

Fiscal Regulations

Titles III & VII

Updates to Older Americans Act Regulations

The Administration for Community Living (ACL) has finalized updates to the regulations (also known as the rule or final rule) for its Older Americans Act (OAA) programs. The rule has an effective date of March 15, 2024 and a compliance date of October 1, 2025. Additional information can be found on [ACL.gov/OAArule](https://acl.gov/OAArule).

Brief Overview

The OAA sets forth fiscal requirements for grants to state agencies, also known as State Units on Aging (SUAs), under Titles III and VII. SUAs in turn provide funding to area agencies on aging (AAAs), where applicable, to coordinate programs and advocate for older adults and family caregivers. In the rule, fiscal provisions are set forth under part 1321, § 1321.9 State agency policies and procedures. Other provisions of the rule, including part 1324 (Allotments for Vulnerable Elder Rights Protection Activities), also include fiscal requirements that apply.

Highlights - SUAs and AAAs

Updates to the rule clarify fiscal requirements, including definitions, policies and procedures, monitoring, distribution of funds and funding formulas, and flexibilities that may be exercised during a major disaster declaration (MDD). For example, the rule:

- Clarifies the state agency's responsibility to establish and maintain policies and procedures to monitor the programmatic and fiscal performance of programs and activities carried out under Title III of the OAA and to ensure that its own – and its AAAs' – policies and procedures are aligned with ACL's data collection and reporting requirements (§ 1321.9(a) and (b)).
- Lists and clarifies the policies and procedures that state agencies must establish and maintain regarding fiscal requirements, including distribution of Title III funds; non-federal share (match) requirements; permitted transfers; reallocation of funds; use of program income; private pay programs; contracts and commercial relationships; buildings, alterations or renovations, maintenance, and equipment; and advance funding (§ 1321.9(c)(2)).
- Requires state agencies to establish flexible and streamlined processes for AAAs to receive approval for contracts and commercial relationships, including prior approval for agreements permitted under section 212 of the OAA. This provision is included in the final rule in response to numerous questions about the appropriate roles, responsibilities, and oversight of such activities, feedback received in response to the Request for Information (RFI) and Notice of Proposed Rule Making (NPRM), and based on our observations of program activities. The provision is intended to promote and expand the ability of the aging network to engage in business activities while ensuring that the unique roles of OAA grantees are preserved (§ 1321.9(c)(2)(xiv)).
- Defines "conflicts of interest" and establishes several requirements to prevent them. The scope of activities of entities that receive OAA funding has changed significantly since the last update to the OAA regulations, and the potential for conflicts of interest has increased. These provisions are intended to ensure the integrity of – and trust in – the activities carried out under the OAA (§ 1321.3, § 1321.47, § 1321.67, and § 1321.73).

- Allows state agencies to set aside funding to exercise flexibilities related to an MDD (and specifies requirements for exercising such flexibilities). For example, the final rule allows a state agency to procure items on a statewide level, subject to certain terms and conditions (§ 1321.99 and § 1321.101).

Review of Selected Areas of the Rule

Part 1321 – Grants to State and Community Programs on Aging

Definitions

The rule contains definitions, including these with applicability to fiscal provisions:

- **§ 1321.3 Definitions:** “Access to services,” “Acquiring,” “Altering or renovating,” “Area plan administration,” “Best available data,” “Constructing,” “Conflicts of interest,” “Cost sharing,” “Direct services,” “Domestically produced foods,” “Local sources,” “Major disaster declaration,” “Means test,” “Multipurpose senior center,” “Private pay programs,” “Program development and coordination activities,” “Program income,” “State plan administration,” and “Voluntary contributions.”

