

## **DEPARTMENT OF HUMAN SERVICES**

### **Services for the Aging**

#### **OLDER AMERICANS ACT (OAA) PROGRAMS (RULE MANUAL VOLUME 10)**

##### **12 CCR 2510-1**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### **Statement of Basis and Purpose and Specific Statutory Authority of Revisions Made to Rule Manual Volume 10**

Volume 10 was rewritten and reissued when finally adopted following publication at the 8/2/85 State Board meeting, with an effective date of 10/1/85. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of sections 10.500 - 10.515, and revision of section 10.900 were finally adopted following publication at the 10/2/87 State Board meeting, with an effective date of 12/1/87 (Document 9). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions of sections 10.100 - 10.202, 10.207 - 10.280, 10.300 - 10.427, and 10.455 - 10.485 were finally adopted following publication at the 12/2/88 State Board meeting, with an effective date of 2/1/89 (CSPR# 88-8-18-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions of sections 10.100 - 10.405, 10.411 - 10.415, 10.470 - 10.472, 10.478 - 10.485, and 10.802 - 10.815 were finally adopted following publication at the 12/6/90 State Board meeting, with an effective date of 2/1/91 (CSPR# 90-8-15-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions of sections 10.305, 10.310, and 10.335 - 10.345 were finally adopted following publication at the 5/3/91 State Board meeting, with an effective date of 7/1/91 (CSPR# 91-3-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions of sections 10.125 - 10.135, 10.300 - 10.305, 10.413 - 10.415 and 10.802 - 10.805 were adopted emergency at the 7/12/91 State Board meeting, with an effective date of 7/12/91 (CSPR# 91-5-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.125 - 10.135, 10.300 - 10.305, 10.413 - 10.415 and 10.802 - 10.805 were adopted emergency and final at the 8/2/91 State Board meeting, with effective dates of 7/12/91 and 8/2/91 (CSPR# 91-5-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.100 - 10.220, 10.305, 10.400 through 10.402, 10.407 through 10.415 and 10.470 through 10.472 were adopted emergency at the 9/6/91 State Board meeting, with an effective date of 9/6/91 (CSPR# 91-3-11-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.100 - 10.220, 10.305, 10.400 through 10.402, 10.407 through 10.415 and 10.470 through 10.472 were adopted emergency and final at the 10/4/91 State Board meeting, with effective dates of 9/6/91 and 10/4/91 (CSPR# 91-3-11-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section 10.235 were adopted emergency and final at the 12/6/91 State Board meeting, with an effective date of 1/1/92 (CSPR# 91-7-19-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.305, 10.320, 10.400 through 10.412, and 10.470 were adopted emergency at the 3/5/93 State Board meeting, with an effective date of 3/5/93 (CSPR# 93-2-9-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.305, 10.320, 10.400 through 10.412, and 10.470 were final adoption of emergency at the 4/2/93 State Board meeting, with an effective date of 3/5/93 (CSPR# 93-2-9-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.110 - 10.120, 10.220 - 10.235, 10.300 - 10.305, 10.320 - 10.330, 10.400 - 10.405, 10.411 - 10.412, 10.416 - 10.427, and 10.470 - 10.472 were final adoption following publication at the 9/10/93 State Board meeting, with an effective date of 11/1/93 (CSPR# 93-6-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.100 - 10.105, 10.400 - 10.402, and 10.410 were adopted emergency at the 9/10/93 State Board meeting, with an effective date of 9/30/93 (CSPR# 93-8-11-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.100 - 10.105, 10.400 - 10.402, and 10.410 were final adoption of emergency at the 10/1/93 State Board meeting, with an effective date of 9/30/93 (CSPR# 93-8-11-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions/additions to sections 10.100 - 10.120, 10.400 - 10.402, 10.410 and 10.700 were adopted emergency at the 1/7/94 State Board meeting, with an effective date of 1/1/94 (CSPR# 93-12-7-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions/additions to sections 10.100 - 10.120, 10.400 - 10.402, 10.410 and 10.700 were final adoption of emergency at the 2/4/94 State Board meeting, with an effective date of 1/1/94 (CSPR# 93-12-7-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections 10.305 and 10.470 were final adoption following publication at the 4/1/94 State Board meeting, with an effective date of 6/1/94 (CSPR# 93-12-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions and additions to sections 10.100, 10.700 - 10.710, and 10.713 - 10.714 were adopted emergency at the 9/9/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-8-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions and additions to sections 10.100, 10.700 - 10.710, and 10.713 - 10.714 were final adoption of emergency at the 10/7/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-8-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections 10.100 - 10.120 and 10.400 - 10.405 were adopted emergency at the 9/8/95 State Board meeting, with an effective date of 9/8/95 (CSPR# 95-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections 10.100 - 10.120 and 10.400 - 10.405 were adopted emergency and final at the 10/6/95 State Board meeting, with an effective date of 9/8/95 (CSPR# 95-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section 10.401 were adopted as emergency at the 7/9/99 State Board meeting, with an effective date of 7/9/99 (CSPR# 99-6-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section 10.401 were final adoption of an emergency rule at the 8/6/99 State Board meeting, with an effective date of 7/9/99 (CSPR# 99-6-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections 10.140 and 10.401 were final adoption following publication at the 4/6/2001 State Board meeting, with an effective date of 6/1/2001 (CSPR# 00-12-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

This Rule Manual Volume 10 concerning Older Americans Act programs was rewritten in its entirety and adopted following publication at the 2/4/2005 State Board meeting, with an effective date of 4/1/2005 (Rule-making# 03-12-1-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to sections 10.620.1, 10.630.1, 10.640, and 10.640.5 were adopted following publication at the 4/7/2006 State Board meeting, with an effective date of 6/1/2006 (Rule-making# 06-1-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revision to section 10.820 was adopted as emergency at the 7/31/2006 special emergency State Board meeting, with an effective date of 8/1/2006 (Rule-making# 06-7-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revision to section 10.820 was final (permanent) adoption of emergency rules at the 10/6/2006 State Board meeting, with an effective date of 10/6/2006 (Rule-making# 06-7-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections 10.150, 10.410.1, 10.710.2, 10.720.2, 10.730.2, 10.730.3, 10.730.4, 10.730.8, and 10.930 through 10.940.2 were final adoption following publication at the 4/4/2008 State Board meeting, with an effective date of 6/1/2008 (Rule-making# 07-12-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.

Sections 10.100 through 10.970 were deleted in entirety and rewritten, as final adoption following publication at the 10/1/2010 State Board meeting, with an effective date of 12/1/2010 (Rule-making# 10-6-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Sections 10.205, 10.302.3, 10.305.1, 10.418.1, and 10.420.1 were final adoption following publication at the 11/4/2011 State Board meeting, with an effective date of 1/1/2012 (Rule-making# 11-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

## **10.100 OLDER AMERICANS ACT PROGRAMS**

### **10.110 INTRODUCTION [Rev. eff. 12/1/10]**

The purpose of the Older Americans Act (OAA) is to encourage and assist state agencies and Area Agencies on Aging (AAA) to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated systems to serve older adults.

- A. To accomplish this, the State Department may enter into new and cooperative arrangements with the following:
  - 1. Area Agencies on Aging;
  - 2. Other state agencies including agencies that administer home and community care programs;
  - 3. Indian tribes and tribal organizations;
  - 4. Providers, including voluntary organizations or other private sector organizations, of supportive services, nutrition services, and multipurpose senior centers; and,
  - 5. Organizations representing older adults.
- B. The Older Coloradans Act (OCA), Section 26-11-100.1 through 26-11-207, C.R.S., includes the provisions of the Older Americans Act programs.

### **10.120 DEFINITIONS [Rev. eff. 12/1/10]**

“Activities of Daily Living” (ADLs) means activities that are regularly necessary for personal care. These activities include: transfers in and out of a bed or chair, toileting, walking, dressing, bathing, hygiene, and eating.

“Administration” means the Administration on Aging (AoA) of the United States Department of Health and Human Services.

“Applicant agency” means an entity that is applying for a contract or other funding, or for designation or consideration as an Area Agency on Aging.

“Area Agency on Aging” (AAA) means a private nonprofit or public agency designated by the State Unit on Aging (SUA) to administer the Older Americans Act and related programs within a Planning and Service Area (PSA) in the State of Colorado.

“Area Agency on Aging Advisory Council” means a representative body of laypersons and service providers, designated by the AAA to represent the interests of older adults within the boundaries of a Planning and Service Area.

“Area Plan” means a document submitted by the AAA to the SUA every four years in a format specified by the State Department, which includes goals and measurable objectives; and identifies planning, coordination, administration, supportive, and nutrition services, as well as evaluation activities to be undertaken.

“Assessment” means the process of determining eligibility for a program, and may be used to measure the changes in a client due to participation in a program.

“Carry-Over” means the estimated or actual portion of the funds made available to a contractee for a budget year which are not expended during that budget year, and which may be available for use (carried over) during a subsequent budget year, or reallocated as necessary.

“Case management” means assistance, either in the form of access or care coordination, in circumstances where the eligible individual and/or their caregivers are experiencing diminished functioning capacities, personal conditions, or other characteristics which require the provision of services by formal service providers. Activities of case management shall include: assessing needs, developing care plans, authorizing services, arranging services, coordinating the provision of services among providers, follow-up, and reassessment, as required.

“Cash and Counseling” means the range of services provided or paid for through allowance, vouchers, or cash that are provided to the consumer so that the consumer can obtain the supportive services that are needed.

“Cash Match” means local cash received from non-Federal and non-State sources, passing to the control of the contractee or sub-contractee or contract agencies, which is used for the payment of allowable costs charged to the contract, and for the satisfaction of requirements for non-Federal/non-State share of program expenses.

“Child” means an individual who is less than eighteen (18) years of age.

“Chore services” means those services designed to increase the safety of older adults living at home such as assistance with heavy housework, yard work or sidewalk maintenance. Chore service activities are one-time, seasonal or occasional in nature, and shall be planned with input from the older adult based on an evaluation of the older adult’s strengths and needs, and the degree of physical and/or cognitive impairment of the older adult.

“Colorado Commission on Aging” (CCOA) means an advisory board, appointed by the Governor and confirmed by the state Senate to advise the State Unit on Aging on matters concerning older adults and to monitor the implementation of the Older Americans Act. The Commission reviews existing programs for the aging and makes recommendations to the Governor, Colorado Department of Human Services, Colorado Department of Health Care Policy and Financing, and the General Assembly for improvements in such programs.

“Colorado Long-Term Care Ombudsman” (CLTCO) means an entity with expertise and experience in the fields of long-term care and advocacy, serving on a full-time basis to carry out the functions identified in the Older Americans Act.

“Community focal point” means a facility established to encourage the maximum collaboration and coordination of services for older adults.

“Comprehensive and coordinated service delivery system” means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

- A. Facilitate the accessibility and use of interrelated social, supportive, and nutrition services provided to meet the needs of older adults in a Planning and Service Area;

- B. Develop and make the most effective use of supportive services and nutrition services in meeting the needs of older adults within the planning and service area;
- C. Use resources efficiently and with a minimum of duplication; and,
- D. Encourage and assist public and private entities that have unrealized potential for meeting the service needs of older adults to provide such assistance on a voluntary basis.

“Conflict of interest” means a direct official action on a matter in which the AAA, provider, council member, or other interested party has the opportunity for substantial financial, contractual, or employment gain.

“Congregate meal” means the provision of a meal that meets all requirements as specified at Section 10.411 of these rules to an eligible older adult at a nutrition site, senior center or some other congregate setting.

“Construction”, with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees, or making modifications to or in connection with an existing facility which are in excess of double the square footage of the original facility and/or all physical improvements.

“Contract” means an agreement, allowable and enforceable by law, between two or more competent parties, for a legal consideration. More specifically, in regard to these rules, it is a legal written agreement between agencies or other entities to provide, supply, or perform on the one part, and remunerate on the other part, a particular service, goods, or materials, in (a) particular time frame(s) and location(s).

“Contractor” means an organization or person that provides goods, materials, and/or services for remuneration under the stipulations of a contract.

“Coordination” means a formal or informal arrangement through which the SUA, AAA, or another entity or coalition brings together the planning and service resources of two (2) or more public and private agencies in Colorado for the purpose of expanding or strengthening services for older adults. Coordination refers to cooperative efforts, in support of common objectives, directed toward joint planning and resource development, increased quality and quantity of services, and the improvement of services to achieve a more effective and efficient comprehensive system.

“Desk evaluation” means the process of a review of the direction, compliance with regulations and policy and procedures, efficiency, and effectiveness of a program or part of a program through use of written documentation requested of an AAA by the SUA.

“Developmental disability” means a disability that is manifested before the person reaches twenty-two (22) years of age, which constitutes a substantial disability to the affected individual, and is attributable to developmental delay or related conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation.

“Dietary supplement” means a product intended to supplement the diet that bears or contains one or more of the following ingredients:

- A. A vitamin;
- B. A mineral;
- C. An herb or other botanical;
- D. An amino acid;

- E. A dietary substance for use by an older adult to supplement the diet by increasing the total dietary intake; or,
- F. A concentrate, metabolic, constituent, extract, or any combination of the above ingredients.

“Dietetic Technician, Registered” means an individual who:

- A. Has:
  - 1. Completed a minimum of an Associate Degree granted by a U.S. accredited college/university;
  - 2. Completed a Dietetic Technician Program as accredited/approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
  - 3. Successfully completed the Registration Examination for Dietetic Technicians; and,
  - 4. Accrued fifty (50) hours of approved continuing professional education every five years;
- B. Or has:
  - 1. Completed the minimum of a Bachelor’s degree granted by a U.S. regionally accredited college or university, or foreign equivalent;
  - 2. Met current minimum academic requirements (Didactic Program in Dietetics) as approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
  - 3. Completed a supervised practice program under the auspices of a Dietetic Technician Program as accredited/approved by The Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
  - 4. Fully completed the Registration Examination for Dietetic Technicians; and,
  - 5. Accrued fifty (50) hours of approved continuing professional education within a specific five-year reporting period.

“Education” means a supportive service designed to assist older adults to better cope with their economic, health, and personal needs through services such as consumer education, continuing education, nutrition education, health education, pre-retirement education, financial planning, and other education and training services which advances the objectives of the Older Americans Act.

“Elder abuse, neglect, and exploitation” means abuse, neglect, or exploitation, of an older adult.

“Employability plan” means a document developed with the enrollee’s input that takes into consideration the individual’s work history, work preference, skills, aptitudes, and barriers to employment resulting in planned service actions to achieve an agreed upon occupational goal.

“Enrollee” means an older adult who is eligible for the Title V Senior Community Services Employment Program, and receives services and paid wages as a result of participating in program activities and/or community service employment.

“Evaluation” means the process of a review of the direction, compliance with regulations and policy and procedures, efficiency and effectiveness of a program or part of a program through use of an evaluation tool developed by the SUA or AAA including completed written documentation of the findings.



“Evidence-based program” means a program that demonstrates impact to the prevention and mitigation of the effects of chronic disease and other conditions.

“Family caregiver” means an adult family member, or another individual, who is an informal provider of in-home and community care to an older adult, or to an individual with Alzheimer’s disease or a related disorder with neurological and organic brain dysfunction.

“Frail” means an older adult who is determined to be functionally impaired due to:

- A. Inability to perform at least two (2) activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or,
- B. A cognitive or other mental impairment, requiring substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to self or others.

“Funding letter” means a unilateral contracting document that allows a State agency to increase or decrease the amount of funding for a specific sub-contractee based upon the funding available to the state agency.

“Funding request” means the documentation submitted annually by each AAA to the SUA, in a format prescribed that includes updated budgetary information.

“Greatest economic need” means the need resulting from an income level at or below the federal poverty guidelines.

“Greatest social need” means the need caused by non-economic factors, which include: physical and mental disabilities; language barriers; and cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that restricts the ability of a person to perform normal daily tasks; or threatens the capacity of a person to live independently.

“Hazard Analysis Critical Control Point” (HACCP) means a proactive, comprehensive, science-based, food safety system, approved by the Colorado Department of Public Health and Environment that allows nutrition project operators to continuously monitor their establishments and reduce the risk of food borne illness.

“Health oversight agency” means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

“Health promotion” means programs that promote health and well-being, such as programs for multigenerational participation that may include, but not be limited to, art therapy, dance therapy, music therapy, dental, hearing, immunization, medication management screening and education, insurance counseling, physical fitness, and vision.

“High nutrition risk” means a score of six (6) or more on the Determine Your Nutritional Risk checklist published by the Nutrition Screening Initiative. Requirements shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

“Homebound” means an older adult who is assessed as unable to leave his or her home without human assistance, due to a disabling physical or emotional condition or an environmental condition that may have a health related impact.

“Homedelivered meal” means the provision of a meal that meets all requirements as described at Section 10.412, et seq., of these rules to an eligible individual at that person’s home.

“Homehealth aide services” means activities that provide basic health services to older adults who can be cared for at their home.

“Homemaker services” means providing assistance to persons who meet the eligibility requirements for in-home services and who are unable to perform two or more of the following instrumental activities of daily living: preparing meals, laundry, shopping for personal items, managing money, using the telephone, or doing light housework.

“Home modification” means specific adaptations, repairs, maintenance, renovation, modifications, or improvements in a consumer’s existing home setting.

“Host agency” means a public or private nonprofit organization, other than a political party, exempt by law from taxation that provides a worksite and supervision for an enrollee under the Title V, Senior Community Services Employment Program.

“Indian tribe,” except for the purposes of Title VI of the Older Americans Act, means any tribe, band, nation, or other organized group or community of Indians, which is:

- A. Recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians; or,
- B. Located on, or in proximity to, a federal or state reservation or rancheria.

“In-kind match” means services, goods, or property donated by a contractee or third party, which are allowable costs of a contract, for which no cash reimbursement is required, and which are applied to a requirement for the non-federal/non-state share of program expenses.

“Instrumental Activities of Daily Living Skills” (IADLS) means activities necessary for independent living, including: meal preparation, shopping, medication management, housework, laundry, appointment management, money management, access resources, transportation, and telephone.

“Internal control” means processes designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- A. Effectiveness and efficiency of operations;
- B. Reliability of financial reporting; and,
- C. Compliance with applicable laws and regulations.

“Legal assistance” means legal advice, counseling, and representation provided by an attorney or other person acting under the supervision of an attorney.

“Local ombudsman” means an individual trained and designated as qualified by the state Long-Term Care Ombudsman to act as a representative of the office of the state Long-Term Care Ombudsman pursuant to Section 26-11.5-103(2), C.R.S.

“Long-Term Care (LTC) facility” means:

- A. A nursing facility as defined at Section 25.5-4-103(14), C.R.S.;
- B. An assisted living residence as defined at Section 25-27-102(1.3), C.R.S.; or,
- C. An extended care facility with any swing bed.

“Long-Term Care Ombudsman complaint” means an alleged problem or issue, verbal or written, in which the Colorado or Local Long-Term Care (LTC) Ombudsman takes direct action or suggests action at the request of residents, family, or other interested persons. Such action is taken in order to identify issues, resolve problems, or alter the outcome of situations. Complaints may be specific to individual residents or may involve general issues affecting many residents.

“Long-Term Care Ombudsman education” means provision of information and/or training to residents and staff of LTC facilities and communities, regarding resident’s rights, the ombudsman, and other related issues.

“Long-Term Care Ombudsman services” means actions taken to identify, investigate, or seek to resolve complaints made by or on behalf of an older adult who resides in a long-term care facility, relating to actions, inactions, or decisions of providers or public agencies that may adversely affect the health, safety, welfare, and rights of the residents.

“Low-income” means incomes below the federal poverty guidelines.

“Material aid” means aid in the form of goods or food such as direct distribution of commodities, surplus food, and distribution of clothing, smoke detectors, eyeglasses, hearing aids, dentures, security devices, and medication reminder boxes.

“Means test” means the use of an older adult’s income or resources to determine eligibility pursuant to these rules.

“Medical food” means a food formulated to be consumed or administered entirely under supervision of a physician, and intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

“Monitoring” means a review by the contractor agency of one or more contract activities, that may include on-site visits to the contractor agency; and/or data collection activities of contractors and subcontractors, for the purpose of assuring that the contract is being administered in accordance with the Older Americans Act programs, and that the purposes of the contract are being met.

“Multigenerational” means activities intended to promote interaction among generations, and may include opportunities for older adults to serve as mentors or advisors in childcare, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

“Multipurpose senior center” means a community facility for the organization and provision of a broad spectrum of services for older adults including: mental and physical health services; social, nutritional, and educational services; and the provision of facilities for recreational activities for older adults.

“Native American” means an American Indian or a Native Hawaiian.

“Native Hawaiian” means any individual whose ancestors were natives of the area that consists of the Hawaiian Islands prior to 1778.

“Needs assessment” means the process of evaluating an older adult’s status and needs; identifying the service or combination of services required to maintain the older adult’s ability to live independently.

“Nonprofit,” as applied to any agency, institution, or organization, means an agency, institution, or organization owned and/or operated by one or more corporations or associations whose profits must be used exclusively for the charitable, educational or scientific purpose for which it was formed.

“Nutrition counseling” means the provision of individualized advice and guidance, by a registered dietitian in accordance with federal or state law and/or policy, to individuals or their caregivers, for those individuals at nutritional risk because of their health or nutritional history, dietary intake, medication use, or chronic illnesses. Nutrition counseling addresses the options and methods for improving nutrition status.

“Nutrition education” means a program to promote better health by providing accurate and culturally sensitive nutrition, information and instruction to older adults and caregivers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

“Nutrition outreach” means an activity designed to seek out and identify the maximum number of older adults in greatest need of nutrition and supporting social services, such as those hard to reach, isolated, withdrawn, low-income, or a minority.

“Nutrition project area” means the geographic area for which a single nutrition project is designed.

“Nutrition screening” means the process of identifying older adults at nutritional risk or with malnutrition.

“Nutrition services” means services and activities intended to provide older adults with assistance in maintaining a well-balanced diet, including congregate and home delivered meals, nutrition counseling and nutrition education.

“Nutrition Services Incentive Program (NSIP)” means a program carried out by the United States Department of Health and Human Services to allot cash, commodities, or a combination of cash and commodities to states and contractees providing nutrition program to older adults.

“Nutrition site” means a location where congregate meals are provided, and may include senior centers, community buildings, older adult housing complexes, and public schools.

“Nutritionist” is defined as an individual who has:

- A. Completed the minimum of a Bachelor’s degree granted by a United States accredited college or university in foods and nutrition or home economics; and,
- B. Professional, verifiable experience of a minimum of six months in nutrition education, menu design, and menu analysis.

“Older adult” means a person who is sixty (60) years of age or older.

“Older Americans Act funds” means Federal funds authorized under the Older Americans Act.

“On-site evaluation” means the process of reviewing the direction, compliance with regulations and policies and procedures, efficiency and effectiveness of a program or part of a program through both discussion, and review of documentation with relevant persons by the SUA or AAA.

“Personal care” means providing personal assistance, stand-by assistance, supervision or cues for persons who meet the requirements for in-home services.

“Personal representative” means an individual who, under applicable law has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care.

“Place of residence” means a permanent declared dwelling place.

“Planning and Service Area” (PSA) means a geographic area of the state, designated by the State Unit on Aging for purposes of planning, development, delivery, and overall administration of services under an Area Plan.

“Poverty level” is based on the federal poverty guidelines.

“Program” means a particular set of services and activities authorized and funded.

“Program development” means activities directly related to either the establishment of a new service or the improvement, expansion, or integration of existing services.

“Program income” means any income generated by a contractee from activities, part or all of the cost of which is borne by the contract.

