

OAA Final Regulations – 45 CFR § 1321

Summary of Select Provisions

Including Provisions Relating to the LTC Ombudsman Program

The final rule was published in the [Federal Register](#) on February 14, 2024, with a compliance date of October 1, 2025. Only sections with changes are included in this document. New language is underlined and removed language is ~~struck out~~.

Subpart A—Introduction

§ 1321.1 Basis and purpose of this part.

(b) **Clarifies** that the requirements of this part are based on Title III of the Act, which provides for formula grants to State agencies on aging, under approved State plans, to develop or enhance comprehensive and coordinated community-based systems resulting in a continuum of person-centered services to older persons and family caregivers, which special emphasis on older individuals with the greatest economic need and greatest social need, with particular attention to low-income minority older adults.

(c) (7) Each State designates one State agency to provide funds as set forth in the Act to either:

(i) AAAs under approved area plans ...

(ii) Service providers, ... or

(iii) The Ombudsman program, as set forth in part 1324 of this chapter.

§ 1321.3 Definitions.

New - Conflicts of interest, ..., means:

- (1) One or more conflicts between the private interests and the official responsibilities of a person in a position of trust;
- (2) One or more conflicts between competing duties of an individual, or between the competing duties, services, or programs of an organization, and/or portion of an organization; and

- (3) Other conflicts of interest identified in guidelines issued by the Assistant Secretary for Aging and/or by State agency policies.

New – Family caregiver, ..., means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual; an adult family member, or another individual, who is an informal provider of in-home and community care to an individual of any age with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction.; or an older relative caregiver. ... Family caregiver does not include individuals whose primary relationship with the older adult is based on a financial or professional agreement.

New – 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.

New – Greatest social need, ..., means the need caused by noneconomic factors, which include:

- (1) Physical and mental disabilities;
- (2) Language barriers;
- (3) Cultural, social, or geographic 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 restricts
 - A. The ability of an individual to perform normal or routine daily tasks; or
 - B. Threatens the capacity of the individual to live independently
- (4) Other needs as further defined by the State and area plans based on local and individual factors.

New – Immediate family, as used in this part pertaining to conflicts of interest, means a member of the household or a relative with whom there is a close personal or significant financial relationship.

New – Major disaster declaration, ..., means a Presidentially declared disaster under the Robert T. Stafford Relief and Emergency Assistance Act

Clarifies – Official duties, as used in 712 of the Act with respect to representatives of the LTC Ombudsman Program, means work pursuant to the LTC Ombudsman Program authorized by the Act ... and/or State law and carried out under the auspices and general direction of, or by direct delegation from, the State LTC Ombudsman.

Subpart B—State Agency Responsibilities

§ 1321.7 Organization and staffing of the State agency

- (a) **Clarifies** – The State shall designate a sole State agency to develop and administer the State plan required under this part and part 1324 of this chapter ...
- (c) **Clarifies** - The State agency shall establish, contract, or otherwise arrange with another agency or organization ... an Office of the State LTC Ombudsman. Such Office must be headed by a full-time Ombudsman and such other staff as appropriate to fulfill responsibilities as set forth in part 1324, subpart A, of this chapter.
- (d) **Clarifies** – If a State statute establishes an Ombudsman program ... the State agency continues to be responsible for assuring that all of the requirements of this program under the Act and as set forth in part 1324, subpart A ...are met, notwithstanding any additional requirements or funding related to State law. In such cases where State law may conflict with the Act, the Governor shall confirm understanding of the State agency's continuing obligations under the Act through an assurance in the State plan.

§ 1321.9 State agency policies and procedures

- (a) **Clarifies** - The State agency on aging shall develop policies and procedures (P&Ps) governing all aspects of programs operated as set forth in this part and part 1324 of this chapter. These P&Ps shall be developed in consultation with area agencies on aging, program participants, and other appropriate parties in the State. Except for the Ombudsman program ... the State agency policies may allow for such P&Ps to be developed at the AAA level. ...
- (3) The State LTC Ombudsman shall be responsible for monitoring the files, records and other information maintained by the Ombudsman program, as set forth in part 1324, subpart A. Such monitoring may be conducted by a designee of the Ombudsman. Neither the Ombudsman nor a designee shall disclose identifying information of any complainant or LTC facility resident to individuals outside of the Ombudsman program, except as otherwise provided in 1324.11(e)(3).
- (b) **New** - The State agency shall ensure P&Ps are aligned with periodic data collection and reporting requirements ...
- (c) **New** – P&Ps developed and implemented by the State agency shall address:
- (2) Fiscal requirements including:
- (ii)(1)(2)(i) Federal funding for services funded under supportive services, ... less the portion of funds used for the Ombudsman program, may not account for more than 85% of the total funding expended, and requires a 15% match.
- (4) Services not requiring match include:

(iii) The portion of funds from supportive services used for the Ombudsman program.

...

(vii) The State LTC Ombudsman Program. The State agency shall maintain State LTC Ombudsman Program funding requirements where:

(A) Minimum Certification of Expenditures. The State agency must expend annually under Title III and Title VII ... for the Ombudsman program no less than the minimum amounts that are required to be expended by section 307(a)(9).

(B) Expenditure Information. The State agency must provide the Ombudsman with verifiable expenditure information for the annual certification of minimum expenditures and for completion of annual reports; ...

(xi) Cost sharing.

(D) Prohibitions on cost sharing. Cost sharing is prohibited ...

(3)(ii) for Ombudsman, elder abuse prevention, legal assistance, or other consumer protection services; ...

