Older Americans Act (OAA);
- H. Develop policy and program standards, as appropriate, to carry out the mission of the Older Americans Act (OAA) at various levels of the Title III aging network; and
- I. Determine election regarding cash payments in lieu of agricultural commodities and products purchased by the United States Department of Agriculture.

**701c ALLOTMENT FOR PRIORITY SERVICES**

**POLICY:**

The Area Agency on Aging (Area Agencies on Aging (AAA)) ensures that an adequate proportion of its Federal allotment for Title III-B services is expended for priority services unless the Area Agencies on Aging (AAA) has been granted a waiver on this rule by the State Unit on Aging (SUA). The Title III-B priority services include:

- A. Access services:
  - 1. Transportation;
  - 2. Outreach;
  - 3. Information and assistance;
  - 4. Assisted transportation; and
  - 5. Case management.
- B. In-Home services:
  - 1. Homemaker;
  - 2. Chore;
  - 3. Personal care; and
  - 4. Home repair.
- C. Legal Assistance services:
  - 1. Legal counseling and representation;
  - 2. Community education on legal matters; and
  - 3. Information and assistance on legal matters.

**PROCEDURE:**

- A. The Area Agencies on Aging (AAA) develops its annual budget in consultation with the State Unit on Aging (SUA) and incorporates the allocations listed in (1) - (3) of this subsection into the budget.
- B. The Area Agencies on Aging (AAA) expends at least 43 percent of its Federal Title III-B funds overall for the three priority service categories. Service categories shall be spent at a minimum:
  - 1. Access services at 25%
  - 2. In-Home services at 15%
  - 3. Legal services at 3%
- C. The Area Agencies on Aging (AAA) expends at least as much Federal funds in any given fiscal year for the priority services categories as the Area Agencies on Aging (AAA) expended for the priority services in the previous fiscal year; unless the Area Agencies on Aging (AAA) allocation of these funds is reduced, in which case, the Area Agencies on Aging (AAA) priority services expenditure is reduced proportional to the Area Agencies on Aging (AAA) reduction in Title III-B funds.

**701d WAIVERS OF PRIORITY SUPPORTIVE SERVICES**

**POLICY:**

The State Unit on Aging (SUA) grants a waiver of the priority supportive services funding requirement for any category of services being furnished sufficiently to meet the need for such services in the Planning and Service Area (PSA), as demonstrated by the Area Agency on Aging (AAA).

**PROCEDURE:**

The Area Agency on Aging (AAA) conducts a public hearing regarding its intent to request a waiver on funding a priority supportive services category. Regarding the public hearing, the Area Agency on Aging (AAA):

- A. Notifies all interested parties in the area of the nature, date, time and location of the public hearing;
- B. Furnishes the interested parties an opportunity to testify; and
- C. Prepares a record of the public hearing which may include:
  1. Names and addresses of persons in attendance ;
  2. Testimony;
  3. Changes made to the Area Agency on Aging (AAA) waiver request secondary to testimony; and
  4. Date, time, location, and duration of hearing.
- D. The Area Agency on Aging (AAA) submits its written request for a waiver to the State Unit on Aging (SUA). The waiver request includes:
  1. Categories of services for which the waiver is requested;
  2. Number of persons currently receiving the service in the PSA;
  3. Units of service currently being provided in the PSA; and
  4. Record of the public hearing as outlined in (1) of this subsection.
- E. The State Unit on Aging (SUA) reviews the waiver request. If the State Unit on Aging (SUA) determines that a waiver should be granted, the State Unit on Aging (SUA):
  1. Publishes the intention to grant such a waiver, together with the justification for the waiver, at least 30 days prior to the effective date of the decision to grant the waiver; and
  2. Provides an opportunity for a hearing to any affected individual or service provider from the PSA.
- F. The State Unit on Aging (SUA) makes a final determination regarding the waiver request. If the State Unit on Aging (SUA) grants the waiver request, the State Unit on Aging (SUA) provides to the Commissioner a:
  1. Report regarding such waiver that includes the Area Agencies on Aging (AAA) waiver request document; and
  2. Copy of the record of any hearing conducted by the State Unit on Aging (SUA) at the request of an affected individual or service provider.

## **703.0 COMPLIANCE AND MONITORING**

### **POLICY:**

The State Unit on Aging (SUA) has responsibility for carrying out activities under the State Plan on Aging.

### **PROCEDURE:**

The State Unit on Aging (SUA) carries out its responsibilities under the State Plan on Aging by:

- A. Developing and monitoring a management plan for the State Plan on Aging which includes:
  1. Overall goals of the plan;
  2. Measurable objectives outline what is done to reach the goal;
  3. Action steps describe how each objective is accomplished, such as specific tasks;
  4. Staff assignments of responsibility for each objective; and
  5. A format for tracking accomplishment of action steps and objectives;
- B. Submitting all required program and fiscal reports related to State Plan activities to the Administration for Community Living regional office;
- C. Developing and updating a statewide policy and procedures manual for the administration of Title III Older Americans Act and the Older Coloradans Act;
- D. Developing a format for Area Plans and providing technical assistance for the plans to Area Agencies on Aging (AAA);
- E. Reviewing and approving all Area Plans;
- F. Monitoring Area Agencies on Aging (AAA) program and fiscal reports; and
- G. Providing technical assistance to the Area Agencies on Aging (AAA) as appropriate.

## **704.0 COORDINATION AND RESOURCE DEVELOPMENT**

### **POLICY:**

The State Unit on Aging (SUA) shall carry out activities, which ensure maximum availability of services to Colorado's older adults and caregivers.

### **PROCEDURE:**

The State Unit on Aging (SUA) ensures maximum availability of services to Colorado's older adults and caregivers by the following coordination and resource development activities:

- A. Identification of new and/or enhanced program services that could impact older adults in the State of Colorado;
- B. Participating in organizations developed for purposes of information sharing, joint planning and service delivery;

- C. Establishing public/private coalitions to address the growing needs of older adults;
- D. Extending opportunities for participation in State Unit on Aging (SUA) sponsored training to State health and social service agencies who serve and/or advocate for older adults;
- E. Extending opportunities for participation in State Unit on Aging (SUA) sponsored training to businesses and other private entities; and
- F. Participating in training sponsored by other State agencies / organizations or businesses that improve the skills of State Unit on Aging (SUA) staff and/or otherwise further the interests/needs of Colorado's older adults.

## **705.0 ADVOCACY**

### **POLICY:**

The State Unit on Aging (SUA) shall serve as a visible and effective advocate for Older Coloradans.

### **PROCEDURE:**

The State Unit on Aging (SUA) shall:

- A. Review, monitor, evaluate and comment on Federal, State and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older adults and recommending any changes which the State Unit on Aging (SUA) considers to be appropriate;
- B. provide technical assistance to agencies, organizations, associations, or individuals representing older adults; and review and comment, upon request, on applications to State and Federal agencies for assistance relating to meeting the needs of older adults.