“Public transportation vehicle” means a bus, car, train, light-rail vehicle, or any other mode of transportation used by a public transportation entity to provide transportation services to the general public.

“Reassurance” means the process of contacting an older adult on a regular basis in order to provide comfort and/or help.

“Registered Dietician” means an individual who has:

- A. Completed the minimum of a Bachelor’s degree granted by a United States regionally accredited college or university;
- B. Met current academic requirements (Didactic Program in Dietetics) as approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association;
- C. Completed a minimum of nine hundred (900) supervised practice hours of pre- professional experience accredited/approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association. Requirements referenced in A, B, and C shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

- D. Successfully completed the Registration Examination for Dietitians; and,
- E. Accrued seventy-five (75) hours of approved continuing professional education every five years.

“Representative payee” means a person who is appointed by a governmental entity to receive, on behalf of an older adult who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to the individual by the entity.

“Resident” means any older adult who is sixty (60) years of age or older, who is a current, prospective, or former patient or consumer of any long-term care facility.

“Rural” means any area that is not defined as urban.

“Single Entry Point” (SEP) means the availability of a single access or entry point within a local area where a current or potential long-term care consumer may obtain long-term care information, screening, assessment of need, and referral to appropriate long-term care programs and case management services.

“Supplemental Nutrition Assistance Program” (SNAP) formerly known as ‘The Food Assistance Program’ provides food benefits to low-income households. Electronic Benefit Transfer (EBT) cards are issued and are used like cash at most grocery stores to buy food, ensuring that recipients have access to a healthy diet.

“State Unit on Aging” (SUA) means the unit in the State agency designated by the Executive Director to administer the Colorado State Plan on Aging including Older American Act programs. In Colorado, this agency is the Colorado Department of Human Services, Division of Aging and Adult Services.

“Subcontract” shall be defined the same as “contract” , except that subcontracts are awarded by Area Agencies on Aging (AAA). An agency to which a contract is made by the AAA to provide services pursuant to the Older Americans Act requirements is a subcontractee.

“Sub-project sponsor” means a public or private nonprofit organization awarded funds and positions by the SUA to administer the Senior Community Services Employment Program within an agreed upon geographic area. It is used interchangeably with the terms sub-project and sub-contractee.

“Supportive services” means those services as described in these rules and as included in the State Plan on Aging.

“Swing bed” means hospital beds that can be used as either Skilled Nursing Facility (SNF) or hospital inpatient levels of care on an as needed basis. The facility must receive approval from Medicare to provide post-hospital SNF care.

“Transportation” (one-way trip) means going from one location to another in a vehicle. It does not include any other activity.

“Tribal organization”, except for purposes of Title VI of the Older Americans Act, means the recognized governing body of any Indian tribe, or any legally established organization of Indians, which is controlled, sanctioned, or chartered, by such governing body.

“Urban area” means a central place and its adjacent densely settled territories with a combined minimum population of 50,000 or an incorporated place or a census designated place with 20,000 or more inhabitants.

## **10.200 AREA AGENCIES ON AGING (AAA) [Rev. eff. 12/1/10]**

Area Agencies on Aging engage in community planning, coordination, and program development, and provide a broad array of services for eligible older adults.

### **10.201 AAA DESIGNATION**

#### **10.201.1 Designated Agency Requirements [Rev. eff. 12/1/10]**

A designated Area Agency on Aging shall be:

- A. An established AAA operating within a Planning and Service Area (PSA);

- B. Any office or agency of a unit of general purpose local government which is designated to function only for the purpose of serving as an AAA by the chief elected official of the unit;
- C. Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of the SUA, which can and will engage only in the planning or provision of a broad range of supportive services, or nutritional services within the PSA; or,
- D. Any public or private nonprofit agency in a PSA or any separate organizational unit within such an agency, which is under the supervision or direction of the SUA, which can and will engage only in the planning or provision of a broad range of supportive services and nutrition services within the PSA.

**10.202 PLANNING AND SERVICE AREA DESIGNATION [Rev. eff. 12/1/10]**

- A. Planning and Service Areas shall be designated after considering the following:
  - 1. Geographical distribution of older adults age sixty (60) and over in the state;
  - 2. Incidence of need for supportive services, nutrition services, multipurpose senior centers, and legal assistance;
  - 3. Distribution of older adults who have the greatest economic need (with particular attention to low-income minority older adults and older adults residing in rural areas);
  - 4. Distribution of older adults who have the greatest social need (with particular attention to low-income minority older adults and older adults residing in rural areas);
  - 5. Distribution of older adults who are Indians residing in the area;
  - 6. Distribution of resources available to provide such services or centers;
  - 7. Boundaries of existing areas within the state that were drawn for the planning or administration of supportive services programs;
  - 8. Location of units of general-purpose local government within the state; and,
  - 9. Consideration of older adults with limited English proficiency.
- B. Application for Designation or Modification of a PSA

An application for designation or modification of an existing PSA may be made by:

  - 1. Any unit of general-purpose local government that has a population of 100,000 or more;
  - 2. A region within the state that is recognized for area-wide planning;
  - 3. A metropolitan area;
  - 4. An Indian reservation;
  - 5. An Area Agency on Aging; or,
  - 6. The State Unit on Aging.

- C. The designation process for a PSA shall be open to new applicants when:
  - 1. More than fifty percent (50%) of the counties in the PSA request the SUA to open the designation for an AAA to new applicants; or,
  - 2. The PSA served by the AAA has been modified; or,
  - 3. The existing AAA withdraws its designation; or,
  - 4. An AAA has been de-designated by the SUA.
- D. The applicant shall include an assessment of the distribution of older adults and other factors as outlined in the proposed PSA, including the impact of the proposed change on these same factors in the existing PSAs that would remain if the application were approved.
- E. The applicant, the SUA, or any other affected PSA may submit documentation concerning the effect of the proposed change on current delivery systems for consideration by the SUA.
- F. An Area Agency on Aging shall be designated for each Planning and Service Area.
- G. Right of First Refusal
  - 1. When the State designates a new Area Agency on Aging, the right of first refusal shall be given to a unit of general-purpose local government if the designated agency meets the following criteria:
    - a. An established office of aging that is operating within a designated Planning and Service Area;
    - b. Any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an Area Agency on Aging by the chief elected official of such unit; or,
    - c. Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose.
  - 2. If the unit of general-purpose local government chooses not to exercise the right of first refusal, preference shall be given to an established or applicant Area Agency on Aging.

**10.203 AAA GENERAL RESPONSIBILITIES [Rev. eff. 12/1/10]**

- A. The responsibilities of the AAA shall include the following:
  - 1. Developing and maintaining an organizational structure and capacity to effectively administer OAA programs and responsibilities;
  - 2. Developing and implementing a plan to assist potential direct service providers to develop capacity to efficiently and effectively provide services under the Area Plan;
  - 3. If applicable, an update of progress in developing potential direct service providers shall be included in the annual funding request;
  - 4. Administering the plan in accordance with fiscal and programmatic requirements stated in the Older Americans Act, in these rules, and the AAA policies and procedures;



5. Identifying needs and targeting of services to older adults;
6. Selecting a local agency, program, or person(s) to be designated as the Local Long-Term Care Ombudsman and to serve as an official and identifiable link to the Colorado Long-Term Care Ombudsman, including designation of a "lead" Local LTC ombudsman;
7. Ensuring that criminal background checks are conducted for all employees, volunteers, and contractors;
8. Providing services or contracting with local providers to provide services under the caregiver support programs;
9. Ensuring that all for-profit contracts shall be submitted to the SUA for approval;
10. Ensuring that funds made available under the Older Americans Act shall not be used for lobbying activities including, but not limited to, any activities intended to influence any decision or activity by any non-judicial federal, state or local individual or body;
11. Ensuring that federal funds are not used to supplant non-federal funds, and those efforts to obtain support from private sources and other public organizations continue;
12. Providing leadership and advocacy for older adults within the PSA, including monitoring and evaluating factors and issues affecting older adults;
13. Establishing and maintaining a uniform data and reporting system compatible with state systems for collection and exchange of required data and information that accurately reflects the project and financial operations; and,
14. Completing reports in formats as required by the SUA.

**B. Priority Services**

The AAA shall ensure that the adequate amounts, as developed by the SUA and with stakeholders' input, of Title III, Part B funding are expended for the following priority services:

1. Access services as defined in Section 10.400;
2. In-home services as defined in Section 10.400; and,
3. Legal assistance as defined in Section 10.419.

**10.204 DIRECT SERVICES AND SERVICE STANDARDS [Rev. eff. 12/1/10]**

**A. The Area Agency on Aging (AAA) shall not directly provide supportive services, nutrition services, in-home services, or disease prevention and health promotion services unless, in the judgment of the SUA:**

1. Provision of the services by the AAA is necessary to assure an adequate supply of services;
2. The services are directly related to AAA administrative functions;
3. The AAA can provide services of comparable quality more economically; or,
4. There is no identified service provider in the PSA that provides the service.

- B. Except for the services described above, or where a waiver is granted by the SUA, AAAs shall award funds by contract to community service provider agencies and organizations.

**10.204.1 Waiver Application [Rev. eff. 12/1/10]**

An AAA shall request a direct service waiver from the SUA in the Area Plan, annual funding request, or whenever the AAA is applying to directly provide a service not previously approved by the SUA.

**10.205 OVERSIGHT OF SERVICE PROVIDERS [Rev. eff. 1/1/12]**

AAAs shall assure that services authorized under the Older Americans Act are delivered through a network of local service providers under contract with the SUA or the AAA. Failure to comply with the requirements of these rules by any service provider including contractors, or subcontractors, shall be grounds for termination of the contract or subcontract. As a condition for receipt of funds under the OAA, all service providers, including contractors and subcontractors, shall:

- A. Provide the AAA, within required timeframes, statistical and other information that the AAA requires to meet its planning, coordination, evaluation, and reporting requirements established by the SUA;
- B. Specify how the provider intends to satisfy the service needs of low-income minority older adults and older adults residing in rural areas of the area served, including attempting to provide services to low-income minority older adults at least in proportion to the number of low-income minority older adults in the population served by the provider;
- C. Provide consumers with an opportunity to contribute to the cost of the service in accordance with Sections 10.310 and 10.401.4;
- D. Bring to the attention of appropriate officials for follow-up, conditions or circumstances that place the older adult, or the household of the older adult, in imminent danger;
- E. Where feasible and appropriate, make arrangements for the availability of services to older adults in weather related emergencies or other emergency situations;
- F. Assist consumers in taking advantage of benefits under other programs;
- G. Establish complaint and appeals procedures and inform consumers of their right to complain and receive a written response at the provider level and Inform consumers of their grievance rights and their right to request and receive an informal hearing at the provider level; and,
- H. Establish a waiting list for services.

**10.206 CONSUMER CONFIDENTIALITY [Rev. eff. 12/1/10]**

All AAAs and service providers shall maintain the confidentiality of protected health information, including the consumer's personal identification information such as Social Security Number and individually identifiable health information, and ensure that no information about an eligible consumer is disclosed by the agency or provider without the informed written consent of the consumer or the consumer's personal representative.

**10.207 TARGETING OF SERVICES [Rev. eff. 12/1/10]**

- A. Preference and priority in the delivery of services shall be given to older adults with limited English proficiency, the greatest social or economic need with particular attention to low income minority older adults and individuals who are frail, homebound by reason of illness or have an incapacitating disability or otherwise isolated as defined below:
  - 1. The need caused by non-economic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical (rural) isolation such as those caused by racial or ethnic status which restricts an older adult's ability to perform normal daily tasks or which threatens an older adult's capacity to live independently; and,
  - 2. The need resulting from an income level at or below the federal poverty guidelines.
- B. No person applying for or receiving services under the OAA shall be discriminated against based on age, gender, religion, race, ethnicity, sexual orientation, political belief, or disability.

**10.208 OUTREACH [Rev. eff. 12/1/10]**

The outreach service shall include activities to assure that the maximum number of eligible older adults are informed of, and have an opportunity to participate in, services funded through the Older Americans Act, including low-income minority older adults and older adults living in rural areas and:

- A. Establish communication with the local news media to inform the public of available services and opportunities to contribute to the planning and implementation of services; and,
- B. In a Planning Service Area where a majority of older adults speak a language other than English as their principal language, provide outreach in that language.

**10.209 COORDINATION [Rev. eff. 12/1/10]**

Coordination shall include planning, development, and use of community-based resources to create effective service delivery systems within the PSA that delay or prevent institutionalization of older adults, including:

- A. Coordinating with the Single Entry Point agency(ies) in the PSA as well as other long-term care services and adult protection;
- B. Developing relationships with other service organizations, including local public and nonprofit agencies providing services to older adults within the PSA;
- C. Pooling of resources when appropriate;
- D. Participating on the Single Entry Point Community Advisory Committee and the Single Entry Point Resource Development Committee, if feasible.

**10.210 PROGRAM DEVELOPMENT [Rev. eff. 12/1/10]**

- A. Program development activities shall include establishment of a new service or improvement, expansion, or integration of existing services.
- B. Program development services shall meet the following criteria to be funded with Title III-B supportive services funds:
  - 1. Activities intended to achieve a specific service(s) goal or objective; and,

2. Activities occurring during a specifically defined and limited period.

**10.211 AREA PLAN [Rev. eff. 12/1/10]**

- A. Each AAA shall develop an Area Plan in the format prescribed by the SUA to provide a comprehensive and coordinated system of programs to meet the needs of the older adults in the PSA.
- B. All Area Plans must be approved by the SUA.
- C. AAAs are responsible for revising and updating Area Plans as required by the SUA.
- D. The AAA shall conduct at least one public hearing on the Area Plan to provide an opportunity for the public, officials of county and other local governments, and other interested parties to comment on the Area Plan.
- E. The AAA shall conduct public hearings when it plans to submit, amend, or seek a waiver for any part of the Area Plan, to provide an opportunity for the general public, officials of local units of general-purpose government, service providers, and other interested parties to comment on the Area Plan.
- F. A summary of the comments, including resulting changes to the proposal plan(s), shall be submitted to the SUA with the Area Plan and annual updates.
- G. Records of the public meetings shall be on file at the AAA and shall be available for review upon request.
- H. On an annual basis, using a format specified by the SUA, the AAA shall complete an annual funding request to make fiscal and programmatic adjustments to the Area Plan including the submission of an annual budget.

**10.212 DATA COLLECTION, PERFORMANCE EVALUATION, AND MONITORING [Rev. eff. 12/1/10]**

- A. Data Collection and Reporting

The AAA shall ensure that data and reports submitted to the SUA shall be in a format compatible with State systems and that data submitted to the SUA can be manipulated without manual re-entry of data by SUA staff.
- B. Evaluation

Each AAA shall evaluate the costs and benefits, quality, accessibility, utilization, priority, targeting, and overall effectiveness of all programs, services, and activities for which it provides funding within each contracted fiscal year.
- C. Monitoring
  1. The AAA shall monitor the performance of all service providers awarded a contract at least every six (6) months.

2. On-Site Evaluations

The AAA shall conduct a comprehensive on-site evaluation of each new service provider within ninety (90) calendar days of the date the contractor begins providing services to older adults or their caregivers under the OAA and annually thereafter unless otherwise approved by the SUA.

**10.213 EMERGENCY PREPAREDNESS/DISASTER RELIEF [Rev. eff. 12/1/10]**

- A. The OAA provides for potential reimbursement to any state on behalf of AAAs in the state for delivery of supportive services and related supplies during any major disaster declared by the President.
- B. Disaster relief funds provide expense reimbursement with no matching requirement for Title III services provided above those normally expected by the AAA as a result of a declared disaster in their PSA.
- C. Eligibility for services is based on OAA eligibility.
- D. Disasters for which services may be provided include tornados, floods, earthquakes, drought, blizzards, pestilence, famine, fire, building collapse, transportation accidents, or other situations that the victims of such a disaster cannot alleviate without assistance.
- E. Each AAA shall ensure home delivered meal providers deliver emergency meals to home delivered meal consumers.
- F. Each AAA shall develop an emergency preparedness plan in the format prescribed by the SUA.
- G. All emergency preparedness plans must be approved by the SUA.
- H. AAAs are responsible for revising and updating emergency preparedness plans as required by the SUA.

**10.214 CONFLICT OF INTEREST [Rev. eff. 12/1/10]**

No officer, employee, or other representative of the SUA, Colorado Long Term Care Ombudsman (CLTCO) or an AAA shall give the appearance of a conflict of interest.

- A. Staff members of the SUA shall not serve on a policy board or advisory council of an AAA or other organization, which receives OAA or the OCA funds, or has submitted an annual funding request or contract proposal for such funds.
- B. Members of AAA Advisory Councils, who are also employees, board members, or serve on subcommittees of agencies that have submitted an annual funding request or contract proposals to the Area Agency on Aging shall not take part in the process of evaluating applications or proposals in the service category in which the proposal was submitted, and shall abstain from voting to approve or disapprove of the application or proposal, or any applications or proposals in the service category in which the proposal was submitted.

**10.215 AREA AGENCY ON AGING ADVISORY COUNCIL [Rev. eff. 12/1/10]**

- A. Each AAA shall establish and support an Advisory Council.
- B. In selecting the membership of the Advisory Council, the AAA shall ensure potential conflicts of interest are identified and corrected.

- C. The AAA shall make efforts that underserved consumers have representation on the Advisory Council.

**10.216 COMMUNITY FOCAL POINTS [Rev. eff. 12/1/10]**

- A. The AAA shall ensure services funded under the Older Americans Act are based at, linked to, or coordinated with the designated community focal point when applicable, and older adults within the PSA have information regarding access, including transportation, to designated community focal points and OAA programs.
- B. The AAA shall work with other appropriate service agencies within the community to achieve maximum coordination and access to services and opportunities from community focal points.

**10.217 SENIOR CENTER CONSTRUCTION AND RENOVATION [Rev. eff. 12/1/10]**

In making awards for the construction or renovation of senior centers, the AAA shall ensure the facility complies with federal, state and local health, fire, safety, building, zoning, and sanitation laws, ordinances or codes.

**10.300 FISCAL ADMINISTRATION AND MANAGEMENT**

**10.301 ALLOTMENT OF FUNDS FOR TITLE III AND TITLE VII SERVICES [Rev. eff. 12/1/10]**

The allocation formula for all Title III and Title VII services shall be developed in conjunction with the AAAs, SUA, and with input from stakeholders and approved by the Colorado Commission on Aging.

**10.302 STATE AND LOCAL MATCH**

**10.302.1 General Match Requirements [Rev. eff. 12/1/10]**

To be acceptable, all matching contributions, including cash and in-kind contributions, shall meet the following criteria:

- A. Verifiable from contractor or sub-contractor records;
- B. Not included as contributions (match) for any other federally assisted project or program;
- C. Reasonable and necessary for proper and efficient accomplishment of project or program objectives;
- D. Allowable under applicable cost principles;
- E. Not paid by the federal government under another award, except where authorized by federal statute to be used for matching;
- F. Provided for in the approved budget; and,
- G. Conforms to federal matching requirements.

**10.302.2 Administrative Match [Rev. eff. 12/1/10]**

- A. The non-federal share of the cost of administering the Area Plan shall not be less than twenty-five percent (25%) of the total costs incurred for Area Plan administration during the contract period.

- B. The non-federal share shall be from local (non-state) sources and may be cash or in-kind contributions.

**10.302.3 Title III, Parts B and C [Rev. eff. 1/1/12]**

Title III, Parts B and C require a fifteen percent (15%) match.

- A. The State shall match at least five cents (\$0.05) for every eight-five cents (\$0.85) of federal funding.
- B. The local match requirement shall be ten percent (10%) of the combined state and federal funds (in cash or in-kind).
- C. The SUA shall not require that every sub-contractor or contractor meet the minimum ten percent (10%) local match requirement.
  - 1. The net costs of supportive and nutrition services provided under the Area Plan during the contract period shall contain a local match component of not less than ten percent (10%).
  - 2. The AAA shall have flexibility to determine individual match requirements for its contractors in meeting this ten percent (10%) requirement.

**10.302.4 Title III, Part E [Rev. eff. 12/1/10]**

- A. Title III, Part E funds shall require a twenty-five percent (25%) match, including:
  - 1. Appropriations from the Colorado General Assembly; and,
  - 2. Local resources available to AAAs in the form of cash and in-kind.
- B. Expenditures used to satisfy the non-federal share requirement shall be related to the purposes of Title III, Part E, and may not be used to meet the non-federal share requirements of other federal programs, including other sections of Title III.

**10.302.5 Title VII [Rev. eff. 12/1/10]**

AAAs shall meet the allocation of Title VII funds with a twenty-five percent (25%) local match (in cash or in-kind contribution).

**10.303 IN-KIND CONTRIBUTIONS [Rev. eff. 12/1/10]**

- A. In-kind contributions include, but are not limited to, the following:
  - 1. Personal services provided by volunteers or other unpaid staff for which the contractor would otherwise have to pay, when the service is an integral and necessary part of the project. These services shall be valued at rates consistent with those ordinarily paid for similar work in the same labor market and may include fringe benefits.
  - 2. Donated goods, including expendable property such as office supplies, laboratory supplies, or workshop and classroom supplies, shall be valued at fair market value at the time of donation.

3. If approved by the SUA, donated buildings, space, land, or equipment shall be valued at:
    - a. Fair rental value of the equipment or space if the donor retains ownership; or,
    - b. Fair market value at the time ownership of the building, space, land, or equipment is transferred to the contractor, if the contracting agency approves the match.
  4. Depreciation or use allowance may be counted as match.
- B. In-kind contributions shall be documented to identify the in-kind contribution and the methodology for determining the value placed on the in-kind contribution.
  - C. The value of donated goods or services shall not be reimbursable as a direct or indirect cost of the contract.
  - D. Neither the cost nor the value of in-kind contributions shall be counted toward satisfying a cost-sharing (match) requirement of an OAA grant, if counted towards satisfying a cost-sharing or matching requirement for another federal grant, a federal procurement contract, or any other award of federal funds.

**10.304 AREA PLAN FUNDING REQUESTS AND APPROVAL [Rev. eff. 12/1/10]**

- A. Contractors of the SUA shall apply for Older Americans Act funds at a time and in the format designated by the SUA.
- B. Contractors shall be notified in writing by the SUA of approval, conditional approval, or disapproval of the application.
- C. Issuance of the signed option letter or funding letter constitutes spending authority for the contractor, and approval of the Area Plan and/or annual funding request.
- D. The project period shall be stipulated in the option letter or funding letter issued by the SUA and shall be the period from the start date of the contract to the end date of the contract.
- E. The project period shall not extend beyond the end of the contract unless a later date is specifically authorized in writing by the SUA or specified in the funding request or contract approved by the SUA.
- F. Submission of a request for reimbursement after the issuance of an option letter or funding letter, or revised option letter or funding letter is issued, constitutes acceptance of all contract conditions, unless a written appeal is filed by the AAA.

**10.304.1 Awarding of Funds [Rev. eff. 12/1/10]**

- A. The federal government awards funds to the SUA for the purpose of distributing such funds throughout Colorado according to the guidelines established under the Older Americans Act and the approved State Plan on Aging.
- B. The AAAs shall have a formal award agreement or contract with service providers to provide services under the Area Plan.