§ 1321.49 Intrastate funding formula

(a) **Clarifies** – The State agency ... shall develop and publish for review and comment ... an intrastate funding formula for the allocation of funds ...

(b) **New** - The publication for review and comment shall include ...

(1) ... A statement that discloses if and how, prior to distribution under the intrastate funding formula to the AAA, funds are deducted from Title III for State plan administration, disaster set-aside funds ..., and/or LTC Ombudsman Program allocations; ...

(c) **New** - ... the intrastate funding formula may not allow for:

(4) A State agency to directly provide Title III funds to any entity other than a designated AAA, with the exception of State plan administration funds, Title III, part B Ombudsman program funds, and disaster set-aside funds ...

(d) ...

(e) **New** - ... the following apply:

(2) Any funds allocated for the LTC Ombudsman Program under Title III, part B are not required to be subject to the intrastate funding formula.

(4) The State agency may determine the amount of funds available for area plan administration prior to deducting Title III, part B Ombudsman program funds and disaster setaside funds ...

(5) After deducting any State plan administration funds, Title III, part B Ombudsman program funds, and disaster set-aside funds ... the State agency must allocate other Title III funding to AAA ...

Subpart C— Area Agency Responsibilities

§ 1321.61 Advocacy responsibilities of the area agency.

- (a) The area agency shall serve as the public advocate for the development or enhancement of comprehensive and coordinated community-based systems of services ...
- (b) In carrying out ... the area agency shall –
 - (4) Consult with and support the State's LTC Ombudsman program

§ 1321.63 Area agency advisory council

- (a) Functions of council
- (b) **New** - Composition of council. ... The advisory council shall be made up of:
 - (5) Representatives of service providers, which may include legal assistance, nutrition, evidence-based disease prevention and health promotion, caregiver, LTC ombudsman, and other service providers; ...

§ 1321.67 Conflicts of interest Policies and Procedures for Area Agencies on Aging

- (a) **Clarify** - The area agency must have P&Ps regarding conflicts of interest in accordance with the Act ... Conflicts of interest P&Ps must establish mechanisms to avoid both actual and perceived conflicts of interest and to identify, remove, and remedy any existing or potential conflicts of interest at organizational and individual levels, including:
 - (3) Complying with 1324. 21 ... regarding the Ombudsman program, as appropriate ...

Subpart D—Service Requirements

§ 1321.71 Purpose of Service Allotments under Title III

- (a) ...
- (b) ...
- (c) **Clarify** - Except for ombudsman services, State plan administration, disaster assistance ... State agencies in States with multiple planning and services areas will award the funds ... to designated AAA according to the approved intrastate funding formula ...
- (d) **Clarify** - Except for ombudsman services, State plan administration, disaster assistance ... State agencies in States with single planning and services areas shall award funds by grant or contract ...

§ 1321.75 Confidentiality and disclosure of information

- (a) ...
- (b) **Clarify** - A State agency or AAA or other contracting or granting or auditing agency may not require a provider of LTC ombudsman services under this part to reveal any information that is protected by disclosure provisions in ... 1324, subpart A. State agencies must comply with confidentiality and disclosure of information provisions as directed in ... 1324, as appropriate.

§ 1321.81 Client eligibility for participation.

- (a) **Clarify** - An individual must be age 60 or older at the time of service to be eligible to participate in services under the Act, unless the Act otherwise provides an explicit exception. Exceptions are limited to the following specific services:
 - (4) Ombudsman program services, as provided in ... 1324.

§ 1321.83 Client and service priority.

- (a) ...
- (b) **Clarify** - The State agency and/or area agency shall establish criteria to prioritize the delivery of services under Title III, parts B (except for Ombudsman program services which are subject to provisions in ... 1324), C, and D, ...

§ 1321.93 Legal assistance

- (a) ...
- (b) ...
- (c) ...
- (d) **New** - Standards for legal assistance provider selection. Selected legal assistance providers shall exhibit the capacity to:
 - (4) Support other advocacy efforts, for example, the LTC Ombudsman program, including requiring a memoranda of agreement between the State LTC Ombudsman and the legal assistance provider(s) as required by section 712(h)(8); and
 - (5) Effectively provide legal assistance to older individuals residing in congregate residential long-term settings ..., or who are isolated ..., or who are restricted to the home due to cognitive or physical limitations.
- (e) ...
- (f) **New** - Legal assistance provider requirements
 - (2) Legal assistance providers under contract with the State agency ... or area agency ... shall adhere to the following requirements:
 - (vii) Maintain the capacity to provide effective legal assistance and legal support to other advocacy efforts, including, but not limited to the LTC Ombudsman Program serving the

planning and service area ..., and maintain the capacity to form, develop, and maintain partnerships that support older adults' independence, choice, or financial security.

Subpart E—Emergency and Disaster Requirements

§ 1321.101 Flexibilities under a major disaster declaration.

- (a) ...
- (b) **New** - Flexibilities a State agency may exercise under a major disaster declaration include:
 - (3) Awarding of funds set aside to address disasters ... in the following ways:
 - (iii) to be used for direct service provision, direct expenditures, and/or procurement of items on a statewide level, if the State agency adheres to the following:
 - (B) The State agency consults with AAA prior to exercising the flexibility, and including the Ombudsman as set forth in part 1324 ... if funding for the Ombudsman program is affected; ...
- (c) ...
- (d) ...
- (e) ...
- (f) **New** - State agencies must have P&Ps outlining communication with AAA and/or local service providers regarding State agency expectations for eligibility, use, and reporting of services and funds provided under these flexibilities and including the Ombudsman ... if funding for the Ombudsman program is affected.



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