Virginia Administrative Code
Title 22. Social Services
Agency 30. Department For Aging And Rehabilitative Services
Chapter 60. Grants to Area Agencies on Aging

Part I. Introduction

22VAC30-60-10. Purpose.

This chapter prescribes requirements which Area Agencies on Aging shall meet to receive federal and state funds to develop comprehensive and coordinated systems for the delivery of supportive and nutrition services under Title III of the Older Americans Act, as amended (42 USC § 3001 et seq.). These requirements include:

1. Designation and responsibilities of an Area Agency on Aging;

2. Development and implementation of an Area Plan for Aging Services;

3. Administration of grants and contracts from the Virginia Department for Aging and Rehabilitative Services; and

4. Operation of substate long-term care ombudsman programs.

Statutory Authority
§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes
Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Access services" means services associated with access to other services, such as care coordination, information and assistance and transportation services.

"Area" means the planning and service area served by an Area Agency on Aging.

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 USC § 3001 et seq.) and incorporated by reference in this chapter, which has submitted an approved Area Plan and is designated by contract with the Virginia Department for Aging and Rehabilitative Services to develop and administer its area plan as approved for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for Aging and Rehabilitative Services, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Commissioner" means the Commissioner of the Virginia Department for Aging and Rehabilitative Services.

"Complaint" means any written or oral allegation regarding (i) an action, inaction, or decision of a provider that adversely affects the rights, health, welfare, or safety of the person complaining or the recipient of services, or (ii) a violation of the regulations, policies or procedures that govern long-term care services, brought by or on behalf of a resident of a long-term care facility, regardless of age, or a recipient of long-term care services provided in the community who is at least 60 years of age.

"Complaint counseling" means information, guidance, and support to enable the complainant or the recipient of services to attempt to resolve the complaint or concern himself if he so chooses or is able by utilizing the complaint handling procedures of the long-term care facility or long-term care service provider.

"Contract" means the document of agreement wherein the Virginia Department for Aging and Rehabilitative Services designates the contractor as the duly funded Area Agency on Aging, consistent with the federally approved State Plan for Aging Services, in consideration for which the area agency assures its specific performance of functions and services pursuant to the approved area plan.

"Frail" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, which restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"Government-sponsored area agencies" or "area agencies sponsored by governmental entities" means area agencies created as units of general purpose by local governments, area agencies created through the joint exercise of powers, and area agencies created as units of community services boards. Included under this category of Area Agencies on Aging are: District Three Governmental Cooperative trading as District Three Senior Services, New River Valley Agency on Aging, Alexandria Agency on Aging, Arlington Agency on Aging, Fairfax Area Agency on Aging, Loudoun County Area Agency on Aging, Prince William Area Agency on Aging, Rappahannock-Rapidan Community Services Board, Jefferson Area Board for Aging, Lake Country Area Agency on Aging, and Crater District Area Agency on Aging. In instances where governmental-sponsored agencies need to be differentiated by their status as free-standing joint-exercise-of-powers agencies or units of a governmental entity, it has been so denoted.

"Grant" means an award of financial assistance in the form of money, or property instead of money, by the Virginia Department for Aging and Rehabilitative Services to an Area Agency on Aging. The term includes such financial assistance when provided by contract.

"Grantee" or "contractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Virginia Department for Aging and Rehabilitative Services for the use of the funds provided.

"Greatest economic need" means the need resulting from an income level at or below the poverty level established by the federal Office of Management and Budget.

"Greatest social need" means the need caused by noneconomic factors, which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including that caused by racial or ethnic status, that restrict an individual's ability to perform normal daily tasks or threaten such individual's capacity to live independently.

"In-home services" means (i) homemaker services, (ii) personal care services, (iii) chore services, (iv) home health services, (v) checking services, (vi) residential repair and renovation services, and (vii) in-home respite care for families and adult day care as a respite service for families.

"Long-term care facility" means any facility outside of the service recipient's home in which two or more unrelated persons receive long-term care services, including nursing homes licensed by the Department of Health, assisted living facilities licensed by the Department of Social Services, and geriatric treatment centers licensed by the Department of Behavioral Health and Developmental Services.

"Long-term care services" means diagnostic, preventive, therapeutic, rehabilitative, supportive, and maintenance services provided on a recurring or continuous basis for the purpose of (i) minimizing the effects of illness or disability, or both, (ii) assisting a person to maintain his highest level of functioning, or (iii) maintaining or restoring independence. Such services may be provided in the recipient's home or in a community setting such as a long-term care facility.

"Office of the State Long-Term Care Ombudsman" means the program administered and funded by the Virginia Department for Aging and Rehabilitative Services that serves as a point of entry, whereby a complaint is received, investigated or referred for investigation, and resolved.

"Older person" or "elderly" or "older individual" means any individual who is 60 years of age or older.

"Planning and service area" or "PSA" means a geographic area of the Commonwealth that is designated for purposes of planning, development, delivery, and overall administration of services under an area plan. Unless otherwise exempted, such planning and service areas shall be coterminous with the planning districts established by the Virginia Department of Planning and Budget, pursuant to §§ 2.2-1501 and 15.2-4202 of the Code of Virginia.

"Private nonprofit Area Agency on Aging" means those area agencies created independently of a local governing body. They include Mountain Empire Older Citizens, Appalachian Agency for Senior Citizens, League of Older Americans trading as LOA-Area Agency on Aging, Valley Program for Aging Services, Shenandoah Area Agency on Aging, Central Virginia Alliance for Community Living, Southern Area Agency on Aging, Piedmont Senior Resources Area Agency on Aging, Senior Connections, The Capital Area Agency on Aging, Rappahannock Area Agency on Aging, Bay Aging, Southeastern Virginia Areawide Model Program trading as Senior Services of Southeastern Virginia, Peninsula Agency on Aging, and Eastern Shore Area Agency on Aging/Community Action Agency.

"Subgrant" means an award of financial assistance in the form of money, or property instead of money, made under a grant by an Area Agency on Aging to an eligible subgrantee. The term includes such financial assistance when provided by contract.

"Subgrantee" or "subcontractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to an Area Agency on Aging for the use of the funds provided.

"Substate Long-Term Care Ombudsman Program" means an organizational unit within an Area Agency on Aging, which the Virginia Department for Aging and Rehabilitative Services designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.

"Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012; amended, Virginia Register Volume 35, Issue 16, eff. May 1, 2019.

22VAC30-60-30. Applicability of other regulations.

Several other regulations apply to all activities conducted with Title III funds. These include:

1. 45 CFR Part 1321: Grants to State and Community Programs on Aging;

2. 45 CFR Part 75: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards; and

3. 45 CFR Part 84: Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012; amended, Virginia Register Volume 35, Issue 16, eff. May 1, 2019.

Part II. Area Agencies on Aging

22VAC30-60-40. Planning and service areas.

A. The following are currently accepted as Virginia's Planning and Service Areas for purposes of execution of the provisions of 42 USC § 3001 et seq. (the "Older Americans Act") and the federal regulations promulgated thereunder (45 CFR Part 1321). The respective Area Agencies on Aging, under contract with the Virginia Department for Aging and Rehabilitative Services as of the date of this chapter, are named in this section for identification but may be subject to change, pursuant to 22VAC30-60-50.