- C. Preference in awarding funds or contracts for Title III services shall be given to minority organizations which meet any one of the following criteria: not for profit organization with a controlling board comprised at least fifty-one percent (51%) of individuals who are American Indian or Alaskan Native Asian, Black or African American, Native Hawaiian or other Pacific Islander, or Hispanic or a private business concern that is at least fifty-one percent (51%) owned by individuals in the racial and ethnic categories listed above or a publicly owned business having at least fifty-one percent (51%) of its stock owned by one or more individuals and having its management and daily business controlled by one or more individuals in these racial and ethnic categories listed, if, in the judgment of the awarding agency and all other requirements being equal, the award or contract:
1. Facilitates meeting the requirement of giving preference to older adults with greatest social or economic need; and,
  2. Results in particular attention to low-income minority older adults and older adults living in rural areas.

**10.304.2 Conditions of Award or Contract [Rev. eff. 12/1/10]**

Program activities conducted with a Title III award or contract shall comply with the following:

- A. The Older Americans Act;
- B. Clarifications or guidance issued by the United States Department of Health and Human Services;
- C. Colorado Department of Human Services' Older Americans Act Program rules;
- D. Any conditions attached to the contract, option letter or funding letter issued to Area Agencies, sub-contractors, or contractors; and,
- E. Requirements found at 45 CFR, Part 1321; 45 CFR, Part 74; 45 CFR, Part 92; and 45 CFR, Part 95. These shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

**10.304.3 Cash Advances on Awards [Rev. eff. 12/1/10]**

- A. The SUA may provide cash advances to an AAA for cash flow purposes during the reimbursement period.
- B. Cash advances shall be distributed from the specific federal funding part that made up the money for the advance.
- C. Cash advances shall be used to pay for services funded through the specific federal funding part related to the advance.
- D. Cash advances that are made up of federal dollars shall not be used as an advance for other funding streams.

**10.304.4 Interest on Cash Advances [Rev. eff. 12/1/10]**

- A. Contractors and sub-contractors shall maintain advances of federal funds in interest-bearing bank accounts. This shall include cash advances as described in this rule section.
- B. Interest earned on these cash advances of federal funds shall not be considered "local" income.
- C. Interest amounts up to \$250.00 per year may be retained for administrative expenses.
- D. Interest amounts in excess of \$250.00 shall be remitted annually to the SUA.

**10.304.5 Enforcement, Suspension, or Termination of a Contract [Rev. eff. 12/1/10]**

- A. The contracting agency (SUA or AAA) shall take one or more enforcement actions, if the contract recipient:
  - 1. Fails to comply with these rules; or,
  - 2. Has materially failed to comply with the terms of the annual funding request; or,
  - 3. Fails to carry out required corrective action by the dates specified by the contracting agency.
- B. Enforcement actions may include:
  - 1. Temporarily withholding cash payments pending correction of the deficiency by the contractor or sub-contractor;
  - 2. Disallowance (denial of use of funds and any applicable matching credit) for all or part of the cost of the activity or action not in compliance;
  - 3. Total or partial suspension of the current award;
  - 4. Termination of the current award; and,
  - 5. Other remedies as may be legally available.
- C. Non-compliance shall be documented by the contracting agency.
- D. The contracting agency shall notify the contractor in writing of the required corrective actions and dates by which the corrective action shall be due.
- E. Notification shall include the contractor's or sub-contractor's rights to a hearing, appeal or other administrative action.
- F. The contractor or sub-contractor shall not incur new obligations against the contract during the period of suspension unless expressly authorized to do so by the contracting agency.
- G. If the contractor remains in suspension until the end of the contract period recorded in the option letter or funding letter, the contract shall be automatically terminated.
- H. If a contract to an AAA is suspended or terminated by the SUA, the agency acting on its behalf may administer the Area Plan described in Section 10.211.

- I. Termination of a contract shall occur on other grounds if:
  - 1. The contracting agency and the contractor agree upon the termination conditions; or,
  - 2. The contractor notifies the agency in writing of the termination, the effective date and, in case of partial termination, the portion of the contract to be terminated.
- J. In the case of partial termination, the contracting agency shall determine whether the remaining portion of the contract will accomplish the purposes for which it was awarded. If not, the contracting agency may terminate the contract in its entirety.
- K. If a contract is terminated:
  - 1. The contractor shall not incur new obligations after the effective date of the termination;
  - 2. The contractor shall cancel outstanding obligations; and,
  - 3. The contracting agency shall allow full credit to the contractor for obligations properly incurred prior to termination that cannot be cancelled.

**10.304.6 Multipurpose Senior Center Federal Reversionary Interest [Rev. eff. 12/1/10]**

The Administration on Aging (AOA) retains a federal reversionary interest to recover funds at a percentage of the current market value of the multipurpose senior center, equal to the percentage of AOA funds contributed to the cost of the facility.

**10.305 TRANSFERS OF FUNDS [Rev. eff. 12/1/10]**

- A. The OAA provides authority for the state to transfer funds, within specific limits, among its allotments for supportive services and senior centers, congregate meals and home delivered meals.
- B. The OAA does not provide authority for the State to transfer funds in or out of the allotments for Preventive Health Services/Disease Prevention, the Long-Term Care Ombudsman or the National Family Caregiver Support Program.
- C. The AAA may transfer up to forty percent (40%) of funds between Title III Part C-1 (Congregate meals) and Part C-2 (Home delivered meals).
- D. The AAA may transfer up to thirty percent (30%) of its allotment between Title III, Part B and the Nutrition Programs under Title III, Part C.
- E. If the AAA requests a transfer that exceeds the maximum percentage, a waiver justifying the additional amount shall be submitted to the SUA.

**10.305.1 Restrictions on Fund Use [Rev. eff. 1/2/12]**

- A. Program development and coordination activities shall not be funded as a cost of supportive services for Area Plan administration until the AAA has spent 10 percent (10%) of its Title III allotments on administration of Area Plans.
- B. Title III Program Income  
  
Program income generated by Title III shall not be used for AAA administration.

- C. Title III, Part E – National Family Caregiver Support Program
1. Area Agencies on Aging providing caregiver services to consumers and/or their families prior to enactment of the Title III, Part E shall:
    - a. Use these funds only to increase the level of services provided; and,
    - b. Not supplant other federal, state or local funds used for this purpose with funds from Title III, Part E.
  2. Area Agencies on Aging shall not expend more than ten percent (10%) of Title III, Part E Federal funds to provide support services for grandparent caregivers.

**10.306 CARRY-OVER FUNDS [Rev. eff. 12/1/10]**

Area Agencies on Aging shall expend OAA funds during the budget year for which the funds are granted. Carry-over funds are funds that are not expended during the budget year and may be available during the next budget year. The SUA may reallocate carry-over funds, or carry-over funds may revert to the SUA.

**10.307 PAYMENT [Rev. eff. 12/1/10]**

Contractors shall submit requests for reimbursement in the format and time period required by the SUA.

**10.308 ACCOUNTING**

**10.308.1 General Requirements [Rev. eff. 12/1/10]**

- A. Agencies which are contractors of the SUA shall utilize double-entry accounting systems including, but not limited to: a general ledger, cash receipts journal, cash disbursements journal, in-kind receipts, disbursements journal, and general journal. Additionally, individual payroll records shall be maintained.
- B. Contractors shall have qualified accounting personnel available to perform accounting functions.

**10.308.2 Internal Control Procedures [Rev. eff. 12/1/10]**

State contractors shall ensure that internal controls are established and maintained for itself and its sub-contractors in accordance with state policies and procedures. At a minimum, agencies shall develop and maintain a fiscal policy and procedures manual that shall establish minimum fiscal requirements in accordance with federal, state, and local statutes, rules, and procedures. The local advisory council shall review the fiscal policy and procedures manual. If the agency is an AAA, the agency's governing board shall approve the fiscal policy and procedures manual. The fiscal policy and procedures manual shall include, but not be limited to:

- A. Cash control procedures including requirements for the collection of consumer contributions and guest fees, recording of cash receipts and expenditures, depositing of cash, separation of cash handling from record keeping responsibilities and periodic reconciliation of all cash funds including bank accounts;
- B. A plan to equitably distribute on a timely basis the state's cash advance by the AAA to its subcontractors;
- C. Bidding, purchasing, and contracting procedures in accordance with federal, state and local requirements;

- D. Requirements for bid guarantees, performance bonds and payment bonds for bids and contracts for construction and facility improvement;
- E. A procedure for distributing joint costs among projects or contracts in accordance with the section on cost distribution methods in these rules; and,
- F. In-state and out-of-state travel policies, including specification of required signatures and documentation.

**10.309 TITLE III PROGRAM INCOME [Rev. eff. 1/1/12]**

- A. Program income shall include all income earned by a contractor, or subcontractor that is directly generated by supported activities, the cost of which is borne by the contract whether in part or in full.
- B. All program income shall be used in accordance with the additional costs alternative and shall be added to funds committed to the project or program, and used to further eligible project or program objectives.
- C. All income, including interest earned on program income accounts, earnings, and expenditures of program income shall be reported monthly in accordance with the format and time period required by the SUA.
- D. Program income shall be fully expended before requesting reimbursement for Older Americans Act or state funding for senior services.
- E. Carry-over (unexpended program income or "balance on hand" ) shall be reported as required by the SUA.
- F. The AAAs or service providers with programs for services to both older adults under the OAA, and other non-aging programs, are prohibited from maintaining one interest-bearing account to serve all programs.

**10.310 CONSUMER CONTRIBUTION [Rev. eff. 12/1/10]**

- A. Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under Title III.
- B. Methods of solicitation for voluntary contributions shall be non-coercive.
- C. The AAA shall provide service providers with policy and guidelines for accepting voluntary contributions and guest fees from non-eligible consumers.
  - 1. The AAA shall establish and maintain procedures to protect the privacy of the consumer's decision to contribute or not contribute toward the service rendered.
  - 2. Eligible consumers shall not be denied service(s) provided under Title III because the consumer's decision not to contribute.
  - 3. Service providers shall determine the costs of services provided and display a suggested contribution schedule as well as required guest fees for services at the entry point of the service premises.

- D. The AAA and service providers shall not perform a means test for any service for which contributions are accepted, or deny services to any eligible consumer who does not contribute to the cost of the service.

E. Guest Fees

Guest fees are required charges equal to the full cost of the service to persons who are not eligible consumers of the program but are receiving services. Fees shall be determined using guidelines and procedures established by the SUA.

F. Usage Fees

Usage fees include charges for the use of equipment or other fixed assets acquired with OAA funds. The minimum usage fee shall be charged when such assets are used for non-contract purposes. If nutrition project contractors or sub-contractors use equipment purchased with Title III funds to produce meals sold to other organizations:

1. The compensation shall be directly credited to the cost of goods or services provided under the current contract, if the equipment was acquired under the current year's contract; and,
2. If the equipment was acquired with a prior year's contract, the compensation shall be recorded as program income.

G. Sales of Equipment and Supplies

Proceeds from sale of equipment or supplies not used for replacement equipment shall be accounted for as program income.

- H. Program income earned after contract support has ended shall be subject to the terms of the contract or subcontract. If this category of income is not specifically detailed in the contract document, the agency may dispose of the income as it chooses.

**10.311 THIRD PARTY PAYMENTS [Rev. eff. 12/1/10]**

- A. Payments from Medicare, insurance companies, or other third party sources shall be credited directly to the cost of goods or services provided.
- B. If Medicaid funds are used to purchase services, no additional funds shall be used for those services.
- C. Refunds for defective or unused merchandise or manufacturer rebates or discounts shall be credited directly to the cost of the goods or services provided.
- D. Donations unrelated to the receipt of services are not program income and may be used to meet local matching requirements.
- E. The use of goods and property, and the value of staff personnel time used in fund raising activities shall be fully compensated.

**10.312 NUTRITION SERVICES INCENTIVE PROGRAM (NSIP) [Rev. eff. 12/1/10]**

- A. Funds received from the AoA shall be distributed by SUA.

- B. The AAA allocation shall be based on the percentage of the number of eligible meals served each year by the AAA/nutrition service project to the total number of meals served under Colorado Nutrition projects.
- C. All meals shall be reported to the SUA on a regular basis in the format required by the SUA.
- D. NSIP cash funds shall only be used to purchase United States agricultural foods for the nutrition program, and shall be used to increase the number of meals served.

**10.313 FIXED ASSETS, SUPPLIES, AND CAPITAL EXPENDITURES [Rev. eff. 12/1/10]**

- A. Fixed assets are:
  - 1. Real property (land, buildings, and building improvements);
  - 2. Leasehold improvements (remodeling or redecorating of rented or leased spaces); and,
  - 3. Tangible personal property (office furniture, kitchen equipment and vehicles) with a useful life of more than one (1) year.
- B. Fixed assets may be acquired by purchase or by donations.
  - 1. Prior approval of the contracting agency shall be obtained prior to purchase of a fixed asset with a value in excess of \$5,000.00. Issuance of an option letter or funding letter shall constitute approval if the proposed purchase and its justification have been included in the fiscal section of the funding request.
  - 2. Donations of fixed assets shall be used as in-kind match if they further the purposes of the contract. The cost shall be recorded at fair market value and all requirements for fixed assets shall apply.
- C. The AAA or sub-contractor shall maintain, at a minimum, insurance coverage adequate to cover the replacement value of all fixed assets.
- D. Fixed assets funded in whole or in part by grant funds may be used on a part-time basis for non-grant purposes by:
  - 1. Nonprofit agencies, provided that:
    - a. A minimum usage fee is charged in accordance with program income requirements at Section 10.401.16; and,
    - b. The part-time usage does not conflict with the use of the equipment for the purposes of the contract.
  - 2. Profit-making organizations, provided that:
    - a. A usage fee equal to or greater than the prescribed minimum is charged;
    - b. Usage does not conflict with the use of the equipment for purposes of the contract; and,
    - c. Prior approval has been obtained from the contracting agency.

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**10.314 FISCAL AND PERFORMANCE REPORTING REQUIREMENTS [Rev. eff. 12/1/10]**

- A. At the end of each reporting period, performance and fiscal reports shall be submitted to the SUA in a format and time period specified by the SUA.
- B. Area Agencies on Aging failing to meet SUA requirements to provide accurate and timely reports may be subject to further corrective action, including:
  - 1. Suspension of reimbursement payments; and,
  - 2. Withholding of funding request.

**10.315 DATA AND REPORTING [Rev. eff. 12/1/10]**

Each AAA shall ensure that record keeping and documentation requirements are met as required by the SUA.

- A. Documentation

Documentation including, but not limited to, consumer files, accounting records, deposit slips, cancelled checks, bank statements, monthly bank reconciliation, invoices, receiving reports, shall be maintained and clearly documented with supporting information and references.
- B. Retention of Records
  - 1. Contractors and sub-contractors shall retain fiscal and programmatic records until formal written notice permitting disposal of the records is received from the contracting agency.
  - 2. The SUA shall transmit written notice to its contractors within six (6) months of the date retention of the records is no longer required by federal regulations.
  - 3. Within three (3) months after receiving the notice, the AAA shall notify its sub-contractors in writing that retention of the records is no longer required.

**10.316 FISCAL AUDITS [Rev. eff. 12/1/10]**

- A. Frequency of Audits
  - 1. An independent auditor shall audit all AAAs annually.
  - 2. Each contractor of the SUA and each sub-contractor shall be audited in accordance with Federal Office of Management and Budget requirements for audits of states, local governments and nonprofit organizations. Requirements shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services,  
Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any  
State Publication Depository Library.
  - 3. Contractors, including AAAs, of the SUA shall be responsible for scheduling audits of their agency and shall budget for the use of an independent registered certified public accountant to carry out the audit.



4. The audit of an AAA shall include a representative sample of the transactions under contract that are less than lower limits established by the Federal Office of Management and Budget for such audits, if the aggregate of the contracts is material according to the auditor's judgment.
  - a. Audits of contractors and sub-contractors shall be conducted in accordance with federal requirements for audits of states, local governments and nonprofit organizations and as directed by the SUA.
  - b. The contractor of this program is considered an independent contractor of Title III federal financial assistance, subject to audit requirements regardless of the amount of federal funding the contractor receives.
- B. Audit costs may be charged to the contract if the audit meets all requirements of Section 10.316. If multiple funding sources are covered by the audit, an equitable portion of the audit costs may be charged to the contract.

**10.400 SERVICES AND PROGRAMS [Rev. eff. 12/1/10]**

- A. Among the authorized Services under the Older Americans Act are Access Services, including, transportation, outreach, and information and assistance; In-Home Services including, chore services, home health aide services and homemaker services; and community services including, adult day care and legal assistance.
- B. Title III, Part B authorizes senior centers; access services, such as transportation, outreach, information and assistance, and case management; In-home services; and community services, such as adult day care, long-term care ombudsman, and legal assistance.
- C. Title III, Parts C-1 and C-2, authorizes nutrition services including nutrition outreach, nutrition screening, nutrition education, nutrition counseling, and congregate meal and home delivered meal services.
- D. Title III, Part D authorizes disease prevention and health promotion services.
- E. Title III, Part E authorizes the National Family Caregiver Support Program (NFCSP).
- F. Title V authorizes the Senior Community Services Employment Program (SCSEP).
- G. Title VII authorizes the Vulnerable Elder Rights programs, including legal assistance developer; long-term care ombudsman; and elder rights and prevention of elder abuse, neglect, and exploitation.

**10.401 GENERAL PROGRAM AND SERVICE REQUIREMENTS [Rev. eff. 12/1/10]**

The following applies to all Older Americans Act, Older Coloradans Act, and State Funding for Senior Services programs and services listed within Section 10.400, et seq. unless more stringent requirements are cited.

**10.401.1 General Service Eligibility [Rev. eff. 12/1/10]**

All adults age sixty (60) and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need.

**10.401.11 General Registration [Rev. eff. 12/1/10]**

All recipients of adult day care, assisted transportation, caregiving, case management, chore, congregate meals, home delivered meals, home maker, nutrition counseling, and personal care registered services shall have a registration completed as prescribed by the SUA.

**10.401.12 General Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult within thirty days of the delivery of registered services using the assessment tool approved by the State Unit on Aging.

**10.401.13 General Annual Funding Request Responsibilities [Rev. eff. 12/1/10]**

**A. Annual Funding Request**

1. The AAA shall submit information about the proposed use of State Funding for Senior Services/Older Americans Act funds in the annual funding request.
2. The purpose of the annual funding request shall be to allow the AAA to articulate to the SUA and to the local community an Area Plan for what will be accomplished during the State fiscal year with available funding.
3. The AAA Advisory Council shall:
  - a. Review the Area Plan to ensure it is in accordance with the requirements of the annual funding request application; and,
  - b. Make recommendations for the plan.
4. The governing board of the AAA shall review the Area Plan. Approval by this board requires the signature of the executive director or chairperson of the governing board.
5. Approval by the SUA shall follow the requirements for approval of the Area Plan and annual funding request as described in these rules.

**B. The AAA shall award contracts to service providers using State Funding for Senior Services (SFSS) funds.**

1. Contracts awarded by the AAA may cover a multi-year period, but shall not exceed four years.
2. Funds shall be awarded on the State fiscal year.
3. Award of funds for subsequent years shall be contingent on the availability of funds and acceptable performance of the contract as determined by the AAA.
4. AAAs may provide direct service only with approval of the SUA as part of the AAA's Area Plan or through a direct service waiver.

**10.401.14 General Data and Records [Rev. eff. 12/1/10]**

The AAA shall collect data and maintain records in the format mandated by the SUA. Data and records shall be used to monitor program administration, compliance, and to evaluate the effectiveness of AAA programs.

**10.401.15 General Background Checks**

AAAs shall ensure that criminal background checks are conducted for all employees, volunteers, and contractors pursuant to the policy and procedure manual.

**10.401.2 General Targeting of Services [Rev. eff. 12/1/10]**

Preference and priority in the delivery of services shall be given to older adults with the greatest social or economic need with particular attention to low-income minority older adults and individuals who are frail, homebound by reason of illness or incapacitating disability or otherwise isolated as defined below:

- A. Need caused by non-economic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical (rural) isolation including that caused by racial or ethnic status which restricts an older adult's ability to perform normal daily tasks or which threatens such older adult's capacity to live independently.
- B. Older adults with limited English proficiency.
- C. No person applying for or receiving service under the OAA shall be discriminated against based on age, gender, religion, race, ethnicity, sexual orientation, political belief, or disability.

**10.401.3 General Program Income [Rev. eff. 12/1/10]**

- A. Program income shall include all income earned by a contractor, or subcontractor that is directly generated by supported activities, the cost of which is borne by the grant whether in part or in full.
- B. All program income shall be used in accordance with the additional costs alternative and shall be added to funds committed to the project or program and used to further eligible project or program objectives.
- C. All income, including interest earned on program income accounts, earnings, and expenditures of program income shall be reported monthly in accordance with the format and time period required by the SUA.
- D. Carry-over (unexpended program income or "balance on hand") shall be reported as required by the SUA.
- E. The AAAs or service providers with programs for services to both older adults under the OAA, and other non-aging programs, are prohibited from maintaining interest-bearing account(s) to serve all programs.
- F. Program income earned after the contract has ended shall be subject to the terms of the contract or subcontract. If this category of income is not specifically detailed in the contract document, the agency may dispose of the income as it chooses.

**10.401.4 General Consumer Contribution and Fees**

**10.401.41 General Contribution [Rev. eff. 12/1/10]**

- A. Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under Title III.
- B. Methods of solicitation for voluntary contributions shall be non-coercive.

- C. The AAA shall provide service providers with policy and guidelines for accepting voluntary contributions and guest fees from non-eligible consumers.
1. The AAA shall establish and maintain procedures to protect the privacy of the consumer's decision to contribute or not contribute toward the service rendered.
  2. Eligible consumers shall not be denied service(s) provided under Title III because of the consumer's decision not to contribute.
  3. Service providers shall determine the costs of services provided and display a suggested contribution schedule as well as required guest fees for services at the entry point of the service premises.
  4. The AAA and service providers shall not perform a means test for any service for which contributions are accepted, or deny services to any eligible consumer who does not contribute to the cost of the service.

**10.401.42 General Guest Fees [Rev. eff. 12/1/10]**

Guest fees are required charges equal to the full cost of the service to persons who are not eligible consumers of the program but are receiving services. Fees shall be determined using guidelines and procedures established by the SUA.

**10.401.43 General Usage Fees [Rev. eff. 12/1/10]**

Usage fees include charges for the use of equipment or other fixed assets acquired with OAA funds. The minimum usage fee shall be charged when such assets are used for non-grant purposes.

If nutrition project contractors or sub-contractors use equipment purchased with Title III funds to produce meals sold to other organizations:

- A. The compensation shall be directly credited to the cost of goods or services provided under the current contract, if the equipment was acquired under the current year's contract; or,
- B. If the equipment was acquired with a prior year's contract, the compensation shall be recorded as program income.

**10.401.5 General Sale of Equipment and Supplies**

Proceeds from sale of equipment or supplies not used for replacement equipment shall be accounted for as program income.

**10.401.6 General Payor of Last Resort [Rev. eff. 12/1/10]**

OAA funds shall not be used to pay for available services provided through other Federal or State programs for which the older adult is eligible or is receiving.

**10.401.7 Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. General
  1. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.

2. All providers shall keep such records and information as necessary to document the services provided to consumers receiving care.

**B. Coordination of Services**

The AAA or contracted service provider shall coordinate activities with the activities of the Single Entry Point agency(ies), as well as other community agencies and voluntary organizations providing the same types of services.

**C. Language Assistance**

1. In a PSA where a majority of older adults speak a language other than English as their principal language, the outreach service shall be provided in that language.
2. Information and assistance, and outreach activities shall be conducted in the principle language spoken in areas where Native American older adults comprise at least:
  - a. One percent (1%) of a PSA's population age sixty (60) and over; or,
  - b. Five percent (5%) or more of the state's age sixty and older Native American population reside within a PSA.

