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Community Aging Services Act

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Title 15 - NEBRASKA DEPARTMENT ON AGING

Chapter 1 - NEBRASKA COMMUNITY AGING SERVICES ACT

001 These rules and regulations implement Neb. Rev. Stat. Sec. 81-2201 to 81-2228 R.R.S., 1943 (The Act).

001.01 Definitions

001.01A Act shall mean the Nebraska Community Aging Services Act.

001.01B Annual Plan and Budget shall mean the document submitted by an Area Agency on Aging and approved by the Department which provides a detailed programmatic and budget narrative outlining the Area Agency on Aging's implementation of its Area Plan and Budget during the ensuing state fiscal year.

001.01C Area Agency on Aging shall mean the agency designated by the Department as responsible for the administration of the Area Plan and Budget and Annual Plan and Budget in each Planning and Service Area.

001.01D Area Plan and Budget shall mean the document submitted by an Area Agency on Aging and approved by the Department which outlines for a period of five years the Area Agency on Aging's comprehensive and coordinated program of Community Aging Services for the Planning and Service Area.

001.01E Authority and Capacity shall mean the power and right of an Area Agency on Aging to enforce, administer and implement laws, rules and regulations and programs for which it is responsible.

001.01F Committee shall mean the Department on Aging Advisory Committee.

001.01G Community Aging Services shall mean those activities and services which fulfill the goals of the Nebraska Community Aging Services Act and which are necessary to promote, restore, or support senior citizen self-sufficiency and independence. These may include, but not be limited to, congregate activities such as senior centers, group meals, volunteerism, adult day care, and recreation, and individual services such as specialized transportation, meals-on-wheels, home handyman, home health care, legal services, and counseling that relates to problems of aging or encourage access to aging services.

001.01H Community Focal Point shall mean a facility established to encourage the maximum collocation and coordination of services for

older individuals which do not exceed the geographic boundaries of a participating county.

001.01I Comprehensive and coordinated program of services shall mean a program of interrelated supportive and nutrition services as defined in 001.01G and which are designed to meet the needs of older persons in a planning and service area.

001.01J Contribution shall mean a donation of money or anything of value that is voluntarily given by a participant to a service provider.

001.01K Department shall mean the Department on Aging.

001.01L Designation shall mean the authorization granted by the Department to an entity to act as the Area Agency on Aging for a given Planning and Service Area.

001.01M Director shall mean the director of the Department on Aging appointed by the Governor, with the advice and consent of the Legislature, or such officer of the agency as he or she may designate to carry out in whole or in part the administration of the Act.

001.01N Grant shall mean an award of financial assistance in the form of money, or of property in lieu of money, by the Department.

001.01O Grantee shall mean any legal entity to which a grant is awarded and which is accountable to the Department for the use of the grant. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant.

001.01P Granting agency shall mean the Department.

001.01Q Greatest economic need shall mean the need resulting from an income level at or below the poverty level as established by the Office of Management and Budget.

001.01R Greatest social need shall mean the need caused by noneconomic factors, including physical and mental disabilities, language barriers, and cultural, social, or geographic isolation, including that caused by racial or ethnic status, which restricts an individual's ability to perform normal daily tasks or which threatens such a person's capacity to live independently or interferes with the exercise of rights and privileges.

001.01S In-home service shall mean the provision of health, medical or social services to an individual in his or her place of

residence, except if such residence is a hospital, nursing facility, penitentiary, or other institution licensed by the state.

001.01T Legal Assistance or legal services shall mean legal advice and education by an attorney, or by a nonlawyer where permitted by law and supervised by an attorney, to older individuals with economic or social needs.

001.01U Grant Award Amendment by an Area Agency on Aging shall mean a change that would:

- 1) alter the program scope, planned objectives, or the manner in which services are delivered; or
- 2) provide financial assistance or payments to any entity not authorized by the original grant or contract; or
- 3) alter the approved budget of the original grant or contract, except as authorized in directives issued by the Department.

001.01V Multipurpose senior center shall mean a community facility for the organization and provision of a broad spectrum of Community Aging Services.