Planning and Service Area 1 Mountain Empire Older Citizens, Inc. Wise, Virginia Serves Lee, Scott, and Wise counties; the City of Norton.
Planning and Service Area 2 Appalachian Agency for Senior Citizens, Inc. Richlands, Virginia Serves Buchanan, Dickenson, Russell, and Tazewell counties.
Planning and Service Area 3 District III Governmental Cooperative Marion, Virginia Serves Bland, Carroll, Grayson, Smyth, Washington, and Wythe counties; the cities of Bristol and Galax.
Planning and Service Area 4 New River Valley Agency on Aging Pulaski, Virginia Serves Floyd, Giles, Montgomery, and Pulaski counties; the City of Radford.
Planning and Service Area 5 League of Older Americans, Inc. trading as LOA-Area Agency on Aging Roanoke, Virginia Serves Alleghany, Botetourt, Craig, and Roanoke counties; the cities of Covington, Roanoke, and Salem.
Planning and Service Area 6 Valley Program for Aging Services, Inc. Waynesboro, Virginia Serves Augusta, Bath, Highland, Rockbridge, and Rockingham counties; the cities of Buena Vista, Harrisonburg, Lexington, Staunton, and Waynesboro.
Planning and Service Area 7 Shenandoah Area Agency on Aging, Inc. Front Royal, Virginia Serves Clarke, Frederick, Page, Shenandoah, and Warren counties; the City of Winchester.
Planning and Service Area 8A City of Alexandria (Alexandria Agency on Aging) Alexandria, Virginia Serves the City of Alexandria.
Planning and Service Area 8B Arlington County (Arlington Agency on Aging) Arlington, Virginia Serves Arlington County.
Planning and Service Area 8C Fairfax County (Fairfax Area Agency on Aging) Fairfax, Virginia Serves Fairfax County; the cities of Fairfax and Falls Church.
Planning and Service Area 8D Loudoun County (Loudoun County Area Agency on Aging) Leesburg, Virginia Serves Loudoun County.
Planning and Service Area 8E

Prince William County (Prince William Area Agency on Aging) Manassas, Virginia Serves Prince William County; the cities of Manassas and Manassas Park.
Planning and Service Area 9 Rappahannock-Rapidan Community Services Board Culpeper, Virginia Serves Culpeper, Fauquier, Madison, Orange, and Rappahannock counties.
Planning and Service Area 10 Jefferson Area Board for Aging Charlottesville, Virginia Serves Albemarle, Fluvanna, Greene, Louisa, and Nelson counties; the City of Charlottesville.
Planning and Service Area 11 Central Virginia Alliance for Community Living, Inc. Lynchburg, Virginia Serves Amherst, Appomattox, Bedford, and Campbell counties; the cities of Bedford and Lynchburg.
Planning and Service Area 12 Southern Area Agency on Aging, Inc. Martinsville, Virginia Serves Franklin, Henry, Patrick, and Pittsylvania counties; the cities of Danville and Martinsville.
Planning and Service Area 13 Lake Country Area Agency on Aging South Hill, Virginia Serves Brunswick, Halifax, and Mecklenburg counties.
Planning and Service Area 14 Piedmont Senior Resources Area Agency on Aging, Inc. Farmville, Virginia Serves Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway, and Prince Edward counties.
Planning and Service Area 15 Senior Connections, The Capital Area Agency on Aging, Inc. Richmond, Virginia Serves Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan counties; the City of Richmond.
Planning and Service Area 16 Rappahannock Area Agency on Aging, Inc. Fredericksburg, Virginia Serves Caroline, King George, Spotsylvania, and Stafford counties; the City of Fredericksburg.
Planning and Service Area 17/18 Bay Aging Urbanna, Virginia Serves Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland counties.
Planning and Service Area 19 Crater District Area Agency on Aging

Petersburg, Virginia Serves Dinwiddie, Greensville, Prince George, Surry, and Sussex counties; the cities of Colonial Heights, Emporia, Hopewell, and Petersburg.
Planning and Service Area 20 Southeastern Virginia Areawide Model Program, Inc. trading as Senior Services of Southeastern Virginia Norfolk, Virginia Serves Isle of Wight and Southampton counties; the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach.
Planning and Service Area 21 Peninsula Agency on Aging, Inc. Newport News, Virginia Serves James City and York counties; the cities of Hampton, Newport News, Poquoson, and Williamsburg.
Planning and Service Area 22 Eastern Shore Area Agency on Aging/Community Action Agency, Inc. Onancock, Virginia Serves Accomack and Northampton counties.

B. Pursuant to 42 USC § 3025(a)(1)(E) and (b)(1) of the Older Americans Act, as amended, the Department for Aging and Rehabilitative Services, in its discretion, has established that the boundaries for planning and service areas (PSAs) will be coterminous with the boundaries of the planning districts established by the Department of Planning and Budget, except that:

1. Within the boundaries of Planning District 8, the Department for Aging and Rehabilitative Services has established five planning and service areas with the concurrence of the local governing bodies.

2. The Department for Aging and Rehabilitative Services has combined Planning Districts 17 and 18 into one planning and service area with the concurrence of the local governing bodies.

3. Within the boundaries of Planning District 23, the Department for Aging and Rehabilitative Services has established two planning and service areas that existed from the former Planning Districts 20 and 21.

C. These boundaries shall be maintained until such time as there is good cause, shown by clear and convincing evidence, to create a new planning and service area.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012; amended, Virginia Register Volume 35, Issue 16, eff. May 1, 2019.

22VAC30-60-50. Application procedures to obtain designation as a new planning and service area or as a new Area Agency on Aging..

A. Applications of units of general purpose local government to serve as designated Area

Agencies on Aging within established planning and service areas or to create a new planning and service area shall be made only by formal resolution of city councils or county boards of supervisors and must be submitted in writing to the Commissioner of the Department for Aging and Rehabilitative Services. Such new entities, if approved, shall become effective with the beginning of the terms of their approved Area Plan for Aging Services and the contract incorporating such plan, upon execution of the contract. Any application for new Area Agency on Aging status or new planning and service area status shall be submitted prior to July 1 of the year preceding the year in which the new status would become effective.

B. The application for new Area Agency on Aging status or for new planning and service area status shall contain the proposed Area Plan for Aging Services and shall show the following:

1. All the city councils and county boards of supervisors in the planning and service area which would be affected have consented to the proposed change.

2. The proposed change will not result in creation of an Area Agency on Aging or new planning and service area which would receive less than 1.0% of the formula fund allocation for Virginia, according to the allocation method used by the Department for Aging and Rehabilitative Services for the year in which the application is submitted.

3. Provision of services in a proposed new planning and service area or by a proposed new Area Agency on Aging shall be shown, by clear and convincing evidence, to assure more efficient and effective preparation and implementation of the Area Plan for Aging Services for the older Virginians within the planning and service area.

C. Upon receipt of an application which meets the foregoing requirements, the Commissioner of the Department for Aging and Rehabilitative Services shall provide a public hearing in the planning and service area. At least a 30-day notice shall be provided through publication in a newspaper or newspapers of general circulation in the cities and counties to be affected by the proposed new entity and its submitted Area Plan for Aging Services. Notification shall be mailed to the local governments and all other interested Area Agencies on Aging. The public hearing shall be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the hearing. At the public hearing, interested persons may speak for themselves or be represented by counsel, and written presentations may be submitted. Following the public hearing and for at least 30 days thereafter, the commissioner will receive any additional written information which citizens or organizations wish to submit.

D. In addition to the public hearing and reception of comments by the Department for Aging and Rehabilitative Services and the commissioner, as provided above, the commissioner shall consult with the Department of Planning and Budget, pursuant to § 2.2-1501(2) of the Code of Virginia, whenever a new planning and service area is proposed, and the approval of that department shall be persuasive.

E. Within 120 days of the public hearing, the commissioner shall issue written findings of fact, the consideration of the Department of Planning and Budget, and a particularized conclusion and decision. In the case of a new planning and service area, its effective date shall be determined and stated. The designation of Area Agencies on Aging becomes effective upon approval of their

Area Plans for Aging Services and execution of the contract.

F. Any applicant for designation as a new entity whose application is denied may request an administrative hearing, pursuant to the Virginia Administrative Process Act, § 2.2-4019 of the Code of Virginia, within 15 days of receipt of the written denial. If, after hearing, the applicant's request is still denied, the applicant may appeal the decision in writing within 30 days after receipt of the decision to the Commissioner of the U.S. Administration on Aging, pursuant to 45 CFR 1321.31.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-60. Termination of the designation of an Area Agency on Aging..

A. The contractual designation of an incumbent Area Agency on Aging will be renewed annually contingent upon approval of and performance on the Area Plan for Aging Services.

B. The contractual designation of an Area Agency on Aging will be withdrawn by the Commissioner of the Virginia Department for Aging and Rehabilitative Services for any of the following:

1. Upon a written request by the Area Agency on Aging that the commissioner terminate its contractual designation.

2. Upon a request by formal resolution of all the city councils and county boards of supervisors within the planning and service area of the Area Agency on Aging that the commissioner designate and contract with another Area Agency on Aging, whose area plan is approved.