**10.402 CAREGIVING SERVICES**

**10.402.1 Caregiving Services Eligibility [Rev. eff. 12/1/10]**

- A. Area Agencies on Aging (AAAs) and/or the service providers with whom the AAAs contract shall provide support services to caregivers who are:
1. Adult family members of other individuals, providing informal in-home, and community care to an older adult (sixty years of age or older) who is "frail" and determined to be functionally impaired because of:
    - a. An inability to perform at least two Activities of Daily Living (ADL) without substantial human assistance, including verbal reminding, physical cueing, or supervision; or,
    - b. Cognitive or other mental impairment that requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or others.
  2. Grandparent(s), step-grandparent(s), or older adult(s) who are relative caregivers of a child by blood, marriage, or adoption and are fifty-five (55) years of age or older, and who:
    - a. Live with the child; and, is the primary caregiver of the child because the biological, step, or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; or,
    - b. Have a legal relationship to the child, such as legal custody or guardianship, or are raising the child informally.

- B. Family caregiver(s) of a care recipient shall be provided respite care and supplemental services under the National Family Caregiver Support Program only if the care recipient is functionally impaired and meets either of the following conditions:
  - 1. Unable to perform at least two (2) activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or,
  - 2. Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to himself or herself or another individual.
- C. Priority for caregiving services shall be given to:
  - 1. Older adults in greatest economic need or greatest social need with preference given to low-income minority older adults and older adults residing in rural or geographically isolated areas;
  - 2. Family caregivers who provide care for individuals with Alzheimer's disease and related disorders; and,
  - 3. Caregivers who provide care for children with severe disabilities.

**10.402.2 Caregiving Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. All providers shall keep such records and information as necessary to document the services provided to consumers receiving care.

**10.402.21 Caregiving Services Provider Responsibilities and Requirements (Adult Day Care) [Rev. eff. 12/1/10]**

- A. All providers of adult day care shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. Adult day care centers shall provide a safe environment for all older adults, including older adults exhibiting behavioral problems, wandering behavior, or limitations in mental/cognitive function.
- C. Adult day care providers shall keep such records and information as necessary to document the services provided to older adults receiving adult day care.
- D. All adult day care centers shall maintain a minimum staff to consumer ratio of 1 to 8 (1:8) to provide for the needs of the population served.
- E. Adult day care centers providing medication administration as a service shall have qualified persons on staff trained in accordance with applicable state laws.
- F. Adult day care providers shall accept only older adults whose needs can be met by the adult day care center within its certification category and according to its admission criteria.

**10.402.22 Caregiver Services In-home Provider Responsibilities and Requirements (Recipient Rights) [Rev. eff. 12/1/10]**

Older adults receiving in-home services under the OAA shall have the following rights:

- A. To be fully informed in advance about each in-home service provided under the OAA, and about any change in services that may affect the well-being of the older adult;
- B. To participate in planning and changing an in-home service provided under the OAA, unless the older adult is judicially determined to be incompetent;
- C. To voice a grievance with respect to a service that is provided or fails to be provided, without discrimination or reprisal because of voicing the grievance;
- D. To have their property treated with respect; and,
- E. To be fully informed, orally and in writing, of these rights by the AAA or contractor before receiving an in-home service.

**10.402.3 Caregiving Services Registration [Rev. eff. 12/1/10]**

All care recipients and their family caregivers receiving registered services under the National Family Caregiver Support Program (NFCSP) shall have a registration completed as prescribed by the SUA.

**10.402.4 Caregiving Services Assessment [Rev. eff. 12/1/10]**

An assessment, prescribed by the SUA, shall be completed for the care recipient if the caregiver is provided respite services.

- A. The assessment shall include, but not be limited to:
  - 1. A caregiver profile, including demographic information on the caregiver and the care recipient;
  - 2. An evaluation of the informal support systems available to, and used by, the caregiver;
  - 3. A care receiver profile and evaluation of the strengths and needs of the older adult; and,
  - 4. Determination of the formal support services and resources available to the caregiver within the community.
- B. An assessment or reassessment shall be completed using the format and timeframes prescribed by the SUA.

**10.402.5 Direct Payments to Family Members [Rev. eff. 12/1/10]**

Direct payments to family caregivers residing with the care recipient for services to family members are not permitted for National Family Caregiver Support Program services.

**10.402.6 Respite Care Services [Rev. eff. 12/1/10]**

- A. Respite care services include the following activities:
  - 1. In-home services, including services provided by volunteers or in-home service providers;

2. Adult day care services; and,
  3. Institutional respite care.
- B. Respite care services shall be provided in the most appropriate manner available to meet the needs of the care recipient and the family caregiver.
- C. Older Americans Act (OAA) funds shall not be used to pay for respite care services if such services are available and provided through other federal or state programs for which the care recipient is eligible or is receiving.

**10.402.61 In-Home Respite Services [Rev. eff. 12/1/10]**

**A. Volunteer In-home Respite Services**

If volunteer in-home respite services are provided by the AAA or a contracted agency, the AAA shall be responsible to ensure that the volunteer providing respite services receives the information, training, and ongoing supervision necessary to safely and effectively provide respite care.

**B. Non-Volunteer In-Home Respite Services**

In-home service provider staff, including homemakers or personal care service providers, may be used to provide brief in-home respite services for caregivers if appropriate to the older individual's needs.

**10.402.62 Institutional Respite Care [Rev. eff. 12/1/10]**

- A. Institutional respite care includes services provided on a short-term basis (i.e., less than thirty (30) consecutive days) in an assisted living residence or nursing facility.
- B. Only those portions of facilities that are licensed as nursing facilities or assisted living residences shall be used for respite consumers.

**10.402.63 Assisted Living Residence (ALR) Respite Care [Rev. eff. 12/1/10]**

An individual utilizing an Assisted Living Residence for short-term respite must be able to be provided adequate services in the ALR.

**10.402.64 Nursing Facility Respite Care [Rev. eff. 12/1/10]**

- A. For each respite consumer, the facility shall provide an initial assessment as described in Section 10.401.25, which shall serve as the plan of care; obtain physicians' treatment plan and diet orders; and have a chart for the consumer. The chart shall identify the individual as a respite consumer.
- B. Admission to a nursing facility for respite care shall not require the same forms as required for a routine nursing facility admission.
- C. The nursing facility shall have written policies and procedures available to staff regarding respite care consumers.



**10.402.7 Title III, Part E Funding Allocations [Rev. eff. 12/1/10]**

- A. Funds for the National Family Caregiver Support Program shall be distributed according to the state allocation formula described in Section 10.301.
- B. Funding for supplemental services and support services for grandparents and other family caregivers shall be according to the requirements of the Older Americans Act.
- C. Services provided under the National Family Caregiver Support Program shall supplement, and not supplant, funding from other federal, state, or local funds for services.

**10.402.8 Colorado Family Caregiver Support Program [Rev. eff. 12/1/10]**

- A. The Colorado General Assembly created the Colorado Family Caregiver Support Program as found in Section 26-11-207, C.R.S., administered by the SUA and the AAAs.
- B. The Colorado Family Caregiver Support Program shall follow the intent and guidelines established under the National Family Caregiver Support Program and the requirements of these rules.
- C. This program is subject to available appropriations.

**10.402.9 Native American National Family Caregiver Support Program [Rev. eff. 12/1/10]**

- A. Tribal organizations may apply for grants from the AoA to carry out multifaceted systems of support services for caregivers as described under the National Family Caregiver Support Program.
- B. In Planning and Service Areas, which border areas served by Tribal Organizations, the AAA for the PSA shall coordinate their service activities with those provided by the Tribal Organization.

**10.403 CASE MANAGEMENT SERVICES**

**10.403.1 Case Management Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty (60) and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

**10.403.2 Case Management Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. Case managers shall have a background in human services, and shall be responsible for arranging and monitoring a package of long-term care services for a consumer.
- B. Case management activities shall include, at a minimum, the following:
  - 1. Initial screening to determine that each applicant meets pre-established criteria prior to the conduct of a comprehensive assessment;
  - 2. A comprehensive assessment to identify each applicant's problems, resources, and needs, to confirm eligibility;

3. Appropriate care planning to specify the types and amounts of care that shall be provided to meet the identified needs of the consumer;
  4. Service arrangement to implement the plan of care through formal and informal services;
  5. Ongoing monitoring to assure services are appropriately delivered and to ensure the quality of those services; and,
  6. Formalized reassessment conducted as necessary to adjust care plans to the consumer's changing needs.
- C. Each case management project shall have written policies and/or procedures to monitor the development, implementation, and management of case files.
- D. Each case management provider shall maintain comprehensive and complete case files.
- E. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.

**10.403.3 Case Management Services Registration [Rev. eff. 12/1/10]**

All recipients of case management shall have a registration completed as prescribed by the SUA.

**10.403.4 Case Management Services Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult before the delivery of services using the assessment tool approved by the SUA.

**10.404 CHORE SERVICES (IN-HOME)**

**10.404.1 Chore Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty (60) and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas. In-home services shall be made available to individuals with Alzheimer's disease and related disorders or with neurological and organic brain dysfunction and their families.

**10.404.2 Chore Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

In-home service providers receiving funding under Title III shall coordinate with other agencies to ensure there is no duplication of services. In-home providers shall comply with federal, state, and local regulations and standards for specific services provided to older adults under the OAA program and shall:

- A. Develop written policies and procedures for the following:
1. Recruiting, selecting, retaining, and terminating employees;
  2. Access to, duplication, and dissemination of information from the older adult's records in accordance with State statutes on Confidentiality of Information at Section 26-1-114, C.R.S.;
  3. Protecting and promoting older adult's rights;

4. Emergency procedures; and,
  5. Handling and reporting of critical incidents, including accidents, suspicion of abuse, neglect or exploitation, and criminal activity.
- B. Establish documentation requirements for:
1. Maintaining a log of all complaints and critical incidents, which shall include documentation of the resolution of the problem;
  2. Documenting changes in the older adult's conditions or needs, as well as documentation of appropriate reporting and actions taken as a result; and,
  3. Protecting and promoting older adults' rights.

**10.404.21 Chore Services Provider Responsibilities and Requirements (Recipient Rights)**  
**[Rev. eff. 12/1/10]**

Older adults receiving in-home services under the OAA shall have the following rights:

- A. To be fully informed in advance about each in-home service provided under the OAA, and about any change in services that may affect the well-being of the older adult;
- B. To participate in planning and changing an in-home service provided under the OAA, unless the older adult is judicially determined to be incompetent;
- C. To voice a grievance with respect to a service that is provided or fails to be provided, without discrimination or reprisal because of voicing the grievance;
- D. To have their property treated with respect; and,
- E. To be fully informed, orally and in writing, of these rights under the OAA before receiving an in-home service.

**10.404.3 Chore Services Registration [Rev. eff. 12/1/10]**

All recipients of all in-home services shall have a registration completed as prescribed by the SUA.

**10.404.4 Chore Services Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult prior to the delivery of in-home services using the assessment tool approved by the SUA.

**10.405 COUNSELING SERVICES**

**10.405.1 Counseling Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

**10.405.2 Counseling Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. Individuals providing counseling services to assist older adults to resolve concerns or make decisions, whether paid staff or volunteers, shall be knowledgeable or trained to provide the specific type of counseling services offered to the older adult.
- B. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- C. All providers shall keep such records and information as necessary to document the services provided to older adults receiving care.
- D. Additional services may be funded by the AAA to provide resources for older adults to access existing services, or assist in filling known gaps in the service continuum described in the Area Plan.

**10.406 DISEASE PREVENTION/HEALTH PROMOTION SERVICES**

**10.406.1 Disease Prevention / Health Promotion Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

**10.406.2 Disease Prevention/Health Promotion Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. All providers shall keep such records and information as necessary to document the services provided to older adults receiving care.
- C. Disease Prevention and Health Promotion services and information shall be provided at multipurpose senior centers, congregate meal sites, through home delivered meal programs or other appropriate sites. Medication management, screening, and education to prevent incorrect medication use and adverse drug reactions shall be included as one of the categories of service activities authorized in Disease Prevention and Health Promotion activities under the OAA.

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

**10.407.1 Home Health Aide Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas. In-home services shall also be made available to individuals with Alzheimer's disease and related disorders or with neurological and organic brain dysfunction and their families.

**10.407.2 Home Health Aide Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

Home health aide service providers shall comply with federal, state, and local regulations and standards for specific services provided to older adults under the OAA program and shall:

- A. Develop written policies and procedures for the following:
  - 1. Recruiting, selecting, retaining, and terminating employees;
  - 2. Access to, duplication, and dissemination of information from the older adult's records in accordance with state statutes on Confidentiality of Information at Section 26-1-114, C.R.S.;
  - 3. Protecting and promoting consumers' rights;
  - 4. Emergency procedures; and,
  - 5. Handling and reporting of critical incidents, including accidents, suspicion of abuse, neglect or exploitation, and criminal activity.
- B. Establish documentation requirements for:
  - 1. Maintaining a log of all complaints and critical incidents, which shall include documentation of the resolution of the problem; and,
  - 2. Documenting changes in the older adult's conditions or needs, as well as documentation of appropriate reporting and actions taken.
- C. In-home service providers receiving funding under Title III shall coordinate with other agencies to ensure there is no duplication of services.
- D. The home health aide must operate and furnish services in compliance with all applicable federal, state, and local laws and regulations.
- E. The home health aide must comply with accepted professional standards and principles that apply to professionals furnishing services as a home health aide provider.
- F. The home health aide provider must ensure that aides have completed a course of training and received a nurse's aide certification, conducted by an educational or health care institution which implements the basic nurse aide curriculum prescribed and approved by the Colorado State Board of Nursing.
- G. Home health aide services must be supervised according to Medicare Conditions of Participation for Home Health Agencies found at 42 CFR 484.36(d). No later amendments to or editions of 42 CFR 484.36(d) are included. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

- H. Home health aide providers shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regarding privacy of records. Requirements shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

- I. In-home service providers shall protect and promote older adults' rights as described below.

**10.407.21 Home Health Aide Services Provider Responsibilities and Requirements (Recipient Rights) [Rev. eff. 12/1/10]**

Older adults receiving in-home services under the OAA shall have the following rights:

- A. To be fully informed in advance about each in-home service provided under the OAA, and about any change in service that may affect the well-being of the older adult;
- B. To participate in planning and changing an in-home service provided under the OAA, unless the older adult is judicially determined to be incompetent;
- C. To voice a grievance with respect to a service that is provided or fails to be provided, without discrimination or reprisal because of voicing the grievance;
- D. To have their property treated with respect; and,
- E. To be fully informed, orally and in writing, of these rights under the OAA before receiving an in-home service.

**10.407.3 Home Health Aide Services Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult prior to the delivery of services using the assessment tool approved by the SUA. Reassessment shall be completed as prescribed by the State Unit on Aging in policies and procedures. Supervisory visits shall be made to the older adult's home at least every six months or more often as necessary for problem resolution, skills validation of staff, observation of the home's condition, and assessment of the older adult's satisfaction with services.

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

**10.408.1 Homemaker Service Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

**10.408.2 Homemaker Service Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. Homemaker services shall be for the benefit of the older adult and not for the sole benefit of other persons living in the home.
- B. Family members shall not be reimbursed under Title III for providing homemaker services to an older relative. For purposes of this section, family means all persons related to the older adult by virtue of blood, marriage, adoption or common law.

- C. Homemaker service providers shall comply with federal, state, and local regulations and standards for specific services provided to consumer under the OAA program and shall develop written policies and procedures for the following:
  - 1. Recruiting, selecting, retaining, and terminating employees;
  - 2. Access to, duplication, and dissemination of information from the older adult's records in accordance with state statutes on Confidentiality of Information at Section 26-1-114, C.R.S.;
  - 3. Protecting and promoting older adult's rights;
  - 4. Emergency procedures; and,
  - 5. Handling and reporting of critical incidents, including accidents, suspicion of abuse, neglect or exploitation, and criminal activity.
- D. Homemaker service providers shall establish documentation requirements for:
  - 1. Maintaining a log of all complaints and critical incidents, which shall include documentation of the resolution of the problem; and,
  - 2. Documenting changes in the older adult's conditions or needs, as well as documentation of appropriate reporting and actions taken as a result.
- E. Homemaker provider agencies shall document that all homemakers have received a minimum of eight (8) hours of training or have passed a skills validation test conducted by the provider prior to delivery of services in the provision of homemaker services.
- F. A person who, at a minimum, has received the training or passed the skills validation test required of homemakers shall be qualified to supervise homemakers.
- G. In-home service providers shall protect and promote older adults' rights as described below.
- H. In-home service providers receiving funding under Title III shall coordinate with other agencies to ensure there is no duplication of services.

**10.408.21 Homemaker Service Provider Responsibilities and Requirements (Recipient Rights) [Rev. eff. 12/1/10]**

Older adults receiving homemaker services under the OAA shall have the following rights:

- A. To be fully informed in advance about each in-home service provided under the OAA, and about any change in service that may affect the well-being of the older adult;
- B. To participate in planning and changing of a homemaker service provided under the OAA, unless the older adult is judicially determined to be incompetent;
- C. To voice a grievance with respect to a service that is provided or fails to be provided, without discrimination or reprisal because of voicing the grievance;
- D. To have their property treated with respect; and,
- E. To be fully informed, orally and in writing, of these rights under the OAA before receiving a homemaker service.

**10.408.3 Homemaker Service Registration [Rev. eff. 12/1/10]**

All recipients of homemaker services shall have a registration completed as prescribed by the SUA.

**10.408.4 Homemaker Service Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult prior to the delivery of services using the assessment tool approved by the SUA. Reassessment shall be completed as prescribed by the State Unit on Aging in policies and procedures. Supervisory visits shall be made to the older adult's home at least every six months or more often as necessary for problem resolution, skills validation of staff, observation of the home's condition, and assessment of the older adult's satisfaction with services.

**10.408.5 Homemaker Service Consumer Direction [Rev. eff. 12/1/10]**

Consumer Directed Services shall allow the older adult to choose a qualified provider to provide services. The AAA shall establish qualification requirements for each service type and maintain documentation for each older adult.

**10.409 INFORMATION AND ASSISTANCE SERVICES**

**10.409.1 Information and Assistance Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

**10.409.2 Information and Assistance Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

A. Information and assistance providers shall:

1. Maintain current information about opportunities, benefits, and services available to individuals and their caregivers;
2. Refer individuals and their caregivers to services using most current information;
3. Employ, where feasible, specially trained staff to assess the needs of individuals and their caregivers, provide information and assist in utilization of opportunities and services; and,
4. In a PSA where a majority of older adults speak a language other than English as their principal language, information and assistance service shall also be provided in that language.

B. All providers shall keep such records and information as necessary to document the services provided to consumers receiving care.



## **10.410 MATERIAL AID SERVICES**

### **10.410.1 Material Aid Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

### **10.410.2 Material Aid Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.

All providers shall keep such records and information as necessary to document the services provided to older adults receiving material aid.

## **10.411 NUTRITION SERVICES (CONGREGATE)**

### **10.411.1 Nutrition Services (Congregate) Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older and their self-declared spouses shall be eligible for nutrition services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

In accordance with procedures established by the AAA, the following have the option to receive meals on the same basis as participating older adults if such an opportunity does not deprive any other older adult from receiving congregate meals:

- A. Individuals with physical or mental disabilities or who are blind age eighteen (18) through fifty-nine (59), who reside in a housing facility primarily occupied by older adults and which has a congregate meal site funded by the Older Americans Act;
- B. Individuals providing volunteer services in the congregate meal program;
- C. Individuals with physical and/or mental disabilities or who are blind, age eighteen (18) through fifty-nine (59), who reside with and accompany older adults eligible under the Older Americans Act, to the congregate meal site.

### **10.411.2 Nutrition Services (Congregate) Consumer Contribution [Rev. eff. 12/1/10]**

- A. The provider shall establish a mechanism so that each eligible meal consumer shall be afforded an opportunity to contribute voluntarily and anonymously.
- B. No eligible meal consumer shall be denied service because of a decision not to contribute.
  - 1. Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under Title III.
  - 2. Methods of solicitation for voluntary contributions shall be non-coercive.

- C. The AAA shall provide service providers with policy and guidelines for accepting voluntary contributions and guest fees from non-eligible consumers.
  - 1. The AAA shall establish and maintain procedures to protect the privacy of the consumer's decision to contribute or not contribute toward the service rendered.
  - 2. Eligible consumers shall not be denied service(s) provided under Title III because the consumer's decision not to contribute.
  - 3. Service providers shall determine the costs of services provided and display a suggested contribution schedule as well as required guest fees for services at the entry point of the service premises.
- D. The AAA and service providers shall not perform a means test for any service for which contributions are accepted or deny services to any eligible consumer who does not contribute to the cost of the service.

**10.411.3 Nutrition Services (Congregate) Program Income [Rev. eff. 12/1/10]**

- A. All program income earned under Title III, Part C-1 awards shall be used to accomplish one or more of the following:
  - 1. Increase the number of meals served by the nutrition project;
  - 2. Facilitate access to meals by providing supportive services such as outreach or transportation to meal sites; or,
  - 3. Provide other supportive services directly related to nutrition services.
- B. Part C-1 program income shall be accounted for separately and deposited into separate interest bearing accounts.
- C. If the service provider operates both C-1 and C-2 programs, the contracting agency may authorize the provider to deposit the program income from each into one joint interest bearing account if generally accepted accounting principles are used and/or the funds are accounted for separately.
- D. Program income from Part C-1 collected during the last thirty calendar days of the contract period shall be reported, but need not be expended if it cannot be effectively used in the contract period in which it was received. The income may be carried over and expended in a subsequent contract period.
- E. When a C-1 contract or subcontract expires and is not renewed, or is suspended or terminated, any unexpended program income funds shall revert or be transferred to the awarding agency and subsequently transferred to the successor nutrition provider.
- F. All purchase of service contracts shall contain a provision that unexpended program income funds on hand at the date the contract is terminated shall revert to the awarding agency, unless the contracting provider agency is awarded a purchase of services nutrition contract for the succeeding contract period.
- G. If program income is transferred to an AAA following expiration, suspension, or termination of a provider contract, the AAA may withhold all or part of the transferred program income to fund access and other supportive services directly related to nutrition services through a provider agency other than the nutrition project contractor.

- H. Nutrition Program Support Service Standards: If the provisions of program income are met, nutrition project income may be used to fund nutritional program services and Part B support services directly related to nutrition services.

**10.411.4 Nutrition Services (Congregate) Guest Fees [Rev. eff. 12/1/10]**

Guest fees are required charges equal to the full cost of the service to persons who are not eligible consumers of the program but are receiving services. Fees shall be determined using guidelines and procedures established by the SUA.

**10.411.41 Nutrition Services (Congregate) Usage Fees [Rev. eff. 12/1/10]**

- A. Usage fees include charges for the use of equipment or other fixed assets acquired with OAA funds. The minimum usage fee shall be charged when such assets are used for non-grant purposes.
- B. If nutrition project contractors or sub-contractors use equipment purchased with Title III funds to produce meals sold to other organizations the compensation shall be directly credited to the cost of goods or services provided under the current contract, if the equipment was acquired under the current year's contract.
- C. If the equipment was acquired with a prior year's contract, the compensation shall be recorded as program income.

**10.411.5 Nutrition Services (Congregate) Sales of Equipment and Supplies [Rev. eff. 12/1/10]**

Proceeds from sale of equipment or supplies not used for replacement equipment shall be accounted for as program income.