001.01W Notification of Grant Award (NGA) shall mean the document issued by the Department awarding financial assistance for the provision of services and specifying the terms of the grant.

001.01X Older Americans Act shall mean the Older Americans Act, as amended 42 U.S.C. 3001 et seq. and its rules and regulations.

001.01Y Older Individual shall mean any person who is 60 years of age or older, or the spouse of an individual who is 60 years of age or older, except as related to employment programs, when an older person may be 55 years of age.

001.01Z Planning and Service Area (P.S.A.) shall mean a geographic area of a state for purposes of planning, development, delivery and overall administration of services under an Area Agency on Aging's Area Plan and Budget (see section 001.03).

001.01AA Request for Proposal (R.F.P) shall mean the document containing criteria which is used to solicit applications for a contract or subgrant from potential service providers.

001.01BB Service Provider shall mean any entity that is obligated under law or contract to provide community aging services to older persons in any Planning and Service Area.

001.01CC Senior service center shall mean a senior center or other community facility that provides ready access to a broad range of community aging services.

001.01DD State Plan shall mean the document developed, approved and submitted to the Governor for the purposes of administering grant funds allocated to the state under the Older Americans Act, as amended.

001.01EE Unit of General Purpose Local Government shall mean a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or any Indian tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

001.02 Department on Aging Advisory Committee, a committee of 12 members appointed by the Governor, one from each of the PSAs in 001.03 and the remaining members from the state at large. In addition to advisory duties enumerated in Neb. Rev. Stat. Sec. 68-1104 and 81-2212 R.R.S. 1943, the Committee shall act as a panel for the hearing and resolution of any appeal requested by an Area Agency on Aging should the Department disapprove the Area Plan and Budget or amendments thereto. Such an appeal shall follow the Appeal Process outlined in Section 001.05 of these rules and regulations.

001.03 Designation and Continued Designation. The Department shall designate and determine continued designation of an Area Agency on Aging for each of the Planning and Service Areas created by section 81-2213 (6) of the Act.

001.03A Prior to initial designation the Department shall:

001.03A1 Provide written notice to the county government in the PSA of the pending designation no less than 60 days before taking action.

001.03A2 Conduct an on-site assessment to determine that the agency being considered for designation as an Area Agency on Aging has the authority and capacity to perform the functions of an Area Agency on Aging as specified by the Act, these rules and regulations, and the Older Americans Act, as amended.

001.03A2a The Department shall determine authority of an Area Agency on Aging through a review that shall include, but not be limited to, the following:

- 1) An Interlocal Cooperation Act agreement signed by the chief elected officials of participating counties within its PSA.

2) Authority to accept and utilize funds for aging services as specified by the Act, these rules and regulations, and the Older Americans Act, as amended.

3) Authority to develop and implement policies and procedures for administration, services and program development, program records, data collection and planning. Such policies and procedures, including the following, are to be in writing and on file:

a) A statement that the Agency is an Equal Opportunity Employer with an Affirmative Action Plan

b) By-laws for the Governing Board

c) By-laws for an Advisory Committee

d) Use of property (real, personal, etc.)

e) Confidentiality and storage of confidential material

f) Personnel Policies which include: Job descriptions for each Area Agency employee, Code of Ethics, Leave, Travel, Discipline, Performance Evaluation, Hiring/Termination, Grievance procedures, and accounting and financial management.

4) Collected and evaluated views of Units of General Purpose Local Government gathered in public hearing in the PSA prior to seeking designation.

5) Evidence that the views of older persons have been considered and evidence of support from older persons in the PSA.

6) Evidence of support from Units of General Purpose Local Government and human service agencies and community organizations in the PSA.

7) Authority to be an advocate for older persons in the PSA.