3. Upon a finding by the Virginia Department for Aging and Rehabilitative Services, after reasonable notice and opportunity for a hearing, pursuant to 45 CFR 1321.35, that:

a. An area plan or plan amendment is not approved.

b. An area agency does not meet the requirements of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act, as amended; the Code of Virginia; or the policies and regulations of the Department for Aging and Rehabilitative Services.

c. There is substantial failure in the provisions or administration of an approved area plan to comply with one or more of the provisions of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act as amended; the Code of Virginia; regulations of the Department for Aging and Rehabilitative Services; licensing requirements of the Commonwealth of Virginia; and local ordinances.

d. The activities of the Area Agency on Aging are inconsistent with the statutory mission in the Older Americans Act, as amended, and its implementing regulations.

4. Upon reasonable application of the terms and conditions stated in the contract. Contractual obligations, failure of fulfillment of which shall lead to termination of the contract include the following:

a. Failure to correct deficiencies disclosed in an audit report from an audit conducted as required by the Department for Aging and Rehabilitative Services pursuant to 22VAC30-60-450;

b. Failure to report promptly to the Virginia Department for Aging and Rehabilitative Services and to the appropriate law-enforcement officials any theft, embezzlement, or unlawful use of funds received from the Department for Aging and Rehabilitative Services;

c. Failure to submit reports that meet the requirements (including due dates) established by the Virginia Department for Aging and Rehabilitative Services; and

d. Deliberate falsification of information in such reports.

5. Upon a decision pursuant to 22VAC30-60-50 creating a new Area Agency on Aging or new planning and service area, to the extent that such a decision makes performance on the existing contract impossible.

C. Upon notice by the Virginia Department for Aging and Rehabilitative Services of its intent to terminate, the Area Agency on Aging, within 15 days from receipt of the notice, may request and shall be provided an informal fact-finding conference pursuant to § 2.2-4019 of the Code of Virginia. If, from such a conference, a finding is made that one of the conditions set forth in subdivision B 4 of this section applies or that a term or condition in the contract so permits, the contractual designation shall be withdrawn. In the alternative, if no request for such hearing has been made by 15 days from receipt of the notice, the contractual designation shall terminate 30 days after receipt of the notice.

D. If the Commissioner of the Department for Aging and Rehabilitative Services has reason to believe that one or more of the reasons for termination constitutes an emergency endangering the health, safety, or welfare of citizens or seriously threatens the financial or programmatic continuation of services required by the Area Plan for Aging Services, the commissioner may order the immediate suspension of the designation of the Area Agency on Aging, in advance of a hearing, and shall state in writing the reasons therefor.

E. When the contractual designation of an Area Agency on Aging is withdrawn, the commissioner, to assure continued conduct of functions and provision of services to the extent feasible, shall contractually designate a new Area Agency on Aging in a timely manner, or, for a period of up to 180 days from the withdrawal, the Virginia Department for Aging and Rehabilitative Services, itself, may perform the responsibilities of the Area Agency on Aging or may assign the responsibilities of the area agency to another agency in the planning and service area. With the consent of the Administrator of the U.S. Administration for Community Living, the Commissioner of the Virginia Department for Aging and Rehabilitative Services may extend the 180-day period.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012; amended, Virginia Register Volume 35, Issue 16, eff. May 1, 2019.

22VAC30-60-70. Designation of a new Area Agency on Aging.

A. When there is no designated Area Agency on Aging for a planning and service area, or when there has been a decision to create a new planning and service area, the commissioner shall solicit applications for a new Area Agency on Aging as soon as possible. Such applications shall be solicited by advertisement in the newspapers of general circulation serving the planning and service area and by notification mailed to the local governing bodies of cities and counties within the planning and service area. At least 30 days from the date of advertisement shall be provided for applicants to submit their applications to the commissioner. The application shall include the applicant's proposed Area Plan for Aging Services. The commissioner shall give the right of first refusal to a unit of general purpose local government, if such unit can meet the requirements of the Older Americans Act, as amended, and if the boundaries of such a unit and the boundaries of the planning and service area are reasonably contiguous. Applicants may be:

1. A city or county within the affected planning and service area;

2. All the cities and counties within the affected planning and service area, applying as a joint exercise of powers, pursuant to § 15.2-3000 of the Code of Virginia;

3. A public agency or a private nonprofit corporation of Virginia, or any separate organizational unit within such agency which can and shall engage only in the planning or provision of a broad range of supportive services for older persons within the planning and service area.

B. Within 30 days after the deadline set by the commissioner for submission of applications for designation as an Area Agency on Aging, the commissioner shall advertise a public hearing to receive comments on such designation. At least 30 days notice of the hearing shall be provided through advertisement in newspapers of general circulation serving the affected planning and service area and by notification mailed to the local governing bodies and all applicants. The hearing shall be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the public hearing. At the public hearing, interested parties may speak for themselves or be represented by counsel, and written presentations may be submitted. Upon conclusion of the hearing, the commissioner will continue to receive any additional written information which citizens or organizations may wish to provide.

C. Within 45 days after the public hearing, unless the applicants have agreed otherwise, the commissioner shall issue a written decision. The commissioner may designate a new Area Agency on Aging, subject to final approval of its Area Plan for Aging Services and execution of the contract. Such designation shall become effective upon execution of the contract or such other date as agreed upon therein. Or, if the commissioner finds that the applicant or applicants applying do not offer functions, services, and an Area Plan for Aging Services which will be in the best interests of the Commonwealth or of the persons to be served, the commissioner may reject all applications and recommence the designation process. Reasons for denial shall be set forth with reasonable particularity.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Part III. Area Plans for Aging Services

22VAC30-60-80. Preparation and submission of the area plan.

A. Any existing Area Agency on Aging or any applicant for area agency designation will prepare an Area Plan for Aging Services and submit it to the Virginia Department for Aging and Rehabilitative Services for approval. The area plan will clearly detail the means of providing supportive and nutrition services and substantiation for the means selected. An approved area plan will be in effect for two, three, or four years, as determined by the Department for Aging and Rehabilitative Services. Such plan, if approved, will become the scope of services in the contract executed between the Virginia Department for Aging and Rehabilitative Services and the Area Agency on Aging as contractor.

B. The Area Agency on Aging shall submit to the Virginia Department for Aging and Rehabilitative Services for approval all requests for, and reasonable documentation of and substantiation for, necessary changes, additions, or deletions in its area plan. The area agency shall submit a written amendment to the area plan if it intends to change the scope of a service or if it intends to change the arrangements by which a service is delivered (e.g., direct service or contracted service, the number or location of congregate meal sites). Any amendment shall be approved by the Virginia Department for Aging and Rehabilitative Services and, when signed by both the Department for Aging and Rehabilitative Services and the Area Agency on Aging as contractor, will be incorporated into the contract as part of the scope of services.

C. The area plan shall provide, through a comprehensive and coordinated system, for supportive and nutrition services and, where appropriate, for the establishment, maintenance, and construction of multipurpose senior centers within the planning and service area covered by the plan. Subject to the requirements in 22VAC30-60-100, such services may include:

1. Checking services. Calling or visiting older persons at their residence to check on them to make sure they are well and safe. This activity may also serve to provide psychological reassurance to an older person who is alone and in need of personal contact from other individuals.

2. Congregate meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The provision of meals must occur at designated nutrition sites which also provide a

climate or atmosphere for socialization and opportunities to alleviate isolation and loneliness.

3. Information and Assistance. Assess older persons' needs for services; collecting and providing information to link older persons with the opportunities, services, and resources needed to meet their particular problems and needs.

4. Dental services. Provision of needed dental services to limited-income persons 60 years of age and older not otherwise able to obtain the services.

5. Emergency services. Provision of money and other resources, including referral to other public and private agencies, for assistance to persons 60 and older who have an emergency need for help. Area agencies must have approved policies established by their governing board for administration of this service.

6. Employment services. Assistance to older persons seeking part-time or full-time employment within the public or private sector and advocacy on behalf of the older worker.