**10.411.6 Nutrition Services Incentive Program (NSIP) [Rev. eff. 12/1/10]**

- A. Funds received from the AoA shall be distributed by SUA.
- B. The AAA allocation shall be based on the percentage of the number of eligible meals served each year by the AAA/nutrition service project to the total number of meals served under Colorado Nutrition projects.
- C. The SUA shall have discretion in receiving:
1. Cash; or,
  2. A combination of cash and commodities.
- D. If the SUA chooses a combination of cash and commodities, nutrition providers that choose to receive a combination of cash and commodities shall complete documentation as directed by the SUA.
- E. All meals shall be reported to the SUA on a regular basis in the format required by the SUA.
- F. NSIP cash funds shall only be used to purchase United States agricultural commodities and other raw foods for the nutrition program, and shall be used to increase the number of meals served.
- G. NSIP cash funds shall not be applied to the costs of the nutrition project, except as stated above.

**10.411.7 Nutrition Services (Congregate) General Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. All providers shall keep such records and information as necessary to document the services provided to consumers receiving care.
- C. Nutrition projects shall provide at least one hot or other appropriate meal per day, five (5) days or more per week and any additional meals the nutrition project elects to provide, except in rural areas where such frequency is not feasible and a lesser frequency is approved by the SUA.

**10.411.71 Nutrition Services (Congregate) Food Safety and Sanitation [Rev. eff. 12/1/10]**

- A. Nutrition service providers shall comply with the applicable provisions of state or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service and delivery of meals to older adults including but not limited to the following:
  - 1. The Colorado Department of Public Health and Environment's (CDPHE) "Colorado Retail Food Establishments" rules and regulations (6 CCR 1010-2); and,
  - 2. Health, fire, and safety codes and regulations; building codes; purchasing regulations; licensure requirements; and any other federal, state or local requirements as may be applicable.
- B. Current food permits shall be posted at the nutrition site.
- C. Inspection reports issued by the CDPHE shall be on file at the site and available for review.
- D. If a nutrition project requests a variance from the CDPHE regulations, the nutrition project shall send copies of both the variance request and the approval or denial from the CDPHE to the SUA and to the AAA.

**10.411.72 Nutrition Services (Congregate) General Menu and Nutrition [Rev. eff. 12/1/10]**

Nutrition service providers shall meet standards as defined in the Older Americans Act. These shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

Nutrition providers shall provide meals that:

- A. Comply with the most recent Dietary Guidelines for Americans, published by the Secretary of Health and Human Services and the Secretary of Agriculture. These shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

- B. Comply with the most recent Dietary Guidelines for Americans and Dietary Reference Intakes established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences. These shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

- C. Provide each participating older adult:

1. A minimum of thirty-three and one-third percent (33-1/3%) of the dietary reference intakes if only one meal per day is provided.
2. A minimum of sixty-six and two thirds percent (66-2/3%) of the dietary reference intakes if two (2) meals per day are provided; and,
3. A minimum of one hundred percent (100%) of the dietary reference intakes if three (3) meals per day are provided.

**10.411.73 Nutrition Services (Congregate) Additional Meals [Rev. eff. 12/1/10]**

Nutrition providers may serve a second or third meal to older adults identified through nutrition screening to be at nutritional risk and/or socially or economically in need, if included as an objective in the Area Plan.

**10.411.74 Nutrition Services (Congregate) Modified Diets [Rev. eff. 12/1/10]**

Modified diets or special menus shall be provided, where feasible, to meet the particular dietary needs arising from health or religious requirements, or ethnic backgrounds of eligible older adults. The nutrition provider and a registered dietitian shall determine feasibility and appropriateness of modified diets. Registered dietitians shall be responsible for obtaining written orders for modified diets from each participant's physician, maintaining such orders on file and updating them with the physician every six months.

The AAAs shall comply with nutrition services as prescribed by the SUA.

- A. Modified Diets

The AAAs shall provide modified diets in accordance with Section 339 of the Older Americans Act where the modified diets shall include:

1. Medical nutritional food as a supplement:
  - a. Nutrition supplement prescribed by a physician and monitored by a registered dietitian to determine if the prescription is feasible and appropriate.
  - b. Medical nutritional food as a supplement shall not be eligible for reimbursement under Nutrition Service Incentive Program (NSIP), Title III C-1, or C-2.

2. Medical nutritional food as a meal replacement:
  - a. Prescribed by a physician as necessary to treat a diagnosed medical condition and meet primary nutritional needs. A registered dietitian shall monitor the nutrient content, feasibility and appropriateness, and referrals to insurance coverage and other resources.
  - b. Medical nutritional food as a meal replacement shall be eligible for reimbursement under NSIP if the meal replacement meets the thirty-three and one-third percent (33-1/3%) Dietary Reference Intakes (DRI) nutrient requirements by volume.
3. Texture, nutrient modified, or therapeutic diets shall be:
  - a. Prescribed by a physician;
  - b. Monitored by a registered dietitian; and,
  - c. Determined if feasible and appropriate by the registered dietitian and nutrition provider.

**10.411.75 Nutrition Services (Congregate) Provider Responsibilities and Requirements (Nutrition Screening) [Rev. eff. 12/1/10]**

All older adults shall receive nutrition screening defined as the process of identifying older adults at nutritional risk or with malnutrition when participating in:

- A. Congregate meal programs;
- B. Home delivered meal programs;
- C. Nutrition counseling;
- D. In-Home Services; and/or,
- E. Case Management.

**10.411.76 Nutrition Services (Congregate) Provider Responsibilities and Requirements (Nutrition Counseling) [Rev. eff. 12/1/10]**

Nutrition service providers shall:

- A. Provide nutrition screening of all consumers and provide nutrition education and nutrition counseling; and,
- B. Maintain consumer records in a confidential manner. These files must be kept in a locked cabinet and shall be kept at the program office(s).

**10.411.77 Nutrition Services (Congregate) Provider Responsibilities and Requirements  
(Nutrition Education) [Rev. eff. 12/1/10]**

Nutrition education services shall be conducted on an ongoing basis and documented for older adults who participate in congregate and home delivered meal programs with content approved by a registered dietitian, dietetic technician, registered, or nutritionist. Nutrition education shall include presentations or learning activities at congregate sites. A registered dietitian, dietetic technician, registered, or nutritionist shall give nutrition education presentations and/or learning activities.

- A. If a consumer is determined to be at high nutritional risk, nutrition education shall be offered to the consumer and/or his/her caregiver.
- B. Congregate sites shall provide food safety information and nutrition education for nutrition project consumers.

**10.411.78 Nutrition Services (Congregate) Data and Records, Registration and Assessment  
[Rev. eff. 12/1/10]**

- A. Data Records
  - 1. Nutrition providers shall maintain an approved copy of the menu cycles and analyses on file and available for review by the AAA or SUA during normal business hours.
  - 2. Menus and recipes shall be analyzed using a nutrient software package to ensure compliance with the most recent dietary guidelines and dietary reference intakes, and shall be approved by a registered dietitian, a dietetic technician, registered, or a nutritionist.
  - 3. Only tested quality recipes, adjusted to yield the number of servings needed, shall be used.
  - 4. Substitutions or deviations from the approved menu(s) shall be documented.
  - 5. Menu cycles and nutrient analysis shall be maintained for a minimum of three years for audit purposes unless disposition is authorized by the contracting agency.

- B. Registration

All recipients of congregate meals, home delivered meals, and nutrition counseling shall have a registration completed as prescribed by the SUA.

- C. Assessment

All older adults participating in nutrition programs whether congregate or home delivered meal programs shall be requested to complete the Colorado Consumer Assessment. No older adult who refuses to complete the consumer assessment shall be refused a service.

**10.411.8 Tribal Organizations [Rev. eff. 12/1/10]**

Services provided under Title III shall be coordinated, when appropriate, with the services provided under Title VI of the Older Americans Act.

- A. The SUA shall not have responsibility for tribal organizations and reservations served by Title VI of the Older Americans Act.

- B. Geographic areas served under Title VI shall not be included within any PSAs and are not required to meet the AAA designation criteria defined in Section 10.201.
- C. Coordination of Title III and Title VI shall be included in the Area Plan of designated PSAs.

**10.411.9 Supplemental Nutrition Assistance Program [Rev. eff. 12/1/10]**

The Supplemental Nutrition Assistance Program (SNAP) is neither an Older Americans Act nor an Older Coloradans Act Program. If an AAA elects to participate in the Supplemental Nutrition Assistance Program, the AAA shall develop guidelines for participation in this program.

- A. The nutrition service provider shall provide information and assistance about the Supplemental Nutrition Assistance Program to older adults who may be eligible for such benefits.
- B. The nutrition service provider shall inform older adults if the nutrition program accepts the Supplemental Nutrition Assistance Program.
- C. Congregate sites accepting SNAP shall display Supplemental Nutrition Assistance Program posters at the site.
- D. A nutrition service provider receiving funds under the Older Americans Act shall not act as an authorized representative for an older adult in making an application for the Supplemental Nutrition Assistance Program.

**10.412 NUTRITION SERVICES (HOME DELIVERED)**

**10.412.1 Nutrition Services (Home Delivered) Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older and their self-identified spouses shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas. Priority may be given to emergency requests for older adults who are newly homebound or temporarily incapacitated.

- A. In addition to general eligibility requirements, an older adult receiving home delivered meals shall be homebound.
- B. Home delivered meals may be provided as supplemental services under the National Family Caregiver Support Program Title III E to persons aged sixty and over who are either care recipients (as well as their self-identified spouses of any age) or caregivers. These meals are also NSIP eligible.
- C. If included in the AAA Area Plan and policies for nutrition service providers, home delivered meals may be made available to older adults who are geographically isolated when a congregate site is not reasonably available as an alternative, including:
  - 1. Homebound, disabled dependents under sixty years of age, residing with a homebound or geographically isolated older adult must be assessed as homebound;
  - 2. Spouses of homebound or geographically isolated home delivered meal recipients, or,
  - 3. Individuals providing volunteer services in the home delivered meal program.



**10.412.2 Nutrition Services (Home Delivered) Consumer Contribution [Rev. eff. 12/1/10]**

Contribution Policy

- A. The provider shall establish a mechanism so that each eligible meal consumer shall be afforded an opportunity to contribute voluntarily and anonymously.
- B. No eligible meal consumer shall be denied service because of a decision not to contribute.
  - 1. Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under Title III.
  - 2. Methods of solicitation for voluntary contributions shall be non-coercive.
- C. The AAA shall provide service providers with policy and guidelines for accepting voluntary contributions and guest fees from non-eligible consumers.
  - 1. The AAA shall establish and maintain procedures to protect the privacy of the consumer's decision to contribute or not contribute toward the service rendered.
  - 2. Service providers shall determine the costs of services provided and display a suggested contribution schedule as well as required guest fees for services at the entry point of the service premises.
  - 3. The AAA and service providers shall not perform a means test for any service for which contributions are accepted, or deny services to any eligible consumer who does not contribute to the cost of the service.

**10.412.3 Nutrition Services (Home Delivered) Program Income [Rev. eff. 12/1/10]**

- A. All program income earned under Title III, Part C-2 awards shall be used to accomplish one or more of the following:
  - 1. Increase the number of meals served by the nutrition project;
  - 2. Facilitate access to meals by providing supportive services such as outreach or transportation to meal sites; or,
  - 3. Provide other supportive services directly related to nutrition services.
- B. Part C-2 program income shall be accounted for separately and deposited into separate interest bearing accounts.
- C. If the service provider operates both C-1 and C-2 programs, the contracting agency may authorize the provider to deposit the program income from each into one joint interest bearing account if generally accepted accounting principles are used and/or the funds are accounted for separately.
- D. Program income from Part C-2 collected during the last thirty calendar days of the contract period shall be reported, but need not be expended if it cannot be effectively used in the contract period in which it was received. The income may be carried over and expended in a subsequent contract period.

- E. When a C-2 contract or subcontract expires and is not renewed, or is suspended or terminated, any unexpended program income funds shall revert or be transferred to the awarding agency and subsequently transferred to the successor nutrition provider.
- F. All purchase of service contracts shall contain a provision that unexpended program income funds on hand at the date the contract is terminated shall revert to the awarding agency, unless the contracting provider agency is awarded a purchase of services nutrition contract for the succeeding contract period.
- G. If program income is transferred to a AAA following expiration, suspension, or termination of a provider contract, the AAA may withhold all or part of the transferred program income to fund access and other supportive services directly related to nutrition services through a provider agency other than the nutrition project contractor.
- H. Nutrition Program Support Service Standards: Nutrition project income may be used to fund nutritional program services and Part B support services directly related to nutrition services.

**10.412.4 Nutrition Services (Home Delivered) Guest Fees [Rev. eff. 12/1/10]**

Guest fees are required charges equal to the full cost of the service to persons who are not eligible consumers of the program but are receiving services. Fees shall be determined using guidelines and procedures established by the SUA.

**10.412.41 Nutrition Services (Home Delivered) Usage Fees [Rev. eff. 12/1/10]**

- A. Usage fees include charges for the use of equipment or other fixed assets acquired with OAA funds. The minimum usage fee shall be charged when such assets are used for non-contract purposes.
- B. If nutrition project contractors or sub-contractors use equipment purchased with Title III funds to produce meals sold to other organizations the compensation shall be directly credited to the cost of goods or services provided under the current contract, if the equipment was acquired under the current year's contract.
- C. If the equipment was acquired with a prior year's contract, the compensation shall be recorded as program income.

**10.412.5 Nutrition Services (Home Delivered) Sales of Equipment and Supplies [Rev. eff. 12/1/10]**

Proceeds from sale of equipment or supplies not used for replacement equipment shall be accounted for as program income.

**10.412.6 Nutrition Services (Home Delivered) Nutrition Services Incentive Program (NSIP) [Rev. eff. 12/1/10]**

- A. Funds received from the AoA shall be distributed by SUA.
- B. The AAA allocation shall be based on the percentage of the number of eligible meals served each year by the AAA/nutrition service project to the total number of meals served under Colorado nutrition projects.
- C. The SUA shall have discretion in receiving:
  - 1. Cash; or,

- 2. A combination of cash and commodities.
- D. If the SUA chooses a combination of cash and commodities, nutrition providers that choose to receive a combination of cash and commodities shall complete documentation as directed by the SUA.
- E. All meals shall be reported to the SUA on a regular basis in the format required by the SUA.
- F. NSIP cash funds shall only be used to purchase United States agricultural commodities and other raw foods for the nutrition program, and shall be used to increase the number of meals served.
- G. NSIP cash funds shall not be applied to the costs of the nutrition project, except as stated above.

**10.412.7 Nutrition Services (Home Delivered) Provider Responsibilities and Requirements (General) [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. All providers shall keep such records and information as necessary to document the services provided to consumers receiving care.
- C. Nutrition projects shall provide five (5) days or more per week, at least one home delivered hot, cold, frozen, dried, canned, fresh, or supplemental foods (with a satisfactory storage life) meal per day, and any additional meals which the nutrition project may elect to provide except in rural areas where such frequency is not feasible and a lesser frequency is approved by the SUA.
- D. Each home delivered meal provider shall ensure delivery of emergency meals to older adults receiving home delivered meals.

**10.412.71 Food Safety and Sanitation [Rev. eff. 12/1/10]**

- A. Nutrition service providers shall comply with the applicable provisions of federal, state or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service and delivery of meals to older adults, including, but not limited to:
  - 1. The Colorado Department of Public Health and Environment's (CDPHE) "Colorado Retail Food Establishments" rules and regulations (6 CCR 1010-2);
  - 2. Health, fire, and safety codes and regulations; building codes; purchasing regulations; licensure requirements; and any other federal, state, or local requirements as may be applicable.
- B. Current food permits shall be posted at the nutrition site.
- C. Inspection reports issued by the CDPHE shall be on file at the site and available for review.
- D. If a nutrition project requests a variance from the CDPHE, the nutrition project shall send copies of both the variance request and the approval or denial from the CDPHE to the SUA and to the AAA.

**10.412.72 General Menu and Nutrition [Rev. eff. 12/1/10]**

Nutrition service providers shall meet standards as defined in the Older Americans Act including but not limited to the most recent Dietary Guidelines for Americans and Dietary Reference Intakes. These shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:

Colorado Department of Human Services, Division of Aging and Adult Services, Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203; or any State Publication Depository Library.

- A. Nutrition service providers shall provide meals that:
  - 1. Comply with the most recent dietary guidelines for Americans.
  - 2. Provide each participating older adult:
    - a. A minimum of thirty-three and one-third percent (33-1/3%) of the dietary reference intakes;
    - b. A minimum of sixty-six and two-thirds percent (66-2/3%) of the dietary reference intakes if two (2) meals per day are provided; or,
    - c. A minimum of one hundred percent (100%) of the dietary reference intakes if three (3) meals per day are provided.
- B. Are adjusted, to the maximum extent practical, to meet any special dietary needs of program consumers including, special health, religious, or ethnic requirements; and,
- C. Have been specially modified and approved by a registered dietitian to meet therapeutic, religious, or ethnic requirements, but may not meet the minimum dietary requirements.

**10.412.73 Nutrition Services (Home Delivered) Provider Responsibilities and Requirements (Additional Meals) [Rev. eff. 12/1/10]**

Nutrition providers may serve a second or third meal to older adults identified through nutrition screening to be at nutritional risk and/or socially or economically in need, if included as an objective in the Area Plan.

**10.412.74 Nutrition Services (Home Delivered) Provider Responsibilities and Requirements (Modified Diets) [Rev. eff. 12/1/10]**

- A. Modified diets or special menus shall be provided, where feasible, to meet the particular dietary needs arising from health or religious requirements, or ethnic backgrounds of eligible older adults. The nutrition provider and a registered dietitian shall determine feasibility and appropriateness of modified diets. Registered dietitians shall be responsible for obtaining written orders for modified diets from each participant's physician maintaining such orders on file and updating them with the physician every six months.

- B. The AAAs shall comply with nutrition services as prescribed by the SUA. The AAAs shall provide modified, which shall include:
1. Medical nutritional food as a supplement:
    - a. Nutrition supplement prescribed by a physician and monitored by a registered dietitian to determine if the prescription is feasible and appropriate.
    - b. Medical nutritional food as a supplement shall not be eligible for reimbursement under Nutrition Service Incentive Program (NSIP), Title III C1 or C2.
  2. Medical nutritional food as a meal replacement shall be:
    - a. Prescribed by a physician as necessary to treat a diagnosed medical condition and meet primary nutritional needs. A registered dietitian shall monitor the nutrient content, feasibility and appropriateness, and referrals to insurance coverage and other resources; and,
    - b. Eligible for reimbursement under NSIP if the meal replacement meets the thirty-three and one-third percent (33-1/3%) Dietary Reference Intakes (DRI) nutrient requirements by volume.
  3. Texture, nutrient modified, or therapeutic diets shall be:
    - a. Prescribed by a physician;
    - b. Monitored by a registered dietitian; and,
    - c. Determined if feasible and appropriate by the registered dietitian and nutrition provider.
- C. In addition to following the regulatory compliance, home delivered meal providers shall:
1. Establish a nutritional screening procedure for determining individual needs and resources;
  2. Verify all consumers in the home delivered meal program meet the homebound or geographically isolated eligibility requirements as specified at Section 10.412.1;
  3. Maintain documentation of the consumer's nutritional screen and ensure that data is recorded utilizing the State mandated data and reporting system(s); and,
  4. Document homebound status at the nutrition project level. Homebound status shall be re-assessed as prescribed by the State Unit on Aging in policies and procedures.

**10.412.75 Nutrition Services (Home Delivered) Provider Responsibilities and Requirements (Nutrition Screening) [Rev. eff. 12/1/10]**

All older adults shall receive nutrition screening defined as the process of identifying older adults at nutritional risk or with malnutrition when participating in:

- A. Congregate meal programs;
- B. Home delivered meal programs;

- C. Nutrition counseling;
- D. In-Home Services; and/or,
- E. Case Management.

**10.412.76 Nutrition Counseling [Rev. eff. 12/1/10]**

Nutrition service providers shall:

- A. Provide for nutrition screening of all consumers and provide nutrition education and nutrition counseling; and,
- B. Maintain client records in a confidential manner. These files must be kept in a locked cabinet and shall be kept at the program office(s).

**10.412.77 Nutrition Services (Home Delivered) Provider Responsibilities and Requirements (Nutrition Education) [Rev. eff. 12/1/10]**

- A. Nutrition education services shall be conducted on an ongoing basis and documented for older adults who participate in congregate and home delivered meal programs with content approved by a registered dietician, dietetic technician, registered, or nutritionist. Nutrition education shall include presentations or learning activities at congregate sites. A registered dietician, dietetic technician registered, or nutritionist shall give nutrition education presentations and/or learning activities.
- B. If a consumer is determined to be at high nutritional risk, nutrition education shall be offered to the consumer or his/her caregiver.
- C. Congregate sites shall provide food safety information and nutrition education for nutrition project consumers.
- D. Consumers and/or caregivers of consumers in the home delivered meal program shall receive instruction on the handling and use of meals when the home delivered meal service is implemented, and as a reminder at each reassessment or more frequently if necessary.

**10.412.8 Nutrition Services (Home Delivered) Data and Records, Registration and Assessment [Rev. eff. 12/1/10]**

- A. Data Records
  - 1. Nutrition providers shall maintain an approved copy of the menu cycles and analyses on file and available for review by the AAA or SUA during normal business hours.
  - 2. Menus and recipes shall be analyzed using a nutrient software package to ensure compliance with the most recent dietary guidelines shall be approved by a registered dietitian, a dietetic technician, registered, or a nutritionist.
  - 3. Only tested quality recipes, adjusted to yield the number of servings needed, shall be used.
  - 4. Substitutions or deviations from the approved menu(s) shall be documented.
  - 5. Menu cycles and nutrient analysis shall be maintained for a minimum of three (3) years for audit purposes unless disposition is authorized by the contracting agency.

**B. Registration**

All recipients of congregate meals, home delivered meals, and nutrition counseling shall have a registration completed as prescribed by the State Unit on Aging.

**C. Assessment**

1. Older adults requesting home delivered meals shall be assessed using the assessment tool approved by the State Unit on Aging. Only those determined to be homebound or geographically isolated shall be eligible for a home delivered meal. Homebound status shall be documented at the nutrition project level. Homebound status shall be re-assessed as prescribed by the State Unit on Aging in policies and procedures.
2. All older adults participating in nutrition programs whether congregate or home delivered meal programs shall be requested to complete the Colorado Consumer Assessment. No older adult who refuses to complete the consumer assessment shall be refused a service.

**10.412.9 Tribal Organizations [Rev. eff. 12/1/10]**

Services provided under Title III shall be coordinated, when appropriate, with the services provided under Title VI of the Act.

- A. The SUA shall not have responsibility for tribal organizations and reservations served by Title VI of the Older Americans Act.
- B. Geographic areas served under Title VI shall not be included within any PSAs and are not required to meet the AAA designation criteria defined at Section 10.201.

**10.412.91 Supplemental Nutrition Assistance Program (SNAP) [Rev. eff. 12/1/10]**

The Supplemental Nutrition Assistance Program (SNAP) is neither an Older Americans Act nor an Older Coloradans Act program. If an AAA elects to participate in the Supplemental Nutrition Assistance Program, the AAA shall develop guidelines for participation in this program.

- A. The nutrition service provider shall provide information and assistance about Supplemental Nutrition Assistance Program to older adults who may be eligible for such benefits.
- B. The nutrition service provider shall inform older adults if the nutrition program accepts SNAP.
- C. Older adults receiving home delivered meals, who are unable to apply in person, shall be informed of their right to have a proxy apply for assistance on their behalf as an authorized representative.
- D. A nutrition service provider receiving funds under the Older Americans Act shall not act as an authorized representative for a consumer in making an application for Supplemental Nutrition Assistance Program.