001.03A2b The Department shall determine capacity of an Area Agency on Aging through a review that shall include, but not be limited to, an evaluation of the record of its performance in:

- 1) the planning, organizing, staffing, directing and supervision of a comprehensive and coordinated program of services for older Nebraskans;
- 2) monitoring, evaluating and commenting on policies, programs, hearings and community actions which affect older persons;
- 3) conducting public hearings, studies, and assessments of the needs of older persons;
- 4) representing the interest of older persons;
- 5) conducting activities in support of the Department's Long-Term Care Ombudsman and Legal Services program as required by the Older Americans Act, as amended;
- 6) coordinating planning with other agencies and organizations to promote programs and opportunities which benefit older persons;
- 7) providing technical assistance to providers of services and to multipurpose senior centers in the planning and service area;
- 8) establishing effective and efficient procedures for the coordination between the programs assisted by the Department and other programs available to older Nebraskans;
- 9) carrying out the intention of the Act and these rules and regulations and the Older Americans Act, as amended, and its rules and regulations.

001.03B Conduct a public hearing to consider the views of Units of General Purpose Local Governments in each of the PSAs.

001.03C Each designated Area Agency shall be proposed and supported by the chief elected officials of the Units of General Purpose Local Governments formed under the Interlocal Cooperation Act.

001.03D After a review of the proposed agency and an assessment of its authority and capacity to function as an Area Agency on Aging, the Department shall either issue designation as an Area Agency on Aging or issue a denial of designation in writing to the Governing Board.

001.03E If a letter of denial is sent, the Department shall state the reasons for denial and provide a minimum of 30 working days for the Governing Board to respond and correct the reasons for denial.

001.03F The Department shall reconsider determination of approval or denial of designation or continued designation upon submittal of new materials. If a second denial is made, the Department shall notify the Governing Board in writing, stating reasons for the denial. After a second denial, the Department may seek a new office or agency to apply for designation as outlined in these rules and regulations.

001.03G A designated Area Agency on Aging is subject to an on-site assessment at least once every 3 years. The on-site assessment will determine if the Area Agency continues to have the authority and capacity to carry out the functions of an area agency as set out in the Act, these rules and regulations and the Older Americans Act, as amended.

001.03G1 Such a review shall include an evaluation of the agency's performance in carrying out its responsibilities and functions under the Act, these rules and regulations, including subsections 001.03A2a and 001.03A2b, the Older Americans Act, as amended, and its rules and regulations, attached and incorporated herein by reference as Attachment B; an evaluation of the agency's goals and objectives under its approved Annual Plan and Budget and five-year Area Plan and Budget; on-site visits, client interviews, desktop monitoring of area agency performance and fiscal reports, and reviews of area agency plans.

001.04 Withdrawal of designation.

001.04A The Department may suspend or withdraw designation for any of the following reasons:

- 1) The designated Area Agency on Aging voluntarily withdraws as the designated Area Agency on Aging.
- 2) There is a change in the Area Agency's authority and capacity to perform the functions of an Area Agency on Aging according to the Act, these rules and regulations, the Older Americans Act, as amended, or its rules and regulations, attached and incorporated herein by reference as Attachment B.
- 3) Malfeasance in the administration of the Area Agency's area plan and failure by the governing unit to take corrective action within a reasonable time.

4) The Area Agency does not implement an approved Annual Plan or Budget or five-year Area Plan and Budget.

5) The Area Agency refuses to serve older persons in the Planning and Service Area with a program of services as outlined in the Agency's Annual Plan and Budget or Area Plan and Budget.

6) The resources allocated by the Department or any other State or Federal source are being used in violation of the Act, these rules and regulations, the Older Americans Act, as amended, or its rules and regulations, attached and incorporated herein by reference as Attachment B.

7) The Area Agency does not obtain approval for an amendment to its Annual Plan and Budget or Area Plan and Budget prior to implementing a change.

8) The Area Agency does not meet the conditions of the Notification of Grant Award issued by the Department.

9) The Area Agency does not comply with the Act, these rules and regulations, the Older Americans Act, as amended, or its rules and regulations, attached and incorporated herein by reference as Attachment B.

001.04B If the Department determines that there is cause to withdraw the designation of an Area Agency on Aging, the Director will notify the Governing Board of the Area Agency in writing of the areas of non-compliance and the action or actions needed to be taken by the Area Agency in order to be in compliance and to continue designation.

001.04B1 The Governing Board of the Area Agency will have 30 working days from service of such notice to respond to the Department with a plan of corrective action to maintain its designation. The plan of corrective action must describe the steps to be taken, the expected outcomes for each action, and the maximum time frame in order to be in compliance.

