

# **USAgging 2024 Conference: Older Americans Act Updates from ACL**

---

Adam Mosey, Special Assistant, Administration on Aging

Amy Wiatr-Rodriguez, Director, Center for Regional Operations

*July 10, 2024*



# Agenda

- Background
- Older Americans Act Final Rule Overview
- Key Focus Areas & Provisions of the Final Rule
- Resources & Timeline
- Questions & Discussion

*Please note: When a hyperlink is provided on a slide, the notes section will include the full website link.*



# The Administration for Community Living

- **Mission:** Maximize the independence, well-being, and health of older adults, people with disabilities, and their families and caregivers.
- **Vision:** All people, regardless of age and disability, live with dignity, make their own choices, and participate fully in society.
- **Leadership:**
  - Serve as advisor to the Department of Health and Human Services (HHS) Secretary, other HHS divisions and other agencies on aging and disability policy
  - Administer funding and programs as authorized in statute, including the Older Americans Act (OAA, the Act)
  - Establish national policies and priorities
  - Provide program leadership, technical assistance, and disseminate and influence best practices
  - Advocate for the populations we serve and their needs



# Laws and Regulations

## Federal Laws

- Federal laws are bills, like the Older Americans Act, that have:
  - passed both chambers of Congress, and
  - been signed by the President, or
  - passed over the President's veto, or
  - are allowed to become law without the President's signature.

## Regulations

- Regulations are rules made by executive agencies, like the Administration for Community Living, interpreting federal laws.
- Regulations are arranged by subject in the *Code of Federal Regulations*.
- Regulations facilitate the implementation of federal law.

## Code of Federal Regulations

- The [Code of Federal Regulations](#) (CFR) is a codification of the general and permanent rules published in the [Federal Register](#) by executive departments and agencies of the federal government.



# Older Americans Act Overview

- First passed in 1965 and last reauthorized on March 25, 2020, the OAA authorized a wide range of programs and services that help older adults age in place. These include:
  - Home-delivered and congregate meals, support for family caregivers, preventive health services, personal and home care services, transportation, legal assistance, and more (Title III);
  - Nutrition and supportive services for Native American elders and caregivers (Title VI);
  - Ombudsman services for people who live in long-term care facilities, prevention of elder abuse, and elder rights promotion (Title VII).



# Purpose of the Final Rule Updating the OAA Regulations

- Align regulations with the current statute
- Reflect the needs of today's older adults
- Clarify programmatic requirements
- Support the national aging network that delivers OAA services
- Improve program implementation to better serve older adults and caregivers
- Promote appropriate stewardship of OAA resources



# OAA Rulemaking Process & Timeline

- ACL internal review of necessary updates, needed clarifications, and technical assistance inquiries
- Request for Information in 2022
- Notice of Proposed Rule Making in 2023
- [Final Rule](#) published February 14, 2024, in the Federal Register



# Effective and Compliance Dates

- **Effective Date:** 30 days after publication in the Federal Register, March 15, 2024.
- **Compliance Date:** October 1, 2025.
  - **Corrective Action Plan (CAP):** State Units on Aging (SUAs) who are unable to comply with the final rule by the October 1, 2025, date will have the ability to submit a CAP to ACL that, if approved, provides additional time to achieve compliance.
- We look forward to providing robust technical assistance and engaging with stakeholders regarding implementation of the final rule.





# Layout of the Final Rule: Preamble (Sections I-III) & Regulatory Text

- We strongly encourage you to read the entire final rule. There are two basic sections:
  1. The first portion is **preamble**:
    - Background, explanation of the regulatory text, analysis and responses to public comments, required regulatory analyses
  2. The second portion is the final **regulatory text** in full for 45 CFR parts 1321 (Title III), 1322 (Title VI), and 1324 (Title VII)
- On March 15, 2024 the regulation was published in the Code of Federal Regulations, and now can be found on [www.ecfr.gov](http://www.ecfr.gov)
- For a more detailed orientation to the final rule (e.g., webinars, additional resources), please visit ACL's OAA Regulations webpage: <https://acl.gov/OAArule>



## General Note on the OAA Final Rule

---

The vast majority of what is included in the final rule are **long-established OAA requirements** – i.e., reaffirming what is in statute, prior regulations, or existing policies – rather than new requirements.