### **10.413 OUTREACH SERVICES**

#### **10.413.1 Outreach Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

#### **10.413.2 Outreach Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. All providers shall keep such records and information as necessary to document the services provided to consumers receiving care.
  - 1. Outreach efforts shall be conducted throughout the PSA to identify older adults and their caregivers, and inform them of the availability of services.
  - 2. In a PSA where a majority of older adults speak a language other than English as their principal language, the outreach service shall also be provided in that language.
  - 3. Special outreach activities shall be conducted for Native American older adults and their caregivers in an area where Native Americans comprise at least:
    - a. One percent (1%) of the PSA's population age sixty (60) and over; or,
    - b. Five percent (5%) or more of the state's sixty (60) and over Native American population resides within a PSA.

### **10.414 PERSONAL CARE SERVICES (IN-HOME)**

#### **10.414.1 Personal Care Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas. In-home services shall be made available to individuals with Alzheimer's disease and related disorders or with neurological and organic brain dysfunction.

#### **10.414.2 Personal Care Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. All providers shall keep such records and information as necessary to document the services provided to consumers receiving care.



- C. Personal care provider agencies shall meet the following personal care requirements:
1. Supervisory visits shall be made to the consumer's home at least every three (3) months or more often as necessary for problem resolution, skills validation of staff, consumer specific or procedure-specific training of staff, observation of the consumer's condition and care, and/or assessment of satisfaction with services. At least one of the assigned personal staff shall be present at supervisory visits; and,
  2. Staff rendering personal care services to older adults shall receive at least twenty (20) hours of training related to performing personal care tasks or pass a skills validation test before providing the service.
- D. Personal care services shall include direct assistance, stand-by assistance, supervision or cues of the following activities:
1. Bathing, when no skilled services are required in conjunction with the bathing;
  2. Skin care, including application of lotions or solutions that are not medicated and/or do not require a physician's prescription;
  3. Hair care, including shampooing with shampoo that is not medicated or does not require a physician's prescription, drying, combing, and styling of hair;
  4. Nail care, including soaking of the nails, pushing back cuticles, and trimming and filing of nails;
  5. Mouth care, including denture care and basic oral hygiene;
  6. Shaving, when done with an electric razor;
  7. Dressing assistance, including application of support stockings that can be purchased without a physician's order, and orthopedic devices such as splints, braces or artificial limbs if the older adult has been fully trained in the use of the device or limb and is able to instruct the personal care staff;
  8. Feeding, when the consumer is able to eat by mouth, using common eating utensils, such as forks, knives, spoons, and straws;
  9. Assistance with ambulation, including transfers, if the older adult does not require skilled supervision, has been fully trained in the use of adaptive equipment (such as gait belts, walkers, canes, and wheelchairs) and is able to instruct the personal care staff;
  10. Assistance with exercise when a licensed medical professional does not prescribe the exercises;
  11. Assistance with transfers when the consumer has sufficient balance and strength to assist with the transfer:
    - a. Adaptive equipment other than Hoyer lifts may be used if the older adult is fully trained in the use of the equipment and can direct the transfer step by step.
    - b. Adaptive equipment may include gait belts, wheel chairs, tub seats, and grab bars.

12. Positioning to assist the consumer to change position or alignment in a bed, wheelchair, or other furniture;
13. Bowel and bladder care to include assisting the older adult to and from the bathroom, assistance with bed pans, urinals, and commodes; changing of clothing and pads used for incontinence:
  - a. Emptying of Foley catheter bags or suprapubic catheter bags if the personal care staff has been trained to understand what constitutes disruption of the closed system and is able to ensure that such a disruption does not occur; and,
  - b. Emptying of ostomy bags and assistance with other consumer-directed ostomy care if there is no need for skilled skin care or observation and reporting to a nurse.
14. Medication reminding if the medications have been pre-selected by the older adult, the older adult's family or caregiver, a nurse or a pharmacist, and are stored in containers other than prescription bottles, such as medication minders.
  - a. Medication reminding includes only:
    - 1) Inquiries as to whether a medication has been taken;
    - 2) Verbal prompting to take medications;
    - 3) Providing the proper liquid and utensil with which to take medications;
    - 4) Handing the appropriately marked medication minder to the older adult; and,
    - 5) Opening the appropriately marked prescription minder container for the older adult if the older adult is physically unable to open the container.
  - b. Medication reminding shall not include taking the medication out of the container.
15. Respiratory care services shall include only cleaning or changing tubing for oxygen equipment, refilling the distilled water reservoir, and temporarily removing and replacing the cannula or mask from the older adult's face for purposes of shaving or washing the older adult's face.
16. Accompanying the older adult to medical appointments, banking errands, basic household errands, clothes shopping, and grocery shopping to the extent necessary and specified in the older adult's service plan.
  - a. Personal care for accompanying the older adult shall only be approved when a personal care provider is needed during the trip to provide one or more unskilled personal care services.
  - b. Accompanying the older adult to provide companionship is not a covered benefit.

**10.414.3 Personal Care Services Registration [Rev. eff. 12/1/10]**

All recipients of personal care registered services shall have a registration completed as prescribed by the SUA.

**10.414.4 Personal Care Services Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult prior to the delivery of services using the assessment tool approved by the SUA. Reassessment shall be completed as prescribed by the State Unit on Aging in policies and procedures. Supervisory visits shall be made to the older adult's home at least every six months or more often as necessary for problem resolution, skills validation of staff, observation of the home's condition, and assessment of the older adult's satisfaction with services.

**10.415 TRANSPORTATION SERVICES**

**10.415.1 Transportation Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas. Priority shall be given to:

- A. Older adults who lack the ability to transport themselves or lack other means of transportation; and,
- B. Older adults in greatest economic need or greatest social need with preference given to low-income minority older adults and older adults residing in rural or geographically isolated areas.

**10.415.2 Transportation Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.

All providers shall keep such records and information as necessary to document the services provided to older adults receiving care.

- A. Except private vehicles, all transportation providers rendering services to OAA older adults shall have all licenses, approvals, or certifications required by federal, state, and local law or regulation.
- B. All transportation providers not requiring licensure by the Public Utilities Commission (PUC) shall ensure that their drivers, vehicles, and auxiliary equipment meet all applicable regulations and standards for passenger and vehicle safety, as well as all applicable safety inspection and maintenance requirements, and shall comply with the State's mandated minimum insurance coverage.

**10.415.3 Transportation Services Registration (Assisted Transportation) [Rev. eff. 12/1/10]**

All recipients of assisted transportation services shall have a registration completed as prescribed by the State Unit on Aging.

**10.415.4 Transportation Services Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult before the delivery of registered services using the assessment tool approved by the SUA.

## **10.416 VISITING AND TELEPHONE REASSURANCE SERVICES**

### **10.416.1 Visiting and Telephone Reassurance Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults who request the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas. In-home services shall also be made available to individuals with Alzheimer's disease and related disorders or with neurological and organic brain dysfunction.

### **10.416.2 Visiting and Telephone Reassurance Services Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.
- B. All providers shall keep such records and information as necessary to document the services provided to older adults receiving care.
- C. Visiting and telephone reassurance service providers shall:
  - 1. Establish emergency procedures to be used when an older adult does not call or answer as arranged; and,
  - 2. Ensure that individuals serving as visiting and reassurance callers shall have training.

### **10.416.3 Visiting and Telephone Reassurance Registration [Rev. eff. 12/1/10]**

All recipients of visiting and telephone reassurance services shall have a registration completed as prescribed by the State Unit on Aging.

### **10.416.4 Visiting and Telephone Reassurance Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult before the delivery of registered services using the assessment tool approved by the State Unit on Aging.

## **10.417 STATE FUNDING FOR SENIOR SERVICES (SFSS) [Rev. eff. 12/1/10]**

State Funding for Senior Services Programs provide community-based and advocacy services to eligible persons to assist such persons to live in the least restrictive environment.

Services provided by State Funded Programs for Senior Services include one or more of the following: nutrition services, including congregate and home delivered meals; outreach, information, and assistance services; transportation services; in-home services; long-term care ombudsman services; legal assistance services; disease prevention and health promotion services; caregiver support services; elder abuse prevention services; and other services as described in the OAA or as approved by the SUA.

### **10.417.1 State Funding for Senior Services Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. Some services have additional eligibility requirements that are listed under each specific service. If resources are not available to serve all eligible persons requesting the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

**10.417.2 State Funding for Senior Services Provider Responsibilities and Requirements**  
**[Rev. eff. 12/1/10]**

All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.

All providers shall keep such records and information as necessary to document the services provided to older adults receiving care.

**10.417.3 State Funding for Senior Services Consumer Contribution [Rev. eff. 12/1/10]**

- A. Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under SFSS.
- B. Methods of solicitation for voluntary contributions shall be non-coercive.
- C. The AAA shall provide service providers with policy and guidelines for accepting voluntary contributions and guest fees from non-eligible consumers.
  - 1. The AAA shall establish and maintain procedures to protect the privacy of the consumer's decision to contribute or not contribute toward the service rendered.
  - 2. Eligible consumers shall not be denied service(s) provided under SFSS because of the consumer's decision not to contribute.
  - 3. Service providers shall determine the costs of services provided and display a suggested contribution schedule as well as required guest fees for services at the entry point of the service premises.
- D. The AAA and service providers shall not perform a means test for any service for which contributions are accepted, or deny services to any eligible consumer who does not contribute to the cost of the service.

**10.417.4 State Funding for Senior Services Program Income [Rev. eff. 12/1/10]**

- A. Program income shall include all income earned by a contractor, or subcontractor directly generated by supported activities, the cost of which is borne by the contract whether in part or in full.
- B. All program income shall be used in accordance with the additional costs alternative and shall be added to funds committed to the project or program, and used to further eligible project or program objectives.
- C. All income, including interest earned on program income accounts, earnings, and expenditures of program income shall be reported monthly in accordance with the format and time period required by the SUA.
- D. The AAAs or service providers with programs for services to both older adults under the OAA, and other non-aging programs, are prohibited from maintaining one interest-bearing account to serve all programs.
- E. Program income earned after contract support has ended shall be subject to the terms of the contract or subcontract. If this category of income is not specifically detailed in the contract document, the agency may dispose of the income as it chooses.

**10.417.5 State Funding for Senior Services Guest Fees [Rev. eff. 12/1/10]**

Guest fees are required charges equal to the full cost of the service to persons who are not eligible consumers of the program but are receiving services. Fees shall be determined using guidelines and procedures established by the SUA.

**10.417.6 State Funding for Senior Services Usage Fees [Rev. eff. 12/1/10]**

- A. Usage fees include charges for the use of equipment or other fixed assets acquired with OAA funds. The minimum usage fee shall be charged when such assets are used for non-contract purposes.
- B. If nutrition project contractors or sub-contractors use equipment purchased with Title III funds to produce meals sold to other organizations.
- C. The compensation shall be directly credited to the cost of goods or services provided under the current contract, if the equipment was acquired under the current year's contract.
- D. If the equipment was acquired with a prior year's contract, the compensation shall be recorded as program income.

**10.417.7 State Funding for Senior Services Sales of Equipment and Supplies [Rev. eff. 12/1/10]**

Proceeds from sale of equipment or supplies not used for replacement equipment shall be accounted for as program income.

**10.417.8 State Funding for Senior Services Registration [Rev. eff. 12/1/10]**

All recipients of adult day care, assisted transportation, caregiving, case management, chore, congregate meals, home delivered meals, home maker, nutrition counseling, and personal care registered services shall have a registration completed as prescribed by the SUA.

**10.417.9 State Funding for Senior Services Assessment [Rev. eff. 12/1/10]**

An assessment shall be completed for each older adult before the delivery of registered services using the assessment tool approved by the SUA.

**10.417.91 State Funding for Senior Services [Rev. eff. 12/1/10]**

- A. The fiscal year shall be the State fiscal year (July 1 through June 30).
- B. Funding shall be allocated and spent on a State fiscal year.
- C. The SUA shall distribute SFSS funds using the same intrastate formula used to distribute funds available under Title III of the Older Americans Act as described at Section 10.301 of these rules.
- D. SFSS funds shall be allocated as a whole.
- E. Fiscal accounting and management of SFSS funds shall be completed in accordance with the procedures and requirements established at Section 10.300 through 10.316, unless a one-time waiver for program income is requested and approved by the SUA. Waivers shall be valid for a period of only one year.

- F. The AAA may use ten percent (10%) of the funds received from the SFSS for administrative expenses as described at Section 26-11-205.5(2), C.R.S.
- G. SFSS may be used for administrative expenses as determined by the SUA.
- H. SFSS shall be used to supplement existing services and cannot be used to meet match requirements.

**10.418 COLORADO LEGAL ASSISTANCE DEVELOPER PROGRAM [Rev. eff. 12/1/10]**

The Colorado Department of Human Services, Division of Aging and Adult Services, is the State Unit of Aging (SUA) authorized under Title VII of the Older Americans Act to establish and operate the Colorado Legal Assistance Developer (CLAD) office and local Legal Assistance (LA) Program provider offices throughout the state.

**10.418.1 Selection and Designation of the Colorado Legal Assistance Developer [Ref. eff. 1/1/12]**

The agency, program, or person(s) selected to serve as the CLAD shall have demonstrated expertise and experience in the field of elder law and advocacy.

**10.418.2 Colorado Legal Assistance Developer Responsibilities and Requirements [Rev. eff. 12/1/10]**

The CLAD shall, personally or through representatives of the office, perform the following responsibilities and requirements in implementing a statewide Legal Assistance (LA) Program:

- A. Establish and maintain a policy and procedure manual in collaboration with the SUA and AAAs.
- B. Oversee and coordinate statewide legal assistance in planning, development, evaluation, and outcome measurement; and,
- C. Provide technical assistance, training, and support to the state, the AAAs, LA providers, and Colorado Long-Term Care Ombudsman (CLTCO), as directed by the SUA.
- D. Establish procedures to analyze, monitor, and comment on:
  - 1. The development and implementation of federal, state, and local laws and regulations, and other governmental policies and actions, pertaining to the health, safety, welfare, and rights of adults, with respect to elder law; and,
  - 2. Information and trends regarding the legal concerns of older adults.
- E. Promote and assist in coordinating the provision of LA services;
- F. Evaluate LA providers through formal on-site evaluations, self-assessments, periodic reports, and other means of oversight;
- G. Provide information and referral services and/or legal advice to the public, as appropriate; and,
- H. Prepare an annual report, as directed by the SUA.

## **10.419 LEGAL ASSISTANCE PROGRAM**

### **10.419.1 Legal Assistance Program Eligibility [Rev. eff. 12/1/10]**

All adults age sixty and older shall be eligible for services. If resources are not available to serve all eligible older adults requesting the services, preference and priority shall be given to those eligible persons of greatest social and economic need with particular attention to low-income older adults and older adults residing in rural areas.

### **10.419.2 Selection of a Local Legal Assistance Program Provider [Rev. eff. 12/1/10]**

- A. Each Area Agency on Aging (AAA) shall fund, through contract, and monitor a Legal Assistance (LA) Program, ensuring:
  - 1. The LA program acts in accordance with federal and state requirements;
  - 2. That legal assistance services are available throughout the Planning and Service Area (PSA);
  - 3. That priorities for legal assistance are identified in the Area Plan; and,
  - 4. LA providers focus the use of funds on older adults with the greatest legal, economic, or social need.
- B. Each AAA shall select a local attorney and/or legal services agency to serve as the local Legal Assistance (LA) Program provider(s), with assistance from the Colorado Legal Assistance Developer (CLAD) Office, as needed.
  - 1. To be eligible for selection as a local LA Program provider, the attorney and/or agency supervising attorney shall:
    - a. Be licensed and in good standing in Colorado;
    - b. Demonstrate expertise to provide legal assistance and other advocacy to older adults in specific areas of law affecting older adults;
    - c. Have the capacity and ability to provide legal assistance:
      - 1) To vulnerable older adults, including those older adults that are institutionalized, isolated, and homebound;
      - 2) In the principal language spoken by older adults in planning and service areas where a majority of older adults do not speak English.
  - 2. The selected attorney and/or agency shall serve as an official and identifiable link to the LA Program according to policies and procedures established by the SUA;
  - 3. The attorney and/or legal services agency and supervising attorney shall be identified and its functions described in the AAA Area Plan.

### **10.419.3 Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. The Legal Assistance (LA) Program providers shall provide legal assistance to older adults in compliance with Federal and State laws and regulations, State Unit on Aging policy and procedure, and rules of professional conduct.



- B. The LA provider shall decline to provide legal services under the LA Program for otherwise eligible older adults when:
  - 1. The case is fee-generating;
  - 2. Funding has been expended, unless prior written approval is received from the AAA to provide additional legal assistance;
  - 3. The issue is outside the types of cases to be provided, based on the funding agreement with the AAA;
  - 4. The complexity of the case may require a referral to an attorney with a different type of specialization and/or expertise; or,
  - 5. A potential or actual conflict of interest exists.
- C. LA providers shall only represent adults who are age sixty or older except when, due to a lack of capacity, it is necessary to promote the interest of the older adult by representing a family member.
- D. LA providers shall maintain client confidentiality, including the identity of individual clients, and otherwise comply with rules of professional conduct.

**10.419.4 Legal Assistance Program Services Costs and Voluntary Contributions [Rev. eff. 12/1/10]**

- A. Legal Assistance Program services are available at no cost to older adults when the legal service need meets priorities identified within the Area Plan, as described in Section 10.419.1 and within available appropriations.
- B. Older adults shall be offered an opportunity to voluntarily contribute to the cost of legal services.
- C. When the older adult's need is beyond the priorities of the LA Program, the LA provider shall advise the older adult that services are not available through the LA Program and the LA provider may choose to represent the older adult as a private attorney, for a fee, or may refer the adult to another attorney.

**10.419.5 Legal Assistance Program Data and Records [Rev. eff. 12/1/10]**

- A. The AAAs shall ensure that legal assistance data is recorded utilizing the state mandated data and reporting system(s).
- B. Program reports, free of individual identifying information, shall be compiled by the AAA and provided to the state and the CLAD using the State approved data system(s) and form(s).

**10.419.6 Legal Assistance Program Requests for Waiver [Rev. eff. 12/1/10]**

- A. An Area Agency on Aging (AAA) may request a waiver of some or all funding for LA Program services, in accordance with those policies and procedures, when the legal assistance services needs within the Planning and Service Area (PSA) are adequately met through other agencies.
- B. Approval of a waiver exempts the AAA from requirements to fund or provide LA Program services within the PSA.

- C. The AAA shall fund LA Program services within the assigned PSA at or above the minimum required level if the request for a waiver is denied.

**10.420 COLORADO LONG-TERM CARE OMBUDSMAN PROGRAM [Rev. eff. 12/1/10]**

The Colorado Department of Human Services, Division of Aging and Adult Services, is the State Unit on Aging (SUA) authorized under Title VII of the Older Americans Act (OAA) and Section 26-11.5-104, C.R.S., to establish and operate the Colorado Long-Term Care Ombudsman (CLTCO) office and Local Long-Term Care (LTC) ombudsman offices throughout the State.

**10.420.1 Selection and Designation of the Colorado Long-Term Care Ombudsman [Rev. eff. 1/1/12]**

- A. The agency, program, or person(s) selected to serve as the CLTCO shall have demonstrated expertise and experience in the fields of long-term care and advocacy.
- B. The office of the CLTCO shall not be administered by any agency or organization:
1. Responsible for licensing or certifying long-term care services in the state; or,
  2. An association or an affiliate of such an association of long-term care facilities or of any other residential facilities for older adults.

**10.420.2 Colorado Long Term Care Ombudsman Responsibilities and Requirements [Rev. eff. 12/1/10]**

The CLTCO shall serve on a full-time basis and shall, personally or through representatives of the Office, perform the following duties and responsibilities in implementing a statewide Long-Term Care Ombudsman:

- A. Establish and publish statewide policies and procedures for operating the Long-Term Care Ombudsman in collaboration with the SUA, AAAs, and Local LTC Ombudsman offices. This shall include procedures to identify, investigate, and resolve complaints that are:
1. Made by, or on behalf of, elderly residents; and,
  2. Related to actions, inactions, or decisions that may adversely affect the health, safety, welfare, or rights of the resident, including the welfare or rights of the residents with respect to the appointment and activities of guardians and representative payees, by:
    - a. Providers, or representatives of providers, of long-term care services;
    - b. Public agencies, including the Colorado Department of Human Services; or,
    - c. Health and social service agencies, including County Department(s) of Social or Human Services;
- B. Provide services to assist residents in protecting the health, safety, welfare, and rights of the residents;
- C. Represent the interests of residents before governmental agencies;
- D. Seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;

- E. Inform residents about means of obtaining services from providers or agencies;
- F. Ensure that residents have regular and timely access to services provided through the CLTCO Program and that residents and complainants receive timely responses from representatives of the CLTCO Program to complaints as described at Section 10.420.4, E and F;
- G. Residents under age sixty (60) are eligible for ombudsman services only when the assistance:
  - 1. Would generally benefit all residents of the facility; or,
  - 2. Is the only avenue of assistance available to the resident; and would not significantly diminish services for older residents.
- H. Establish procedures to analyze, monitor, and comment on the development and implementation of federal, state, and local laws and regulations, and other governmental policies and actions, pertaining to the health, safety, welfare, and rights of residents, with respect to the adequacy of long-term care facilities and services in Colorado;
- I. Provide information to public and private agencies, legislators and others, as deemed necessary by the CLTCO regarding the problems and concerns of older adults residing in long-term care facilities;
- J. Recommend changes in laws, regulations, policies, and other actions as appropriate;
- K. Facilitate public comment on laws, regulations, policies, and actions;
- L. Provide administrative and technical assistance to local LTC ombudsman offices;
- M. Promote the development of citizen organizations to participate in the program;
- N. Provide technical support for the development of resident and family councils to protect the well-being and rights of residents;
- O. Provide training as required for representatives of the CLTCO, including unpaid volunteers, as described in Section 10.420.6;
- P. Prohibit any representative (other than the CLTCO) from carrying out any activities on behalf of the CLTCO unless the representative:
  - 1. Has received the required training; and,
  - 2. Has been certified by the CLTCO as qualified to carry out activity on behalf of the CLTCO.
- Q. Coordinate LTC ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under state and federal laws;
- R. In conjunction with the AAA and SUA, designate a Local LTC Ombudsman entity to serve each Planning and Service Area (PSA) of the State;
- S. Prepare a notice informing residents of long-term care ombudsman services for display at long-term care facilities to include the following:
  - 1. Name, address, and toll-free phone number of the CLTCO; and,

- 2. Name, address, and phone number of the nearest Local LTC Ombudsman.
- T. Pursue administrative, legal, or other appropriate remedies on behalf of residents for the purpose of effectively carrying out the long-term care ombudsman program;
- U. Coordinate, to the greatest extent possible, LTC ombudsman services with legal assistance services through adoption of Memoranda of Understanding or other means;
- V. Coordinate services with state and local law enforcement agencies and courts of competent jurisdiction;
- W. Prepare an annual report:
  - 1. Describing the activities carried out by the CLTCO in the year for which the report is being prepared;
  - 2. Containing and analyzing data collected as described in Section 10.420.8;
  - 3. Evaluating the issues or problems experienced by, and the complaints made by, or on behalf of, residents;
  - 4. Analyzing the success of the program including success in providing services to residents in facilities as described in Section 10.420.5;
  - 5. Identifying of barriers that prevent optimal operation of the program;
  - 6. Providing policy, regulatory, and legislative recommendations to:
    - a. Solve identified problems;
    - b. Resolve complaints;
    - c. Improve the quality of care and life for residents;
    - d. Protect the health, safety, welfare, and rights of residents; and,
    - e. Remove barriers to optimal operation of the program and improve the quality of care and life in long-term care facilities.
  - 7. Providing recommendations of program or policy changes.
- X. Make the annual report available to the public and submit copies to the Assistant Secretary of Health and Human Services, the Governor, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, the SUA, the AAA, Local LTC Ombudsman, and other appropriate governmental entities; and,
- Y. Any other duties and functions assigned to the CLTCO by the SUA.