001.04B2 The plan of corrective action must be approved by the Department before it is implemented.

001.04C The Director will issue to the Governing Board a written notice of withdrawal of designation when an area agency on aging fails to comply with the plan of corrective action or when the Department and an area agency on aging fails to reach agreement on a corrective plan of action.

001.04D An Area Agency that fails to respond to the written notice of non-compliance or to a written notice of intent to withdraw designation, or that fails to implement an approved plan of corrective action to regain compliance within the time frame agreed upon by the Department, may have all or a portion of the grant award withheld and may have its designation withdrawn following notice by the Department and completion of the appeal process (see 001.05), if the Agency chooses to appeal.

001.04E Upon withdrawal or denial of designation the Department may temporarily perform all or part of the functions and responsibilities of the Area Agency on Aging or may designate another agency to perform such functions and responsibilities identified by the Department until the designation of a new Area Agency on Aging; or, when it deems necessary, may temporarily deliver services to assure continuity of programming.

001.05 Appeal Process. A decision by the Department to withdraw or deny designation or continued designation may be appealed to the Director by the Area Agency on Aging. The appeal will follow the procedures of the Administrative Procedures Act, Neb. Rev. Stat. Sec. 84-914 (R.R.S., 1943).

001.05A Rules of Evidence

1) The Director may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs.

2) The Director shall give effect to the rules of privilege recognized by law.

3) The Director may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

4) The Director may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses residing either within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

5) All evidence including records and documents in the possession of the Department of which it desires to avail itself shall be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

6) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

7) The Director may take notice of judicially cognizable fact and in addition may take notice of general, technical, or scientific facts within its specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the materials so noticed. They shall be afforded an opportunity to contest the facts so noticed. An agency may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.

8) Any party to a formal hearing before the Director, from which a decision may be appealed to the courts of this state, may request that the Director be bound by the rules of evidence applicable in district court by delivering to the Department at least 3 days prior to the holding of such hearing a written request therefor. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing. All cost of a formal hearing shall be paid by the party or parties against whom a final decision is rendered.

001.05B An Area Agency on Aging or provider aggrieved by a decision of the Department to withdraw or deny designation or continued designation as an Area Agency on Aging shall exercise the right of appeal by filing a notice of appeal with the Director of the Department within 10 working days after service of notice by the Department.

001.05C The Director shall set the date, time, and place of the hearing within 5 working days of receiving an appeal request from an aggrieved Area Agency on Aging or provider.

001.05D The Director shall appoint an impartial hearing officer to conduct the hearing.

001.05E The hearing officer shall rule on motions and objections and may cross-examine any witnesses. The hearing officer shall prepare written recommendations regarding findings of fact and conclusions of law and submit the same to the Director within 20 working days of the conclusion of the hearing.

001.05F A representative may appear on behalf of the Area Agency on Aging. There shall be opportunity to present witnesses and documentary evidence under the provisions of Neb. Rev. Stat. Sec. 84-914, R.R.S. 1943.

001.05G The Director shall issue a written decision which shall be accompanied by findings of fact and conclusions of law. The findings of fact shall be based on the evidence submitted at the hearing pursuant to Neb. Rev. Stat. Sec. 84-914, R.R.S. 1943.

001.05H The Director shall transmit the written decision to the parties to the proceeding by certified or registered mail within 30 working days of the hearing.

001.05I Appeals to the District Court from any order or decision of the Director shall follow the statutory requisites set forth in Neb. Rev. Stat. Sec. 84-917 R.R.S. 1943 unless specifically provided for otherwise in statute.

001.05J The Director may terminate formal hearing procedures at any point if the Department and Area Agency on Aging or the provider that requested the hearing negotiate a written agreement that resolves the issues or issues which led to the hearing.

001.06 Governing Units of Area Agencies on Aging

001.06A Each governing unit shall establish written policies and procedures for the selection, appointment and annual performance rating of its chief executive officer and staff including minimum qualifications of education, training, and experience for its chief executive officer.

