

OLDER AMERICANS ACT REAUTHORIZATION RECOMMENDATIONS

NATIONAL ASSOCIATION OF STATES UNITED
FOR AGING AND DISABILITIES

AUGUST 2018



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NATIONAL ASSOCIATION OF STATES UNITED FOR AGING AND DISABILITIES

The **National Association of States United for Aging and Disabilities (NASUAD)** represents the nation's 56 state and territorial agencies on aging and disabilities and supports visionary state leadership, the advancement of state systems innovation and the articulation of national policies that support home and community-based services for older adults and individuals with disabilities. NASUAD's members oversee the implementation of the Older Americans Act (OAA), and many also function as the operating agency in their state for Medicaid waivers that serve older adults and individuals with disabilities. Together with its members, the mission of the organization is to design, improve, and sustain state systems delivering home and community-based services and supports for people who are older or have a disability, and their caregivers.





Background

States believe that the time is now to update and refine the Older Americans Act (OAA) to reflect the 21st century culture and values and to recognize the demographic and economic changes that have transpired since the original enactment of the OAA in 1965. This document lays out the policy issues, provides a brief background or discussion of the issue, and then offers NASUAD's recommendation(s).

Although the OAA reauthorization will likely have authorized funding levels included, NASUAD's committee recommended separating funding requests from the following recommendations. This decision was made in order to prioritize discussion of the policy proposals during reauthorization. NASUAD will continue to advance specific requests regarding funding during the annual appropriation process.



Recommendations

OAA Funding and Services

Under the OAA, there are a wide range of supports and services that can be provided to individuals through the various programs. The bulk of the funding and services are contained within Title III, which includes:

- Title III-B Supportive Services Program;
- Title III-C1 Congregate Nutrition Services;
- Title III-C2 Home Delivered Nutrition Services;
- Title III-D Disease Prevention and Health Promotion Services; and
- Title III-E National Family Caregiver Support Program.


Title V of the OAA, the Senior Community Service Employment Program (SCSEP) program, is another significant source of funding and services for many older adults.

Services and supports in the OAA are driven by the funding allocations under each of these subtitles, which limits the ability of states and local entities—including area agencies on aging (AAAs)—to respond to individual needs and preference, and to innovate with new models of care. As the nation moves towards models of aging-in-place and increased empowerment, autonomy, and community integration for individuals who require some levels of long-term services and

supports (LTSS), the OAA is not keeping pace. While there is some flexibility to reallocate funding across different programs, the process is limited and extremely burdensome. An area where this is starkly evident is the congregate vs. home delivered meals; however, this is not the only place where historic OAA definitions have hindered modernization.

We are proposing a state demonstration that provides states the flexibility they desire to tailor their programs and services to their specific demographics and service preferences. This would support overall goals to improve autonomy and person-centered practices for older adults as well as to increase their independence and control over services and supports. It is also consistent with section 2402 of the Affordable Care Act which requires all HHS programs to include a person-centered focus.

Under such a model, Aging and Disability Resource Centers (ADRCs) and options counseling would be a crucial component of providing individuals with accurate information on the available supports and assistance with developing their person-centered service plans. The ADRCs serve as a vital source of information, resources, and assistance with accessing LTSS for older adults and people with disabilities. ADRCs are a lynch-pin of the existing system and the person-centered supports they provide would become even more necessary in this environment with flexible funding and services.



Recommendation(s): NASUAD recommends new statutory authority for state demonstrations, which interested states could apply for, that would enable participating states to try innovative approaches with their OAA funding. The demonstrations could be comprehensive and include all of Title III or could be limited by a specific service line, such as C1/C2 (congregate and home delivered nutrition). Successful demonstrations should have the option of becoming permanent. The applications should include specific goals and objectives, as well as rigorous evaluations that measure the impact on access to services, participant satisfaction, and outcomes. The model should also emphasize the need for options counseling to participants.

OAA Nutrition Services

The OAA Title III nutrition programs include three main components:

- Congregate meals;
- Home delivered meals; and
- Nutrition services incentive program.

Each nutrition program receives its own allocation federally, as well as within each state. As states have moved towards increased person-centered practices and individualized community-based models of supports, the proportion of OAA participants who request congregate meals has declined while home-delivered meals has rising demand (in both aggregate numbers as well as proportionately). The arbitrary funding split between the different meal programs, coupled with rigid nutritional requirements, has limited the ability of states to experiment with targeted models of service delivery. Prior proposals have recommended creating a single model for meal supports and allowing states and local entities to deliver supports based on the needs and preferences of the individuals served.