SUA Responsibilities

The rule specifies policies and procedures must be developed in consultation with AAAs, program participants, and other appropriate parties in the state (§ 1321.9) and addresses fiscal requirements including:

- **§ 1321.9(c)(2)(i) Intrastate funding formula (IFF).** Requires distribution of Title III and Nutrition Services Incentive Program (NSIP) funds via the IFF or funds distribution plan.
- **§ 1321.9(c)(2)(ii) Non-Federal share (match).** Details the requirements for federal funding for administration (state, territory, and area plan), supportive and nutrition services, family caregiver support services, and services not requiring match (evidence-based disease prevention and health promotion services, NSIP, and the portion of funds from supportive services used for the Ombudsman program).
- **§ 1321.9(c)(2)(iii) Transfers.** Lists requirements and considerations that apply if an SUA elects to make transfers between allotments, including the parts (B and C) and subparts (C-1 and C-2) of Title III which

are subject to transfer of allocations, the maximum percentage of an allocation which may be transferred between parts and subparts, and a confirmation that such limitations apply in aggregate to the SUA.

- **§ 1321.9(c)(2)(iv) State, Territory, and area plan administration.** Specifies the requirements and considerations that apply, including flexibilities that some SUAs of single planning and service area (PSA) states may exercise and how the SUA may calculate the maximum amounts available for AAAs to use. For example, SUAs may either receive five percent of their funding allocation or \$750,000 (\$100,000 for certain territories) of their total Title III allocation as set forth in the OAA to complete the state plan administration activities. Plan administration activities include planning, coordination, and oversight of direct services provided with the remainder of the Title III allocation. The maximum amount the SUA may make available for area plan administration is ten percent of the total amount of funding allocated to AAAs.
- **§ 1321.9(c)(2)(v) Minimum adequate proportion (MAP).** Sets forth requirements that the state plan must identify a minimum proportion of funds that will be spent on access services, in-home supportive services, and legal assistance.
- **§ 1321.9(c)(2)(vi) Maintenance of effort (MOE).** Requires the SUA expend annually a minimum amount of state funds on Title III services and administration activities; the minimum expenditure amount is calculated as required by the OAA. The rule also clarifies that excess amounts reported in other reports, such as the Federal Financial Report (FFR; SF- 425), do not become part of the amounts used in calculating the minimum required maintenance of effort expenditures, unless the SUA specifically certifies the excess amounts for such purpose.
- **§ 1321.9(c)(2)(vii) The State Long-Term Care Ombudsman Program.** Requires the SUA will expend annually no less than the minimum amounts (fiscal year 2019) from Title III and Title VII on the Ombudsman program. The rule also clarifies that the SUA must provide the Ombudsman with information to complete Ombudsman program requirements and that the fiscal activities relating to the operation of the Office comply with the requirements set forth in § 1324.13(f).