001.06B Each governing unit shall provide for the employment of sufficient staff to carry out the area agency's approved Area Plan and Budget and Annual Plan and Budget.

001.06C Each governing unit shall approve an Annual Plan and Budget and a five-year Area Plan and Budget which shall be in compliance with this Act, its rules and regulations, the Older Americans Act, as amended, and its rules and regulations, attached and incorporated herein by reference as Attachment B. The Annual Plan and Budget must be submitted to the Department by July 1 of each year.

001.06D Each governing unit shall approve such contracts and agreements as are necessary to carry out the functions of the Area Agency on Aging.

001.06E The governing unit shall establish and consult with an area advisory council on needs, services, and policies affecting older persons in the area.

001.06E1 The advisory council shall establish bylaws specifying its role and function, number and selection of members, and term of membership and frequency of meetings.

001.06E1a The Council shall meet at least quarterly.

001.06E1b Composition of Council. As described in Section 1321.57(b) of the attached rules and regulations of the Older Americans Act, Attachment B, the council shall include individuals and representatives of community organizations who will help to enhance the leadership role of the area agency in developing community-based systems of services. The advisory council shall be made up of:

- 1) More than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in programs under this part;
- 2) Representatives of older persons;
- 3) Representatives of health care provider organizations, including providers of veterans' health care, if appropriate;
- 4) Representatives of supportive services providers organizations;
- 5) Persons with leadership experience in the private and voluntary sectors;
- 6) Local elected officials; and
- 7) The general public.

001.06E2 The advisory council may include a representative of developmental disability organizations within the PSA of the Area Agencies on Aging.

001.07 Area Plan and Budget. Each Area Agency on Aging shall submit to the Department for approval an Area Plan and Budget that covers a period of 5 years from the date of approval. The Area Plan and Budget, which shall outline a comprehensive and coordinated program of community aging services for older persons within the PSA, shall be in compliance with the Act and its rules and regulations and with the Older Americans Act, as amended, and its rules and regulations, attached and incorporated herein by reference as Attachment B. Each Area Plan and Budget shall include, but not be limited to, the following items:

001.07A A statement of mission;

001.07B A narrative and statement of goals and objectives including a time frame and plan for implementation;

001.07C Provisions of the Act and the Older Americans Act, as amended, and its rules and regulations, attached and incorporated herein by reference as Attachment B;

001.07D A statement describing how the Area Agency on Aging develops, administers, and supports the comprehensive coordinated program of community aging services in its PSA

001.07E A statement describing how the Area Agency on Aging monitors and evaluates the activities of service providers.

001.07F A statement describing how the Area Agency on Aging provides technical assistance to service providers.

001.07G A budget to implement the Area Plan.

001.07H Procedures to evaluate compliance with the Area Plan and Budget on an annual basis.

001.07I Documentation to substantiate the following assurance items subject to review by the Department during assessment:

1) The program is administered in accordance with the Act, these rules and regulations, and the Area Plan.

2) Policies, procedures and methods as are necessary for the proper and efficient administration of the Plan in accordance with the Act, these regulations, and the Area Plan.

3) Uniform administrative requirements and cost principles are in compliance with the relevant provisions of applicable regulations of the Department.

4) Sufficient fiscal control and accounting procedures are maintained to assure proper disbursement of and accounting for funds under this Plan. Records shall be maintained which identify adequately the source and application of funds for grant or subgrant support activities.

5) Providers of service under the Area Plan operate fully in conformance with all applicable Federal, State, and local fire, health, safety and sanitation and other standards prescribed in law or regulations. The Area Agency provides that where the State or local public jurisdictions require licensure for the provision of services, agencies providing such services shall be licensed.

6) Such standards and procedures as are necessary to meet the requirements provided in Neb. Rev. Stat. Sec. 81-2214.02, R.R.S. 1943 regarding safeguarding confidential information.

7) The Area Agency shall furnish such reports and evaluations to the Department as may be required to be in compliance with the Act, its rules and regulations, the Older Americans Act, as amended, and its rules and regulations, attached and incorporated herein by reference as Attachment B.

8) Each program funded through the Area Agency on Aging operates its program or activity in a manner accessible to handicapped persons.