# Key Focus Areas and Provisions of the Final Rule

- Today's presentation will focus on selected items that may be of special interest to AAAs:
  - Area agency on aging responsibilities;
  - Service requirements;
  - Serving those in greatest economic need and greatest social need; and
  - Nutrition flexibilities and modernization.



# Subpart C – Area Agency Responsibilities

- [1321.55 Mission of the area agency](#)
- [1321.57 Organization and staffing of the area agency](#)
- [1321.59 Area agency policies and procedures](#)
- [1321.61 Advocacy responsibilities of the area agency](#)
- [1321.63 Area agency advisory council](#)
- [1321.65 Submission of an area plan and plan amendments to the State agency for approval](#)
- [1321.67 Conflicts of interest policies and procedures for area agencies on aging](#)
- [1321.69 Area agency on aging Title III and Title VI coordination responsibilities](#)



# State and Area Agency Policies and Procedures

- SUA policies and procedures must be developed in consultation with AAAs, program participants, and other appropriate parties in the state ([§ 1321.9 State agency policies and procedures](#)).
- AAAs are required to develop policies and procedures in compliance with SUA policies and procedures, including those under § 1321.9, in consultation with other appropriate parties in the PSA ([§ 1321.59 Area agency policies and procedures](#)).



# **§ 1321.61 Advocacy responsibilities of the area agency.**

Serve as the public advocate for the development or enhancement of comprehensive and coordinated community-based systems of services in each community throughout and specific to each planning and service area.

- (1) Monitor, evaluate, and comment on policies, programs, etc. which affect older individuals and family caregivers;
- (2) Solicit comments from the public on the needs of older individuals and family caregivers;
- (3) Represent the interests of older individuals and family caregivers to local level and executive branch officials, public and private agencies, or organizations;
- (4) Consult with and support the State's Long-Term Care Ombudsman Program; and
- (5) Coordinate to promote new or expanded benefits and opportunities for older individuals and family caregivers.

Undertake a leadership role in assisting communities to target resources from all appropriate sources to meet the needs of older individuals and family caregivers with greatest economic need and greatest social need, with particular attention to low-income minority individuals.



## **§ 1321.63 Area agency advisory council.**

- The council shall advise the agency relative to:
  - Developing and administering the area plan;
  - Ensuring the plan is available to older individuals, family caregivers, service providers, and the general public;
  - Conducting public hearings;
  - Representing the interests of older individuals and family caregivers; and
  - Reviewing and commenting on community policies, programs and actions which affect older individuals and family caregivers.
- The AAA shall submit the area plan and amendments for review and comment to the advisory council before it is transmitted to the SUA for approval.



## **§ 1321.65 Submission of an area plan and plan amendments to the State agency for approval.**

- The AAA shall submit the area plan on aging and amendments specific to each PSA to the SUA for approval following procedures specified by the SUA in the SUA policies prescribed by [§ 1321.9](#).
- SUA policies and procedures regarding area plan requirements will address minimum requirements specified, which include (see 1321.65 for complete requirements):
  - Content, duration, and format;
  - That the AAA shall identify populations within the PSA at GEN and GSN, which shall include the populations as set forth in the [§ 1321.3](#) definitions;
  - Assessment and evaluation of unmet need for supportive services, nutrition services, evidence-based disease prevention and health promotion services, family caregiver support services, and multipurpose senior centers; and
  - Public participation specifying mechanisms to obtain the periodic views of older individuals, family caregivers, service providers, and the public with a focus on those in GEN & GSN.