7. Finance, tax, and consumer counseling. Provision of direct guidance and assistance to older persons and their caregivers in the areas of consumer protection, personal financial matters, and tax preparation.

8. Adult day care services. Regular daytime supervision and care of frail, disabled, and institutionally at-risk older adults. Participants require a level of care which ensures their safety, and, with the provision of services ranging from socialization to rehabilitation, may experience an enhancement in their quality of life and level of functioning.

9. Health education. Provision of information or materials, or both, specifically designed to address a particular health-related issue. The activity may be preventive in nature and may promote self-care and independence.

10. Health screening. Provision of screening to determine current health status, including counseling, follow-up, and referral, as needed.

11. Chore services. Provision of light housekeeping and other services to eligible older adults, who, because of their functional level, are unable to perform these tasks themselves.

12. Home delivered meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The meals must be delivered and received at the homes of the individuals.

13. Home health services. Provision of intermittent skilled nursing care under appropriate medical supervision to acutely or chronically ill homebound older adults. Various rehabilitative therapies and home health aides providing personal care services are included.

14. Homemaker/personal care services. Provision of nonmedically oriented services by trained personnel under professional supervision. Services may include personal care activities, nutrition-related tasks, light housekeeping, and respite for family caregivers.

15. Identification/discount program. Provision to older persons of a card which can be used as

identification to cash checks and to obtain discounts for goods and services from participating merchants.

16. Legal assistance. Legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney). Includes counseling or representation by a nonlawyer, where permitted by law, to older individuals with economic or social needs. May also include preventive measures such as community education.

17. Long-term care coordinating activity. Provides for the participation of area agency staff on the local long-term care coordinating committee or committees and in the planning and implementation of a coordinated service delivery system.

18. Public information and education. Provision of information to older persons and the general public about the programs and services available to the elderly and their caregivers and about the talents, skills, problems, and needs of older persons.

19. Residential repair and renovation. Provision of home repairs or home maintenance to persons 60 years of age and older (includes weatherization provided with Older American Act funds).

20. Services to persons in institutions. Provision of consultation and assistance to institutionalized older persons, their families, and facility staff in such areas as aging issues, resident rights, and activities for facility residents.

21. Socialization/recreation services. Activities to provide persons 60 years of age and older with opportunities to participate in constructive social experiences and leisure time activities. This may also include senior center activities as well as activities suitable for and within the time constraints of the nutrition sites.

22. Substate long-term care ombudsman program. Serves as a point of entry for long-term care recipients, their families and friends, and the concerned public, whereby complaints made by, or on behalf of, older persons in long-term care facilities or receiving long-term care services in the community can be received, investigated, and resolved. The program also provides counseling and support to long-term care recipients and others to assist them in resolving problems and concerns through the use of the complaint handling procedure of the long-term care facility or community based long-term care service provider. In addition, the program is a resource for information regarding institutional and community based long-term care services. Through its contacts with long-term care recipients and others concerned with long-term care, the Long-Term Care Ombudsman Program identifies problems and concerns of older persons receiving long-term care and their families and friends and recommends changes in the long-term care system which will benefit these individuals as a group.

23. Transportation services. Group transportation of older persons to congregate meals, socialization and recreation activities, shopping, and other services available in the community; individual transportation to needed services that promote continued independent living.

24. Volunteer programs. Development of opportunities for the community to do volunteer work in aging programs and services; recruiting and supervising volunteers; and developing opportunities for older persons to do volunteer work in the community.

D. An Area Agency on Aging may provide a service, other than those listed above, under the following conditions:

1. The service is consistent with the goals and objectives of the Older Americans Act, as amended.

2. The area agency makes a written request to, and receives written approval from, the Virginia Department for Aging and Rehabilitative Services.

3. Such written request includes at least the following:

a. A description of the service to be provided;

b. A budget for the service for the duration of the current Area Plan for Aging Services, including sources and amounts of all funding for the service; and

c. A summary of the process which the area agency used to obtain public comment on the service to be provided.

4. If the area agency plans to provide the service directly, the area agency must comply with 22VAC30-60-110.

E. If a citizen, organization, or local government should believe an Area Agency on Aging or its Area Plan for Aging Services substantially fails to comply with the provisions of the Older Americans Act, as amended, the complaint shall be addressed in writing to the Commissioner of the Virginia Department for Aging and Rehabilitative Services, detailing the reasons and bases for the complaint.

F. In the alternative, a complaint can be initiated at the local level with the substate ombudsman program, under circumstances described in 22VAC30-60-580 D 2 and 22VAC30-60-580 D 3 for reporting complaints to the Virginia Department for Aging and Rehabilitative Services.

G. If, after an investigation is conducted, the commissioner has cause to believe that there are substantial grounds for termination of the designation of the area agency which is the subject of the complaint, pursuant to 22VAC30-60-60 B 3 c, the commissioner shall provide notice to the area agency of intent to withdraw its area agency designation within 30 days, stating the bases, and shall provide an opportunity for a hearing if requested within 15 days of receipt of the notice by the area agency involved. Failure to request a hearing shall result in withdrawal of the area agency designation at the end of the 30th day after receipt of the notice by the area agency.

H. The hearing, if timely requested, shall be provided consistent with the provisions of the Virginia Administrative Process Act, § 2.2-4019 of the Code of Virginia. Within 30 days of the close of the hearing, unless the case is disposed of by consent during the hearing process, the commissioner shall render a written decision. If the commissioner finds that the Area Plan for Aging Services of the Area Agency on Aging or the administration of the area plan by the area agency does not comply with the requirements and provisions of the Older Americans Act, as amended, the commissioner shall withdraw the designation, pursuant to 45 CFR 1321.35. If there are significant, correctable problems in the Area Plan for Aging Services or the administration thereof, the commissioner may allow the area agency to continue as such, contingent upon appropriate changes and attainment of compliance within a stated time period.

I. When the cause for termination endangers the health, safety and welfare of the population to be served or jeopardizes the financial or programmatic provision of functions and services, suspension of the area agency shall be immediate, and termination shall become final within 30 days, unless good cause is shown by clear and convincing evidence.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-90. Population to be served.

A. All Virginians age 60 years or older are eligible to receive services provided under an Area Plan for Aging Services. An Area Agency on Aging shall give preference to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals and older individuals residing in rural areas. Older Americans Act, as amended, funds and state funds shall be targeted to services which can assist older persons to function independently for as long as possible.

B. Any Virginian 60 years of age or older and his or her spouse, regardless of age, are eligible to receive congregate nutrition services.

1. The following individuals are also eligible to receive congregate nutrition services:

    a. A handicapped or disabled individual who is under the age of 60 years and who resides in a housing facility occupied primarily by older individuals at which congregate nutrition services are provided.

    b. An individual, regardless of age, who provides volunteer services during the meal hours.

    c. A disabled individual under age 60 who resides at home with and accompanies an older individual who is otherwise eligible.

C. Any Virginian 60 years of age or older, who is homebound by reason of illness or incapacitating disability or otherwise isolated, is unable to prepare his own meal, and has no one to prepare food for him is eligible to receive home-delivered nutrition services. The following individuals are also eligible to receive home-delivered nutrition services:

    a. The spouse of the older person, regardless of age or condition, may receive a home-delivered meal if receipt of the meal is in the best interest of the homebound older person. Each Area Agency on Aging shall establish criteria for determining when receipt of the meal is in the best interest of the older person.

b. A nonelderly disabled individual who resides at home with an older individual who is otherwise eligible.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-100. Priority services.

A. An Area Agency on Aging shall spend at least 15% of its Title III-B allotment for services associated with access to other services, as defined in 22VAC-30-60-20.

B. An Area Agency on Aging shall spend at least 5.0% of its Title III-B allotment for in-home services, as defined in 22VAC-30-60-20.

C. An Area Agency on Aging shall spend at least 1.0% of its Title III-B allotment for legal assistance for the elderly.

D. An Area Agency on Aging, whose spending in a priority service category exceeds the minimum proportional expenditure level specified above, shall spend in each such category of services at least the same amount of actual funds as it spent in such category for the previous fiscal year.