Recommendation(s): NASUAD recommends allowing states full flexibility to determine the level of funding for home delivered meals and congregate nutrition. This decision should be made at the state level. For example, a state may choose to keep their funding streams as they are currently allocated.

Right of First Refusal for Councils of Government

Under Section 305(b)(5)(b) of the OAA, local government agencies have right of first refusal whenever a state designates new AAAs. The enacting regulations state:

45 CFR §1321.33 Designation of area agencies.

An area agency may be any of the types of agencies under section 305(c) of the Act. A State may not designate any regional or local office of the State as an area agency. However, when a new area agency on aging is designated, the State shall give right of first refusal to a unit of general purpose local government as required in section 305(b)(5)(B) of the Act. If the unit of general purpose local government chooses not to exercise this right, the State shall then give preference to an established office on aging as required in section 305(c)(5) of the Act.

The result of this policy is that, anytime a state wishes to make changes to its AAA structure, it must allow local governments the opportunity to serve as the AAA in its jurisdiction. This right of first refusal exists regardless of whether the government unit has demonstrated experience or capacity to fill the AAA functions. This policy has created significant challenges when states try to reorganize or reform their area agency on aging (AAA) structure during modernization efforts or due to performance challenges. In the past, NASUAD has recommended removing this requirement and allowing states to establish AAA structures that best reflect the needs of the community.



Recommendation(s): Amend section 305(b)(5)(B) of the OAA to state that the State agency shall have the option to grant the right to first refusal to a unit of general purpose local government instead of the requirement. Clarify that any decertification would be tied to AAA performance.

Evidence-Based Programming in Title III-D

Since October 1, 2016, Title III-D funds may only be spent on health promotion programs that meet certain rigorous conditions as an evidence-based program (EBP). The requirements that must be met include all of the following elements:

- Demonstrated through evaluation to be effective for improving the health and well-being or reducing disease, disability and/or injury among older adults;
- Proven effective with older adult population, using experimental or quasi-experimental design;
- Research results published in a peer-review journal;
- Fully translated in one or more community site(s); and
- Includes developed dissemination products that are available to the public.¹

While states support the goal of ensuring that disease prevention and health promotion activities be rooted in evidence and science, the standards listed above have resulted in programs needing to expend significant resources on licensing fees, staff training, and other expenses related to establishing an EBP. This creates challenges, particularly in rural areas where lower numbers of individuals served results in disproportionate costs for the EBP per individual. Similarly, historic III-D programming has included initiatives such as health fairs and screenings. These are extremely valuable interventions, even if they do not have the experimental backing that rises to the Administration for Community Living (ACL) EBP definition.

Recommendation(s): Congress should include flexibility regarding the EBP requirements, including a potential rural or frontier exemption. This should be a state-driven process based on the individual circumstances and demography of each state. Congress should also clarify that initiatives for health promotion that include screening and referrals can be funded by III-D.

Adult Protective Services and Elder Justice

The Elder Justice Act was included as part of the Affordable Care Act but was never funded. Congress has begun to invest in some elder rights activities through the annual appropriations process, which grew to \$13.87 million in FY2017. ACL has used a significant amount of this funding to invest in information technology systems and to improve data tracking. It has also funded some innovations grants to states, researchers, and other entities to improve Adult Protective Services (APS), guardianship programs, and other elder abuse prevention and response activities. In a separate initiative, ACL released voluntary guidelines for state APS systems that highlight ways to improve overall care, outline promising practices for administrative functions, caseload, training requirements, etc. in APS programs.²

Recommendation(s): Provide a dedicated federal source of APS funding with adequate resources to serve vulnerable older adults and people with disabilities. Use the data collected by ACL to inform funding levels and establish criteria that build upon the model guidelines. Develop appropriate outcomes measures associated with the funding that align with the model guidelines.



Outcomes Measurement and Data Collection

ACL is currently undergoing a redesign of the state program report (SPR) OAA data reporting system. In a survey conducted during 2016, NASUAD identified challenges with translating the current output-based data collection model towards outcomes measurement that identifies the overall impacts of services and supports on the health and wellbeing of participants as well as on other programmatic expenditures (i.e., reduction in Medicaid/Medicare expenses due to OAA interventions). The OAA SPR redesign, as currently outlined, continues to drive output-based data reporting and increases the specificity and granularity of the model.

Recommendation(s): Congress should provide funding and direction for ACL to pilot outcome measurement activities, and use the National Institute on Disability, Independent Living, and Rehabilitation Research in ACL to lead these efforts.

Senior Community Service Employment Program

SCSEP serves dual purposes of job placement for older adults with barriers to employment coupled with supportive services that address the health and social needs of participants in order to assist them enter and maintain employment. The SCSEP program has received federal scrutiny due to perceptions over program effectiveness. This has led to several changes to the program, including restructuring of program outcomes and reduction of overall funding. Yet the new outcomes measures do not necessarily take programmatic design into account. Preliminary feedback from staff implementing the new measures indicates that smaller grantees, as well as those in rural areas, may struggle with the updated reporting requirements. Furthermore, SCSEP is administered by the Department of Labor (DOL), which struggles to reconcile the dual-purpose of the program with the workforce-oriented nature of DOL.

SCSEP is administered by a combination of private entities that contract with DOL, known as national grantees, and state agencies. National grantees receive 78% of SCSEP appropriations by statute, and states receive the remaining 22% of the grant funding. However, national grantees have the option to bid on slots and regions—which often leads to states being left with the most challenging geographic regions as well as hardest-to-serve populations with significantly less funding than national grantees. All of these factors contribute to significant challenges with overall program administration.

Recommendation(s): NASUAD recommends that there be state involvement in the national procurement process to ensure states' voices are heard and to promote equity between grantees. NASUAD also recommends that the SCSEP program be moved from DOL to ACL, to promote greater alignment with other OAA programs and other services and supports for older adults.

Minimum State Administration Amounts

Under Section 308 of the OAA, state administrative expenses are limited to whichever is greater:

- 5% of the state's Title III allotment [as allocated under section 304(a)(1)]; or
- \$500,000.

This provision has been in place for a number of years, and has not recognized growth in costs of program administration over this period. States that are limited to \$500,000 of administrative expenses frequently struggle with their ability to hire staff and manage the programs statewide. In FY2017, eighteen state agencies received the minimum allotments.

Recommendation: NASUAD proposes to amend Sec. 308(b)(2)(A) to set the minimum allotment to \$750,000. Allocate additional monies to ensure that this increase would not impact existing state service allotments.



ACL Administration and Integration

In 2012, the Department of Health and Human Services reorganized to align LTSS policy and practice for all populations within the Administration for Community Living. However, the reorganization was done administratively and there remain disconnects between the OAA statutory language and the ACL structure. This includes the designation of the ACL Administrator as the “Assistant Secretary on Aging” as well as the aging focus of ACL regional staff responsibilities. This historical emphasis on aging unintentionally creates barriers (both perceptual and real) for disability-related programming. Additionally, some other entities that promote community living are not consolidated under ACL and do not have a broad focus of all populations who receive LTSS. This includes the Office of Disability Employment Policy (ODEP) at DOL.

Recommendation(s): Alter the title of the Assistant Secretary to be the “Assistant Secretary for Community Living” and clarify that ACL regional staff have responsibility for all aging and disability programs under the purview of ACL. Transition ODEP to ACL under a new employment-focused division that also includes SCSEP and responsibility for policy on employment for older workers.

Income-Based Cost Sharing

Section 315 of the OAA allows states to establish cost-sharing for certain OAA services. Cost-sharing must be on a sliding-scale that is based upon the participant’s declared income and the cost of delivering services, and the state/AAA may not deny services due to the failure to pay. Under the OAA, states may not require cost-sharing for the following services:

- Information and assistance, outreach, benefits counseling, or case management services;
- Ombudsman, elder abuse prevention, legal assistance, or other consumer protection services;
- Congregate and home delivered meals; and
- Any services delivered through tribal organizations.

Additionally, states may not require cost-sharing from any individual with income at or below the Federal Poverty Limit (FPL).

Recommendation: Amend OAA Section 315(a)(2) to remove congregate and home-delivered meals from the services excluded from optional cost-sharing provisions. Continue to ensure that cost-sharing is a state option, not a mandate.



References

- ¹ Copied from the ACL III-D website: <https://www.acl.gov/programs/health-wellness/disease-prevention#future>
- ² <https://www.acl.gov/programs/elder-justice/final-voluntary-consensus-guidelines-state-aps-systems>





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