**10.420.3 Selection and Designation of Local (LTC) Ombudsman [Rev. eff. 12/1/10]**

- A. In conjunction with the CLTCO office and the SUA, each AAA shall select a local agency, program, or person(s) to serve as a Local LTC Ombudsman.
  - 1. The entity selected shall be designated as the Local LTC Ombudsman upon recommendation of the CLTCO and approval by the SUA.

2. The Local LTC Ombudsman shall serve as an official and identifiable link to the CLTCO program.
  3. The designated agency, program, or person(s) shall be identified and its functions described in the AAA Area Plan, including the name of the Local LTC Ombudsman lead representative.
- B. To be eligible for designation as a Local LTC Ombudsman, an agency, program, or person shall:
1. Have demonstrated capability to carry out the responsibilities of the CLTCO at the local level;
  2. Be free of any conflict of interest as described in Section 10.420.5;
  3. Not stand to gain financially through an action or potential action brought on behalf of individuals served by the Local LTC Ombudsman;
  4. Be a public or non-profit private entity; and,
  5. Meet additional requirements as the CLTCO may specify.

**10.420.31 Local LTC Ombudsman Responsibilities and Requirements [Rev. eff. 12/1/10]**

The Local LTC Ombudsman shall:

- A. Carry a valid identification card issued annually and signed by the CLTCO, and present the card to obtain access to residents and the facilities records;
- B. Follow these rules and regulations, and the policies and procedures established by the CLTCO;
- C. Provide services to protect the health, safety, welfare, and rights of residents;
- D. Ensure residents in the service area of the local LTC ombudsman have timely access to representatives of the program, and timely responses to complaints and requests for assistance;
- E. Receive, investigate, and resolve complaints:
  1. Made by or on behalf of residents that relate to actions, inactions or decisions that may adversely affect the health, safety, welfare, or rights of the residents; or,
  2. Referred to the CLTCO, in accordance with the OAA, these rules, and the policies and procedures established by the CLTCO.
- F. Respond to complaints:
  1. Within five (5) working days for routine complaints; or,
  2. Within one (1) working day in emergency situations where the long-term care ombudsman representative believes the resident is in imminent danger.
- G. Represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- H. Review and, if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents;

- I. Facilitate the ability of the public to comment on the laws, regulations, policies, and actions;
- J. Assist with the development of resident and family councils;
- K. Establish linkages with at least the following community agencies:
  - 1. County Department(s) of Social or Human Services;
  - 2. Mental health centers;
  - 3. Local health departments;
  - 4. Case management agencies; and,
  - 5. Senior services agencies.
- L. Visit, within the region it services:
  - 1. At least monthly, all nursing care facilities (i.e., nursing homes) where persons who are age sixty (60) or over reside and which are licensed or certified, including certified swing bed facilities, as defined at Section 10.150, offering extended care services;
  - 2. At least quarterly, all assisted living residences providing services to persons who are age sixty (60) or older, which are licensed or certified.
  - 3. "Visit" means the on-site:
    - a. Provision of information about LTC ombudsman services and residents' rights to residents and, if possible, the resident's family; and/or,
    - b. Investigation of complaints.
- M. Compliance:
  - 1. The CLTCO and SUA shall monitor these visit requirements for compliance.
  - 2. If a Local LTC Ombudsman is found to be out of compliance with these requirements:
    - a. The Local LTC Ombudsman and the AAA shall submit a written plan of action to the SUA and the CLTCO, signed by the AAA director, indicating steps to bring the program into full compliance.
    - b. The SUA may withhold reimbursement for expenditures for services until the program comes into full compliance.

**10.420.4 Conflict of Interest [Rev. eff. 12/1/10]**

- A. A conflict of interest occurs when an officer or employee of the CLTCO or its representatives, including the local LTC ombudsman entity or a member of the immediate family of the officer, employee or representative:
  - 1. Has direct involvement in licensing and/or certifying long-term care facilities;
  - 2. Is a provider of a long-term care service;

3. Has ownership or investment interest in a long-term care facility;
  4. Has ownership or investment interest in a long-term care service;
  5. Is employed by and/or manages a long-term care facility or association of long-term care facilities; or,
  6. Receives or has the right to receive, directly or indirectly, remuneration under a compensation arrangement with an owner or operator of a long-term care facility or service.
- B. No individual or member of the immediate family, involved in the designation of the CLTCO or Local LTC Ombudsman shall be subject to a conflict of interest.

**10.420.5 LTC Ombudsman Training [Rev. eff. 12/1/10]**

- A. The CLTCO, in collaboration with the SUA, shall establish procedures for the training of representatives of the office, including unpaid volunteers.
- B. The training procedures shall:
1. Specify a minimum number of hours of initial training;
  2. Specify the content of the training including, but not limited to:
    - a. Federal, state, and local laws, regulations, and policies with respect to long-term care facilities in Colorado;
    - b. Investigative techniques; and,
    - c. Other matters as the CLTCO, in collaboration with the SUA, deems appropriate.
  3. Specify an annual number of hours of in-service training for all designated or certified representatives.
- C. The CLTCO shall prohibit any representative, including employees or volunteers of Local LTC Ombudsman, from carrying out activities described in Section 10.420.4, unless the representative:
1. Has received the training required by CLTCO policies and procedures; and,
  2. Has been certified by the CLTCO as qualified to carry out the activity on behalf of the CLTCO.

**10.420.6 Access [Rev. eff. 12/1/10]**

Representatives of the CLTCO, including local LTC ombudsmen, shall have access to:

- A. Long-term care facilities and residents, including the following:
1. Nursing care facilities;
  2. Skilled nursing facilities;
  3. Assisted living residences; and,

4. Swing beds in extended care facilities.
- B. The medical and social records of a long-term care resident if:
1. The Long-Term Care ombudsman has the permission of the resident, or the legal representative of the resident;
  2. The resident is unable to consent to the review and has no legal representative; or,
  3. Access to the records is necessary to investigate a complaint if:
    - a. A legal guardian of the resident refuses to give permission;
    - b. The Long-Term Care ombudsman has reasonable cause to believe the guardian is not acting in the best interests of the resident; and,
    - c. The Long-Term Care ombudsman obtains the approval of the CLTCO.
- C. The administrative records, policies, and documents of long-term care facilities, to which the residents or the general public has access; and,
- D. Upon request, copies of all licensing and certification records maintained by the state with respect to any long-term care facility.

**10.420.7 Local LTC Ombudsman Data and Records [Rev. eff. 12/1/10]**

- A. Through the AAA, Local LTC Ombudsman shall:
1. Generate and analyze data from activities;
  2. Compare results to the previous time period;
  3. Identify trends and resolve discrepancies;
  4. Provide recommendations for improvement or change; and,
  5. Submit their reports to the Colorado Long-Term Care Ombudsman and/or the SUA at the time periods specified by the SUA.
- B. The CLTCO shall:
1. Collect and analyze data relating to complaints and conditions in long-term care facilities and to residents;
  2. Identify and assist in resolving significant problems using the automated data system required by the SUA; and,
  3. Evaluate compliance with standards for complaint resolution and visit standards.
- C. The data shall be submitted to the SUA at time periods specified by the SUA and to:
1. The agency of the state responsible for licensing or certifying long-term care facilities in the state;
  2. Other state and federal entities that the SUA determines to be appropriate;



3. The Assistant Secretary of the Department of Health and Human Services; and,
4. The National Long-Term Care Ombudsman Resource Center.

**10.420.8 Legal Issues**

**10.420.81 Local LTC Ombudsman Liability [Rev. eff. 12/1/10]**

The CLTCO and its representatives, including local LTC ombudsmen, acting in good faith within the scope of its duties and functions as described at Sections 26-11.5-105 through 26-11.5-106, C.R.S., shall be immune from civil or criminal liability.

**10.420.82 Local LTC Ombudsman Legal Representation [Rev. eff. 12/1/10]**

- A. Adequate legal counsel shall be available to the CLTCO and able, without conflict of interest, to:
  1. Provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and,
  2. Assist the CLTCO and its representatives, including Local LTC Ombudsman entities, in the performance of official duties.
- B. Adequate legal counsel shall be available to any representative of the CLTCO for legal representation of a LTC ombudsman against whom legal action is brought in connection with the performance of long-term care ombudsman duties and functions as described in Sections 26-11.5-101 through 26-11.5-108, C.R.S., the Colorado Long-Term Care Ombudsman.

**10.420.9 Interference with Long-Term Care Ombudsman [Rev. eff. 12/1/10]**

- A. Willful interference with representatives of the CLTCO is prohibited.
- B. Discriminatory, disciplinary, or retaliatory actions and reprisals shall not be taken by a long-term care facility or other entity against any of the following individuals for filing a complaint with, providing information to, or otherwise cooperating with any representative of the CLTCO:
  1. Any resident eligible for LTC Ombudsman services under the OAA; or,
  2. Any officer or employee of a facility or governmental agency providing services to residents of long-term care facilities eligible for long-term care ombudsman services under the OAA.
- C. Any person listed in Item B, above, or any person acting on such a person's behalf, including the CLTCO or its representatives, may file a complaint with the SUA against any individual or entity in violation of these rules.
- D. Upon receipt of a complaint regarding interference with a LTC Ombudsman in the course of his/her duties, or a complaint regarding discriminatory, disciplinary, or retaliatory action against any individual, the SUA shall:
  1. Conduct an investigation of the complaint;
  2. Determine if the complaint is substantiated;

3. Provide a written notice regarding the outcome of the investigation, if substantiated, to include the nature of the violation and the amount of the fine to the violator;
    - a. If the complaint involves interference with an ombudsman in the course of his/her duties, the SUA shall assess and collect the fine of \$2,500.00 per violation;
    - b. If the complaint involves discriminatory, disciplinary, or retaliatory action against any individual, the SUA shall assess and collect a fine of \$5,000.00 per violation.
  4. If the penalized person disagrees with the SUA findings, he/she may request an Administrative Law Judge (ALJ) hearing.
- E. All fines collected by the SUA because of the complaint investigation process shall be transmitted to the State Treasurer.

**10.420.91 Disclosure [Rev. eff. 12/1/10]**

- A. The SUA, in collaboration with the CLTCO, shall establish procedures for disclosure by the CLTCO and local LTC ombudsman of files maintained by the program, including records described in Sections 10.420.7 and 10.420.8.
- B. Such files and records shall be disclosed only at the discretion of the CLTCO (or the person designated by the CLTCO to disclose the files and records).
- C. The disclosure of the identity of any complainant or resident with respect to whom the CLTCO maintains such files or records shall be prohibited unless:
  1. The complainant or resident, or his/her legal representative, consents to the disclosure and the disclosure is given in writing;
  2. The complainant or resident gives consent orally and the consent is documented contemporaneously in a writing made by a representative of the CLTCO in accordance with requirements established by the SUA; or,
  3. The disclosure is required by court order.
- D. Disclosure of protected health information by the CLTCO to other entities and written authorizations of disclosure shall meet all of the requirements of Section 10.206 of these rules and any CLTCO policies and procedures.

**10.421 PROGRAM FOR ELDER RIGHTS AND PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION [Rev. eff. 12/1/10]**

- A. The SUA or its designee, in consultation with AAAs, shall develop a comprehensive approach to enhance elder rights and to prevent and respond to elder abuse, neglect, and exploitation, including financial exploitation:
  1. Consistent with relevant federal and state laws; and,
  2. Coordinated with:
    - a. State and county Adult Protective Services for at risk adults and Adult Protection Teams;
    - b. The CLTCO and local ombudsmen;

- c. The Colorado Legal Assistance Developer (CLAD) and local legal assistance providers;
  - d. Local law enforcement agencies;
  - e. Facility and long-term care provider licensure and certification programs;
  - f. Medicaid fraud and abuse services, including services provided by the Colorado Medicaid fraud control unit;
  - g. Victim assistance programs;
  - h. Protection and advocacy programs;
  - i. Consumer protection programs;
  - j. State and local courts, and,
  - k. Other agencies and programs that assist and work with vulnerable older adults.
- B. Funds authorized for this program shall be used to develop programs and activities related to elder rights and the prevention of and response to elder abuse, neglect, and exploitation, and may include:
  - 1. Identification of older adults who are vulnerable to abuse, neglect, and exploitation, and are living in state licensed facilities, unlicensed facilities, or domestic or community-based settings; and,
  - 2. Enhancing services under the Long-Term Care Ombudsman Program; and/or,
  - 3. Developing training and/or educational materials on the topics of:
    - a. Self-determination, autonomy, and individual rights;
    - b. Indicators of and prevention of elder abuse, neglect, and exploitation;
    - c. Financial literacy, prevention of identity theft, and other forms of financial exploitation;
    - d. Procedures for reporting suspected elder abuse, neglect, and exploitation to the Long-Term Care Ombudsman, Adult Protective Services, and/or law enforcement;
    - e. State and federal confidentiality requirements; and,
    - f. Other topics determined by the SUA.
- C. Services provided under the Elder Rights and Prevention of Elder Abuse, Neglect, and Exploitation Program shall be in addition to and shall not be used to supplant any funds that are or would be expended under any other federal, state, or local program.

- D. Any information received by the SUA or its designee or the AAA that indicates suspected or actual elder abuse, neglect, or exploitation:
  - 1. Should be reported to the Long-Term Care Ombudsman, Adult Protective Services, any law enforcement agency, or a facility licensing or certification agency; and,
  - 2. Shall remain confidential unless:
    - a. All parties to the complaint or report consent in writing to the release of such information as described at Section 10.206;
    - b. The release of such information is to make a referral to the Long-Term Care Ombudsman, Adult Protective Services, any law enforcement agency, or a facility licensing or certification agency;
    - c. Upon court order for good cause; or,
    - d. The SUA or its designee or the AAA shall make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality by entering into a Memorandum of Understanding or interagency agreement that narrowly limits disclosure of information consistent with confidentiality requirements of the agencies.
- E. Involuntary or coerced participation of alleged victims, abusers, or members of their household in programs or activities related to prevention of elder abuse, neglect, or exploitation is prohibited.
- F. The SUA or its designee and the AAAs shall use the state mandated data or reporting system(s) to:
  - 1. Quantify the programs and activities conducted under the Elder Rights and Prevention of Elder Abuse, Neglect, and Exploitation Program; and,
  - 2. Conduct analyses of regional and/or statewide information to:
    - a. Identify unmet needs in the areas of elder rights and prevention of elder abuse, neglect, and exploitation; and,
    - b. Provide technical assistance to programs that provide or have the potential to provide elder rights and prevention services for older adults and family members of victims.

**10.422 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP) [Rev. eff. 12/1/10]**

The Senior Community Service Employment Program (SCSEP) promotes useful, part-time employment opportunities in community service activities for persons with low incomes who are fifty-five (55) years of age or older. Eligible enrollees are paid minimum wage in community service assignments that assist enrollees to update their employability skills to obtain unsubsidized employment. Local community providers contract with the SUA to implement the program through non-profit or government host agencies.

**10.422.1 SCSEP Eligibility [Rev. eff. 12/1/10]**

- A. Potential enrollees in the SCSEP shall meet eligibility criteria as described in Section 516(2) of the OAA.

- B. Enrollees shall be eligible to remain in the program for a maximum of two (2) years, including time away. If the enrollee completes the program and is successful in obtaining unsubsidized employment, the enrollee may be considered eligible for SCSEP for another two (2) years if the unsubsidized employment ceases.
- C. Enrollees shall re-certify income eligibility at least once every twelve months. Participants that become ineligible due to changes in income shall be given a written notice of termination within thirty days and terminated after thirty days from receipt of written notice. The enrollee shall be referred to the one stop delivery system or other partner programs.

**10.422.11 SCSEP Priority for Placement [Rev. eff. 12/1/10]**

- A. Vacant authorized positions shall be filled according to the following order of priorities:
  - 1. Individual is sixty-five (65) years of age or older; or,
  - 2. Individual:
    - a. Has a disability;
    - b. Has limited English proficiency or low literacy skills;
    - c. Resides in a rural area;
    - d. Is a veteran;
    - e. Has low employment prospects;
    - f. Has failed to find employment after utilizing services provided under Title I of the Workforce Investment Act of 1989 (29 U.S.C. 2801, et seq.). This Act shall not include any later amendments to or editions of the incorporated material. Copies of these materials are available for public inspection by contacting:  
  
Colorado Department of Human Services, Division of Aging and Adult Services,  
Manager, State Unit on Aging, 1575 Sherman Street, Denver, Colorado 80203;  
or any State Publication Depository Library.
    - g. Or is homeless or at risk of being homeless.
- B. Eligible individuals determined most in need shall be provided enrollment preference within these priorities.

**10.422.12 SCSEP Enrollment [Rev. eff. 12/1/10]**

Sub-grantees shall document and verify the accuracy of information concerning an applicant's eligibility and ensure compliance with related federal and state regulations, using the policy procedures related to application, recertification, denials, and termination process.

**10.422.2 Provider Responsibilities and Requirements [Rev. eff. 12/1/10]**

- A. All providers shall operate in full compliance with all applicable federal, state, and local fire, health, safety, sanitation, and other standards prescribed in law or regulations.

- B. Sub-grantees shall provide assistance to each enrollee to obtain unsubsidized employment in private or public sector jobs as soon as practicable to provide additional opportunities for other eligible individuals with the funds available.
- C. Sub-grantees shall develop job opportunities for job-ready enrollees.
- D. Sub-grantees shall follow-up with each enrollee within ninety (90) calendar days following placement in unsubsidized employment or into job-training programs.
  - 1. Enrollees who are found to be unemployed shall be considered for re-enrollment in a project.
  - 2. Results of the follow-up shall be documented in the enrollee file.
- E. Sub-grantees shall maintain adequate staffing and dedicate sufficient resources to ensure fulfillment of all program responsibilities, including enrollment.
- F. Sub-grantees shall retain enrollee records for a period of three years. Hard copy files shall be held in locked file cabinets and electronic files shall be accessible to sub-grantee staff through secure passwords.

**10.422.21 Host Agency Selection and Requirements [Rev. eff. 12/1/10]**

- A. Sub-grantees shall develop community service employment positions with local, state, federal or other publicly owned and operated facilities and projects that contribute to the general welfare of the community or projects sponsored by organizations, other than political parties, that are exempt from taxation.
- B. Host agencies shall sign a host agency agreement with the sub-grantee, which shall become a part of the contractor's permanent record.
- C. Host agency responsibilities shall include, but are not limited to providing:
  - 1. Adequate supervision of the enrollee at least equal to supervision provided employees in similar positions;
  - 2. Adequate orientation and instruction regarding the enrollee's job responsibilities, duties, and job safety;
  - 3. A sanitary and safe working environment that provides fair and impartial treatment of the enrollee;
  - 4. First consideration to the enrollee for an unsubsidized position within the host agency when a vacancy occurs for which the enrollee has the qualifications and required experience;
  - 5. Cooperation and access to enrollee records to the sub-grantee and the SUA for the purposes of on-site monitoring;
  - 6. Training that is job-related and enhances the individual's potential for unsubsidized employment; and,
  - 7. Time off to attend training during work hours as approved and required by the sub-grantee.

- D. Training positions at the host agency shall meet the maintenance of effort provisions required under federal regulations as follows:
  - 1. Training positions shall result in an increase in employment opportunities over and above those already available; and,
  - 2. Training positions shall not result in the displacement of current employees including partial displacement such as the reduction of regular hours, wages or benefits.
- E. A host agency may not be a worksite for a person if a member of that person's immediate family is in an administrative capacity or a board member for the host agency. Immediate family Includes, in this context, wife, husband, son, mother, father, daughter, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild.

**10.422.22 On The Job Experience [Rev. eff. 12/1/10]**

Sub-grantees shall develop relationships with other employment and training programs providing services to older adults and other agencies in the area to provide the most comprehensive employment and training services to eligible older adults.

- A. Sub-grantees shall collaborate with the Colorado Workforce Development Career Centers:
  - 1. To recruit eligible individuals, especially economically and socially disadvantaged individuals, minorities, limited English-speaking, and Native Americans;
  - 2. To obtain unsubsidized employment for the job-ready individual; and,
  - 3. To increase training and employment opportunities for eligible enrollees.
- B. Sub-grantees shall develop and maintain relationships with the AAAs for a source of supportive services for the older worker and to provide a worksite for community service employment for eligible enrollees.
- C. Sub-grantees shall develop cooperation with all local, state, and federal agencies as potential host agency sites to:
  - 1. Provide a variety of work assignments for enrollees; and,
  - 2. Produce a variety of services to the community that would otherwise not be available.
- D. Sub-grantees shall initiate close cooperation with private employers in the area to:
  - 1. Determine their needs and provide education on the benefits of hiring older adults;
  - 2. Identify techniques that would increase opportunities for older adults; and,
  - 3. Provide an employment source for enrollees ready to assume unsubsidized employment.
- E. Sub-grantees shall maintain close cooperation and communication with other SCSEP sponsors in the area to assure equitable distribution of available Title V positions in the sub-grantee's service delivery area.

**10.422.23 Non-Discrimination [Rev. eff. 12/1/10]**

- A. Sub-grantee contracts shall include assurances concerning non-discrimination in all activities related to the administration of the program.
- B. No sub-grantee or staff person of the sub-grantee shall discriminate, exclude from participation, or deny benefits to eligible individuals because of the individual's race, ethnicity, color, religion, gender, sexual orientation, national origin, handicap, political beliefs, or age, except where age is a valid consideration as described in these rules.

**10.422.24 Data and Records [Rev. eff. 12/1/10]**

- A. Sub-grantees shall maintain documentation that is sufficient to permit the preparation of reports as mandated by the Older Americans Act or as required by the U.S. Department of Labor or the SUA and to permit the tracking of funds to a level of expenditure adequate to ensure funds have not been spent unlawfully.
- B. Documentation shall be completed based on the sub-grantee's policy and procedures manual.

**10.422.3 Provisions [Rev. eff. 12/1/10]**

The SCSEP provisions of the Older Americans Act are designed to:

- A. Enhance employment and training opportunities for older workers by reinforcing connections with the broader workforce investment system, including government agencies, community service organizations, and nonprofit organizations approved under Section 501(c)(3) of the Internal Revenue Code;
- B. Establish an enhanced performance accountability system to hold each project subcontractor accountable for attaining quality levels of performance with respect to core measures;
- C. Improve the ability of states to coordinate services by providing for the broad participation of stakeholders in the development of an annual plan to ensure an equitable distribution of projects within the state;
- D. Strengthen the administrative procedures and fiscal accountability provisions similar of other federal work programs; and,
- E. Revise the distribution of funding.

**10.422.31 SCSEP Services [Rev. eff. 12/1/10]**

Services available through the SCSEP shall include the following:

- A. Enrollee wages and fringe benefits (including a physical examination);
- B. Enrollee training, provided prior or subsequent to placement, including the payment of reasonable costs of instructors, classroom rental, training supplies, materials, equipment, and tuition;
- C. Job placement assistance, including job development and job search assistance;
- D. Enrollee supportive services;
- E. Outreach, recruitment and selection, intake, orientation, and assessments; and,



- F. On the Job Experience (OJE) – training and employment opportunities through public or private employers not associated with community service.