E. To the extent that the priority services and the proportional expenditure level to be allotted to them are prescribed by law and regulation of the federal government, this section is exempt from the procedural requirements of the Virginia Administrative Process Act, pursuant to § 2.2-4002 B 4 of the Code of Virginia.

F. The Virginia Department for Aging and Rehabilitative Services may waive the requirement described in subsections A through C of this section for any category of services described in that section if the Area Agency on Aging demonstrates to the department that services being provided in such category in the area are sufficient to meet the need for such services in such area.

G. Before an Area Agency on Aging requests a waiver pursuant to subsection F of this section, the Area Agency on Aging shall conduct a public hearing as follows:

1. The Area Agency on Aging requesting a waiver shall notify all interested persons of the public hearing.

2. The area agency shall provide interested persons with an opportunity to be heard.

3. The Area Agency on Aging requesting the waiver shall receive, for a period of 30 days, any written comments submitted by interested persons.

H. The Area Agency on Aging shall furnish a complete record of the public comments with the request for the waiver to the Virginia Department for Aging and Rehabilitative Services.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-110. Direct services.

A. An Area Agency on Aging shall not provide directly any supportive services or nutrition services except where, in the judgment of the Virginia Department for Aging and Rehabilitative Services, pursuant to a request for waiver as set forth in subsection B of this section, provision of such services by the area agency is necessary to assure an adequate supply of such services, or where such services are directly related to the area agency's administrative functions, or where such services of comparable quality can be provided more economically by the area agency.

B. An Area Agency on Aging shall request explicitly, in writing, a waiver to provide supportive services or nutrition services. The request for a waiver must include, at a minimum, the area agency's rationale for providing the service directly, including sufficient documentation that provision of such service by the area agency is necessary to assure an adequate supply of such service, or that such service is directly related to the area agency's administrative functions, or that such service of comparable quality can be provided more economically by the area agency.

C. Unless and until a waiver has been granted in writing by the Virginia Department for Aging and Rehabilitative Services, an Area Agency on Aging shall not provide or begin to provide any supportive or nutrition service using Older Americans Act, as amended, or state funds.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Part IV. Administration of Grants and Contracts

Article 1. Principles and Standards for Financial Management and Accounting

22VAC30-60-120. Basis of accounting.

A. Each area agency and all entities with which such area agency itself contracts shall report program outlays and program income on the modified accrual basis. Accordingly, expenditures are recorded when a liability is incurred (i.e., when goods and services have been received or the amount can be readily estimated), but revenue is not recorded until actually realized or recognized and collectible by the grantee/contractor or entity under subcontract in a current reporting period.

B. If the Area Agency or entity under subcontract presently maintains its accounting system on the cash basis, it must develop the necessary accrual information through analysis of pertinent documentation on hand.

C. Area Agencies on Aging shall observe the cash basis of accounting for U.S. Department of Agriculture (USDA) funding and the commodities-received basis for USDA commodities. An unbilled receivable shall not be reflected for USDA receivables.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-130. Authority to expend federal and state funds.

A. By virtue of the Virginia Department for Aging and Rehabilitative Services' approval of an Area Plan for Aging Services, issuance of a notice of approval, and execution of the contract, an Area Agency on Aging is granted authority to incur costs under its approved area plan for eligible activities, for the period covered by the area plan. This authorization to incur costs under its approved area plan is extended only for allowable and allocable costs which are also reasonable and net of all applicable credits.

B. An Area Agency on Aging receiving a contractual award pursuant to an approved area plan understands and agrees that the period of the contractual award is for one year. Prior to the renewal of the contractual award of any additional financial support for any subsequent period, the Virginia Department for Aging and Rehabilitative Services may conduct an on-site evaluation of the Area Agency on Aging to determine if the objectives of the area plan are being met and whether continued financial support is indicated.

C. An Area Agency on Aging is to refer to the federal cost principles applicable to its type of organization to ascertain when prior approval is required from the Virginia Department for Aging and Rehabilitative Services. In addition, prior approval may be required by the contractual award of funded support from the Virginia Department for Aging and Rehabilitative Services or required by specific program legislation or regulation, including but not limited to the following:

1. Changes in the scope or objectives of the activities assured by the area plan, as approved and incorporated into the contractual award;

2. Undertaking any activities which are disapproved or restricted as a condition of the contractual award;

3. Any pending change of institutional affiliation of the Area Agency on Aging, any reassignment to a legal successor of interest, or any nominal or legal change in agency name. The Virginia Department for Aging and Rehabilitative Services may in its discretion determine whether to approve such contractual modification and continue funding the existing project or projects under the new entity. Factors to be considered include assurances to continue the project or projects as approved and the acceptance of the new entity by the carrier of any surety bonds required for the project or projects;

4. Transferring to a third party, by contract or any other means, the actual performance of substantive responsibility for the management of the grant/contract. Generally, such changes

may require the designation of a new Area Agency on Aging and the execution of a new contract;

5. Carrying over funds from one budget period to another;

6. Extending the budget/project period with or without additional funds;

7. Expending funds for the purchase of land or buildings;

8. Conveying, transferring, assigning, mortgaging, leasing, or otherwise encumbering property acquired under a grant/contract with the Virginia Department for Aging and Rehabilitative Services;

9. Acquiring automatic data processing equipment (see 22VAC30-60-270);

10. Incurring costs or liabilities prior to the effective date of any grant/contract award;

11. Paying fees to a consultant whenever the consulting agreement (i) constitutes a transfer of substantive management or administrative work to a third party, or (ii) results in a contract for management services that requires the Virginia Department for Aging and Rehabilitative Services or the federal grantor agency's prior approval, as required by program regulations or other award terms;

12. Additional funding when clearly demonstrated to be essential;

13. Reallocating costs between closely related projects supported by two or more grant sources. Approval may be granted to charge costs to the Title III grant for which the costs are originally approved, or to another Virginia Department for Aging and Rehabilitative Services project, when all of the following conditions are met:

   a. The projects are programmatically related;

   b. There is no change in the scope of the individual grants involved;

   c. The reallocation of costs is not detrimental to the conduct of work approved under each individual award; and

   d. The reallocation is not used to circumvent the terms and conditions of either individual award;

14. Indemnifying third parties;

15. Transferring funds between construction and nonconstruction;

16. Traveling outside of the continental United States;

17. Contributing to a reserve fund for a self-insurance program;

18. Insuring any U.S. government-owned equipment; and

19. Meeting the costs of nonemergency patient care where other forms of medical cost reimbursement, such as but not limited to Medicaid, are available.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-140. Chart of accounts.

Provided that an Area Agency on Aging is able to comply with the nine standards for financial management systems in U.S. Office of Management and Budget (OMB) Circulars A-102 and A-110, as applicable, and the financial management standards contained in 45 CFR 75.302, an Area Agency on Aging shall adopt its own account structure based on its own external and internal reporting requirements.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012; amended, Virginia Register Volume 35, Issue 16, eff. May 1, 2019.

22VAC30-60-150. Elements of an acceptable financial management system.

A. An Area Agency on Aging shall maintain records and make reports in such form and containing such information as may be required by the Virginia Department for Aging and Rehabilitative Services. An Area Agency on Aging shall maintain such accounts and documents as will serve to permit expeditious determination of the status of funds and the levels of services provided under the approved area plan, including the disposition of all moneys received from the Virginia Department for Aging and Rehabilitative Services, and the nature and amount of all charges claimed against such funds.

B. An Area Agency on Aging shall keep records that identify adequately the source and application of funds for grant-supported or contract-supported activities and for activities under subcontract. At a minimum, these records shall contain information pertaining to the grant or contract, subcontracts, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a governmental entity, liabilities.

C. Special grant or contract conditions more restrictive than those prescribed in 45 CFR Part 75 may be imposed by the Virginia Department for Aging and Rehabilitative Services on an Area Agency on Aging, as needed, when the Virginia Department for Aging and Rehabilitative Services has determined that the Area Agency on Aging:

1. Is financially unstable;
2. Has a history of poor performance; or
3. Has a management system that does not meet the standards of 45 CFR Part 75.