- **§ 1321.9(c)(2)(viii) Rural minimum expenditures.** Requires SUAs to develop fiscal policies and procedures related to requirements under the OAA, including that the SUA must: expend not less than the amount expended in accordance with the level set in the OAA (fiscal year 2000) for services for older individuals residing in rural areas, project the cost of providing such services, and specify a plan for meeting the needs for such services.
- **§ 1321.9(c)(2)(ix) Reallocation.** Requires SUAs to develop fiscal policies and procedures related to an SUA's voluntary release of funds (reallocation), including that the SUA must communicate annually to ACL if the SUA has funding that will not be expended in the grant period to be voluntarily reallocated to the Assistant Secretary for Aging (ASA) that will then be redistributed to other SUAs who identify as being able to utilize funds within the grant period. We also clarify that the SUA must distribute any such reallocated funds it receives in accordance with the IFF or funds distribution plan, as set forth in § 1321.49 or § 1321.51.
- **§ 1321.9(c)(2)(x) Voluntary contributions and § 1321.9(c)(2)(xi) Cost sharing.** These provisions delineate between the two types of consumer contributions. The OAA allows for consumer contributions which may take the form of (1) an individual voluntarily contributing toward the cost of a service (a voluntary contribution) and (2) the SUA establishing a cost sharing policy, creating a structured system for collecting sliding scale contributions from some service participants for some services (cost sharing).
- **§ 1321.9(c)(2)(xii) Use of program income.** Clarifies the fiscal requirements that apply to program income, which includes voluntary contributions and cost sharing payments. For example, we clarify that SUAs are required to report contributions as program income, specify that program income must be used to expand a service funded under the Title III grant award pursuant to which the income was originally collected, and set forth restrictions that apply to the use of program income.
- **§ 1321.9(c)(2)(xiii) Private pay programs.** Clarifies AAAs and service providers may, in addition to programs supported by funding received under the OAA, offer separate private pay programs for which individual consumers agree to pay to receive services. These private pay programs may offer similar or the same services as those funded under Title III, subject to policies and procedures that should be in place to ensure that private pay programs offered by AAAs and service providers do not compromise core responsibilities under the OAA. One such core responsibility, for example, is to ensure that individuals who receive information about private pay programs and who are eligible for services provided with Title III funds also are made aware of Title III-funded services and waitlist opportunities for those services.
- **§ 1321.9(c)(2)(xiv) Contracts and commercial relationships.** Requires SUAs to establish flexible and streamlined processes for AAAs to receive approval for contracts and commercial relationships, including prior approval for agreements permitted under section 212 of the OAA. The provision is intended to promote and expand the ability of the aging network to engage in business activities while ensuring that the unique roles of OAA grantees are preserved.
- **§ 1321.9(c)(2)(xv) Buildings, alterations or renovations, maintenance, and equipment.** Clarifies that funding may be used for costs that support allowable activities, including altering or renovating, utilities, insurance, security, necessary maintenance, janitorial services, repair, and upkeep, subject to requirements. Prior approval of purchases is no longer required. In addition, the rule specifies the requirements in the OAA that construction or acquisition activities are only allowable for multipurpose senior centers and are to be repaid to the federal government in certain circumstances. To ensure that third parties will be on notice of this requirement, the rule includes a requirement that a Notice of Federal Interest be filed at the time of acquisition of a property or prior to construction, as applicable.
- **§ 1321.9(c)(2)(xvi) Supplement, not supplant.** Requires an SUA policy and procedure on supplementing, not supplanting, existing funds for the programs where specified in the OAA.
- **§ 1321.9(c)(2)(xvii) Monitoring of State plan assurances.** Specifies that the SUA must have policies and procedures to monitor compliance with state plan assurances.
- **§ 1321.9(c)(2)(xviii) Advance funding.** Specifies that SUAs may advance funding to meet immediate cash needs of AAAs and service providers, and if an SUA chooses to do so, the SUA must have policies and procedures that comply with all applicable federal requirements, including timeframes and amount limitations.

- **§ 1321.9(c)(2)(xix) Fixed amount subawards.** Specifies that fixed amount subawards up to the simplified acquisition threshold are allowed.
- **§ 1321.27 Content of State plan.** Specifies that proposals to pay for program development and coordination as a cost of Title III, part B must be made available to the general public for review and comment; plans must contain information about if the SUA allows for Title III, part C-1 funds to be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals; and plans must include how the SUA will use Title VII—Chapter 3 prevention of elder abuse, neglect, and exploitation funds.
- **§ 1321.49 Intrastate funding formula; § 1321.51 Single planning and service area States.** Specify that SUAs must provide 30 calendar days or greater for public review and comment on the intrastate funding formula (IFF) or funds distribution plan changes. Each SUA must include an IFF or funds distribution plan as a part of their State plan.

AAA Responsibilities

The rule specifies AAA responsibilities, including:

- **§ 1321.59 Area agency policies and procedures.** Specifies the AAA will develop policies and procedures in compliance with SUA policies and procedures, in consultation with other appropriate parties in the Planning and Service Area (PSA) and the AAA may not delegate the authority to award or administer funds.
- **§ 1321.65 Submission of an area plan and plan amendments to the State agency for approval.** Specifies that service details and corresponding expenditures; distribution of direct services funds within the PSA; provision of services directly by the AAA; minimum adequate proportion (MAP) requirements, proposals to pay for program development and coordination as a cost of Title III, part B; and if the AAA allows for Title III, part C-1 funds to be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals are requirements of area plans.