9) That benefits and services available under the Area Plan are provided in a non-discriminatory manner.

10) A third party blanket liability coverage is in force, sufficient to protect it in case of accident on project premises.

11) A statement acknowledging responsibility for: the subgranting and subcontract of Area Agency on Aging funds, the fiscal accountability for these funds, the meeting of all State requirements and any conflicts of interest arising from any grants, contracts, subgrants, or subcontracts under this Area Plan.

12) A statement that the Area Agency has and will maintain on file the Interlocal Cooperation Agreement and By-Laws under which it operates and will make those available on request.

001.07J Disasters. Each Area Agency on Aging shall have on file a current plan for services to the elderly during disasters, including, but not limited to, tornado (high winds), chemical, nuclear, flood and blizzards. The plan will show the coordination with Civil Defense and Red Cross and its pyramid alert system, including notification of the Department's disaster coordinator.

001.07K Providing services. Each Area Agency on Aging shall submit in its plan a description and/or explanation of:

1) A reasonable and objective method for determining the needs of all eligible residents of all geographic areas in the PSA for allocating resources to meet those needs.

2) A reasonable and objective method for establishing priorities for service and such methods are in compliance with the Act.

3) A method to assure that Older Americans Act and Community Aging Services Act funds are used to serve only those individuals and groups eligible under these Acts and their rules and regulations.

4) How the plan addresses the needs of older individuals with the greatest economic need and the greatest social need.

5) A plan to coordinate and utilize as much as possible the services and resources of other appropriate public and private agencies and organizations.

6) A plan that provides that in the operations and programs conducted under this Area Plan by the Area Agency or any contractors, any contributions received will be collected in a manner which provides the client maximum confidentiality.

001.07L Community Focal Point. Each Area Agency on Aging shall designate at least one community focal point within the boundaries of each participating county in its planning and service area.

001.07L1 Each Area Agency on Aging shall maintain an accurate listing of the Community Focal Points, shall provide the Department with the listing, and shall update that listing on a continuous basis.

001.07MThe Area Agency will make available in its offices during ordinary business hours the Area Plan and Budget, Annual Plan and Budget, all periodic reports, and all policies governing the administration of the program in the area, for review upon request by interested persons.

001.07N Confidentiality of Records and Information. The Area Plan and Budget will contain written policies and procedures governing the confidentiality and information of all clients of the Area Agency. No client record or information of sensitive or confidential nature will be disclosed or released to any other party except with the written consent of the client or his/her legal representative, unless the disclosure is required by court order or is necessary for program monitoring by authorized federal, state, or local monitoring agencies, including the Department.

001.07O Contribution for Services. The Area Plan and Budget will contain policies and procedures to ensure that those using services funded in whole or in part with Older Americans Act funds are provided a free and voluntary opportunity to contribute to the cost of the services and their privacy is protected with respect to their contribution. Such policies and procedures shall include but not be limited to:

001.07O1 A posted notice of the cost of each service in all congregate facilities.

001.07O2 A means of providing contributions with anonymity.

001.07O3 The availability of envelopes for confidential contributions for services provided in the home.

001.07O4 Written listings of total costs of services, recommended contributions, and fee schedules shall be presented in such a manner as not to be mistaken for a bill or invoice for services rendered.

001.07P Expansion. Each Area Plan and Budget shall include policies and procedures for expansion of activities in the PSA including services and/or programs in unreached areas and new or expanded services and/or programs in areas currently receiving services.

001.07Q Reduction. Each Area Plan and Budget shall include policies and procedures for reducing services in the PSA when federal, state, or local funding sources are decreased or are no longer adequate to continue the current level of activity.

001.07R Eligibility. Area Plans and Budgets shall describe procedures for determining eligibility for receiving Community Aging Services. Determination shall take into account:

001.07R1 For congregate activities, the area's community and older citizens' needs, resources, and standards and the recommendations of the area advisory council; and

001.07R2 For individual services, an assessment of an individual's or family's circumstances and the development of a service plan.

001.07R3 There shall be no requirements as to duration of residence or citizenship as a condition of participation in the Area Agency's program.

001.07S Use of Senior Centers. The Area Agency on Aging shall be responsible for the following requirements regarding the length of time a senior center shall be used as an aging service center when funds granted by the Department are used in its acquisition, renovation, or construction, pursuant to the Older Americans Act:

001.07S1 A facility purchased for use as a senior center shall be used for at least 10 years from the date of acquisition.

001.07S2 A facility constructed for use as a senior center shall be used for at least 20 years from the date of completion of construction.

001.07S3 Facilities which involve renovation costs of more than \$20,000 of state/federal money or more than 50 percent of the fair market value shall be used for at least 10 years.

001.07T Review and Approval. Upon review and approval, the Department will notify the Governing Board of the Area Agency on Aging of acceptance or non-acceptance of the Area Plan and Budget.

001.07U Plan amendment. Amendments to the Area Plan and Budget must be approved by the Department prior to implementation. Implementation of an amendment without prior approval shall constitute non-compliance and may be cause for withdrawal of designation.

001.07U1 Amendments to Area Plans and Budgets. Any request for approval of amendment must be accompanied by:

- 1) Reason for the requested change;
- 2) Proposed amended budget;
- 3) Proposed amended level of service or goals and objectives;
- 4) Any pages of the Annual Plan and Budget (and the Area Plan and Budget) that are altered as a result of the changes;
- 5) Records of public hearings on any changes which are substantial or which adjust scope or direction.

001.07V If, after review, the Department finds that the proposed Area Plan and Budget fails to address the Act, these rules and regulations, the Older Americans Act, as amended, or its rules and regulations, attached and incorporated herein by reference as Attachment B, the Department shall return the proposed Area Plan and Budget to the Area Agency on Aging for revision.

001.07V1 The notice of revision will state items to be revised.

001.07V2 The Area Agency on Aging will have 45 days to resubmit the revised Area Plan and Budget to the Department.

001.07W Failure to have an approved or conditionally approved Area Plan and Budget shall constitute non-compliance with the Act and these rules and regulations and shall be cause for withdrawal of designation.

001.07X Ninety (90) days prior to the expiration of an Area Plan and Budget, the Area Agency on Aging shall submit a new or revised Area Plan and Budget to cover the next five year period. Prior to submission of a new Area Plan and Budget, the Area Agency shall:

- 1) hold at least one public hearing within its PSA to gather comments on the proposed Area Plan and Budget; and
- 2) make available draft copies of the Area Plan and Budget to service providers and other agencies and local governments in the PSA for comment; and
- 3) revise draft responding to comments of the public, service providers and other agencies and local governments, insofar as they are consistent with the Act and these regulations; and
- 4) have approval of the Area Plan and Budget by the Governing Board of the Area Agency on Aging.

001.08 Annual Plan and Budget. Each Area Agency on Aging shall submit to the Department for approval an Annual Plan and Budget. The Annual Plan and Budget shall provide detailed programmatic narrative and budget narrative describing how the Area Agency on Aging will implement goals and objectives of its Area Plan and Budget during the ensuing fiscal year.

001.08A The Annual Plan and Budget shall contain at least the following:

001.08A1 A report of performance on goals and objectives of the area plan;

001.08A2 Statements of program objectives to be accomplished within the one-year plan period.

001.08A3 Budget narratives which shall:

- 1) Explain the relationship between objectives and budgets;
- 2) Provide cost itemization of equipment with cumulative cost of \$5,000 or more and expenditures involving renovation, construction, and data processing equipment;

3) Identify any proprietary/for profit contracts.

001.08A4 An indication of planned expansion or reduction activities.

001.08B The Department shall review the Annual Plan and Budget prior to approval. The review will include but not be limited to:

- 1) a review of Area Agency objectives and their relationships to the plan and budget;
- 2) a review of the last assessment of the Area Agency on Aging including progress made on any deficiencies found during that assessment;
- 3) evidence of coordination with other agencies;
- 4) targeting of resources to socially and economically needy, low-income minority, rural older persons and Native Americans;
- 5) maintenance of effort as described in Section 001.11 of these regulations;
- 6) a match of no less than 25% of such approved plan and budget from local sources; and
- 7) compliance with the Act, these Rules and Regulations and the Older Americans Act, as amended, and its rules and regulations, as attached and incorporated herein by reference as Attachment B.