D. For the purpose of determining the adequacy of an area agency's financial management system, the Virginia Department for Aging and Rehabilitative Services shall consider the following records maintained on a current basis to be minimum:

1. General journal;
2. General ledger;
3. Separate or combined cash receipts and disbursements journal or voucher register;
4. Payroll register (if the agency has more than 10 employees);
5. Fixed assets register for all owned and leased property and equipment;
6. In-kind journal or worksheets;
7. Project cost control subsidiary ledger or worksheets; and
8. Bank statements reconciled within 30 calendar days of receipt.

E. Grantees or contractors of the Virginia Department for Aging and Rehabilitative Services may substitute the equivalent kind of records for those specified in subsection D of this section, provided the substitute records meet the function for which those records have been required.

F. An Area Agency on Aging shall have procedures for determining the reasonableness, allowability, and allocability of all contract costs.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012; amended, Virginia Register Volume 35, Issue 16, eff. May 1, 2019.

22VAC30-60-160. USDA funds.

Providers of nutrition services to older persons shall treat USDA funds as income upon receipt.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-170. Reimbursement from other sources.

All reimbursement under Titles XIX and XX of the Social Security Act for services funded jointly by the Older Americans Act, as amended shall be considered "other federal funds" for budgeting and reporting purposes.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-180. Liquidation of obligations.

A. Grantees/contractors of the Virginia Department for Aging and Rehabilitative Services and subcontractors of the Area Agencies on Aging shall liquidate all obligations incurred under the Older Americans Act, as amended within 90 days of the end of the grant period. The Virginia Department for Aging and Rehabilitative Services shall consider written requests for waivers of this rule in the case of any multiyear subcontracts involving construction or renovation.

B. All Virginia general fund moneys shall be spent by June 30 of the year covered by the award. No unliquidated obligations shall exist beyond June 30.

Statutory Authority

§ 51.5-131 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-190. Area Agency on Aging fiscal manual.

An Area Agency on Aging shall prepare a complete, accurate, and current set of written fiscal policies to be maintained in the form of an officially adopted manual. This manual shall cover the area agency's own fiscal policies and those applicable to its subcontractors. At a minimum, the manual shall provide for a description of each of the following accounting applications and the internal controls in place to safeguard the agency's assets: billings, receivables, cash receipts, purchasing, accounts payable, cash disbursements, payroll, inventory control, property and equipment, and general ledger. Each of the agency's fiscal activities for revenue/receipts, disbursements and financial reporting shall also be described.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 2. Transfer of Funds

22VAC30-60-200. Authority to transfer funds between the titles of the Older Americans Act.

A. With the prior written approval of the Virginia Department for Aging and Rehabilitative Services, an Area Agency on Aging may transfer funds between the titles of the Older Americans

Act, as amended. Area agencies may request transfers of up to 25% between Title III-C(1) funds and Title III-C(2) projects.

B. With the prior written approval of the department, area agencies may transfer up to 10% between Title III-C funds and Title III-B projects.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 3. Personnel Policies

22VAC30-60-210. Employment of key Area Agency on Aging personnel.

The governing board of the Area Agency on Aging shall have the authority to hire and otherwise supervise the activities of the Director of the Area Agency on Aging. All recruitment efforts shall be guided by a description of duties and a list of recruitment criteria developed in advance by the Area Agency on Aging.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-220. Taking security deposits and making payments on behalf of clients.

Unless an Area Agency on Aging has an approved program for such purposes and any such security deposits and payments are explicitly covered under the agency's fidelity bond coverage, all officers, employees, volunteers and agents shall be prohibited from taking security deposits for clients or from making payments on behalf of participants of programs funded under the Older Americans Act, as amended. Where such programs are provided for and explicitly covered under the agency's fidelity bond coverage, adequate safeguards shall be formally in place and the operation of the program periodically monitored by the Area Agency on Aging.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-230. Support for labor distribution.

A. Charges to awards for salaries and wages shall be based on documented payrolls approved by a responsible supervisory official of the Area Agency on Aging. The distribution of time worked must be supported by personnel activity reports.

B. Labor distribution reports should be prepared and controlled according to the following minimum standards:

1. Employees, including employees under subcontract, are responsible for preparing their own timecards/timesheets.

2. Employees shall be provided clear instructions as to the work to be performed and the grant/contract category or program to be charged.

3. Periodic internal reviews of the timekeeping system shall be performed to assure compliance with system controls.

4. Overtime hours shall be approved in advance and justification provided.

5. A list of supervisors authorized to approve timecards/timesheets shall be maintained along with signature cards kept on file by the timekeeping office.

C. In situations where the use of labor distribution reports may be impractical or essentially the same results could be obtained through sampling techniques, an Area Agency on Aging may request in writing from the Virginia Department for Aging and Rehabilitative Services approval of a substitute system which involves staff-maintained labor distribution reports for a prototypical period.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-240. Up-to-date job descriptions for all Title III funded positions.

For each paid and volunteer position funded by Title III of the Older Americans Act, as amended, an Area Agency on Aging shall maintain:

1. A current and complete job description which shall cover the scope of each position-holder's duties and responsibilities and which shall be updated as often as required, and

2. A current description of the minimum entry-level standards of performance for each job.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 4. Property Control

22VAC30-60-250. Inventorying acquired equipment.

An Area Agency on Aging shall conduct or have conducted on an annual basis an inventory of all equipment acquired with funds granted by the Virginia Department for Aging and Rehabilitative Services, including equipment acquired by their subcontractors and subgrantees.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-260. Control of USDA commodities.

To prevent unauthorized diversion, all elderly nutrition projects obtaining commodities from USDA shall conduct an inventory at least once a year of all USDA commodities and shall maintain a perpetual inventory system over such commodities.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-270. Purchase of automatic data processing (ADP) equipment.

A. An Area Agency on Aging shall take special precautions in the purchase of ADP equipment and software. The purchase, lease, or retention of ADP equipment shall require prior approval from the Virginia Department for Aging and Rehabilitative Services on an individual or blanket purchase basis.

B. In the acquisition of computer equipment, an Area Agency on Aging shall ensure the following:

1. A full requirements analysis has been conducted;
2. Its computer utilization needs are projected over at least a three-year period;
3. The intended software system meets federal and state reporting requirements;
4. There is adequate post-sale vendor support; and
5. Competitive purchasing procedures are adhered to.

C. The cost of ADP services does not require federal or state prior approval.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-280. Area Agency on Aging property control policies.

An Area Agency on Aging shall have written policies and procedures, approved by the governing board, for managing equipment purchased in whole or part with federal, state, or matching funds, to include: (i) accurate and complete property records, (ii) regular physical inventory of equipment, (iii) adequate maintenance procedures, and (iv) disposal of property and equipment.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 5. Procurement Practices and Contracting

22VAC30-60-290. Summary of procurement procedures.

A. Each Area Agency on Aging not subject by statute to the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) shall have written policies and procedures which are consistent with the provisions of the Virginia Public Procurement Act.

B. The Area Agency on Aging shall incorporate in any contract, grant, or purchase agreement of over $50,000 the conditions specified in the Virginia Public Procurement Act or those conditions provided in the written policies and procedures required in subsection A of this section.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-300. Contract awards to Area Agencies on Aging.

The Virginia Department for Aging and Rehabilitative Services is authorized under § 51.5-135 of the Code of Virginia to award grants or contracts, or a combination of both, to a designated Area Agency on Aging to administer programs under an approved area plan. The Virginia Department for Aging and Rehabilitative Services has determined that the contracts mechanism is the appropriate vehicle for making awards to Area Agencies on Aging in furtherance of its purpose under its approved area plan. Even though the procuring mechanism is called a contract, for purposes of interpreting federal regulations, the provisions for grants and grantees shall apply to an Area Agency on Aging rather than the provisions for contracts.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-310. Unauthorized awards to debarred, suspended, or high-risk subcontractors.

A. An Area Agency on Aging shall make awards only to responsible subcontractors possessing the ability to perform successfully under the terms and conditions of the proposed contract. Consideration shall be given to such matters as the integrity of the subcontractor, compliance with public policy, record of past performance, and financial and technical resources.