Service Requirements

The rule includes requirements that apply to funding of services, including:

- **§ 1321.71 Purpose of services allotments under Title III.** Requires that except for ombudsman services, state plan administration, disaster

assistance as specified, or as otherwise allowed, SUAs in states with multiple PSAs will award funds to designated AAAs according to the approved IFF. SUAs in states with a single PSA will award funds by grant or contract to community services provider agencies and organizations for direct services to older individuals and family caregivers in, or serving, communities throughout the PSA, except as specified.

- **§ 1321.85 Supportive services.** Specifies requirements that apply for Title III, part B in-home supportive services, access services, which may include multipurpose senior centers, and legal services. Legal assistance requirements are further specified in § 1321.93.
- **§ 1321.87 Nutrition services.** Specifies requirements that apply for services funded under Title III, part C, details requirements that apply to NSIP allocations, and allows for a limited number of “carry-out” and similar meals to be provided through the congregate meals program, in some circumstances.
- **§ 1321.89 Evidence-based disease prevention and health promotion services.** Specifies requirements that apply for services funded under Title III, part D.
- **§ 1321.91 Family caregiver support services.** Specifies requirements that apply for services funded under Title III, part E.

Emergency & Disaster Requirements

The rule includes a new subpart to address emergency and disaster requirements, including:

- **§ 1321.99 Setting aside funds to address disasters.** Allows SUAs to set aside funding (up to 5% of total Title III allocation) to exercise flexibilities related to an MDD and specifies requirements for exercising such flexibilities.
- **§ 1321.101 Flexibilities under a major disaster declaration.** Specifies flexibilities an SUA may exercise during an MDD, including:
 - Allowing any portion of funds of open Title III grant awards to be used for disaster relief services.
 - Permitting the SUA to redirect and use its state plan administration funding for use in a PSA covered in whole or in part under an MDD, without allocation through the IFF or funds distribution plan.

- Allowing for the awarding of funds set aside to address disasters, as set forth in § 1321.99, in the following ways:
 - To a AAA serving a PSA covered in whole or in part under an MDD without allocation through the IFF,
 - In single PSA states, to a service provider without allocation through the funds distribution plan, and
 - For the SUA to use funds for direct service provision, direct expenditures, and/or procurement of items on a statewide level, subject to requirements as specified.
- When the SUA exercises these flexibilities, the SUA must submit a state plan amendment, to justify use of funds and provide transparency, within 30 days of taking the action(s) listed; the plan amendment does not require prior approval.

Part 1324 – Allotments for Vulnerable Elder Rights Protection Activities

Subpart A – State Long-Term Care Ombudsman Program (LTCOP)

The rule specifies requirements that apply to the LTCOP, including with funds provided for this program under Title III, part B and Title VII, chapters 2 and 3.

- **§ 1324.13(f) Functions and responsibilities of the State Long-Term Care Ombudsman.** Specifies the Ombudsman determines the use of fiscal

resources for the Office of the State Long-Term Care Ombudsman (the Office), approves allocations to designated local Ombudsman entities, and determines that program budgets and expenditures of the Office and local Ombudsman entities are consistent with laws, policies, and procedures governing the Ombudsman program.

- **§ 1324.15(k) State agency responsibilities related to the Ombudsman program.** Requires the SUA to notify the Ombudsman of all sources of funds for the program; provide information on requirements for those funds; support the Ombudsman in their determination of use of the funds; and ensure recognition of the Ombudsman’s authority and determinations.

Subpart B – Programs for Prevention of Elder Abuse, Neglect, and Exploitation

The rule specifies requirements that apply with funds provided under Title VII, chapter 3.

- **§ 1324.201 State agency responsibilities for the prevention of elder abuse, neglect, and exploitation.** Specifies requirements that apply to funds provided for this program under Title VII, chapter 3.

Resources

- [Final Rule](#)
- [ACL Final Rule Resources](#)

This fact sheet is intended for informational and summary purposes only. The [final rule](#), as published in the Federal Register, is the official document that should be referenced regarding requirements for Older Americans Act programs.