001.08C Upon approval, the Department shall issue a Notification of Grant Award (NGA) to the Area Agency on Aging. Acceptance of the NGA by the Governing Board of the Area Agency on Aging is required before the Annual Plan and Budget is effective.

001.08D If, after review, the Department determines revisions must be made in the submitted Annual Plan and Budget in order to be in compliance with 001.08A and 001.08B of these regulations, a notice of revision will be mailed to the Area Agency on Aging, stating items to be revised.

001.08E An Area Agency on Aging will have 15 days to resubmit a revised Annual Plan and Budget.

001.08F If the Department fails to approve an Annual Plan and Budget before the start of a new fiscal year, the Department may do any of the following:

- 1) Issue an NGA providing conditional approval, setting the conditions and date for compliance;

- 2) Approve the continued operation by the Area Agency on Aging under the previously approved Annual Plan and Budget until a revised Annual Plan and Budget is approved, but in no case for more than 180 days.

001.08G Amendments of Annual Plan. The Department must approve amendments prior to implementation. Failure to apply for an amendment of the Annual Plan and Budget, or to receive approval for an amendment, shall constitute non-compliance and shall be cause for withdrawal of designation. Any request for approval of amendment must be accompanied by:

- 1) Reason for the requested change;
- 2) Proposed amended budget;
- 3) Proposed amended service or action statement;
- 4) Any pages of the Annual Plan and Budget (and the Area Plan and Budget) that are altered as a result of the changes;
- 5) Records of public hearings on any changes which are substantial or with a change in scope or direction.

001.09 Reporting Requirements. Each Area Agency on Aging shall submit required program and financial reports to comply with state requirements and federal requirements in 45 CFR Part 74 and Part 92, as referenced in Attachments A and C, incorporated herein by reference.

001.09A Each Area Agency on Aging shall use the Nebraska Department on Aging Service Reporting System, a computer program developed by the Department in 1989 to generate required data reports. Reports shall be submitted by due dates determined by the Department.

001.09B Each Area Agency on Aging shall be responsible for obtaining and reporting necessary information from those sub-grantees and service providers with whom they have sub-grants or contracts.

001.09C Each Area Agency on Aging shall obtain and file with the Department an audit report in compliance with OMB Circular 128, contained in Attachment A, incorporated herein by reference, by September 30th of each year. The audit shall be conducted in accordance with generally accepted auditing standards.

001.10 Grants/Reimbursement. The Department shall reimburse through a grant to each Area Agency on Aging 75% of the actual cost of providing activities and services as described in its approved Plan and Budget, which are eligible for funding under Neb. Rev. Stat. Sec. 81-2222, R.R.S. 1943.

001.10A Such reimbursements shall be made from:

- 1) State funds appropriated to the Department under the Act; and
- 2) Federal funds allocated to the Department, including funds allocated under the Older Americans Act, as amended.

001.10B If appropriated state or federal funds are insufficient to finance the approved budget for each Area Agency on Aging, the reimbursement to each Agency shall be proportionately reduced.

001.10C If an Area Agency on Aging chooses to exceed the approved budget, the Department shall not reimburse costs in excess of the approved budget.

001.10D To qualify for reimbursement, an Area Agency on Aging shall provide no less than 25 percent of the approved budget from local sources, which shall include but not be limited to:

- 1) Local public tax dollars, federal revenue sharing trust funds and local government in-kind donations in the form of rent, building space, utilities, utility repair, paving, sewer fees, equipment, labor materials, supplies, etc., provided they are program related.
- 2) Local "other" donations in the form of labor, materials, supplies, acceptable safe food, transportation services, furniture, equipment, provided they are program related, and cash.
- 3) Participant contributions and fees.

001.11 Maintenance of effort. Area Agencies on Aging receiving state funds under the Act shall expend, as a minimum, in their budgets, the same level of local public tax dollars as was expended under the Annual Plan and Budget for the year ending June 30, 1981.