**10.422.4 SCSEP Procurement [Rev. eff. 12/1/10]**

- A. The SUA shall award Title V funds to prospective sub-grantees using a competitive bidding process pursuant to the Colorado Procurement Code (see Section 24-103-202, C.R.S. "Competitive Sealed Bidding").
- B. Contracts shall be awarded for a defined period and may be renewed for additional option years at the sole discretion of the SUA, contingent upon:
1. Appropriation and budgeting of funding; and,
  2. The sub-grantees' successful satisfaction of contractual requirements, if applicable.

**10.422.5 Program Monitoring and Reporting [Rev. eff. 12/1/10]**

- A. The SUA has designated responsibility for administering SCSEP funded under Title V, including all program activities prescribed by the Older Americans Act, the grant agreement, and United States Department of Labor bulletins and regulations.
- B. The SUA conducts ongoing monitoring of performance, based on specific performance indicators and achievement of established program goals and objectives as indicated in the contractual agreement.

**10.422.51 Performance Measures [Rev. eff. 12/1/10]**

- A. All sub-grantees shall be evaluated on the performance measures established by the Secretary of HHS and the SUA as a requirement for application, and as a condition of all contracts received under Title V. The performance measures include, but are not limited to:
1. Number of enrollees placed in unsubsidized employment by each sub-grantee during the program year shall be authorized through the SUA;
  2. Completion of customer satisfaction surveys of host agency employers, unsubsidized employers, and participants; and,
  3. Quarterly progress reports shall be submitted timely and accurately via the Federal data collection system.
- B. Levels of performance may be adjusted with approval from the SUA only with respect to the following:
1. High rates of unemployment, poverty, or welfare recipients in areas served by a sub-grantee relative to other areas of the state;
  2. Significant numbers or proportions of enrollees with one or more barriers to employment served by a sub-grantee relative to sub-grantees serving other areas of the state; or,
  3. Significant downturns in the areas served by the sub-grantee or in the national economy.

**10.422.52 Non-Compliance with Performance Measures [Rev. eff. 12/1/10]**

- A. If a sub-grantee fails to meet its performance measures for a year the sub-grantee is required to submit a corrective action plan identifying:
  - 1. The specific performance measure(s) that were not met;
  - 2. Reasons why the sub-grantee was unable to meet the performance measure(s); and,
  - 3. A plan for implementing changes and steps the sub-grantee will take to meet the standard(s).
- B. An action plan shall be submitted in the time period specified by the state.
- C. If the sub-grantee fails to meet performance measures for a second year, the State shall conduct a competition to transfer up to twenty-five percent (25%) of the services to another sub-grantee (minimizing to the extent possible, disruption of services provided to enrollees).
- D. If the sub-grantee fails to meet performance measures during the third year, the SUA shall conduct a competition to award all of the funds to another sub-grantee. The sub-grantee that has failed to meet its performance measures shall not be included in the competition award process.

**10.422.6 Enrollee Recruitment and Selection [Rev. eff. 12/1/10]**

- A. Sub-grantees shall implement recruitment and selection methods to ensure the maximum number of eligible individuals have an opportunity to participate in the SCSEP and vacant positions are kept to a minimum.
- B. Sub-grantees shall ensure that recruitment efforts are targeted toward eligible minority individuals, limited English-speaking individuals, Native American individuals, and individuals with the greatest economic need, at least in proportion to their numbers in the sub-grantee area, and taking into consideration their rates of poverty and unemployment.

**10.422.61 Physical Examination [Rev. eff. 12/1/10]**

- A. Each individual selected for enrollment shall be offered a physical exam.
- B. Physical exams are a program benefit and shall not be used as a basis to deny enrollment unless the program activity would present a danger to the individual's health or safety.
- C. Additional physical exams or additional signed waivers shall be required during an individual's participation in community service employment annually.
- D. Individuals who are terminated and subsequently re-enrolled shall not be required to have a physical exam or sign a waiver, if their last exam or signed waiver occurred within twelve months of their date of re-enrollment.
- E. Subsequent exams or waivers for terminated and re-enrolled individuals shall be scheduled within twelve months of the last exam.

**10.422.62 Administrative Terminations [Rev. eff. 12/1/10]**

- A. Enrollees may be terminated immediately for cause.
- B. If the enrollee is terminated for cause, a thirty (30) day notice is not required.

- C. Reasons for administrative termination may include:
  - 1. Refusal to cooperate in establishing eligibility;
  - 2. Inability and/or unwillingness to perform assigned duties;
  - 3. Refusal to accept a different community service assignment;
  - 4. Frequent tardiness or unauthorized absences;
  - 5. Falsification of time sheets or other official records;
  - 6. Insubordination;
  - 7. Non-compliance with substance abuse policy; or,
  - 8. Inappropriate failure to cooperate with sub-grantee and/or host agency staff.
- D. Behaviors that may lead to administrative termination shall be documented and included in sub-grantee records.
- E. The personnel policies and procedures of each sub-grantee shall include the reasons for administrative termination.

**10.422.621 SCSEP Employability Plan Termination (Individual Development Plan) [Rev. eff. 12/1/10]**

- A. Failure to participate in the Employability Plan process may be cause for corrective actions, up to and including termination as a last resort.
- B. Repeated refusal by the enrollee to perform specific actions as agreed upon may lead to termination.
- C. The personnel policies and procedures of each sub-grantee shall include a description of the enrollee's responsibilities and obligations if included in the employability plan, and actions that may be taken by the sub-grantee sponsor if the enrollee fails to meet his/her obligations.

**10.422.622 SCSEP Termination Notices [Rev. eff. 12/1/10]**

Termination notices shall include:

- A. The effective date of the termination;
- B. Reason(s) for the termination; and,
- C. Appeal rights of the enrollee.

**10.422.623 SCSEP Complaints, Adverse Actions and Appeals [Rev. eff. 12/1/10]**

- A. If an adverse action is taken against an enrollee, the enrollee shall receive written notice stating the reasons for the determination, the enrollee's right to appeal, and the appeal procedures.
- B. Sub-grantees shall develop complaint procedures and an appeal process to resolve issues arising between the host agency and an enrollee or applicant.

- C. The enrollee shall be provided a copy of the complaint resolution process. Unresolved complaints alleging violations of law other than discrimination shall be filed with the appropriate office of the U.S. Department of Labor at: U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20210.
- D. Unresolved complaints alleging discrimination due to race, ethnicity, color, religion, gender, sexual orientation, national origin, disability, or age (except where age is a valid consideration under SCSEP) shall be filed with the Director, Office of Civil Rights at: Colorado Civil Rights Division Commission, 1560 Broadway, Room 1050, Denver, CO 80202-5143.

**10.422.7 SCSEP Orientation [Rev. eff. 12/1/10]**

Sub-grantees shall provide formal program orientation for the enrollees as soon as practical. Program orientation shall be developed in accordance with the sub-grantee's policies and procedures.

**10.422.8 SCSEP Assessment and Evaluation [Rev. eff. 12/1/10]**

Each new enrollee shall be assessed to determine the most suitable community service employment position for the enrollee. The assessment shall be made with the enrollee's input and based on the assessment, and an employability plan shall be developed. The plan shall be developed in accordance with the sub-grantee's policy and procedure manual.

**10.422.81 SCSEP Pre-Job Training [Rev. eff. 12/1/10]**

Pre-job training may be provided to new enrollees prior to and as preparation for community service employment.

- A. The training shall be delivered through lectures, seminars, classroom training, or other arrangements at no cost or reduced cost to the project whenever possible.
- B. Pre-job training and orientation shall be considered as employment under the sub-grantee and enrollees shall be compensated at the federal or state minimum wage, or the sub-grantees prevailing wage, whichever is higher. The enrollee must be assigned to community service prior to any compensation.
- C. Pre-job training and orientation shall be completed within the first eighty (80) hours of the individual's enrollment unless an extension is approved by the SUA.

**10.422.82 SCSEP Community Service Employment [Rev. eff. 12/1/10]**

- A. Enrollees shall be assigned to useful part-time community service employment as soon as possible after the physical exam, orientation and pre-job training. A physical examination shall be offered to the enrollee and if the physical is refused it must be noted in the enrollee's file.
- B. Host agency assignment shall not exceed one year without prior written approval of the SUA. Written approval shall be requested two (2) months prior to the end of the one-year period, unless directed otherwise by the SUA.
- C. At the end of the maximum two (2) year placement period, if unsubsidized employment is not found, the enrollee shall exit from the program, unless the sub-grantee submits a request for extension in writing and is granted approval by the SUA.

- D. Hours worked by each enrollee, include paid hours of orientation, pre-job training, job related training, voluntary training, and necessary sick leave.
  - 1. Sub-grantees shall not require an enrollee to work more than forty hours per week, nor offer an enrollee less than twenty hours of paid participation per week, on average, unless approved by the SUA and agreed to in writing by the enrollee.
  - 2. An enrollee's community service employment shall be during normal working hours unless otherwise agreed upon by the enrollee.
- E. Enrollees shall be placed with host agencies in their own county of residence and shall be assigned to community service employment in or near the communities in which they reside.
- F. Enrollees shall be assigned to community service employment positions that contribute to the general welfare of the community, such as social, health, welfare, library, education, conservation, maintenance or restoration of natural resources, economic development, and any other services essential and necessary to the community.
- G. Enrollees shall be given first consideration for positions in the operation of sub-grantees where assignments are congruent with the skills and interests of the enrollee.
- H. Enrollees employed in community service employment positions funded under Title V shall not be considered federal or state employees.
- I. Wages and Fringe Benefits
  - 1. The pay rate for enrollees for active participation, including orientation and pre-job training shall be whichever of the following is higher:
    - a. The Federal minimum wage; or,
    - b. The state or local minimum wage for that employment or the most nearly comparable employment covered under the state or local minimum wage laws.
  - 2. Fringe benefits shall be administered by sub-grantees uniformly to all enrollees, including those in temporary positions.
    - a. State sponsored enrollees shall receive the same benefits afforded to national sponsored enrollees, where both state and national grants are administered by the sub-grantee.
    - b. Benefits may include, but are not limited to:
      - 1) Workers' compensation; and,
      - 2) Other benefits as approved by the SUA.
    - c. Enrollees not covered by state workers' compensation laws shall be provided with workers' compensation benefits through a recognized carrier or by self-insurance, as authorized by state law, equal to that provided by law for covered employment.

**J. SCSEP Supportive Services**

1. Supportive services shall be provided to assist enrollees in successful participation in community service employment and to assist in transition to unsubsidized employment.
2. Supportive services may include the following:
  - a. Personal and job related counseling;
  - b. Reimbursement for items such as work shoes, badges, uniforms, tools, safety glasses, and other items required for participation in subsidized or unsubsidized employment; and,
  - c. Transportation when accomplished in the direct performance of employment or employment-related activities, or from central pickup points to work sites in cases where public transportation is inadequate.
3. Public transportation or transportation of no cost to the project shall be used whenever possible.

**K. SCSEP Other Training**

1. Sub-grantees may provide additional training to enrollees that provides or enhances skills required to perform community service employment or to obtain unsubsidized employment.
2. Training may be classified as job-related or voluntary, and includes:
  - a. Skill training;
  - b. Job seeking skills;
  - c. Training in preparation for obtaining unsubsidized employment; and,
  - d. Resume writing and interviewing skills.
3. "Job-related training" is training which provides or enhances skills necessary for successful participation in community service employment.
  - a. Required training shall be reasonable and consistent with the enrollee's assignment.
  - b. Enrollees shall be paid the established wage rate of the sub-grantee during training.
4. "Voluntary training" provides or enhances skills necessary to obtain unsubsidized employment.
  - a. Voluntary training may be provided during subsidized employment participation and the enrollee need not be compensated for the hours of training.
  - b. If training is provided during SCSEP participation, uncompensated hours shall not apply to the 1,300-hour participation limit.

5. Sub-grantees shall develop training opportunities through other employment and training programs, including the Colorado Workforce Development Career Centers or other sources at no cost or reduced cost to the program whenever possible.
- L. SCSEP Temporary Positions
1. Sub-grantees may enroll over the amount of the total authorized positions in temporary positions to serve as many individuals as possible and to expend authorized funds with maximum efficiency.
  2. Sub-grantees shall notify temporary enrollees of their status in writing and file a copy of the notification in the enrollee's permanent file.
- M. Title V Federal funds shall not be expended in excess of the authorized grant amount.

**10.422.9 SCSEP Political Activities [Rev. eff. 12/1/10]**

- A. No political activity is allowed under a SCSEP project or sub-grantee.
- B. No enrollee or staff person shall engage in partisan or non-partisan political activities during the hours compensated by Title V funds, or represent himself/herself as a spokesperson for the SCSEP while engaging in partisan political activity at any time.
- C. Enrollees and staff persons of a project or sub-grantee are further restricted from political activity as required by federal rules and regulations.
- D. Each enrollee under Title V shall be given a written explanation clarifying the law with respect to allowable and unallowable political activities.
- E. Enrollees shall not be employed in the office of a member of Congress, a state or local legislator, or on the staff of a legislative committee.
- F. Assignments to offices of any other local or state elected officials where the duties are of a non-political nature may be allowed only with prior approval of the SUA and documented assurances that political activities shall not be engaged in by the enrollee.
- G. No funds, provided under Title V shall be directly provided to influence a member of Congress, state or local legislator.

**10.500 COMPLAINTS, APPEALS AND HEARINGS [Rev. eff. 12/1/10]**

- A. All service providers, including Area Agencies on Aging (AAA), contractors, and sub-contractors receiving Older Americans Act (OAA) funds to provide services to older adults shall develop policies and procedures for the resolution of complaints and appeals as described at Section 10.205, G.
- B. A complaint, in the context of this rule, is an expression of dissatisfaction by:
1. An older adult receiving services under the Older Americans Act (OAA) or State Funding for Senior Services (SFSS), or his/her representative or caregiver;
  2. An applicant for services under the OAA or SFSS, or his/her representative or caregiver; or,
  3. A service provider.

- C. Older adults receiving services, applicants for services, or their representatives or caregivers may file a complaint related to the following:
  - 1. Any action or failure to act which impacts the older adult's experience with programs and services funded by the OAA or SFSS;
  - 2. Dissatisfaction with services including issues related to quality and quantity of services;
  - 3. Dissatisfaction with service providers; or,
  - 4. Other issues related to OAA or SFSS programs raised by the older adult or his/her representative or caregiver.
- D. Consumer complaints may initially be verbal or written.
  - 1. If a verbal complaint is made in person, the agency staff or volunteer receiving the complaint shall assist the older adult in recording the complaint.
    - a. The narrative of the complaint shall be read back to the older adult to ensure that the older adult's complaint is accurately documented and the older adult shall be asked to sign the complaint. The staff member shall sign and date the document to verify this step.
    - b. The older adult shall not be required to sign the complaint if he/she refuses or is unable to sign.
  - 2. Complaints received by phone shall be documented by the agency staff/volunteer receiving the complaint.
  - 3. Complaints shall be forwarded to the appropriate agency for follow-up and resolution.
- E. Service providers may file written complaints for issues related to:
  - 1. Reimbursement;
  - 2. Matters pertaining to an executed contract between the service provider and the contracting agency; or,
  - 3. The conduct of the grant process, limited to issues of compliance with the procedural requirements of applicable laws, regulations, and policies.
- F. Service provider complaints shall not include issues related to withdrawal of designation as an AAA, or PSA modification as found in Section 10.506.
- G. Complaint procedures for enrollees in the Senior Community Service Employment Program in located at Section 10.422.623.

**10.501 CONSUMER COMPLAINTS [Rev. eff. 12/1/10]**

- A. Complaints (including complaints by older adults or by their representatives or caregivers), and complaints by applicants for services (or their representatives or caregivers) shall be resolved at the lowest possible level.
- B. If the complaint cannot be resolved at the local level, it may be appealed to the SUA.



- C. Complaints shall be filed in writing with the direct service provider within thirty (30) calendar days of the action or incident giving rise to the dissatisfaction.
- D. The direct service provider receiving the complaint shall investigate and resolve the complaint. The direct service provider may be the AAA or a contractor of the AAA or SUA.
- E. Written notice of the resolution shall be sent to the complainant within fifteen (15) working days. This notice shall include:
  - 1. A summary of the concern or issue;
  - 2. The results of the investigation into the complaint and the service provider's resolution of the concern; and,
  - 3. Notification to the complainant of his/her right to appeal the service provider's decision if he/she is dissatisfied with the resolution and instructions for filing such an appeal.
- F. The provider shall maintain complaint files that include:
  - 1. The complaint;
  - 2. Investigative notes and findings;
  - 3. The resolution of the complaint including any actions taken; and,
  - 4. A copy of the written response to the complainant.

**10.502 CONSUMER APPEAL [Rev. eff. 12/1/10]**

- A. If the complainant is dissatisfied with the complaint resolution, a written appeal may be filed with the SUA Director within ten (10) calendar days of receipt of the decision.
- B. The SUA Director or designee shall complete a review of the complaint and resolution to that complaint, including all pertinent documentation or new information that may be available.
- C. The SUA Director will provide a written response to the complainant within thirty (30) calendar days of receipt of the appeal.
- D. This written response shall include notification of the complainant's rights to an Administrative Law Judge hearing as described at Section 10.507 of these rules if he/she is dissatisfied with the resolution of the appeal, and instructions for requesting such a hearing.

**10.503 SERVICE PROVIDER COMPLAINTS AND APPEALS**

**10.503.1 Service Provider Complaint [Rev. eff. 12/1/10]**

- A. Service provider complaints shall be filed in writing directly with the service provider's contracting agency (i.e., the AAA or SUA) within thirty (30) calendar days of the date the incident occurred.
- B. The AAA or SUA receiving the complaint shall investigate and resolve the complaint within fifteen working days from the time the agency receives the complaint.
- C. If the service provider is a contractor of the AAA, the complaint shall be investigated and resolved by the AAA director.

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

**10.503.2 Service Provider Appeal [Rev. eff. 12/1/10]**

- A. If the service provider or contractor is dissatisfied with the resolution of the complaint, a written appeal may be filed with the SUA Director within ten (10) calendar days of the receipt of the initial decision.
- B. The appeal shall be investigated and resolved by the SUA Director or designee. If a designee is selected, a supervisory level designee in the SUA not involved in the original complaint resolution shall resolve the appeal.
- C. The SUA Director or designee shall complete a review of the complaint and complaint resolution, including all pertinent documentation or new information that may be available, and provide a written response to the complainant within fifteen (15) working days of receipt of the appeal.

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

**10.504.1 Local Long-Term Care Ombudsman Complaints [Rev. eff. 12/1/10]**

- A. Complaints made involving actions or inactions by a Local LTC ombudsman shall be filed with the appropriate AAA within thirty (30) calendar days of the date of the incident.
- B. The AAA Director shall investigate and resolve the complaint.
- C. The complainant shall be notified, in writing, by the AAA Director of the resolution within fifteen (15) working days of receipt of the complaint. This notice shall include:
  - 1. A summary of the concern or issue;
  - 2. The results of the investigation into the complaint and the resolution of the concern; and,
  - 3. Notification to the complainant of his/her right to appeal the decision if he/she is dissatisfied with the resolution, and instructions for making such an appeal.
- D. If the complainant is dissatisfied with the complaint resolution by the AAA, a written appeal may be filed with the SUA Director within ten calendar days of the decision.
- E. The SUA Director or designee shall complete a review of the complaint and complaint resolution, including all pertinent documentation or new information that may be available, and provide a written response to the complainant within fifteen (15) working days of receipt of the appeal. This decision is final.

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**10.505 COLORADO LONG-TERM CARE OMBUDSMAN (CLTCO) COMPLAINTS AND APPEALS**

**10.505.1 Colorado Long-Term Care Ombudsman Complaints [Rev. eff. 12/1/10]**

- A. Complaints made involving actions or inactions by the CLTCO shall be filed with the SUA within thirty (30) calendar days of adverse action.
- B. The SUA shall investigate and resolve the complaint.
- C. The complainant shall be notified in writing of the resolution within fifteen (15) working days. This notice shall include:
  - 1. A summary of the concern or issue;
  - 2. The results of the investigation into the complaint and the resolution of the concern; and,
  - 3. Notification to the complainant of his/her right to appeal the decision if he/she is dissatisfied with the resolution, and instructions for making such an appeal.
  - 4. This written response shall include notification of the complainant's rights to an Administrative Law Judge hearing as described in Section 10.507 if he/she is dissatisfied with the resolution of the appeal, and instructions for requesting such a hearing.

**10.506 AAA DESIGNATION AND WITHDRAWAL [Rev. eff. 12/1/10]**

The AAAs may request an appeal to an ALJ of a decision by the SUA in the following circumstances:

- A. Withdrawal of AAA designation resulting from:
  - 1. Termination of the contract;
  - 2. Disapproval by the SUA of the Area Plan, the One-Year Funding Request or revisions to the plan;
  - 3. Non-compliance with the terms of the contract, state regulations, federal regulations or applicable laws;
  - 4. Failure to apply or submit the Area Plan, the One-Year Funding Request or revisions to the plan; or,
  - 5. Voluntary termination of the contract by the AAA.
- B. Modification of planning and service areas when:
  - 1. The applicant is denied a PSA modification;
  - 2. An existing AAA is affected by an approved application for modification of a PSA; or,
  - 3. Individuals or entities penalized as a result of an investigation into complaints of interference with an ombudsman in the course of his/her duties, or a complaint regarding discriminatory, disciplinary or retaliatory action as described in Section 10.420.9 may request an Administrative Law Judge (ALJ) hearing.

**10.507 STATE ADMINISTRATIVE LAW JUDGE (ALJ) [Rev. eff. 12/1/10]**

- A. The purpose of a hearing before an Administrative Law Judge for a consumer appeal shall be to determine the pertinent facts to arrive at a fair and equitable decision.
- B. The purpose of an ALJ hearing for a provider appeal shall be based on SUA's response to the service provider's complaint and shall be upheld unless arbitrary or capricious or contrary to another standard of judicial review per Section 24-4-106, C.R.S. and final agency action per Section 26-1-106, C.R.S.
- C. ALJ hearings shall be conducted in accordance with Section 24-4-105, C.R.S. and Section 26-1-106, C.R.S.

**10.507.1 Notification of Initial Decision [Rev. eff. 12/1/10]**

- A. Following conclusion of the hearing, the ALJ shall prepare and file an initial decision.
- B. The initial decision shall include a statement of findings and conclusions upon all the material issues of fact, law or discretion presented by the record, and the appropriate order, sanction, relief or denial thereof.
- C. The initial decision shall include a determination as to whether the respondent acted in accordance with, or properly interpreted, applicable state policies and regulations.
- D. The initial decision shall be sent to each party involved in the hearing.

**10.508 COLORADO DEPARTMENT OF HUMAN SERVICES FINAL AGENCY DECISION**

**10.508.1 Final Agency Decision [Rev. eff. 12/1/10]**

- A. After the Colorado Department of Human Services receives the initial decision from the ALJ, the designee at the Department shall review the decision in accordance with a procedure adopted by the State Board of Human Services pursuant to Section 26-1-106(1), C.R.S.
- B. Any party may file exceptions to the decision submitted by the ALJ pursuant to Section 24-4-105(14)(a)(I), C.R.S.
- C. Parties interested in reversing or modifying the initial decision of the ALJ shall follow the procedures identified at Section 24-4-105(15)(a), C.R.S.
- D. The Colorado Department of Human Services shall issue a final agency decision in accordance with Section 26-1-106, C.R.S.

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**Editor's Notes**

**History**

Sections 10.150, 10.410, 10.710, 10.720, 10.730, 10.930, 10.940. eff. 06/01/2008.

Entire rule eff. 12/01/2010.

Sections SBP, 10.205, 10.302.3, 10.305.1, 10.309, 10.418.1, 10.420.1 eff 01/01/2012.