## § 1321.65 Submission of an area plan and plan amendments to the State agency for approval, Cont. 1

- A definition of each service; number of individuals to be served; type and number of units; and corresponding expenditures proposed with funds under the Act and related local public sources;
- Plans for how direct services funds under the Act will be distributed within the PSA, in order to address populations identified as in GSN and GEN, as identified in [§ 1321.27\(d\)\(1\)](#);
- Process for determining whether the AAA meets requirements to provide services directly;
- Minimum adequate proportion requirements, as identified in the approved state plan ([§ 1321.27](#));
- Requirements for program development & coordination activities ([§ 1321.27\(h\)](#)), if allowed by the SUA;
- If the AAA requests to allow Title III, part C-1 funds to be used as set forth in [§ 1321.87\(a\)\(1\)\(i\)](#) through [\(iii\)](#) for shelf-stable, pick-up, carry-out, drive-through, or similar meals to complement the congregate meals program, it must provide the specified information to the SUA;
- Initial submission, amendments, and appeals; Approval by the SUA.
- Area plans on aging shall develop objectives that coordinate with and reflect the state plan goals for services under the Act.



# § 1321.67 Conflicts of interest policies and procedures for area agencies on aging

- The AAA must have conflict of interest (COI) P&P including:
  - Reviewing service utilization and financial incentives to ensure appropriate stewardship
  - Ensuring AAA employees and agents do not have a financial interest in Title III programs
  - Reviewing and identifying COI in the Title III program on a periodic basis, and establishing expectations for remedies or removal of COI identified
  - Prohibiting the officers, employees, or agents of the Title III program from soliciting or accepting gratuities, favors, or anything of monetary value from grantees, contractors, and/or subrecipients, with limited exceptions
  - Documenting COI mitigation strategies when operating an APS or guardianship program



## **§ 1321.69 Area agency on aging Title III and Title VI coordination responsibilities.**

The AAA's policies and procedures must:

- Explain how the AAA's network, including service providers, will coordinate with Title VI programs to ensure compliance with the OAA;
- Address how the AAA's network will provide outreach to tribal elders and family caregivers;
- Address the communication opportunities the AAA will make available to Title VI programs, to include Title III and other funding opportunities, technical assistance on how to apply for Title III, and other funding opportunities, meetings, email lists, presentations, and public hearings;
- Describe the methods for collaboration on and sharing of program information and changes, how services will be provided in a culturally appropriate and trauma-informed manner;
- Address how Title VI programs may refer individuals who are eligible for Title III services; and
- Detail opportunities to serve on advisory councils (including the AAA's), workgroups, and boards.



# § 1321.69 Area agency on aging Title III and Title VI coordination responsibilities, Cont.



<https://olderindians.acl.gov>



# Subpart D – Service Requirements

- 1321.71 Purpose of services allotments under Title III.
- 1321.73 Policies and procedures.
- 1321.75 Confidentiality and disclosure of information.
- 1321.77 Purpose of services—person- and family-centered, trauma-informed.
- 1321.79 Responsibilities of service providers under State and area plans.
- 1321.81 Client eligibility for participation.
- 1321.83 Client and service priority.
- 1321.85 Supportive services.
- 1321.87 Nutrition services.
- 1321.89 Evidence-based disease prevention and health promotion services.
- 1321.91 Family caregiver support services.
- 1321.93 Legal assistance.
- 1321.95 Service provider Title III and Title VI coordination responsibilities.



## **§ 1321.71 Purpose of services allotments under Title III.**

- Title III of the Act authorizes the distribution of federal funds to the SUA for the following services:
  - Supportive services (III-B)
  - Nutrition services (III-C)
  - Evidence-based disease prevention and health promotion services (III-D); and
  - Family caregiver support services (III-E)
- In most states, these funds are awarded to area agencies on aging (AAAs), and the AAAs further award the funding to community organizations to provide direct services; in single planning and service area (PSA) states, the SUA directly awards funds to community organizations to provide direct services.