B. An Area Agency on Aging shall not execute any subcontract at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

C. An Area Agency on Aging shall require its proposed subcontractors at any tier to certify whether they have been excluded from participation in federal assistance programs.

D. If an Area Agency on Aging believes that there are compelling reasons for executing a subcontract with a debarred, suspended, or voluntarily excluded provider in a particular area, the area agency may apply to the Virginia Department for Aging and Rehabilitative Services for a waiver from this requirement. Such waivers shall be granted only in unusual circumstances upon the written determination, by an authorized Virginia Department for Aging and Rehabilitative Services official, that there are compelling reasons justifying the participation.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-320. Authority for multiyear awards.

A. An Area Agency on Aging may enter into a multiyear subcontract provided such contract has a completion date, a binding schedule of costs for each year of the entire contract period, a satisfactory performance clause, and a funds-availability clause. An optional-year contract is the preferred contracting mechanism for multiyear awards.

B. The maximum period of time for a multiyear subcontract from the effective date of the contract to close-out shall be five years. Any subcontracts for periods longer than five years shall be reprocured and renegotiated at the end of the five-year period through normal competitive processes.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-330. Preference for small business and minority firm awards of grants and contracts..

It is the Virginia Department for Aging and Rehabilitative Services' policy that a fair share of subcontracts be awarded to small and minority business firms and nonprofit organizations. Accordingly, affirmative steps shall be taken to assure that small and minority businesses are utilized, when possible, as sources of supplies, equipment, construction, and services.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-340. Contract and competitive grants appeals process.

An Area Agency on Aging shall establish an appeals and hearing process to resolve disputes and claims involving contracts and competitively awarded grants, if such are authorized. At a minimum, this process shall describe:

1. Applicable procurement rules to be used in the appeals process;
2. Designation of an impartial officer to hear and pass on the dispute or claim;
3. Form and timing of the claim to be filed;
4. Right of the claimant to counsel;
5. Hearing procedures;
6. Manner and timing of the hearing officer's opinion;
7. Right to appeal to the Virginia Department for Aging and Rehabilitative Services; and
8. Retention and disposal of the hearing's record.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 6. General Program Income

22VAC30-60-350. Acceptable methods for general program income.

An Area Agency on Aging is authorized to observe the additional-costs alternative. Under this alternative, all general program income earned by the Area Agency on Aging shall be retained by the area agency and added to funds committed to the project by the Virginia Department for Aging and Rehabilitative Services and shall be used to further eligible program objectives.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-360. Treatment of interest earned on advances.

Interest earned on federal funds passed through the Virginia Department for Aging and Rehabilitative Services is to be considered general program income. Such funds may be used as cash match in the supportive services and nutrition programs, to expand any approved program, or to further any activity or benefit to the elderly as approved by the governing board of the Area Agency on Aging. Such funds may not be used to meet the costs associated with the preparation and administration of the area plan.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-370. Allowable investment and custody policies..

The investment of available federal or state funds shall be directed by two principles: (i) all funds received must be protected from unreasonable loss or diminished value, and (ii) investments must be selected to earn a reasonable return on funds not expected to be disbursed immediately. In furtherance of such principles, the following investment mechanisms are authorized:

1. Any interest bearing checking account that is fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

2. NOW accounts.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-380. Timing of spending general program income.

In general, there is no time restriction as to when general program income under the additional-costs alternative must be spent. To avoid any excessive accumulation of funds and the abuse of this alternative, the Virginia Department for Aging and Rehabilitative Services has determined that general program income earned under the additional-costs alternative shall be spent in the year in which it is earned. If it is earned near the end of the agency's fiscal year and the agency is unable to spend this income by then, it shall at least be spent before the expenditure of any federal or state funds in the beginning of the next fiscal year.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-390. Special internal control safeguards over participant contributions.

Because of the cash nature of participant contributions, agencies shall exert special safeguards over such funds. At a minimum, agencies receiving participant contributions shall employ one or more of the following precautions: (i) have two persons count all cash contributions; (ii) deposit the amount intact; (iii) make deposits on a daily basis; (iv) maintain all cash contributions in a secure place until deposit; (v) regularly justify cash counts against deposit receipts received from the bank; (vi) for home-delivered meals, maintain lock boxes in the vans and encourage mailed contributions; (vii) provide a clearly stated policy concerning provision of client receipts, in duplicate, for each cash transaction; and (viii) rotate staff periodically, if staffing permits.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-400. Area Agency on Aging written policies on program income.

An Area Agency on Aging shall formally adopt written policies and procedures, approved by the governing board, regarding collection, disposition, and accounting for (i) program income, including participant contributions, and (ii) interest and other investment income earned on advances of federal and state funds.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 7. Bank Balance and Check Handling Procedures

22VAC30-60-410. Rules on cash management by Area Agencies on Aging.

A. An Area Agency on Aging shall institute procedures to minimize their cash balances of funding provided by the Virginia Department for Aging and Rehabilitative Services. Accordingly, Area Agencies on Aging shall tailor projections of cash requirements from the Virginia Department for Aging and Rehabilitative Services to coincide closely with the actual disbursement of such funds.

B. An Area Agency on Aging shall adopt procedures for minimizing the time elapsed between the receipt of federal and state funds and their disbursement.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-420. Fidelity bond requirements.

For all personnel handling cash or preparing or signing checks, the Area Agency on Aging shall obtain minimum insurance coverage of three-months' cash flow, including checks received, in blanket fidelity bond coverage.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 8. Monitoring of Subcontractors of Area Agencies on Aging

22VAC30-60-430. Area Agency on Aging written policies on subcontractor monitoring.

Each Area Agency on Aging shall adopt formal written policies and procedures, approved by the governing board, for monitoring their subcontractors and subgrantees under the approved area plan and for follow-up on any findings.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 9. Carry-Over Balance Policies

22VAC30-60-440. Carry-over funds.

Carry-over funds may represent obligated but unspent funds. For such funds to be available for expenditure in a subsequent fiscal year, the Virginia Department for Aging and Rehabilitative Services must reauthorize in the subsequent area plan such funds for an area agency to obligate and expend. An Area Agency on Aging shall request authority for such reauthorization of funds. In general, carry-over balances from Titles III-B, III-C(1), III-C(2), and III-D should not exceed 10% of the federal obligation for the new fiscal year, computed separately. This 10% carry-over policy does not apply to Virginia general fund moneys; all of general fund moneys must be spent by June 30 of the fiscal year in which they have been awarded. Approval for the use of such federal carry-over funds shall be granted by the Virginia Department for Aging and Rehabilitative Services only for specific uses and for a specified period of time.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 10. Audits

22VAC30-60-450. Area Agencies on Aging retain own independent public accountants.

A. Each Area Agency on Aging shall retain its own public accountant, who is sufficiently independent of those who authorize the expenditure of federal funds, to produce unbiased opinions, conclusions, or judgments. The auditor shall meet the independence criteria established in Chapter 3 of the Government Auditing Standards, as amended, (the Yellow Book) published by the U.S. General Accounting Office.

B. In arranging for audit services, an Area Agency on Aging shall follow procurement standards for retaining professional services. Small audit firms and audit firms owned and controlled by minority individuals shall have the maximum practical opportunity to participate in audit contracts awarded.

C. In soliciting and retaining auditors to conduct the annual audit, an Area Agency on Aging must make specific reference in their request for proposals and any resulting subcontract that the auditor shall be required to conform the audit to the requirements in Audits of States, Local Governments, and Nonprofit Organizations, OMB Circular A-133; and the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, OMB Circular A-110, as applicable. This would relate to the scope of the audit, standardized audit report, reportable events, monitoring by the Virginia Department for Aging and Rehabilitative Services and quality assurance review, access to audit work papers, plan for corrective action, and resolution of audit findings.

D. The audit solicitation and any resulting contract for audit services shall make specific reference that "if it is determined that the contractor's audit work was unacceptable as determined by the Virginia Department for Aging and Rehabilitative Services or a federal supervisory agency, either before or after a reasonable time after a draft or final report was issued, because it did not meet the Virginia Department for Aging and Rehabilitative Services' standards, the AICPA Standards, or those promulgated by the Comptroller General of the United States, the contractor may, at the area agency's written request, be required to reaudit at its own expense and resubmit a revised audit report which is acceptable."

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012; amended, Virginia Register Volume 35, Issue 16, eff. May 1, 2019.

22VAC30-60-460. Frequency of audits and due date for submission of audit reports.

A. An audit of Area Agencies on Aging and their grantees and cost-reimbursement contractors shall be conducted at least annually.

B. The audit report shall be submitted to the Virginia Department for Aging and Rehabilitative Services by December 15. If, for reasons within the control of the Area Agency on Aging, this report cannot be submitted by this time, funding of the agency may be suspended by the Virginia Department for Aging and Rehabilitative Services. An Area Agency on Aging shall make a written request for an extension of time for justifiable reasons to the Virginia Department for Aging and Rehabilitative Services before December 15. Such request shall be submitted with sufficient time for Virginia Department for Aging and Rehabilitative Services' review and approval.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-470. Scope of audit report.

A. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

B. The audit shall cover the entire operations of the agency or, at the option of that agency, it may cover departments, agencies or establishments that received, expended or otherwise administered federal financial assistance during the year. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

C. The auditor shall determine whether:

1. The financial statements and the accompanying schedules of the agency, department, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles.

2. The organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations.

3. The organization has complied with laws and regulations that may have a material effect on its financial statements and on each major federal assistance program.

D. The independent public accountant shall render an opinion on three accompanying schedules: Status of Funds, Costs by Program Activity, and Status of Inventories.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-480. Area Agency on Aging audit resolution.

Each Area Agency on Aging shall have a systematic method to assure the timely and appropriate resolution of audit findings and recommendations.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 11. Close-Out Procedures

22VAC30-60-490. Close-out.

A. In the event of termination, all property, documents, data, studies, and reports purchased or prepared by the Area Agency on Aging or its subgrantees or subcontractors under its approved area plan shall be disposed of as directed by the Virginia Department for Aging and Rehabilitative Services. The terminated Area Agency on Aging shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred up to the point of receipt of the termination notice in satisfactory performance under its approved area plan. In spite of the above, the Area Agency on Aging shall not be relieved of liability to the Virginia Department for Aging and Rehabilitative Services for damages sustained by the Virginia Department for Aging and Rehabilitative Services by virtue of any breach of the approved contract and area plan. The Virginia Department for Aging and Rehabilitative Services may withhold for purpose of a set-off any reimbursement of funds to the Area Agency on Aging until such time as the exact amount of damages due the Virginia Department for Aging and Rehabilitative Services from the Area Agency on Aging is agreed upon or otherwise determined.

B. In the event of rescission, revocation, or termination, all documents and other materials related to the performance under the Area Plan for Aging Services shall become the property of the Virginia Department for Aging and Rehabilitative Services.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-500. Bankruptcy.

Approval of the area plan shall be withdrawn and any contractual relations terminated for cause if, upon 60 days notice, either party is adjudicated bankrupt, is subject to the appointment of a receiver and fails to have such receiver removed within 60 days, has any of its property attached and fails to remove such attachment within 60 days, or becomes insolvent or for a period of 60 days is unable to pay its debts as the same become due.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-510. Follow-up actions to grant or subgrantee close-out or termination.

As a consequence of close-out or termination, the following steps shall be taken:

1. Upon request, the Virginia Department for Aging and Rehabilitative Services shall promptly pay the contractor for all allowable reimbursable costs not covered by previous payments.

2. The contractor shall immediately refund or otherwise dispose of any unobligated balance of cash advanced to the contractor, in accordance with instructions from the Virginia Department for Aging and Rehabilitative Services.

3. The contractor shall submit, within 90 days of the date of close-out or termination, all financial, performance, and other reports required by the terms of the agreement. The Virginia Department for Aging and Rehabilitative Services may extend the due date in response to a written or oral request from the contractor. The department shall respond in writing to the request.

4. The Virginia Department for Aging and Rehabilitative Services shall make a settlement for any upward or downward adjustment of the federal share of costs, to the extent called for by

the terms of the agreement.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Article 12. Record Management

22VAC30-60-520. Area agency record retention requirements.

Fiscal records shall be maintained for five years from the date the Virginia Department for Aging and Rehabilitative Services submits to the U.S. Department of Health and Human Services its final expenditures report for the funding period. This period may be extended, if an audit, litigation, or other action involving the records is started before the end of the five-year period and the records must be retained until all issues arising from the action are resolved or until the end of the five-year period, whichever is later.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-530. Contractors and subcontractors.

In the case of grantees/contractors and subcontractors, there shall be a five-year record retention requirement from the date when final payment is made and all other pending matters are closed. Grantees/contractors and subcontractors of the Virginia Department for Aging and Rehabilitative Services shall include a provision in contracts for the five-year record retention period and for access to the contractor's records by authorized representatives of the Commonwealth of Virginia and the United States Government.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-540. Other record retention requirements.

An Area Agency on Aging and its subcontractors/subgrantees shall also comply with the record retention requirements of the State Corporation Commission and the Internal Revenue Service for corporations and individuals.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-550. Area agency policy and procedures.

An Area Agency on Aging shall have written policies and procedures approved by the governing board regarding the retention and access to all financial and programmatic records, supporting documents, statistical records, and other records.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-560. Access to records.

In addition to the head of the federal sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, the Commissioner of the Virginia Department for Aging and Rehabilitative Services and the Comptroller of the Commonwealth of Virginia, or their duly authorized representatives, shall have the right of access to any pertinent books, documents, papers, and records of the Area Agency on Aging and its subcontractors to make audits, examinations, excerpts, and transcripts.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

Part V. Long-Term Care Ombudsman Program

22VAC30-60-570. Office of the State Long-Term Care Ombudsman.

A. When handling complaints, the Office of the State Long-Term Care Ombudsman shall take the following steps:

1. Staff of the Office of the State Long-Term Care Ombudsman shall provide complaint counseling to an appropriate person alleging a reasonably specified complaint to assist such person in resolving the complaint himself.

2. If the person alleging a reasonably specified complaint is unable or unwilling to resolve the complaint himself, staff of the Office of the State Long-Term Care Ombudsman will attempt to obtain reasonably specific information from the complainant, in accordance with which staff of the Office of the State Long-Term Care Ombudsman shall assess the complaint to determine

the most appropriate means of investigating and resolving the complaint.

a. Staff of the Office of the State Long-Term Care Ombudsman shall investigate reasonably specified complaints reported to the office which allege action, inaction, or decisions of providers of long-term care services (or their representatives) which may adversely affect the rights, health, welfare, or safety of the person complaining or the recipient of services.

b. Staff of the Office of the State Long-Term Care Ombudsman shall initiate the investigation of a complaint within two working days of the date on which the complaint is received.

c. Staff of the Office of the State Long-Term Care Ombudsman shall refer complaints concerning long-term care regulatory issues and allegations of abuse, neglect, and exploitation to the appropriate agency for investigation, pursuant to §§ 51.5-139 through 51.5-142 of the Code of Virginia.

d. When the complaint alleges abuse, neglect, or exploitation, staff of the Office of the State Long-Term Care Ombudsman shall make a referral by telephone immediately to the appropriate Adult Protective Services staff in the appropriate local Department of Social Services. "Appropriate local Department of Social Services" means the Department of Social Services (i) in the locality where the alleging person resides, or (ii) in the locality where the abuse, neglect, or exploitation is alleged to have occurred, or (iii) in the locality where the complaint is discovered.

e. Staff of the Office of the State Long-Term Care Ombudsman shall forward a reasonably specified complaint to the appropriate regulatory agency or to the Adult Protective Services unit within three working days of the date on which the complaint is received.

f. Staff of the Office of the State Long-Term Care Ombudsman shall complete their investigation of a complaint handled by the office within 45 working days of the date on which the complaint is received.

g. No action shall be taken or threatened by any long-term care provider or facility for the purpose of punishing or retaliating against any resident, ombudsman, employee, or other interested person for presenting a complaint under this regulation or for providing assistance to the complaining party.

B. