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**Rules of**  
**Department of Health**  
**and Senior Services**  
**Division 15—Division of Senior Services**  
**Chapter 4—Older Americans Act**

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**Title 19—DEPARTMENT OF  
HEALTH AND SENIOR SERVICES  
Division 15—Division of Senior Services  
Chapter 4—Older Americans Act**

**19 CSR 15-4.010 Definition of Terms**

*PURPOSE: This rule defines terms used in this chapter.*

- (1) Any definitions described in 13 CSR 15-7.005 are applicable to 13 CSR 15-4 as well as the terms defined in this rule.
- (2) Act—The Older Americans Act of 1965, as amended through December 31, 1992.
- (3) Acquiring—Obtaining ownership of an existing facility in fee simple or by a lease of ten (10) or more years for use as a multipurpose senior center.
- (4) Administration on Aging (AoA)—The federal agency within the Department of Health and Human Services which is charged with the responsibility of administering the provisions of the Act, with the exception of the Senior Community Service Employment Program (SCSEP).
- (5) Administrative action—Any action or decision made by an owner, employee or agent of a long-term care (LTC) facility, or by an area agency or the division, which affects the provision of services to service recipients.
- (6) Adequate proportion—An amount of supportive services funds determined by the state agency to be sufficient to meet the need for a given priority service in a particular planning and service area.
- (7) Adult day care—A program designed to provide care and supervision to meet the needs of functionally impaired adults for periods of less than twenty-four (24) hours but more than two (2) hours per day in a place other than the adult's own home.
- (8) Advisory council—A council of older individuals (including minority individuals), representatives of older individuals and local elected officials who advise the Area Agency on Aging on matters pertaining to development and administration of the area plan and on operations conducted under the plan.
- (9) Advocacy—The act of speaking or writing in support of older persons or programs for older persons.
- (10) Altering or renovating—Making modifications to an existing facility which are necessary for its effective use as a multipurpose senior center, including restoration, repair, expansion and all related physical improvements.
- (11) Area Agency on Aging (AAA)—The agency designated by the division in a planning and service area to develop and administer a plan and administer available funds for a comprehensive and coordinated system of services for the elderly and persons with disabilities who require similar services.
- (12) Area Agency on Aging governing body—The policy-making board or oversight body which directs the actions of the AAA under local, state and federal laws and regulations.
- (13) Area plan—The document submitted by an area agency to the division for approval in order to receive subgrants or contracts.
- (14) Assessment—The mechanism for determining need and eligibility for programs and services.
- (15) Assistant secretary—The assistant secretary of the Department of Health and Human Services.
- (16) Collocation of services—Coordination and scheduling representatives of providers and other agencies and organizations to assure that, in addition to a center's usual services, all available services benefiting the elderly are accessible and convenient for recipients at the community focal point.
- (17) Confidentiality—Procedures which assure the anonymity of the individual service recipient.
- (18) Construction—The building of a new multipurpose senior center including the costs of land, acquisition and architectural engineering fees.
- (19) Continuum of care—A full range of economic, physical, psychological and social support programs and services necessary to maintain or restore elderly persons to optimal functioning.
- (20) Department—Missouri Department of Social Services.
- (21) Direct service—Any activity performed to provide services directly to an individual older person by the staff of a service provider or an area agency.
- (22) Disaster preparedness plan—A regional or statewide plan to organize local efforts to assist the elderly in the event of a disaster situation which affects large numbers of people.
- (23) Division—The Division of Aging within the Department of Social Services, the designated state unit on aging.
- (24) Education and training services—Supportive services designed to broaden the knowledge and skills of older persons, their caregivers, advocates, and the professionals serving them to cope more effectively with their economic, health and personal needs.
- (25) Focal point—A facility established to encourage the maximum collocation and coordination of services for older individuals.
- (26) Greatest economic need—The need resulting from an income level at or below the poverty line.
- (27) Greatest social need—The need caused by noneconomic factors, including physical and mental disabilities, language barriers, and cultural, social, or geographic isolation, including isolation caused by racial or ethnic status, which restrict the ability of an individual to perform normal daily tasks and/or threatens the capacity of the individual to live independently.
- (28) Health screening services—Services in which the service recipient's general health is reviewed, health education is provided, simple tests are provided or referral is made, if indicated.
- (29) Indirect costs—Those costs allocated to AAA grant awards based on a rate approved by the organization's cognizant federal agency.
- (30) Information and assistance source—A location where any public or private agency or organization—
  - (A) Maintains current information with respect to the opportunities and services available to older individuals;
  - (B) Employs, where feasible, a specially trained staff to assess the needs and capacities of older individuals, to inform older individuals of the opportunities and services which are available and to assist those individuals with economic or social needs; and
  - (C) Utilizes, where feasible, electronic and/or computer database information sources in the provision of information and assistance services.
- (31) Legal assistance—Legal advice and representation by an attorney (including, to the



- extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney). Legal assistance includes counseling or representation by a nonlawyer where permitted by law but does not include community education.
- (32) Local government—A political subdivision of the state, whose authority is general and not limited to only one (1) function or combination of related functions.
- (33) Local match—See match.
- (34) Long-term care (LTC) facility—Any facility as defined in section 198.006, RSMo.
- (35) Match—The equivalent cash value of third-party in-kind contributions or cash resources representing that portion of the costs of a grant-supported project or program not borne by the federal or state government.
- (36) Medicaid—Financial assistance for medical services provided under section 208.151, RSMo, in accordance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301).
- (37) Monitoring—The review and evaluation of all AAA activities by the division, or of contractor activities by the AAA.
- (38) Net cost—The total allowable costs, less grant-related income, for the purpose of meeting match requirements.
- (39) Not-for-profit—An agency, institution or organization which is owned and operated by one (1) or more corporations or associations with no part of the net earnings benefiting any private shareholder or individual.
- (40) Ombudsman—An individual assigned by the division or the area agency to investigate and resolve complaints made by or on behalf of older individuals who are residents of LTC facilities relating to administrative action which may adversely affect the health, safety, welfare and rights of these residents.
- (41) Person(s) with disabilities—Anyone who has a mental or physical impairment which substantially limits one or more of their major life activities; or has a record of such impairment; or is regarded as having such an impairment.
- (42) Planning and service area (PSA)—A geographic area of the state that is designated by the division for purposes of planning, developing, delivering, monitoring and administering services to older persons.
- (43) Policy—A principle established by a government, organization or an individual that guides decision-making and actions.
- (44) Preprint—The division's format for development and submission of the area agency plan or plan amendment.
- (45) Priority services—Those service categories of access, in-home and legal assistance.
- (46) Procedure—The established sequence of actions to be followed to accomplish a task or implement a policy.
- (47) Program—Any service funded under the approved area plan.
- (48) Program costs—Costs incurred by the area agency in managing and delivering a service.
- (49) Program evaluation—The review and determination of program effectiveness in meeting recipient needs.
- (50) Program monitoring—The review and determination of progress in meeting program objectives.
- (51) Protective services—Services provided by the division in response to the need for protection from harm or neglect to elderly persons and persons with disabilities under sections 660.250—660.295, RSMo.
- (52) Public hearing—An open hearing which provides an opportunity for older persons, the general public, officials of general purpose, local government and other interested parties to comment on a proposal.
- (53) Public match—See match.
- (54) Regional office—Department of Health and Human Services, Administration on Aging (AoA) office located in Kansas City, Missouri.
- (55) Renovating—See altering.
- (56) Request for proposal (RFP)—A formal invitation to prospective contractors to submit bids for procurement of a defined set of activities, services or goods.
- (57) Request for qualifications (RFQ)—A type of RFP which is a formal invitation to prospective providers to submit information suitable for determining eligibility as a qualified provider.
- (58) Rural areas—Any town or city with a population of twenty thousand (20,000) or less.
- (59) SMSA (standard metropolitan statistical area)—One (1) or more central counties with an urbanized area of at least fifty thousand (50,000) population.
- (60) SSBG—Social Services Block Grant.
- (61) Staff hour—An hour of staff time spent on any activity related to the service identified.
- (62) Standards—The minimum requirements to be met for the operation of programs and the delivery of services.
- (63) State plan—The document containing the division's priorities, goals, policy statements and objectives for enabling older persons to fulfill their potential for independent functioning.
- (64) Structural change—Any change to the loadbearing members of a building.
- (65) Target population—Individuals aged sixty (60) or over, with the greatest social and economic need, especially low income minority.
- (66) Technical assistance—Specific guidance and expertise provided by the division staff to the area agency or by the area agency staff to the service provider staff.
- (67) Transportation service—A vehicular service which facilitates access to other services.
- (68) Third-party in-kind contributions—Property or services which benefit grant-supported projects or programs and which, under the grant or subgrant, are contributed by nonfederal third parties without charge to the grantee, the subgrantee or a cost-type contractor.
- (69) Unit of general purpose local government—See local government.
- (70) Urbanized area—An incorporated place and adjacent densely settled surrounding area that together have a minimum population of fifty thousand (50,000).
- (71) USDA—United States Department of Agriculture.

(72) Waiver—The granting of a deviation from portions of service standards, prohibition of direct service delivery or any other state regulation.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.005 and 13 CSR 15-4.010. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed June 3, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 14, 1991, effective March 9, 1992. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.010, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

#### 19 CSR 15-4.020 Administration of the Older Americans Act

*PURPOSE: This rule describes the organizational structure in the state for administration of Title III of the Older Americans Act of 1965.*

*Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by law.*

(1) The Division of Aging, within the Department of Social Services, is the single organizational unit that is delegated all authority and responsibility to administer programs for persons aged sixty (60) and over under Title III of the Older Americans Act of 1965 and in accordance with all applicable federal and state laws and regulations.

(2) The division has designated ten (10) distinct planning and service areas (PSAs) within the state with one (1) Area Agency on Aging (AAA) in each PSA. These agencies are: Southwest Missouri Office on Aging (SMOA) (including Dallas, Polk, Dade, Lawrence, Greene, Webster, Wright, Texas, Shannon, Oregon, Howell, Douglas, Christian, Barry, Stone, Taney and Ozark counties); Southeast Missouri AAA (SEMO) (including Cape Girardeau, Ste. Genevieve, Perry, St. Francois, Iron, Madison, Reynolds, Wayne, Bollinger, Scott, Mississippi, Stoddard, Butler, Ripley, Carter, New

Madrid, Pemiscot and Dunklin counties); District III AAA (including Chariton, Carroll, Saline, Lafayette, Johnson, Pettis, Henry, Benton, Bates, St. Clair, Hickory, Vernon and Cedar counties); Northwest Missouri AAA (NWAAA) (including Atchison, Daviess, Nodaway, Worth, Harrison, Mercer, Putnam, Sullivan, Grundy, Gentry, Holt, Andrew, DeKalb, Buchanan, Clinton, Caldwell, Livingston and Linn counties); Northeast Missouri AAA (NEAAA) (including Adair, Schuyler, Scotland, Clark, Knox, Lewis, Macon, Shelby, Marion, Randolph, Monroe, Ralls, Pike, Lincoln, Montgomery and Warren counties); Central Missouri AAA (CMAAA) (including Audrain, Boone, Callaway, Cooper, Howard, Miller, Moniteau, Cole, Osage, Morgan, Gasconade, Crawford, Washington, Dent, Phelps, Maries, Pulaski, Laclede and Camden counties); Mid-America Regional Council, Department of Aging Services (including Ray, Clay, Platte, Jackson and Cass counties); Mid-East AAA (MEAAA) (including St. Louis, St. Charles, Franklin and Jefferson counties); St. Louis AAA (SLAAA) (St. Louis City); and Region X AAA (including Barton, Jasper, Newton and McDonald counties).

(3) Any public or nonprofit private agency or office or agency of a unit of general purpose local government, regional planning area or metropolitan area which is designated to function only for the purpose of serving as an area agency may apply to the division to be designated as a PSA. The division will consider the following factors in making a determination:

(A) A population of one hundred thousand (100,000) or more;

(B) The numbers of persons aged sixty (60) or older, including those with the greatest economic and social need;

(C) The views of public officials representing units of general purpose local governments;

(D) The incidence of need for services and the resources available to administer services to meet those needs; and

(E) The boundaries of units of general purpose local government, regional planning areas, existing economic development districts and areas within the state established for planning and administering human services, including the area-wide comprehensive planning and development districts or regions established pursuant to the state and local review system which replaces that of the Office of Management and Budget Circular A-95, Part IV. The division will include all portions of an economic development district within a single PSA.

(4) If the division denies an application for designation as a PSA, the applicant shall receive written notification which shall include:

(A) Explanation of the reasons for denial of the application;

(B) Provision of the opportunity for the applicant to review any pertinent documents upon which the determination was based; and

(C) Notification of the right to request a formal hearing on the determination.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule previously filed as 13 CSR 15-4.020. Original rule filed Jan. 6, 1986, effective April 30, 1986. Emergency amendment filed Jan. 5, 1989, effective Jan. 16, 1989, expired April 24, 1989. Amended: Filed Jan. 5, 1989, effective March 25, 1989. Moved to 19 CSR 15-4.020, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

#### 19 CSR 15-4.030 Governor's Advisory Council on Aging

*PURPOSE: This rule designates the Governor's Advisory Council on Aging as an advisory group to the Division of Aging and establishes bylaws under which it will operate.*

*Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by law.*

(1) The Governor's Advisory Council on Aging advises and assists the division to—

(A) Develop and implement a state plan;

(B) Conduct public hearings;

(C) Represent the interests of older persons; and

(D) Review and comment on other state plans, budgets and policies which affect older persons.

(2) The Governor's Advisory Council on Aging is composed of twenty-seven (27) members with more than fifty percent (50%) of the persons appointed to the council sixty (60) years of age or older. Membership includes participants in aging services and low income minority persons.

(3) The bylaws of the Governor’s Advisory Council are as follows:

Governor’s Advisory Council on Aging of the State of Missouri Bylaws

(A) Name and Authorization.

1. The name of this organization is the Governor’s Advisory Council on Aging for Missouri, also referred to as the council.

2. The authority for the creation of the council was derived from the rules governing the federal Older Americans Act of 1965. The Governor’s Advisory Council on Aging was formed in 1973;

(B) Purpose. The purpose is to—

1. Advise the governor on state government’s impact on the independence and dignity of Missouri’s elders;

2. Advise the directors of the Department of Social Services and the Division of Aging as to the administration of these programs that impact Missourians including Older Americans Act programs, Social Services Block Grant (SSBG) programs and long-term care functions;

3. Encourage the coordination of all the state’s agencies, both public and private, as they provide services to the elderly by—

- A. Encouraging appropriate services;
- B. Discouraging duplication; and
- C. Recommending new programs;

and

4. Advise the governor on the state’s budget for aging seniors;

(C) Functions. The functions which the council performs in implementing the purpose are to—

1. Investigate and advise about the needs, concerns and potential of Missouri’s elderly population;

2. Review and advise about the general direction of the Missouri Division of Aging and other statewide aging services;

3. Convene technical groups to study topical areas (that is transportation, health, housing, etc.);

4. Provide direct access to the system for the elderly;

5. Perform as a state level interagency council on aging;

6. Advise and impact national aging related organizations and agencies; and

7. Promote public awareness activities to enhance the independence and dignity of Missouri’s elderly;

(D) Membership. The council will consist of twenty-seven (27) members appointed by the governor;

(E) Term of Membership.

1. The term of membership will be for three (3) years beginning October 1, unless

an appointment is made to fill a vacancy on the council. When a term is completed, the term shall extend until a successor is appointed and duly qualified.

2. No member shall serve for more than two (2) consecutive three (3)-year terms.

3. Members who are absent for two (2) consecutive meetings will be contacted by the chairperson of the council to review their lack of participation and inquire whether the members wish to continue to serve on the council. If the member wishes no longer to serve, the chairperson will relate this information to the governor;

(F) Officers. The officers of the council will be one (1) chairperson, a first vice-chairperson and a second vice-chairperson who will be elected by the council annually and shall serve no more than two (2) consecutive one (1)-year terms in the same office;

(G) Committees, Special Committees, Subcommittees and Ad Hoc Committees.

1. The executive committee shall be composed of the chairperson, first vice-chairperson, second vice-chairperson and the past chairman as an honorary member. The executive committee shall have all powers of the council between council meetings. The executive committee must immediately inform the council about any actions which officially communicate to the governor’s office or the directors of the Department of Social Services and the Division of Aging. The executive committee must inform the council at its next meeting about actions which create or appoint special committees, subcommittees, ad hoc committees or other special appointments.

2. Standing committees will be created by the council. These committee(s) shall have the name(s), powers, duties and existence as may be determined from time-to-time by action of the council.

3. The chairperson of the council will appoint special committees, subcommittees and ad hoc committees as deemed necessary. Duration of these committees will not exceed the term of office of the chairperson of the council.

4. The chairperson and vice-chairperson of the committee, special committee, subcommittee or ad hoc committee will be appointed by the chairperson of the council. The committee, special committee, subcommittee or ad hoc committee chairperson shall appoint the membership. Council members will be assigned to at least one (1) committee but assigned to no more than two (2) committees. Membership will not be limited to members of the council. Noncouncil members may serve on no more than one (1) committee, special committee, subcommittee or

ad hoc committee;

(H) Meetings.

1. There will be a minimum of four (4) meetings, one (1) of which will be the annual meeting of the council.

2. Place and time of meetings will be determined by the council.

3. Special meetings may be called at any time by the chairperson upon ten (10) days’ notice to the members of the council. The purpose of these meetings must be stated at the time the meeting is called.

4. Special meetings will be called by the chairperson when petitioned by twelve (12) members of the council within ten (10) days’ notice prior to the meeting. The purpose of these meetings must be stated at the time the meeting is called by the chairperson.

5. A quorum will be met when twelve (12) members of the council are present for voting;

(I) Reports. Annual reports of each committee’s activities and recommendations shall be submitted to the council chairperson at least thirty (30) days prior to the annual meeting. The annual council report to the governor of the council’s activities and recommendations shall be presented by the council chairperson and approved by the council at the annual meeting. Other reports will be made as deemed necessary by the council to the governor, director of the Department of Social Services and the director of the Division of Aging;

(J) Staffing. Staff for the council and its committees will be provided or procured, or both, by the Division of Aging;

(K) Parliamentary Authority. *Robert’s Rules of Order*, revised, shall be the parliamentary authority governing the meetings of the council and all committees subject to state law and these bylaws; and

(L) Amendments. These bylaws may be amended at any regular meeting of the council by two-thirds (2/3) of the members present and voting; and provided that notice of the proposed amendments has been made known to the members, with prior notice given at the previous meeting or by letter to the council members thirty (30) days prior to the meeting at which they will be discussed. Amendments so approved will be submitted to the governor, director of the Department of Social Services and the director of the Division of Aging for review and comments prior to implementation.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.030 and 13 CSR 15-4.030. Original rule filed Jan. 6, 1986, effective April 30, 1986.*

Moved to 19 CSR 15-4.030, effective Aug. 28, 2001.

\*Original authority: 660.050, RSMo 1984, amended 1988.

### 19 CSR 15-4.040 State Plan

**PURPOSE:** This rule describes the process where the division develops the state plan.

(1) The assessment and planning process used by the division to develop a comprehensive and integrated plan for delivery of services statewide includes, but is not limited to, consulting with area agencies, the Governor's Advisory Council, division staff and other agencies and organizations to—

- (A) Assess the needs of older persons in the state;
- (B) Establish statewide priorities;
- (C) Review procedures with regard to the development and implementation of the state plan; and
- (D) Ensure that the objectives established in the state plan and the area agencies area plans are consistent.

(2) The state plan is developed to cover a period of up to four (4) years, is reviewed by the governor and submitted to the assistant secretary. It is reviewed annually and updated as needed reflecting input and advice from older persons throughout the state and from the AAAs.

(3) The state plan is available for review in the office of the director of the Division of Aging.

**AUTHORITY:** section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.035 and 13 CSR 15-4.040. Original rule filed Jan. 6, 1986, effective April 30, 1986. Emergency amendment filed Oct. 16, 1991, effective Oct. 26, 1991, expired Feb. 13, 1992. Amended: Filed Oct. 16, 1991, effective Feb. 6, 1992. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.040, effective Aug. 28, 2001.

\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.

### 19 CSR 15-4.050 Funding Formula and Fiscal Management

**PURPOSE:** This rule describes the division's fiscal management responsibilities under Title III of the Older Americans Act.

(1) The division in consultation with all Area Agencies on Aging (AAAs) shall develop and use an intrastate funding formula for the allocation of funds received under Title III of the Older Americans Act (the Act) with the exception of Title III funds allocated for Disease Prevention and Health Promotion Services and Title III-B funds utilized for outreach demonstration projects and the ombudsman program.

(2) The intrastate funding formula for the state of Missouri shall be established by the proportion of the population in each planning and service area (PSA) as calculated by using the following four (4) factors:

- (A) All individuals in each PSA sixty (60) years of age or older;
- (B) All individuals in each PSA sixty (60) years of age or older who are low income;
- (C) All individuals in each PSA who are sixty (60) years of age or older who are low-income minorities;
- (D) All individuals in each PSA who are sixty (60) years of age or older who are in the greatest social need. The basis for this factor shall be determined by the number of individuals who are of the appropriate age—

- 1. With a physical or mental disability;
- 2. With a language barrier;
- 3. Who are geographically isolated; or
- 4. Who are culturally or socially isolated;

(E) Data used to compute the area agency on aging allotment percentages will be derived from the most recent decennial Census of Population and Housing, for the following categories:

- 1. Population sixty (60) years of age and over;
- 2. Population sixty (60) years of age and over, below poverty;
- 3. Population sixty (60) years of age and over, minority below poverty;
- 4. Population sixty (60) years of age and over, rural or geographically isolated; and
- 5. Population sixty (60) years of age and over, minority;

(F) Data from the most recent decennial Census of Population and Housing, will be used for the following categories:

- 1. Population sixty (60) years of age and over with a disability;
- 2. Population sixty (60) years of age and over with limited English.

(3) The funds allocated to each area agency shall include an identical base amount to each AAA in the state and an amount allotted using the factors in section (2).

(4) The division shall use the data from the

most recent decennial census in computing allotment percentages. In addition, the division shall revise allotment percentages, at least, biennially in accordance with population estimates made available through the Missouri Office of Administration.

(5) The division in consultation with all AAAs shall develop and use an intrastate funding formula for the allocation of Title III funds for Disease Prevention and Health Promotion Services.

(6) The intrastate funding formula for the allocation of Title III funds for Disease Prevention and Health Promotion Services shall be established by the proportion of the sum of the factors for each PSA to the total of the factors for the state as calculated by using the following three (3) factors:

(A) Average score of the sum of the following four (4) social and economic need indicators per region:

1. The proportion of the individuals who are age sixty (60) and over who are low-income to the total population of individuals who are age sixty (60) and over within each county or the city of St. Louis. A score was assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00%—6.00% = 1
- B. 6.01%—12.00% = 2
- C. 12.01%—18.00% = 3
- D. 18.01%—24.00% = 4
- E. 24.01%—100.00% = 5

2. The proportion of the individuals who are age sixty (60) and over who are receiving Medicaid assistance to the total population of individuals who are age sixty (60) and over within each county or the city of St. Louis. A score was assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00%—6.00% = 1
- B. 6.01%—12.00% = 2
- C. 12.01%—18.00% = 3
- D. 18.01%—24.00% = 4
- E. 24.01%—100.00% = 5

3. The proportion of the individuals who are age sixty (60) and over who are minority to the total population of individuals who are age sixty (60) and over within each county or the city of St. Louis. A score was assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00%—1.00% = 1
- B. 1.01%—5.00% = 2
- C. 5.01%—8.00% = 3
- D. 8.01%—12.00% = 4
- E. 12.01%—100.00% = 5

4. The population density expressed as individuals per square mile within each county or the city of St. Louis. A score was

assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00—10.00 persons per square mile = 5
- B. 10.01—15.00 persons per square mile = 4
- C. 15.01—25.00 persons per square mile = 3
- D. 25.01—40.00 persons per square mile = 2
- E. 40.01—100.00 persons per square mile = 1

(B) The proportion of individuals who are age sixty (60) and over within each PSA to the total population of individuals who are age sixty (60) and over within the state. This factor is computed by dividing the population sixty (60) and over per PSA by the total population sixty (60) and over within the state; the quotient is then multiplied by one hundred (100);

(C) The proportion of individuals who are age sixty (60) and over residing in a designated primary care health professional shortage area (HPSA), as designated by the United States Public Health Service, Office of Shortage Designation, within each PSA to the total population of individuals who are age sixty (60) and over residing in an HPSA within the state. This factor is computed by dividing the population sixty (60) and over residing in an HPSA per PSA by the total population sixty (60) and over residing in an HPSA within the state; the quotient is then multiplied by one hundred (100);

(D) Data used for the following categories will be derived from the most recent decennial Census for use in allocating funds.

- 1. Population sixty (60) and over;
- 2. Population sixty (60) and over minority;

(E) Data used for the population sixty (60) and over below poverty will be derived from the most recent decennial Census of Population and Housing;

(F) Data used for the population per square mile will be derived from the most recent decennial Census of Population and Housing Unit Counts;

(G) Data from the Missouri Department of Social Services, Division of Medical Services will be used for population sixty (60) and over receiving Medicaid assistance;

(H) Data from the Department of Health and Senior Services will be used for the population sixty (60) and over residing in HPSAs.

(7) Area agencies on aging shall have available not more than ten percent (10%) of the total federal Older Americans Act Title III Part B, Part C-1, Part C-2, and Title III Dis-

ease Prevention and Health Promotion Services funds for paying such percentage, but not more than seventy-five percent (75%) of the cost of administration of the area plan. The ten percent (10%) administration allowance shall only be taken from amounts made available to the area agencies on aging from federal Older Americans Act Title III Part B, Part C-1, and Part C-2.

*AUTHORITY section 660.050, RSMo Supp. 2002.\* This rule was previously filed as 13 CSR 15-6.195 and 13 CSR 15-4.050. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Emergency amendment filed June 16, 1992, effective July 1, 1992, expired Oct. 28, 1992. Amended: Filed April 1, 1992, effective Sept. 6, 1992. Emergency amendment filed April 14, 1994, effective April 24, 1994, expired Aug. 21, 1994. Emergency amendment filed April 27, 1994, effective May 13, 1994, expired Sept. 9, 1994. Amended: Filed April 14, 1994, effective Sept. 30, 1994. Emergency amendment filed Aug. 1, 1994, effective Aug. 22, 1994, expired Dec. 19, 1994. Emergency amendment filed Aug. 1, 1994, effective Sept. 11, 1994, expired Jan. 8, 1995. Emergency amendment filed Dec. 19, 1994, effective Jan. 8, 1995, expired May 7, 1995. Emergency amendment filed April 26, 1995, effective May 9, 1995, expired Sept. 5, 1995. Amended: Filed Dec. 20, 1994, effective June 30, 1995. Emergency amendment filed June 22, 1995, effective July 1, 1995, expired Oct. 28, 1995. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Emergency amendment filed Oct. 19, 1995, effective Oct. 29, 1995, expired April 25, 1996. Amended: Filed Dec. 28, 1995, effective June 30, 1996. Amended: Filed Feb. 20, 1997, effective Aug. 30, 1997. Amended: Filed March 16, 1998, effective Sept. 30, 1998. Amended: Filed Feb. 11, 1999, effective Aug. 30, 1999. Amended: Filed Feb. 2, 2000, effective Aug. 30, 2000. Amended: Filed Jan. 16, 2001, effective July 30, 2001. Moved to 19 CSR 15-4.050, effective Aug. 28, 2001. Amended: Filed Feb. 15, 2002, effective Aug. 30, 2002. Amended: Filed March 31, 2003, effective Sept. 30, 2003.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995, 2001.*

**19 CSR 15-4.060 State Long-Term Care Ombudsman Program**

*PURPOSE: This rule describes how the division operates the statewide long-term care ombudsman program.*

(1) The statewide long-term care (LTC) ombudsman program—

(A) Investigates and resolves complaints made by or for older persons in LTC facilities about administrative actions that may adversely affect their health, safety, welfare or rights;

(B) Monitors the development and implementation of federal, state and local laws, regulations and policies that relate to LTC facilities in the state;

(C) Provides information to public agencies about the problems of older individuals in LTC facilities;

(D) Trains staff and volunteers and promotes and assists in the development of citizen organizations to participate in the ombudsman program;

(E) Implements additional activities, as appropriate, that enhance the LTC ombudsman program and are consistent with federal and state requirements and guidelines;

(F) Develops procedures to assure that representatives of the LTC ombudsman program are given appropriate access to LTC facilities, appropriate private access to residents and appropriate access to the residents' personal and medical records; and

(G) Establishes a statewide uniform reporting system to collect and analyze complaints about conditions in LTC facilities for the purpose of identifying problems. Information developed is submitted to the division's licensure and certification section and follow-up is coordinated to resolve significant problems. Reports on the information gathered and analyzed through the statewide uniform reporting system are submitted to the commissioner as required.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.065 and 13 CSR 15-4.060. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.060, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

**19 CSR 15-4.070 Designation of Area Agencies on Aging**

*PURPOSE: This rule describes the process used to designate an Area Agency on Aging, what types of agencies may be eligible and the criteria used by the division for designation.*

(1) No more than one (1) area agency will be designated within a planning and service area (PSA). If the division withdraws designation of one (1) of the existing area agencies in



accordance with section 660.050.4, RSMo prior to designating a new area agency, the division shall—

(A) Consider the views of the unit(s) of general purpose government within the PSA; and

(B) Determine through an on-site assessment that the potential area agency has the capacity to perform all of the required functions.

(2) Any one (1) of the following types of agencies may be designated as an area agency for a PSA:

(A) Any office or agency representing a unit of general purpose local government that is proposed by the chief elected official of the unit;

(B) Any office or agency proposed by the chief elected officials representing a combination of units of general purpose local government; or

(C) Any other public or private nonprofit agency, except any regional or local agency of the state.

(3) Whenever a new Area Agency on Aging is designated after the date of enactment of the Older Americans Act amendments of 1984, the division will give the right of first refusal to a unit of general purpose local government if—

(A) The unit can meet the requirements of subsection (4)(C); and

(B) The boundaries of that unit and the boundaries of the area are reasonably contiguous.

(4) The division considers applicants eligible for designation as an area agency that meet the following criteria:

(A) The applicant has prepared and submitted to the division a comprehensive area plan. The area plan shall be completed in accordance with the uniform plan format developed by the division;

(B) If the applicant has responsibilities beyond programs for the elderly, it shall agree to create a single organizational unit with delegated authority whose principal function shall be the effective development and implementation of an area plan;

(C) The applicant has demonstrated the capacity to assess the needs of the elderly and to plan, administer, monitor and evaluate services for the entire PSA. The applicant shall be able to work effectively with all public and private social, economic, ethnic, political and geographic elements of the PSA it seeks to serve;

(D) The applicant has documented support of local governments and any local aging

councils. The applicant, if a private not-for-profit agency, has documented that it is incorporated by the Missouri secretary of state and maintains a current certificate of good standing; and

(E) The applicant, if a private not-for-profit agency, has documented that it has applied to the Internal Revenue Service and received the appropriate tax status designation.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.045 and 13 CSR 15-4.070. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.070, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

#### 19 CSR 15-4.080 Withdrawal of Designation

*PURPOSE: This rule identifies the circumstances under which the division may withdraw designation of an area agency, notify the assistant secretary of the action and provide for continuity of services.*

(1) The division may withdraw an area agency's designation if—

(A) The area agency does not comply with requirements of the federal and state laws or rules;

(B) State or federal funds are not being expended for the purposes for which they were intended; and

(C) Elderly persons are not receiving appropriate services within available resources.

(2) Withdrawal of designation of an area agency shall not occur without consultation with the director of the Area Agency on Aging and the area agency board and an opportunity has been granted for a formal hearing and review by the governor.

(3) Should the division withdraw designation of an area agency, the division will notify the assistant secretary in writing of its action, provide a plan for the continuity of services in the affected planning and service area (PSA) and designate a new area agency in the PSA in a timely manner.

(4) If necessary to ensure a continuity of services in a PSA, the division, for a period of up to one hundred eighty (180) calendar days, may perform the responsibilities of the area agency or assign the responsibility of the area agency to another agency in the PSA. The division may request an extension of an addi-

tional one hundred eighty (180) days from the assistant secretary if the need for the extension can be demonstrated.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.050 and 13 CSR 15-4.080. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.080, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

#### 19 CSR 15-4.090 Appeal to the Assistant Secretary

*PURPOSE: This rule describes the action that the division takes when an application for designation as a planning and service area has been denied and the denial has been upheld in a division hearing.*

(1) Any applicant for designation as a planning and service area (PSA) whose application has been denied by the division and who has requested and received a formal hearing at the state level shall be notified in writing of the right to appeal to the assistant secretary, Department of Health and Human Services. Written notification shall advise the applicant that a written appeal may be filed with the assistant secretary within thirty (30) calendar days of receipt of notification of the hearing decision.

(2) Upon request by the assistant secretary, the division shall submit the following information regarding an applicant who has filed an appeal:

(A) A copy of the applicant's application for designation as a PSA;

(B) A copy of the written decision of the division; and

(C) Any other relevant information the assistant secretary may require.

(3) Upon receipt of written notice of the date, time and location, the division director, or designated representative, or both, shall attend the assistant secretary's hearing on the applicant's appeal.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.055 and 13 CSR 15-4.090. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.090, effective Aug. 28, 2001.*



*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.100 Area Agency Governing Body**

*PURPOSE: This rule requires each area agency to have a governing body and, unless otherwise governed by local law, ordinance or charter, specifies its composition, responsibilities and requirements.*

(1) Each area agency, unless otherwise structured by local law, ordinance or charter shall have a governing body of adequate size and structure to operate efficiently and effectively.

(2) The area agency governing body shall maintain the ultimate authority and responsibility for administration of the approved area plan to provide services to the elderly within the designated planning and service area in accordance with all applicable federal, state, and local laws and regulations and division policies and procedures.

(3) The area agency governing body shall have written bylaws, ordinances or charter that define its membership, authority, responsibilities and procedures for operation. Unless specified otherwise by local laws, ordinances or charter the governing body shall comply with the requirements below:

(A) Officers of the governing body shall be elected by the full membership of the board;

(B) No officer of the governing body shall serve in the same office for more than two (2) consecutive terms;

(C) The composition, selection and purpose of standing committees shall be specified in the bylaws. Standing committees must report to the full governing board as directed by the agency's bylaws, but at least annually;

(D) Membership on the area agency governing body shall not be restricted to individuals from any specific race, creed, color, sex, religion, age, national origin, disabilities or veteran status. Elections procedures shall conform to 13 CSR 15-4.105.

(E) All members of the area agency governing body shall serve three (3)-year staggered terms, meaning one-third (1/3) of the membership is elected in year one (1), one-third (1/3) is elected in year two (2), and one-third (1/3) is elected in year three (3), then continue in the same manner; and

(F) The area agency governing body shall not select, appoint or elect as a member, or *ex officio* member, any individual who is an owner, board member or employee of a service provider agency that has currently sub-

mitted a proposal to the area agency to receive funding to provide services or that is currently providing services under a grant, contract or stipend with the area agency.

(4) The area agency governing body shall maintain full and complete written minutes of all meetings. Upon request, these minutes shall be available for review by the division and the public.

(5) Meetings of the governing body must follow *Robert's Rules of Order* and a parliamentarian shall be designated by the board.

(6) All meetings of the board shall be open to the public as required by section 610.010, RSMo, et seq. commonly referred to as the Sunshine Law.

(7) The governing body annually shall review the bylaws and update if necessary.

(8) The area agency governing body, within thirty (30) days, shall notify the division of any changes it makes in its corporate status, administrative status, staff, location or telephone number.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.070 and 13 CSR 15-4.100. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.100, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.105 Area Agency Election Procedures for Governing Body Membership**

*PURPOSE: This rule establishes and describes election procedures for membership on the area agency governing body. This rule does not apply to area agency board members appointed by the chief executive of a unit of local government, political subdivision or council of government who are elected officials with the exception of section (2).*

(1) Solicitation for governing board nominees shall be publicized locally within the area from which a governing body member will be elected. Nominations may be made by filing a statement of intent at a publicized location in each area or at a publicized open meeting held in the area.

(2) Nominees must be residents of the area they represent and must sign a code of ethics as approved by the governing body.

(3) All voters must register to vote at the polling location. Any person sixty (60) years of age or older shall be eligible to vote.

(4) The area agency governing body will designate a minimum of one (1) polling location per county.

(5) The time and location of the election shall be publicized in community newspapers at least seven (7) days prior to the election and posted at a minimum in all area agency sponsored senior centers.

(6) Polling places shall be open for voting at least six (6) consecutive hours, with provisions for persons with special needs, including optional absentee voting. Polling locations shall not be open earlier than 6:00 a.m., nor stay open any later than 7:00 p.m.

(7) The area agency will be responsible for printing the official ballots. Nominees shall be listed alphabetically.

(8) A minimum of two (2) persons designated by the area agency shall be present to count votes unless a local county clerk agrees to count votes and certify the results.

(9) Results of the election will be submitted to the area agency central office in a standard reporting format.

(10) All ballots and affidavits shall be kept for a minimum of twenty-two (22) months as required by section 1974 of Title 42 United States Code for federal elections, provided they have received final audit approval.

(11) A maximum of thirty (30) days will be allowed to contest the results of an election.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule previously filed as 13 CSR 15-4.105. Original rule filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.105, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.110 Area Agency Advisory Council**

*PURPOSE: This rule requires each area agency to have an advisory council and establishes the requirements it shall meet.*

(1) Each area agency shall have an advisory council which shall develop and make public written bylaws which specify the role and functions of the advisory council, number of members, procedure for selection of members, term of membership and the frequency of meetings.

(2) The advisory council shall meet at least quarterly.

(3) The composition of the councils shall be more than fifty percent (50%) older persons, including older persons with the greatest economic or social need, older minority individuals, service recipients and also shall include representatives of older persons, local elected officials and the general public.

(4) The advisory council shall advise the area agency on developing and administering the area plan, conducting public hearings, representing the interests of the elderly and reviewing and commenting on community policies, programs and actions affecting the elderly.

(5) The area agency shall provide staff and assistance to the advisory council.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.085 and 13 CSR 15-4.110. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.110, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

#### **19 CSR 15-4.120 Affirmative Action/Equal Employment Opportunity/Preference in Hiring**

*PURPOSE: This rule requires each area agency receiving federal or state funds to comply with the requirements of Affirmative Action/Equal Employment Opportunity programs and to give preference in hiring to persons aged sixty or over.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to*

*exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) Each area agency shall have an Affirmative Action/Equal Employment Opportunity program as required by Title V of the Code of Federal Regulations, Part 900, Standards for a Merit System of Personnel Administration. The written Affirmative Action/Equal Employment Opportunity plan shall be kept on file for review and shall be updated as required.

(2) The area agency, subject to established job qualification requirements or merit system requirements, shall give preference in hiring to applicants who are sixty (60) years of age or over for all full- or part-time positions.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.075 and 13 CSR 15-4.120. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.120, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

#### **19 CSR 15-4.130 Area Agency Staff**

*PURPOSE: This rule requires the area agency to have a written staffing plan, employ a full-time director and have adequate numbers of staff.*

(1) The area agency shall have on file for review—an up-to-date staffing plan that includes, but is not necessarily limited to, an organizational chart; a description of the education, experience and background qualifications required for each position (paid and volunteer); a description of the responsibility assigned to each position (paid and volunteer); and a salary schedule.

(2) The area agency shall employ a full-time director to assure the effective and efficient administration of the area plan. The full-time director shall possess the education, experience and background qualifications as determined necessary by the governing body to fulfill the requirements and functions of the director's position.

(3) The area agency shall employ sufficient staff to carry out the required functions of the area agency.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.080 and 13 CSR 15-4.130. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.130, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

#### **19 CSR 15-4.135 Area Agency Director**

*PURPOSE: This rule establishes and describes procedures each area agency shall follow in hiring a director unless otherwise governed by merit system requirements established under local law, ordinance, or charter.*

(1) The governing body will appoint a search committee for purposes of filling the vacancy. An interim or acting director may be appointed by the board until the time a permanent director is selected.

(2) The governing body shall propose a job description and qualifications, and update as necessary. This responsibility may be delegated to the search committee.

(3) The governing body shall establish a salary range for the director of the area agency which is commensurate with the duties and responsibilities of the position.

(4) The search committee shall advertise the vacancy in at least one (1) major newspaper with the greatest circulation in the area.

(5) The search committee will screen all applications and conduct initial interviews.

(6) The search committee will recommend to the full governing body a list of at least the top three (3) finalists based on applications, interviews and reference checks. At the governing body's discretion, re-interviews of all candidates, including the top three (3) recommended by the search committee may take place.

(7) The governing body shall review the recommendations of the search committee and make the final decision.

(8) If the desire is to promote an in-house person, the open search process may be conducted in a shorter time frame than might otherwise be required.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule previously filed as 13 CSR 15-4.135. Original rule filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug.*



28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.135, effective Aug. 28, 2001.

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.140 Area Agency Plan**

*PURPOSE: This rule establishes the requirements that the area agency shall meet to develop or amend and submit an area plan.*

(1) The area agency shall develop the area plan in accordance with all applicable federal and state regulations, the uniform plan format and other guidelines issued by the division.

(2) The area plan shall encompass a planning period as specified by the division. However, fiscal budgets, including allotments/funds for services and planned service delivery shall be amended at least annually or as available allotments/funds change.

(3) The area plan shall be amended under the following situations:

(A) A new amended state or federal statute or regulation requires a new provision or conflicts with any existing provisions;

(B) A supreme court decision changes the interpretation of a statute or regulation;

(C) The area agency changes the designation of the single organizational unit or component unit;

(D) Receipt by area agency staff or board members of compensation or other items of value above their salaries or the normal fringe benefits available to all staff; and

(E) The area agency takes any action for which prior division approval is required by state regulation, divisional policy, or preprint instructions.

(4) The area plan or plan amendments shall not be implemented until approved in writing by the division.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.095 and 13 CSR 15-4.140. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.140, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.150 Waivers**

*PURPOSE: This rule allows the area agency to request a waiver from meeting specific*

*requirements and sets forth procedures to be followed.*

(1) An area agency shall request a waiver if unable to comply with a specific division requirement. The request shall be in writing, shall be signed by the chairperson of the governing body, shall state the requirement for which a waiver is requested and shall include supportive documentation that explains why the requirement cannot be met, a description of the area agency's proposed alternative for meeting the requirement and an explanation of why the proposed alternative is most applicable for the area agency's situation.

(2) Public Hearing for Waivers for Priority Services.

(A) Prior to submitting a waiver request for a priority service, the area agency shall conduct, at a minimum, one (1) public hearing on the content of a proposed waiver. The hearing shall be scheduled at a convenient time and location to ensure maximum attendance by interested parties, representatives of the governing body and advisory council to the area agency, public officials and elderly persons.

(B) Notice of the public hearing shall be publicized through widely circulated newspapers and other public media at least twenty (20) calendar days before the date of the hearing. The notice shall be published in English and other languages as appropriate to the geographic area or to the target population to be served.

(C) In addition, notice of the public hearing shall be provided to service providers, organizations of the elderly, public officials and other public and private agencies in the planning and service area.

(D) Records of the public hearings held shall be on file at the area agency office and shall be submitted to the division with the waiver request. The records shall include the following:

1. Documentation of public notice;
2. List of names of persons attending the hearing and organizations represented; and
3. Written summary of all comments received, including if and how comments were incorporated.

(3) A waiver may be approved for the life of the plan, not to exceed four (4) years.

(4) A waiver request may only be submitted with the area plan or area plan amendments.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.100 and 13 CSR 15-4.150. Original rule filed Jan. 6, 1986, effective April 30,*

*1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.150, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.160 Review, Submission and Approval of Area Agency Area Plans and Plan Amendments**

*PURPOSE: This rule describes the requirements for review, submission to the division and the criteria for approval of the area agency's area plan or plan amendments.*

(1) Where not covered by charter or established governmental procedures the following shall apply. The area agency shall submit the area plan and any plan amendments for review and approval by the area agency's governing body. The area agency shall obtain signed documentation stating that the area plan and annual updates have been approved by the governing body. The area agency shall also submit the area plan and annual updates to its advisory council for review and comment prior to transmittal to the state unit on aging as required by 45 CFR 1321.57. The area agency shall comply with the Missouri state and local review process.

(2) Following guidelines specified by the division in the preprint, the area agency shall submit the proposed area plan or amendments to the division for approval.

(3) The division will approve, in writing, an area agency's plan or plan amendment indicating that it meets federal and state regulations and division policies and guidelines.

(4) The division will notify the area agency, in writing, within fifteen (15) business days of receipt at division offices of making a determination that it finds that any provision of the area plan or any plan amendment is not approvable and that the division proposes to disapprove the area plan or amendment. Written notification shall include the following:

(A) Explanation of the reasons for the disapproval;

(B) Provision for the opportunity for the area agency to review any pertinent documents upon which the determination was based; and

(C) Notification of the right to request a formal hearing on the determination.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.110 and 13 CSR 15-4.160. Original*

rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.160, effective Aug. 28, 2001.

\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.

### 19 CSR 15-4.170 Area Agency Fiscal Management

**PURPOSE:** This rule describes the requirements that the area agency shall meet in managing all funds related to programs funded in whole or in part with state or federal funds associated by the Division of Aging.

(1) The area agency shall establish a system to monitor financial expenditures of grants and contracts. In order to ensure adequate monitoring, at a minimum, the area agency shall—

(A) Establish written policies and procedures governing the expenditures of funds by service providers. These procedures shall provide for record maintenance by each service provider;

(B) Document, through assessment reports, that expenditures are made in accordance with the provisions of part 74 of Title 45 CFR;

(C) Monitor quarterly the financial transactions of grants and contracts;

(D) Assure that service providers have recorded documentation of the amount of cash and in-kind resources provided as a match; and

(E) Require adequate bonding of persons handling fiscal responsibilities.

(2) The area agency shall submit written requests for transfers according to the procedures established by the division.

(3) The area agency, upon request, shall provide fiscal information to the division, from area agency documentation.

(4) The area agency shall provide assurances that an adequate proportion of the amount allotted for supportive services (Part B) to the planning and service area will be expended for the delivery of each of the priority services. Adequate proportion shall be determined by considering the area agency budget and history for each service and current needs assessment data related to each service.

(5) The area agency annually shall specify in the area plan, as submitted or as amended, in detail, the amount of funds expended for each

category of services during the fiscal year most recently concluded.

(6) Nonfederal matching requirements shall be met by the area agency on the aggregate net cost of social and nutrition services and administration under Title III. Further requirements are as follows:

(A) The nonfederal match shall be in the form of allowable costs of third-party in-kind contributions or funds which are from a non-federal source and which are not used as match for any other federal program;

(B) The nonfederal match for administrative costs shall be no less than twenty-five percent (25%) of the net administrative cost;

(C) The nonfederal match for social and nutrition services' net costs shall be no less than fifteen percent (15%) of the net cost;

(D) No less than twenty-five percent (25%) of the nonfederal match shall be in the form of allowable costs of state or local public agencies; and

(E) Five percent (5%) of the net cost shall be met by allowable costs of the state and shall be included toward meeting the nonfederal matching requirements.

(7) The area agency shall have an organization-wide audit completed by an independent certified public accountant at least every two (2) years (covering the previous two (2)-year period); however, yearly audits are recommended. Further requirements are as follows:

(A) Audits shall be completed and submitted to the division no later than one hundred twenty (120) calendar days after the close of the agency's fiscal year;

(B) The area agency may request, in writing, a one (1)-month extension from the division. The request shall include the reason(s) for the extension and shall be received by the division's auditor no later than ten (10) working days before the audit due date. The division shall approve or reject a request for extension no more than five (5) working days after receipt of the written request;

(C) The criteria to be followed in auditing an area agency shall be for—

1. Governmental agencies, Office of Management and Budget (OMB) Circular A-133 shall apply for fiscal years beginning after December 31, 1984; and

2. All other agencies, the audit provisions in OMB Circular A-110, Attachment F shall apply; and

(D) The audit shall be received by the division by the due date or the approved extended due date. Audits not in compliance with federal regulations will not be accepted.

(8) The area agency shall not delegate authority to award or administer funds under Title III to other agencies. The exception may be for transportation agreements with agencies which administer programs under the Rehabilitation Act of 1973 and Titles XIX and XX of the Social Security Act to meet the common need for transportation of service recipients under the separate programs.

(9) Unexpended Title III B, III C-1, III C-2 funds and administrative allotments for which there are no legal obligations shall not exceed fifteen percent (15%) of each subpart's total allotment at the end of each fiscal year.

(10) Program income shall be—

(A) Earned gross income by an area agency from activities, part or all of the cost of which is either borne as a direct cost by a grant or counted as a direct cost toward meeting a cost-sharing or matching requirement of a grant. It includes, but is not limited to, income in the form of fees for services performed during the grant or subgrant period, proceeds from sale of tangible personal or real property, usage or rental fees and patent or copyright royalties. If income meets this definition, it shall be considered program income regardless of the method used to calculate the amount paid to the area agency;

(B) Used to expand services for the elderly in the program from which it was earned;

(C) Expended in the current fiscal year or following fiscal year; and

(D) Documented as to the program under which income was earned and expended.

(11) The area agency shall submit fiscal reports to the division on an accrual accounting basis. If the area agency's fiscal records show effective control and accountability, the agency may develop the reports through available documentation. The area agency may estimate outlays in instances where—

(A) There is adequate documentation on which to develop a sound and reasonable estimate of outlays; and

(B) The area agency is unable to obtain actual data in time to meet reporting deadlines.

(12) The area agency shall follow Title 45 CFR part 74 Administration of Grants except where inconsistent with federal statutes, regulations or other terms of a grant or when either the language of the provision itself or other text in the same subpart indicates the provision affects service provider agencies (subgrantees) and use of the term—

(A) Recipient shall be taken as referring to area agencies (subgrantees); and



(B) Awarding party shall be taken as referring to the division (granting agency).

(13) The area agency shall meet requirements concerning advancements, reimbursements or interest earned on federal funds as follows:

(A) Use methods and procedures to minimize the time lapse between the transfer of funds and disbursement;

(B) Not request reimbursement for the federal share of amounts withheld from contractors to ensure satisfactory completion of work until it makes those payments;

(C) Expend interest earned on federal funds for allowable costs in the fiscal year in which it was earned;

(D) Expend interest earned on federal funds for allowable costs of the funds which earned the interest;

(E) Budget and report interest earned of federal funds, distinguishing the interest from the fund which earned the interest; and

(F) Maintain documentation of compliance.

(14) The area agency shall submit monthly invoices for reimbursement of expenditures to the division within fifteen (15) days after the close of each fiscal month on forms prescribed by the division.

(15) The area agency shall meet the division's reporting requirements for quarterly and final financial reports as follows:

(A) Submit quarterly financial and program reports with the appropriate invoice;

(B) Submit a final financial report to the division within ninety (90) days after the fiscal year of the grant ending;

(C) Submit financial reports on the forms prescribed by the division; and

(D) Be subject to the withholding of payments for failure to comply with reporting requirements, until such time as reports are received.

(16) Any cost allocation plans and indirect costs rates shall be determined in accordance with the following guidelines:

(A) For governments, *OMB Circular A-87*, including any amendments to the circular published by the United States OMB;

(B) For institutions of higher education, *OMB Circular A-21* and as published in the *Federal Register* by OMB; and

(C) For other nonprofit organizations, *OMB Circular A-122*.

(17) In order to minimize a loss of funds in the event of bank insolvency, the area agency shall not deposit contributions and federal grant funds in any one (1) bank in an amount that exceeds that bank's maximum insured

amount by the Federal Deposit Insurance Corporation (FDIC). The total deposits in one (1) bank, regardless of the number of separate accounts, shall not exceed the maximum amount insured by the FDIC. An acceptable alternative is to request the bank to pledge securities to the area agency. These securities shall act as insurance for excessive cash balances. Documentation of compliance shall be maintained by the area agency.

(18) Contributions shall be handled according to procedures as required for service providers in 13 CSR 15-7.010(13).

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.200 and 13 CSR 15-4.170. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.170, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.175 Funding Acquisition or Construction of Multipurpose Senior Centers**

*PURPOSE: This rule sets forth the procedures and guidance mandated in 42 U.S.C. 3030b and Administration on Aging PI-91-04 for financing multipurpose senior centers building acquisitions or improvements with funding received from the division.*

(1) The requirements of this rule apply to the use of division funding to acquire, construct, alter or renovate multipurpose senior centers. The requirements apply whether division funding is used to finance the cost in whole or in part.

(2) Area agencies may utilize supportive services funding received from the division to finance the acquisition, construction, alteration or renovation of multipurpose senior centers only where an area plan or area plan update has been approved by the division, where funding has been explicitly identified and designated in the plan or plan update for the named center and where—

(A) The center is operated under an approved direct service waiver where title to the structure is held by the area agency; or

(B) A grant is made to a public or nonprofit private organization where title to the structure is held by the public or nonprofit organization.

(3) Area agencies must notify the division in writing within thirty (30) days of any decision to acquire, construct, alter or renovate a center. The notification must include:

(A) Date the decision was approved by the agency's board of directors;

(B) Amount approved by the board for the project;

(C) Percentage of total cost which will be paid from funding under the agency's grant/contract with the division;

(D) Nature of the project funded (acquisition, construction, alteration or renovation);

(E) Name and address of grantee, where applicable; and

(F) Name and address of the center.

(4) Total cost, for the purposes of this rule, includes all costs incurred by the title holder whether financed with division funding, other area agency funding or funding from third parties. Total cost does not include the value of any third-party in-kind contributions.

(5) Funding under the agency's grant/contract with the division, for the purposes of this rule, includes funding received from the division and funding counted toward satisfying any matching requirement for receipt of division funding.

(6) Area agencies must file the following notice of record with the appropriate unit of local government when acquiring or constructing an agency-owned center:

"This is to serve as notice to all potential sellers, purchasers, transferors and recipients of a transfer of the real property described below as to the federal government's reversionary interests as set forth in section 312 of the Older Americans Act of 1965, as amended in 1987, 42 U.S.C. 3030b, which have arisen as a result of (grantee's name) receipt and use of Department of Health and Human Services' grant funds in connection with the purchase or construction of said property. The property to which this notice is applicable is (address) and identified as parcel (insert appropriate number(s)) in the books and records of (insert appropriate name of local unit of government's recording agency). Said real property is also described as: (insert description provided in survey). Further information as to the federal government's interest referred to above can be obtained from: (name and address of area agency on aging)."

(7) Area agencies must include a requirement in all grant awards for acquisition or construction of a center that the grantee file the

notice of record detailed in section (6) and deliver a copy of the filed notice to the agency.

(8) Within thirty (30) days of the filing date, area agencies must deliver a copy of all filed notice of records to the division.

(9) Area agencies must notify the division in writing within thirty (30) days when—

(A) The agency's board of directors approves additional funding for a center acquisition, construction, alteration or renovation project;

(B) The board approves funding to alter or renovate a center acquired or constructed with division funding;

(C) The title holder, original grantee or center has a change of name or address;

(D) The site ceases to be used as a multipurpose senior center; or

(E) The title holder ceases to be a public or nonprofit private organization.

(10) Area agencies must maintain a perpetual inventory listing of all multipurpose senior center acquisitions, constructions, alterations or renovations financed with division funding.

(11) The inventory listing must include all centers whether owned by the area agency or by a public or nonprofit private organization.

(12) The inventory listing must include the following information:

(A) Date the project was approved by the agency's board of directors;

(B) Amount approved by the board for the project;

(C) Percentage of total cost which will be paid from funding under the agency's grant/contract with the division;

(D) Nature of the project funded (acquisition, construction, alteration or renovation);

(E) Name and address of current title holder;

(F) Name and address of original grantee, where applicable;

(G) Name and address of the center;

(H) Date the site ceased operation as a senior center, when applicable; and

(I) Date the title holder ceased to be a public or nonprofit private organization, when applicable.

(13) Area agencies must update the inventory when any of the following occur:

(A) The board approves new or additional funding for a public or nonprofit private organization to acquire, construct, alter or renovate a center;

(B) The board approves new or additional funding to acquire, construct, alter or renovate an agency-owned center;

(C) The title holder, original grantee or center has a change of name or address;

(D) The site ceases to be used as a multipurpose senior center; or

(E) The title holder ceases to be a public or nonprofit private organization.

(14) The area agency must maintain an annual inventory listing and provide a copy to the division upon request.

(15) The division shall be entitled to recover funds from an area agency when a multipurpose senior center within ten (10) years after acquisition or within twenty (20) years after completion of construction ceases to be—

(A) Owned by a public or nonprofit private organization; or

(B) Used for the purpose for which it was acquired, constructed, altered or renovated.

(16) The amount recoverable by the division shall be a percentage of current market value. The percentage shall be equivalent to the percentage of funds contributed under the agency's grant/contract with the division to the total original cost of the acquisition or construction.

(17) Area agencies are encouraged to enter into legally binding agreements with the grantees permitting the area agency to recover an equivalent amount of funding. The division shall be entitled to recover the full amount from the area agency regardless of the area agency's ability to recover funding from a grantee.

(18) An area agency may petition for waiver of recovery by submitting a written request within thirty (30) days of any event outlined in section (15). The request must detail the reason(s) the area agency believes good cause exists for releasing the agency from the obligation.

(19) The division may approve or disapprove any waiver requested.

(20) Area agencies must maintain the following on file:

(A) Records documenting total costs incurred by the title holder;

(B) Records documenting the amount of total costs paid with funding under the agency's grant/contract with the division;

(C) A copy of the filed notice of record;

(D) Documents supporting market value determination at the time of any event listed in section (15); and

(E) Records documenting the receipt of amounts recovered from public or nonprofit private organizations pursuant to any event listed in section (15).

(21) Area agencies must maintain all material listed in section (20) applicable to a center for three (3) years after the division obtains an independent audit in conformance with federal Office of Management and Budget requirements covering the period in which—

(A) The structure ceases to be owned by a public or nonprofit private organization;

(B) The structure ceases to be used as a multipurpose senior center;

(C) Ten (10) years have elapsed from the time division funding was used to acquire the facility; or

(D) Twenty (20) years have elapsed from the time division funding was used to construct the facility.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule previously filed as 13 CSR 15-4.175. Original rule filed Feb. 11, 1992, effective June 25, 1992. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.175, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

#### **19 CSR 15-4.180 Area Agency Advocacy Responsibility**

*PURPOSE: This rule requires the area agency to carry out activities to advocate in the interest of the elderly.*

(1) The area agency shall serve as the advocate for the elderly in the planning and service area by performing at least the following activities:

(A) Monitor, evaluate and comment on all policies, programs, hearings, levies and community actions which affect older persons;

(B) Solicit comments from the public on the needs of older persons;

(C) Represent the interests of older persons to public officials, public and private agencies or organizations;

(D) Carry out activities in support of the division's long-term care ombudsman program; and

(E) Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons.

(2) The area agency shall develop and implement written policies and procedures that describe how it carries out advocacy activities.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.115 and 13 CSR 15-4.180. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.180, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

**19 CSR 15-4.190 Area Agency Development of a Comprehensive and Coordinated Service Delivery System**

*PURPOSE: This rule describes the requirements the area agency shall meet to develop a comprehensive and coordinated service delivery system within the planning and service area.*

(1) The area agency continuously shall work toward development of a comprehensive coordinated community-based system that shall facilitate access to and utilization of all supportive and nutritional services provided by any source within the planning and service area (PSA). Components of this system may include:

(A) Services which facilitate access, such as transportation, outreach, information and assistance, and case management;

(B) Services provided in the community, such as congregate meals, continuing education, health and nutrition education, health screening, legal assistance, program development and coordination activities, advocacy, information and assistance, case management, casework, counseling and assistance (concerning taxes, financial problems, public benefits, the use of facilities and services, preretirement or second career), adult day health care, protective services, services designed for the unique needs of persons with disabilities, emergency services, disaster relief services, minor home repair, physical fitness and recreation, services to help obtain adequate housing and alteration, renovation, acquisition and construction of facilities to be used as multipurpose senior centers;

(C) Services provided in the home, such as home health services, homemaker services, personal care services, legal assistance, respite, case management, counseling, chore, visiting, shopping assistance, reading/letter-writing, telephone reassurance, home-delivered meals and nutrition education; and

(D) Services provided to residents of care-providing facilities, such as case management counseling, placement and relocation assistance, group services, legal assistance, complaint and grievance resolution and visiting. Care-providing facilities include long-term facilities, emergency shelters and other congregate living arrangements.

(2) The area agency shall assess the needs of the elderly in the PSA and the effectiveness of resources in meeting identified needs.

(3) The area agency shall establish effective and efficient procedures for coordination of planning and service delivery with other agencies and organizations within the PSA, including agencies that administer the following:

(A) The Job Training Partnership Act (JTPA);

(B) Title II of the Domestic Volunteer Act of 1973;

(C) Titles VI, X, XVIII, XIX and XX of the Social Security Act;

(D) Sections 231 and 232 of the National Housing Act;

(E) The United States Housing Act of 1959;

(F) Section 202 of the Housing Act of 1959;

(G) Title I of the Housing and Community Development Act of 1974;

(H) Title I of the Higher Education Act of 1965 and the Adult Education Act;

(I) Sections 3, 9 and 16 of the Urban Mass Transportation Act of 1964;

(J) The Public Health Service Act;

(K) The Low-Income Home Energy Assistance Act of 1981;

(L) Part A of the Energy Conservation in Existing Buildings Act of 1976;

(M) The Community Services Block Grant Act; and

(N) Demographic statistics and analysis programs conducted by the Bureau of Census.

(4) The area agency may make arrangements with other local agencies and organizations for services and programs that benefit the elderly, such as—

(A) Children’s day care organizations so that older persons can volunteer to help provide the day care; and

(B) Local educational agencies, institutions of higher education and not-for-profit private organizations.

(5) The area agency shall develop and publish the methods that are used to establish priorities for services, particularly—

(A) Services associated with access to other services. These services include transportation, outreach, information and assistance, and case management;

(B) In-home services. These services include homemaker, personal care aide, visiting and telephone reassurance, chore, and supportive services for families of elderly victims of Alzheimer’s disease and other neurological and organic brain disorders of the Alzheimer’s type; and

(C) Legal assistance.

(6) The area agency shall give preference in the delivery of services to elderly persons with the greatest economic or social need. A description of the methods and procedures used to assure that services are provided to those with the greatest economic and social need including low income minority shall be included in the area plan.

(7) The area agency shall provide adequate and effective opportunities for the elderly to express their views on policy development and program implementation.

(8) The area agency shall develop and implement organized ongoing outreach activities to elderly individuals, particularly those residing in rural areas and those with greatest economic or social need and inform them of services that are available. Area agency outreach activities shall be coordinated with the outreach activities required of each service provider within the PSA.

(9) The area agency shall develop a comprehensive, coordinated disaster preparedness plan which shall include service providers in the PSA.

(10) The area agency shall assure that all service providers follow the applicable requirements set forth in 13 CSR 15-7.

(11) The area agency shall assure that the elderly residing in the PSA have reasonably convenient access to information and assistance systems.

(12) The area agency shall designate a focal point for comprehensive service delivery in each community giving special consideration to multipurpose senior centers and assuring that the facility can accommodate the collocation of services.

(13) The area agency shall encourage maximum collocation and coordination of services through the community focal point by—



(A) Establishing guidelines for operating schedules that are convenient for service recipients;

(B) Assuring reasonably convenient access to existing information and referral services; and

(C) Encouraging service providers to collocate their services and coordinate with other services in the community.

(14) The area agency may plan, coordinate and provide services funded under other programs if it continues to meet its area agency responsibilities.

*AUTHORITY: section 660.050, RSMo 1999.\* This rule was previously filed as 13 CSR 15-6.120 and 13 CSR 15-4.190. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.190, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

#### 19 CSR 15-4.200 Area Agency Subgrants or Contracts

*PURPOSE: This rule sets forth requirements for the area agency to follow in awarding subgrants and contracts.*

(1) The area agency shall follow applicable procurement standards as specified in 45 CFR Part 74. If an area agency utilizes a request for qualifications (RFQ), this shall be considered a competitive negotiation procurement method as described in subsection 11c of Appendix G.

(2) The area agency shall publicly announce all solicitations at least thirty (30) calendar days prior to the deadline for acceptance of responses. Media announcements shall be made within the appropriate planning and service area in a manner that will enable current and potential service providers to be notified. The public notice shall—

(A) Identify each program/service to be funded;

(B) Specify the date by which responses must be submitted for consideration; and

(C) Advise how copies of the solicitations may be obtained.

(3) The area agency shall submit, for the division's prior approval, any proposed contracts with profit-making organizations for the provision of services under the area plan as required by section 212 of the Act. The area agency is not required to submit to the divi-

sion for prior approval any proposed subgrants or contracts with public or private nonprofit agencies or organizations.

(A) In addition to complying with all applicable federal procurement practices, all purchases shall be based on competitive bids, except that the area agency may make purchases of less than two thousand dollars (\$2,000) in value on the open market. On any purchase estimated at ten thousand dollars (\$10,000) or more the agency shall advertise for bids in at least two (2) newspapers of general circulation in such places as are most likely to reach prospective bidders at least fourteen (14) days before bids are to be opened. The agency shall also solicit bids by mail from at least three (3) prospective suppliers on purchases of ten thousand dollars (\$10,000) or more. For purchases of more than two thousand dollars (\$2,000) but less than ten thousand dollars (\$10,000) bids must be solicited and documented, but advertising or direct mailings are not required. The contracts shall be let to lowest and best bidder.

(B) The agency may waive the requirement of competitive bids for the purchase of food items when special temporary market conditions exist and the food items can be purchased for at least ten percent (10%) less than the most current bid price for the same food items.

(4) The area agency shall use subgrants or contracts with service providers to provide all services under all OAA funding sources. For waiver of this requirement, the area agency shall submit a written request that thoroughly documents that direct provision of service, using its own employees, is necessary—

(A) To assure an adequate supply of the service;

(B) Where those services are directly related to the area agency's administrative functions; or

(C) Where those services of comparable quality can be provided more economically by the area agency.

(5) If an area agency receives a waiver to provide a service directly, all applicable requirements for that service as set forth in 13 CSR 15-7 and 13 CSR 15-4 shall be met.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.125 and 13 CSR 15-4.200. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.200, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

#### 19 CSR 15-4.210 Area Agency Grievance Procedures

*PURPOSE: This rule requires area agencies to establish written grievance procedures.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) Each area agency shall establish written grievance procedures that provide the opportunity to appear before the governing body to the following:

(A) Individuals who wish to resolve areas of conflict regarding delivery of services;

(B) Service provider applicants whose application to provide services is denied; and

(C) Service providers whose subgrant or contract is terminated or not renewed.

(2) The written grievance procedures shall be filed with the division as an addendum to the area agency's plan and shall include, at a minimum, the following:

(A) Time limitations, as applicable, and procedures to be followed to request a grievance hearing;

(B) Procedures for conducting the grievance hearing;

(C) Opportunity to review any pertinent information relating to the issues; and

(D) Criteria to be used for making a final determination that include:

1. Time limitations for notification of the decision from the date of grievance hearing;

2. Reasons for the final determination and the evidence on which it was based; and

3. Advice of the right to appeal to the division for mediation to service providers who meet the following conditions:

A. Application to provide services under an area plan has been denied; or

B. Subgrant or contract is terminated or not renewed for reasons other than a determination that the service provider has materially failed to comply with the terms of the

subgrant or contract as provided in 45 CFR part 74, subpart M.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.090 and 13 CSR 15-4.210. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.210, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

### 19 CSR 15-4.220 Area Agency Technical Assistance, Monitoring and Evaluation Responsibilities

*PURPOSE: This rule requires the area agency to provide technical assistance to service providers and other organizations and to monitor and assess service provider performance.*

(1) The area agency shall provide technical assistance to service providers, organizations where joint program agreements are in effect, and upon request, to groups and public and private organizations that are interested in developing or expanding programs for the elderly.

(2) The area agency shall develop and implement an ongoing process for monitoring service providers that includes requiring periodic written financial and program reports.

(3) At least annually, the area agency shall conduct a full on-site evaluation of each service provider to monitor compliance with fiscal and program standards and to provide technical assistance, if needed. The division shall have the right to require an area agency to conduct more frequent on-site monitoring if there is evidence of inadequate quality or quantity of service being delivered by a service provider.

(4) The area agency shall develop and implement written policies and procedures that describe how it meets its technical assistance, monitoring and evaluation responsibilities.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.130 and 13 CSR 15-4.220. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.220, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

### 19 CSR 15-4.230 Multipurpose Senior Center

*PURPOSE: This rule establishes the requirements that shall be met by an area agency for constructing, acquiring, altering, leasing and renovating a multipurpose senior center.*

(1) Area agencies may award Title III social service funds to a public or private nonprofit agency for the following purposes:

(A) Acquiring, altering, leasing or renovating a facility for use as a multipurpose senior center;

(B) Constructing a facility for use as a multipurpose senior center; or

(C) Paying the costs of professional and technical personnel required to operate multipurpose senior centers.

(2) In making multipurpose senior center awards, the area agency shall give preference to facilities located in communities with the greatest numbers of elderly including low income minority and those with economic need.

(3) The area agency shall assure the following general requirements will be met prior to awarding funds for a multipurpose senior center:

(A) It serves a cross section of all segments of the elderly population of its planning and service area, with special emphasis on low income minority and those in economic and social need; and

(B) It operates a program of group activities, individual services and community service opportunities in each of the following categories:

1. Access services;

2. Community services, including advocacy-related services;

3. Services for frail, vulnerable, and at risk elderly; and

4. Nutrition services.

(4) The area agency shall submit to the division, for review and prior approval, a written plan for purchase or construction of a multipurpose senior center with accompanying justification and documentation. The division shall approve the proposed plan based on the following criteria:

(A) For proposed award for construction, there is no other suitable facility available to be a community focal point for service delivery; and

(B) For proposed award for purchasing or constructing a facility, only if there are no suitable facilities for leasing.

(5) The area agency shall submit to the division, for review and prior approval, the plans and specifications for any proposed acquisition, alteration, renovation or construction of a multipurpose senior center facility funded with federal or state funds in order to assure that all applicable minimum construction standards shall be met, particularly the requirements of the Architectural Barriers Act of 1968.

(6) The area agency shall submit to the division, for review and prior approval, the plans and specifications for any proposed alteration or renovation that affects the load-bearing structures of a multipurpose senior center with federal or state funds, or both. The division shall review to assure that the plans and specifications comply with all applicable local or state ordinances, laws or building codes. In the absence of those codes, the division shall assure compliance with Chapter 23 of the *Uniform Building Code* or Chapter 12 of the *Standard Building Code*.

(7) The area agency shall require recipients of an award for altering, renovating or constructing a facility to be used as a multipurpose senior center to comply with the requirements of the Davis-Bacon Act and other mandatory federal labor standards.

(8) A facility acquired or constructed to be used as a multipurpose senior center shall be used for that purpose for a minimum of ten (10) years from the date of acquisition or twenty (20) years after the completion of construction.

(9) The area agency shall ensure that no federal or state funds shall be used for religious instruction or worship.

(10) The area agency shall ensure that no federal or state funds shall be used for the promotion of any political point of view.

(11) The area agency shall assure the following:

(A) Sufficient funds shall be available to meet the nonfederal share of the award;

(B) Sufficient funds shall be available to effectively use the facility as a multipurpose senior center;

(C) In a facility that is shared with other age groups, federal or state funds shall support only—

1. That part of the facility used by older persons; or

2. A proportionate share of the costs based on the extent of use of the facility by older persons; and

(D) A multipurpose senior center program must be operated in that facility in accordance with standards set forth in 13 CSR 15-7.070.

*AUTHORITY:* section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.140 and 13 CSR 15-4.230. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed June 3, 1991, effective Oct. 31, 1991. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.230, effective Aug. 28, 2001.

\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.

### 19 CSR 15-4.240 Nutrition Service Requirements

*PURPOSE:* This rule establishes the requirements to be met by the area agency to fund, establish and operate nutrition services for the elderly.

(1) The area agency may award nutrition services funds to a service provider to provide meals and other nutrition services, including outreach and nutrition education, to eligible service recipients within the planning and service area (PSA).

(2) The area agency shall assess the level of need for congregate and home-delivered meals within the PSA and maintain documentation of the method(s) used to assess level of need and how the results were used to determine levels of services to meet those needs.

(3) The area agency may make awards for congregate and home-delivered nutrition services to a service provider that furnishes either or both type(s) of service(s). The area agency may award federal and state funds to a service provider that delivers only home-delivered nutrition services if congregate nutrition services are also provided through the area agency.

(4) The area agency shall assure that no contract shall be entered into for the provision of nutrition services unless that contract has been awarded through a competitive process.

(5) Primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency may award home-delivered nutrition funds to organizations which have demonstrated an ability to provide home-delivered meals efficiently and reasonably, and will furnish assurances to the

area agency that the organization will maintain efforts to solicit voluntary support and that federal funds made available to the organization will not be used to supplant funds from nonfederal sources. The area agency need not require that these organizations also provide meals to older individuals in a congregate setting.

(6) Eligibility of individuals to receive nutrition services shall be determined as follows:

(A) Any person aged sixty (60) years or over and the spouse of that person regardless of age shall be eligible to receive congregate nutrition services;

(B) Any person aged sixty (60) years or over who is homebound by reason of illness, incapacitating disability or is otherwise isolated shall be determined eligible for home-delivered nutrition services. Occasional escorted trips from the home for medical or other necessary services will not affect the individual's eligibility for home-delivered meals. The following conditions shall be met:

1. The area agency shall require an assessment of the individual's eligibility for home-delivered nutrition services prior to initiation of the service and assess the individual's need for continued service at least annually after that. In emergency situations, home-delivered meals may be delivered for a maximum of five (5) days prior to the initial assessment of eligibility; and

2. The area agency shall develop written criteria by which to determine if the spouse and/or primary caregiver who resides in the home, regardless of their age or condition of the spouse, may receive a home-delivered meal. The criteria developed shall assure that the receipt of the meal by the spouse and/or caregiver is in the best interest of the homebound older person;

(C) Persons with disabilities under sixty (60) years of age who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided may receive congregate nutrition services. Any person meeting these requirements also may be eligible to receive home-delivered nutrition services provided the procedures of paragraph (6)(B)2. are followed; and

(D) Under the Social Services Block Grant (SSBG), persons with disabilities under sixty (60) years of age who do not reside in housing facilities occupied primarily by the elderly may be eligible to receive congregate nutrition services. Any person meeting these requirements also may be eligible to receive home-delivered nutrition services under SSBG provided procedures in paragraph (6)(B)2. are followed.

(7) The area agency may allow guests under sixty (60) years of age to eat a meal at a nutrition center provided that—

(A) An eligible service recipient is not deprived of a meal; and

(B) The full cost of the meal is paid.

(8) The area agency may allow nutrition center volunteers under sixty (60) years of age to eat a meal at the nutrition center. If volunteer meals are allowed, the criteria shall allow these meals only if—

(A) An eligible service recipient is not deprived of a meal;

(B) The volunteer has expended substantial direct effort in the preparation, service, delivery, cleanup of the meal, or a combination of these; and

(C) The volunteer is afforded the opportunity to contribute to the cost of the meal.

(9) The area agency shall request prior approval from the division for any new nutrition centers, construction of nutrition centers, renovation of nutrition centers or relocation of existing nutrition centers.

(10) The area agency shall request prior approval, in writing, from the division for any proposed termination of a nutrition center and shall not terminate any nutrition center until written approval has been received from the division.

(11) The area agency shall report the occurrence or suspicion of a food-borne illness to the appropriate health authorities and the division. The area agency shall cooperate with health authorities and keep the division informed of the investigation status as well as provide notice of resolution.

(12) The area agency shall hire or retain the services of a qualified dietitian/nutritionist who does monitoring and provides technical assistance to service providers in the areas of food and nutrition. The dietitian/nutritionist shall meet one (1) of the following qualifications:

(A) Dietitian—A person who holds a bachelor of science degree from an accredited college or university with a major in dietetics, food and nutrition or institutional food management and is eligible to take the registration examination offered by the American Dietetic Association;

(B) Registered Dietitian (RD)—A dietitian who has successfully completed the required examination for registration with the American Dietetic Association and maintains the status by meeting continuing education requirements;

(C) Nutritionist—A person who holds a bachelor of science degree with a major in human nutrition or a major in dietetics from an accredited college or university;

(D) Food and Nutrition Specialist—A person who holds a bachelor of science degree with a major in food and nutrition or institutional food management; or

(E) Public Health Nutritionist—A person who holds a master of public health nutrition or master of science with a major in public health nutrition.

(13) The area agency shall provide for technical assistance/training to nutrition service provider's staff and volunteers that shall include, but not necessarily be limited to, meal cost and portion control, commodity/cash use, nutrition education, nutrition policies and standards, modified diets, food buying and preparation, food inventory, menu planning, kitchen design, purchase of equipment, fire and safety procedures, sanitation, first-aid and emergency life-saving techniques.

(A) Technical assistance and training for nutrition education, modified diets and menu planning shall be provided by a dietitian/nutritionist.

(B) In all other areas, technical assistance and training may be provided by other area agency staff who have been trained in the subject matter.

*AUTHORITY: section 660.050, RSMo Supp 1999.\* This rule was previously filed as 13 CSR 15-6.145 and 13 CSR 15-4.240. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed June 3, 1991, effective Oct. 31, 1991. Amended: Filed May 12, 2000, effective Nov. 30, 2000. Moved to 19 CSR 15-4.240, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.250 Area Agency USDA**

*PURPOSE: This rule requires area agency participation in the United States Department of Agriculture commodity/cash program and describes the requirements for participating in the program.*

(1) The area agency shall accept and distribute United States Department of Agriculture (USDA) commodities or cash to nutrition service providers based on the percentage of eligible meals served within the planning and service area.

(2) Contracts with warehouses for the storage of USDA commodities foods shall include the following:

- (A) A method of receiving or rejecting commodity deliveries from USDA;
- (B) A cost per unit for receiving, warehouse storage and removal of commodities;
- (C) An accountable recordkeeping system;
- (D) A method of handling losses and determining responsibility for losses; and
- (E) A cancellation clause.

(3) Contracts for transporting commodities shall include the following:

- (A) The dates or days of week on which deliveries are to be made;
- (B) The charges and method of payment;
- (C) The method of receiving commodities from warehouse;
- (D) The refrigeration requirements for frozen foods;
- (E) The method of reporting losses and responsibility for reimbursing the area agency for losses;
- (F) The procedure for receiving commodities at center or caterer;
- (G) An accountable recordkeeping system; and
- (H) A cancellation clause.

(4) The area agency shall develop a management system to assure that USDA commodities and foods purchased with USDA cash shall be used to achieve maximum benefit. The system shall include the following:

- (A) The maximum amount of commodity and USDA cash foods a nutrition center may have on inventory shall be established; and
- (B) The right shall be retained by the area agency to redistribute foods from one (1) nutrition center to another when necessary for best utilization.

(5) The area agency shall develop procedures to assure that USDA cash is used in compliance with USDA requirements. These procedures shall include, but are not limited to, the following:

- (A) All cash received from USDA shall be spent to purchase United States agricultural food items;
- (B) For area agencies electing to use commodities, the USDA cash shall not be used to purchase food items currently available from the USDA commodity food program, unless the item is in short supply (less than three (3) months' supply available to the area agency) and a USDA notice of shipment due within two (2) months has not been received by the area agency for the food item;

(C) All purchases made with USDA cash shall be documented by one (1) of the following methods:

1. If food is purchased through bid, the invoice shall show the number of units and unit cost, with a copy of the bid specification attached that contains the statement. The food is to be United States-produced;

2. If food is purchased without bid, the following procedures shall apply:

A. Invoices for bread and fresh dairy products must show the number of units and unit cost. These products are assumed to be United States-produced;

B. When canned goods, meat products and produce are purchased on a continuing basis from a vendor, a letter from him/her stating that all food supplied to the nutrition center is United States-produced will be adequate documentation. The letter shall be renewed annually; and

C. Invoices for occasional purchases shall show the number of units, unit cost and a statement assuring that the food was United States-produced; or

3. The contract for catered meals shall contain a clause stating the USDA cash shall be spent for United States-produced foods only and shall inure only to the benefit of the nutrition program; and

(D) The area agency will monitor the nutrition service provider to assure adequate documentation is maintained for all these purchases.

(6) Prior approval of the USDA regional office shall be obtained before the area agency releases USDA commodities for use during a disaster/emergency. The area agency shall contact the division in order to initiate the approval process and provide the following information:

- (A) The disaster agency that is financially responsible;
- (B) The type of disaster, that is flood, tornado;
- (C) The specific counties involved in the disaster;
- (D) The location and name(s) of the disaster agency's contact person(s);
- (E) An identification of the affected population and estimate of number of persons to be fed;
- (F) The estimated number of days or weeks meals may be needed; and
- (G) The number of times per day meals will be provided.

(7) During a disaster/emergency, the area agency shall keep daily records on USDA commodity use that include the following:

- (A) The number of people fed;

- (B) The number of meals served;
- (C) The USDA commodity food items used; and
- (D) The total value of each food item, including storage and delivery costs.

*AUTHORITY: section 660.050, RSMo Supp. 1988.\* This rule was previously filed as 13 CSR 15-6.150 and 13 CSR 15-4.250. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Moved to 19 CSR 15-4.250, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

### 19 CSR 15-4.260 Outreach Services

*PURPOSE: This rule sets forth the requirements for outreach services and requires outreach training.*

(1) Area agencies shall provide outreach services to identify elderly persons and inform them of the availability of services. Outreach efforts should have special emphasis on the rural elderly and on those with the greatest economic or social need. With respect to nutrition services, outreach efforts should ensure that the maximum number of eligible persons have an opportunity to receive services.

(2) The area agency shall provide outreach training to outreach workers which shall include, but not be limited to, the following:

- (A) An understanding of the limits to which workers can serve persons contacted;
- (B) Problems of the elderly;
- (C) Methods of working with the elderly;
- (D) Sensitivity to needs of the minority elderly; and
- (E) Procedures for conducting outreach services and assessing effectiveness of outreach activities conducted.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.175 and 13 CSR 15-4.260. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.260, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988.*

### 19 CSR 15-4.270 Legal Assistance

*PURPOSE: This rule sets forth the requirements for legal assistance and establishes criteria that legal assistance providers shall meet.*

(1) The area agency shall award funds to the legal assistance provider(s) that most fully meets the following requirements. The legal assistance provider(s) shall—

(A) Have staff with expertise in specific areas of law affecting older persons with economic or social needs, for example, public benefits, institutionalization and alternatives to institutionalization;

(B) Demonstrate the capacity to provide effective administrative and judicial representation in the areas of law affecting older persons with economic or social need;

(C) Demonstrate the capacity to provide support to other advocacy efforts, for example, the long-term care ombudsman program;

(D) Demonstrate the capacity to deliver legal assistance to institutionalized, isolated and homebound older individuals effectively; and

(E) Demonstrate the capacity to provide legal assistance in the principal language spoken by clients in areas where a significant number of clients do not speak English as their principal language.

(2) A legal assistance provider may not require an older person to disclose information about income or resources as a condition for providing legal assistance under this part. A legal assistance provider may ask about the person's financial circumstances as a part of the process of providing legal advice, counseling and representation or for the purpose of identifying additional resources and benefits for which an older person may be eligible.

(3) Each legal assistance provider, its attorney and employees shall comply with the following regulations when engaged in the outside practice of law:

(A) No attorney shall engage in any outside practice of law if the director of the provider has determined that the practice is inconsistent with the attorney's full-time responsibilities;

(B) If the requirement of subsection (3)(A) is met, a provider may permit an attorney to engage in compensated outside practice of law when the attorney is newly employed and has a professional responsibility to close cases from a previous law practice and does so as expeditiously as possible;

(C) If the requirement of subsection (3)(A) is met, a provider may permit an attorney to engage in compensated outside practice of law when the attorney is acting pursuant to an appointment made under a court rule or practice of equal applicability to all attorneys in the jurisdiction and remits to the provider all compensation received; or

(D) If the requirement of subsection (3)(A) is met, a provider may permit an attorney to engage in uncompensated outside practice of law when the attorney is acting pursuant to an appointment made under a court rule or practice of equal applicability to all attorneys in the jurisdiction or on behalf of a close friend, family member, religious community or charitable group.

(4) A provider, employee of the provider or staff attorney shall not engage in the following prohibited political activities:

(A) A provider shall not contribute or make available Older Americans Act (the Act) funds or any personnel requirement to any political party or association to the campaign of any candidate for public or party office or for use in advocating or opposing any ballot measure, initiative or referendum;

(B) No employee intentionally shall identify the Title III program or provider with any partisan or nonpartisan political activity or with the campaign of any candidate for public or party office;

(C) No employee shall use any Act funds for activities prohibited to attorneys under subsection (4)(A); nor shall an employee intentionally identify or encourage others to identify the provider with those activities;

(D) While engaged in legal assistance activities (any activity carried out during an employee's working hours which uses resources provided under the Act, and, in fact, provides legal assistance to an eligible client), no employee and no staff attorney, at any time, shall—

1. Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, whether partisan or nonpartisan;

2. Coerce, directly or indirectly, attempt to coerce, command or advise an employee under the Act to pay, lend or contribute anything of value to a political party or committee, organizations, agency or person for political purposes; or

3. Be a candidate for partisan elective public office; and

(E) While engaged in legal assistance activities supported under the Act, no attorney shall engage in any—

- 1. Political activity;
- 2. Activity to provide voters with transportation to the polls or to provide similar assistance in connection with an election; or
- 3. Voter registration activity.

(5) No provider shall use funds received under the Act to provide legal assistance in a fee-generating case unless other adequate representation is unavailable. All providers

shall establish procedures for the referral of fee-generating cases.

(A) Fee-generating case means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal assistance from an award to a client, from public funds or from the opposing party.

(B) Other adequate representation is deemed to be unavailable when the provider had determined that fee referral is not possible due to any of the following:

1. The case has been rejected by the local lawyer-referral service or by two (2) private attorneys;

2. Neither the referral service nor any lawyer will consider the case without payment of a consultation fee; or

3. Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate, and consistent with professional responsibility, referral will be attempted at a later time.

(C) Other adequate representation is deemed to be unavailable when—

1. Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims;

2. A court appoints a provider or an employee for a provider pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or

3. An eligible client is seeking benefits under Title II of the Social Security Act, 42 U.S.C. 401, Federal Old Age Act, Survivors and Disability Insurance Benefits; or Title XXVI of the Social Security Act, 42 U.S.C. 1381, Supplemental Security Income for Aged, Blind and Disabled.

(D) A provider may seek and accept a fee awarded or approved by a court or administrative body or included in a settlement if—

1. The requirements of subsections (4)(B) and (C) are met; and

2. Funds received are not used for purposes prohibited by the Act.

(E) When a case or matter subject to this section results in a recovery of damages, other than statutory benefits, a provider may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with the case or matter, if the—

1. Requirements of subsections (4)(B) and (C) are met; and

2. Client has agreed in writing to reimburse the provider for these costs and expenses.

(6) While carrying out legal assistance activities funded under the Act, no employee shall—

(A) Knowingly participate in any public demonstration, picketing, boycott or strike, except as permitted by law in connection with the employee's own employment situation;

(B) Intentionally exhort, direct or coerce others to engage in those activities or otherwise usurp or invade the rightful authority of a client to determine what course of action to follow; and

(C) Be prohibited, if an attorney, by any provision of this section from—

1. Informing and advising a client about legal alternatives to litigation or the lawful conduct of litigation; or

2. Fulfilling the professional responsibilities of an attorney to a client.

(7) No funds made available to a provider under the Act shall be used, at any time, directly or indirectly, to support activities intended to influence the issuance, amendment or revocation of any executive or administrative order or regulation of a federal, state or local agency or to undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any state or local legislative body or state proposals by initiative petition, except that an employee may—

(A) Respond to a request from a governmental agency or a legislative body, committee or member made to the employee or to a recipient to testify, draft or review measures or to make representation to the agency, body, committee or member on a specific matter; or

(B) Engage in the activities at the request of an eligible client of a provider, to the extent the activities are necessary to the provision of legal advice and representation to a client who has sought this legal advice and representation with respect to particular legal rights and responsibilities which would be affected by particular legislation or administrative measures, but no employee shall solicit a client in violation of professional responsibilities for the purpose of making the representation possible.

(8) Providers shall adopt procedures and forms to document that the legislative and administrative activities in which they engage fall within the activities permitted in 45 CFR section 1321.71.

(A) With respect to activities permitted under subsection (7)(A), a written request signed by an official of the governmental agency or a member of the legislative body or committee making the request which states the type of representation or assistance required and identified the executive or administrative order, regulation or legislation to be addressed;

(B) With respect to activities permitted under subsection (7)(B), a retainer agreement signed by the client(s) represented, or by an official of the client group in the case of a group client, which agreement shall specify the legislative or administrative measure on which representation is sought (appearance at a hearing, legislative drafting, etc.) and which shall include a statement of the client's direct interest in the particular legislative or administrative measure to be addressed; and

(C) Providers shall obtain the documentation required by this section prior to undertaking any of the activities permitted by subsection (7)(A) or (B) in the absence of a written request provided that the fact, nature and circumstances of the request are subsequently documented in writing and signed by the requesting authority.

(9) No funds made available under the Act shall be used to—

(A) Maintain separate offices for the sole purpose of engaging in legislative activity;

(B) Pay dues to any organization (other than a bar association) a substantial purpose or function of which is to take positions on matters pending before legislative or administrative bodies;

(C) Pay for transportation to legislative or administrative proceedings of persons other than employees engaged in activities permitted under this section or witnesses entering appearances in the proceedings on behalf of clients of the providers, except that those funds may be used to transport the client where necessary and appropriate. This subsection does not authorize payment of transportation expenses for employees not actually engaged in permitted representation activities;

(D) Pay, in whole or in part for the conduct of, or transportation to, an event if a primary purpose of expenditure is to facilitate lobbying or any other activity which would be prohibited if conducted with funds made available under the Act;

(E) Pay for administrative or related costs associated with any activity prohibited by this part; or

(F) Assist others, through legislative liaison activities, to influence legislation in a

manner that would be prohibited if undertaken with funds made available under the Act. Legislative liaison activities include, but are not limited to, attending legislative sessions or committee hearings, gathering information regarding pending legislation and analyzing the effect of pending legislation.

(10) Notwithstanding the provisions of subsection (7)(A), providers shall not use funds made available under the Act for publicity or propaganda purposes designed to support or defeat proposed legislation or legislation pending before Congress or any state legislature. For purpose of this regulation, publicity or propaganda means any oral communication or any advertisement, telegram, letter, article, newsletter or other printed or written matter or device which contains a direct suggestion or, when taken as a whole, an indirect suggestion to the public at large or to selected individuals to contact elected representatives in support of or in opposition to pending or proposed legislation.

(11) No funds made available to a provider under the Act shall be used to support the preparation, production and dissemination of any article, newsletter or other publication or written matter for general distribution which contains any reference to proposed or pending legislation unless—

(A) The publication does not contain any publicity or propaganda prohibited by section (10);

(B) The provider has adopted a policy requiring the provider's executive director, or his/her designee, to review each application produced by the provider prior to its dissemination for conformity to these regulations;

(C) The provider provides a copy of any such material produced by the provider to the area agency within thirty (30) days after publication; and

(D) These funds are used only for costs incident to the preparation, production and dissemination of publications to providers, providers' staff and board members, private attorneys representing eligible clients and the area agency, as opposed to the public at large.

(12) Notwithstanding the provisions of section (7), no funds made available to a provider under the Act shall be used, directly or indirectly, to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter or other device, intended or designed to influence any decision by a federal, state or local agency, except where legal assistance is provided by an employee of a provider to an eligible client on a particular application, claim

or case, which directly involves the client's legal rights and responsibilities or to influence any member of Congress or any other federal, state or local elected officials to favor or oppose any acts, bills, resolutions or similar legislation or any referendum, initiative, constitutional amendment or any similar procedure of Congress, any state legislature, any local council or any similar governing body, except that this subsection shall not preclude funds from being used in connection with communications made in response to any federal, state or local official upon a specific matter.

(A) The exception for communications to officials does not authorize communication with anyone other than the requesting party.

(B) No employee of the provider, directly or indirectly, shall solicit a request from any official to testify or otherwise advocate the support or defeat of legislative measures.

(13) Nothing in this section is intended to prohibit an employee from—

(A) Communicating with a governmental agency for the purpose of obtaining information, clarification or interpretation of the agency's rules, practices or policies;

(B) Informing a client about a new or proposed statute, executive order or administrative regulation consistent with the requirements of sections (10) and (11);

(C) Responding to an individual client's request for advice only with respect to the client's own communications to officials unless otherwise prohibited by the Older Americans Act, Title III regulations or other applicable law. This provision does not authorize publication or training of a client on lobbying techniques or the composition of a communication for the client's use; or

(D) Making direct contact with the area agency for any purpose.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.180 and 13 CSR 15-4.270. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.270, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

#### 19 CSR 15-4.280 Ombudsman Services

*PURPOSE: This rule requires the area agency to support the statewide long-term care ombudsman program and establishes criteria for funding local programs.*

(1) The area agency shall conduct ombudsman activities that support the division administered long-term care ombudsman program. The area agency may award funds for the provision of a long-term care ombudsman program and that award shall be based on a consideration of the degree to which the ombudsman service provider has—

(A) Established measurable objectives;

(B) Identified facilities in the project area;

(C) Developed a plan for informing and serving the elderly residents of the identified facilities; and

(D) Developed a plan for recordkeeping that includes such data as to the nature of the complaints received, efforts made to resolve complaints and procedures to maintain the confidentiality of service recipient records and files.

*AUTHORITY: section 660.050, RSMo 1986.\* This rule was previously filed as 13 CSR 15-6.185 and 13 CSR 15-4.280. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.280, effective Aug. 28, 2001.*

*\*Original authority: 660.050 RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

#### 19 CSR 15-4.290 Information and Assistance

*PURPOSE: This rule requires the area agency to provide information and assistance services and describes the requirements for operating the program.*

(1) The area agency shall provide information and assistance services sufficient to ensure that all elderly persons within the planning and service area have reasonably convenient access to information about the services available within their geographic region.

(2) The area agency shall comply with divisional standards for information and assistance services (see 13 CSR 15-7.050).

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13 CSR 15-6.190 and 13 CSR 15-4.290. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.290, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*



**19 CSR 15-4.300 Record Keeping and Confidentiality**

*PURPOSE: This rule establishes the length of time that the division, area agencies and service providers shall maintain records and the standards by which confidentiality of records will be maintained.*

(1) The division, area agencies and service providers shall maintain all records under Title III for a minimum of three (3) years; Social Services Block Grant records shall be maintained for five (5) years.

(2) The division, area agencies and service providers shall maintain the confidentiality of records as follows:

(A) All records that identify individual recipients of alternative services shall be confidential and may be released, for administrative and program monitoring purposes only, to the following:

1. Designated employees of the Federal Administration on Aging Regional Office VII;

2. Designated employees of the Missouri Department of Social Services and the Division of Aging;

3. Designated employees of the area agency or service provider; or

4. Court of competent jurisdiction, when subpoenaed;

(B) No information or records maintained by the long-term care ombudsman program may be disclosed unless the long-term care ombudsman authorizes the disclosure;

(C) Lists of names of older persons shall be used for the purpose of providing services and shall not be distributed, released or used for any other reason;

(D) Records that contain confidential client information shall be released only for purposes of program monitoring by an authorized federal, state, or local monitoring agency, unless—

1. The service recipient or their legal representative has given informed consent prior to the release of that information;

2. The signed release indicates to whom the information will be given;

3. Indicates the specific information to be released; and

4. Specifies the inclusive dates for which the written consent is valid.

(F) Program, fiscal and statistical records that do not identify individual service recipients are not confidential and shall be made available for public inspection upon written request.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule was previously filed as 13*

*CSR 15-6.015 and 13 CSR 15-4.300. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.300, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*

**19 CSR 15-4.310 Corporate Eldercare**

*PURPOSE: This rule establishes mandatory guidelines for area agencies on aging with respect to the development and implementation of the corporate eldercare program.*

(1) As used in this rule, the term corporate eldercare refers to those services provided, either directly or through a third party, by a corporation or other business organization on behalf of its employees who have caregiver responsibilities for an elderly person. These services include, but are not necessarily limited to, information and assistance services. Any contact between a corporation or business organization and an area agency or its subsidiary to provide those services, is subject to the provisions of this rule.

(2) An Area Agency on Aging (AAA) may engage only in those activities which are consistent with the agency's mission as defined in 45 CFR 1321.53. The division will determine whether proposed activities conflict or interfere with an agency's statutory or regulatory duties.

(3) Any AAA entering into an agreement to provide corporate eldercare activities for financial remuneration shall do so through the formal execution of a contract.

(A) Corporate eldercare contracts shall not contain any exclusivity clause limiting or restricting the AAA's ability to provide services to other older persons not referenced in the contract. Contracts shall not restrict the AAA's ability to act objectively and responsibly on behalf of all older persons residing in their planning and service area (PSA).

(B) Corporate eldercare contracts shall not create any conflict of interest for the AAA, including, but not limited to, conflicts with respect to population served by or priorities established by the area agency.

(4) AAAs proposing to enter into corporate eldercare contracts must obtain the division's approval prior to providing any eldercare services. This approval may be obtained by submitting, as part of the agency's area plan or plan amendment, a written request, which shall include the following:

(A) A description of the service(s) to be provided;

(B) A statement as to whether the existing structure/system will provide the requested service(s) or if a new structure/system is needed;

(C) A description of the new structure/system, if needed; and

(D) Signed assurances.

(5) The area plan need not detail how funds derived from private sources by the agency, for the purposes of providing services to the elderly or their caregivers, are utilized. The agency shall not solicit or receive funds or engage in activities for purposes inconsistent with its mission as the AAA or inconsistent with federal or state laws or regulations.

*AUTHORITY: section 660.050, RSMo Supp. 1999.\* This rule previously filed as 13 CSR 15-4.310. Original rule filed June 16, 1992, effective Jan. 15, 1993. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.310, effective Aug. 28, 2001.*

*\*Original authority: 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995.*