# § 1321.73 Policies and procedures.

- Includes:
  - The AAA and/or service provider shall ensure the development and implementation of policies and procedures in accordance with SUA policies and procedures, including those required as set forth in [§ 1321.9](#).
    - The SUA may allow for policies and procedures to be developed by the subrecipient(s), except as set forth at [§§ 1321.9\(a\)](#) and [1321.9\(c\)\(2\)\(xi\)](#) and where otherwise specified.
  - The AAA and/or service provider will provide the SUA in a timely manner with statistical and other information which the SUA requires to meet its planning, coordination, evaluation, and reporting requirements established by the SUA under [§ 1321.9](#).



## § 1321.81 Client eligibility for participation

- Eligibility for services under the OAA: recipients must be age 60 or older at the time of service – except in the case of limited circumstances for specific services.
- Nutrition services exceptions are as follows:
  - Services shall be available to spouses of any age of older persons,
  - Services may be available to:
    - A person with a disability who
      - Lives with an adult age 60 or older, or
      - Who resides in a housing facility that is primarily occupied by older adults at which congregate meals are served; and
    - A volunteer during meal hours.





# § 1321.81 Client eligibility for participation, **Cont. 1**

Family caregiver support services exceptions are as follows:

- Adults caring for older adults or those any age with Alzheimer's or a related disorder;
- Older relative caregivers who are caring for children and are not the biological or adoptive parent of the child,
  - where older relative caregivers shall no longer be eligible for services under this part when the child reaches 18 years of age; or
- Older relative caregivers who are caring for individuals age 18 to 59 with disabilities and who may be of any relationship, including the biological or adoptive parent.



## § 1321.81 Client eligibility for participation, **Cont. 2**

Other exceptions include:

- Services such as information and assistance and public education,
  - where recipients of information may not be age 60 or older, but the information is targeted to those who are age 60 or older and/or benefits those who are age 60 or older.
- Ombudsman program services, as provided in 45 CFR part 1324.



## § 1321.81 Client eligibility for participation, **Cont. 3**

- SUAs, AAAs, and/or service providers may develop further eligibility requirements for service implementation that may include:
  - Assessment of greatest social need;
  - Assessment of greatest economic need;
  - Assessment of functional and support need;
  - Geographic boundaries;
  - Limitations on number of persons that may be served;
  - Limitations on number of units of service that may be provided;
  - Limitations due to availability of staff/volunteers;
  - Limitations to avoid duplication of services; and
  - Specification of settings where services shall or may be provided.



## § 1321.83 Client and service priority.

- SUA and/or AAA shall ensure services to those identified as members of priority groups through assessment of local needs and resources.
- The SUA and AAA shall establish criteria to prioritize the delivery of Title III-B, C, D, and E in accordance with the Act.
  - For Title III-E, the Act specifies priority for caregivers:
    - who are older individuals with greatest social need and greatest economic need, with particular attention to low-income older individuals;
    - who provide care for those with Alzheimer's disease and related dementias (ADRD); and
    - if serving older relative caregivers, those who are caring for those with severe disabilities



# Greatest Economic Need (GEN)

## ***Greatest Economic Need***

[Section 1321.3](#) provides that “*greatest economic need*” means

“the need resulting from an income level at or below the Federal poverty level and as further defined by State and area plans based on local and individual factors, including geography and expenses.”



# Greatest Social Need (GSN)

**Greatest Social Need** - [Section 1321.3](#) provides that “*greatest social need*” means the need caused by the following noneconomic factors:

- (1) Physical and mental disabilities;
- (2) Language barriers;
- (3) Cultural, social, or geographical isolation, including due to:
  - (i) Racial or ethnic status;
  - (ii) Native American identity;
  - (iii) Religious affiliation;
  - (iv) Sexual orientation, gender identity, or sex characteristics;
  - (v) HIV status;
  - (vi) Chronic conditions;
  - (vii) Housing instability, food insecurity, lack of access to reliable and clean water supply, lack of transportation, or utility assistance needs;
  - (viii) Interpersonal safety concerns;
  - (ix) Rural location; or
  - (x) Any other status that:
    - (a) Restricts the ability of an individual to perform normal or routine daily tasks; or
    - (b) Threatens the capacity of the individual to live independently; or
- (4) Other needs as further defined by State and area plans based on local and individual factors.

# Serving Populations of GEN & GSN



1. Assess and identify populations
2. Describe targeting populations for service delivery
3. Prioritize populations
4. Establish methods to serve prioritized populations
5. Collect data to evaluate success



# Nutrition Flexibilities and Modernization

- The congregate and home-delivered meals provided by the OAA Senior Nutrition programs help to:
  - Reduce hunger, food insecurity, and malnutrition;
  - Provide an opportunity for older adults to engage with other people, which is critical to maintaining health and independence; and
  - Provide an opportunity to educate and screen older adults for other needs before they become crises.
- The programs help more than two million older adults continue to live in the community each year.





# Nutrition Flexibilities and Modernization, Cont. 1

The nutrition services provision of the final rule as set forth at § 1321.87 includes:

- Clarifies that home-delivered meals may be provided via home delivery, pick-up, carry-out, or drive-through;
- That eligibility for home-delivered meals is not limited to people who are “homebound;”
- That eligibility criteria may depend upon many factors; and
- That home-delivered meal participants may also be encouraged to participate in congregate meals programs.



# Nutrition Flexibilities and Modernization, Cont. 2

The nutrition services provision of the final rule as set forth at § 1321.87 also:

- Allows for a limited number of “carry-out” and similar meals to complement the congregate meals program, in some circumstances.
  - Complementing the congregate program is described as:
    - (A) During disaster or emergency situations affecting the provision of nutrition services;
    - (B) To older individuals who have an occasional need for such meal; and/or
    - (C) To older individuals who have a regular need for such meal, based on an individualized assessment, when targeting services to those in GEN and GSN.
  - Meals provided shall not exceed 25% of the funds expended (after transfers) by the SUA or any AAA.



# Nutrition Flexibilities and Modernization, Cont. 3

If exercising this option, must be included in state and area plans. 1321.27(j) specifies:

- Evidence, using participation projections based on existing data, that provision of such meals will enhance and not diminish the congregate meal program, and a commitment to monitor impact on congregate meals program participation;
- Description of how the provision of such meals will be targeted to reach those populations identified as in greatest economic need and greatest social need;
- Description of the eligibility criteria for service provision;
- Evidence of consultation with nutrition and other direct services providers, other interested parties, and the general public regarding the need for and provision of such meals; and
- Description of how the provision of such meals will be coordinated with nutrition and other direct services providers and other interested parties.



# OAA Final Rule Resources

- The [Older Americans Act Final Rule](#)
- ACL's OAA Regulations webpage: <https://acl.gov/OAArule>
  - Slides from and recordings of webinars
  - Fact sheets
  - Information on upcoming webinars and trainings
  - Additional resources
    - NEW – [Title III Select Topic Areas to Review for SUAs](#)
    - NEW – [OAA Regulations 1988 to 2024 Comparison Chart](#)

## 2024 Final Rule to Update Older Americans Act Regulations

 [Read the Press Release: Final Rule to Update Regulations for Older Americans Act Programs](#)

*"The updated regulations strengthen the stability and sustainability of these programs, and we are looking forward to working with our partners in the aging network to implement them." Alison Barkoff*

### Strengthening the System that Helps Millions Age in Place

Through the aging services network, the OAA helps older adults continue to work and volunteer, live independently and age with dignity, to the great benefit of all. ACL has compiled a variety of resources below to help support the aging services network implementing these critical OAA programs. This includes technical assistance resources to support implementation of the 2024 OAA final rule. The first substantial update to most OAA program regulations since 1988, the rule aligns regulations to the current statute, addresses issues that have emerged since the last update and clarifies a number of requirements.

### The 2024 Older Americans Act Final Rule

Our world has changed dramatically in the 36 years that have passed since the last substantial update to the regulations for most of ACL's Older Americans Act Programs in 1988. The population of older adults has nearly doubled, and older adults are living longer than ever before. Their expectations for aging are different from those of earlier generations. Increased understanding of the impact of the social determinants of health is reshaping health care, as non-medical services that help people avoid hospitalization and institutional care – like those provided through OAA programs – are increasingly being incorporated into health care service delivery models. In addition, the OAA has been amended by Congress seven times since 1988.

One important thing has not changed, however. Older adults overwhelmingly want to continue to live independently, in the community – and nearly 95 percent of them do, many with the support of ACL's OAA programs.

In February 2024, ACL [released a final rule to update regulations](#) for implementing Older Americans Act programs. The update aims to better support the national aging network that delivers OAA services and improve program implementation, with the ultimate goal of ensuring that the nation's growing population of older adults can continue to receive the services and supports they need to live – and thrive – in their own homes and communities.

This [two-page handout](#) provides a brief overview of the final rule. This [longer fact sheet](#) includes additional details about the rule.

### About the Older Americans Act

#### Back to Basics (B2B) Webinar Series

Announcing the "OAA Back to Basics" Webinar Series

**Recent:** State Plans on Aging, Area Plans on Aging, Intra- and Inter-state Funding Formulas: June 27, 2024, 2:00pm ET. *Webinar slides, recording, and fact sheet will be posted below in the coming weeks.*

#### Resources for Grantees

- General Information about the OAA Rule
- B2B Webinar Series: Stewardship, Oversight, and Advocacy Responsibilities
- B2B Webinar Series: Fiscal Policies and Procedures
- B2B Webinar Series: Title III-VI Coordination

## Back to Basics (B2B) Webinar Series

Announcing the "OAA Back to Basics" Webinar Series

**Recent:** State Plans on Aging, Area Plans on Aging, Intra- and Inter-state Funding Formulas: June 27, 2024, 2:00pm ET. *Webinar slides, recording, and fact sheet will be posted below in the coming weeks.*

### Resources for Grantees

- General Information about the OAA Rule
- B2B Webinar Series: Stewardship, Oversight, and Advocacy Responsibilities
- B2B Webinar Series: Fiscal Policies and Procedures
- B2B Webinar Series: Title III-VI Coordination

Learn more about requirements for coordination between Title III and Title VI programs.

- Webinar Slides
- Webinar Recording
- Webinar Recording (with ASL)

*Fact sheet coming soon!*





# ACL Announcements & Updates

Sign up at:

<https://cloud.connect.hhs.gov/acl-subscriptions>



REPORT

# Aging in the United States: A Strategic Framework for a National Plan on Aging

Submitted 5/30/24



## AGING IN THE UNITED STATES: A STRATEGIC FRAMEWORK FOR A NATIONAL PLAN ON AGING

THE INTERAGENCY COORDINATING COMMITTEE ON HEALTHY AGING  
AND AGE-FRIENDLY COMMUNITIES

CHAIRIED BY THE ADMINISTRATION FOR COMMUNITY LIVING

REPORT TO CONGRESS

MAY 2024



# Be Part of the Pro-Aging Dialogue

---

*The Strategic Framework also seeks to break the patterns of ageism and ableism that serve as preventable barriers to older adults thriving in their communities.*

*It is intended to spark dialogue and innovation and provide a foundation for developing a national plan on aging for systems change to ensure that all Americans can age well and thrive throughout their lives.*

**Participate in the Aging in the United States input process hosted by the National Plan on Aging Community Engagement Collaborative.**

**[westhealth.org/nationalplanonagingsurvey](https://westhealth.org/nationalplanonagingsurvey)**

**Read the Strategic Framework and follow our future progress.**

**<https://acl.gov/ICC-Aging>**



# Questions & Discussion

---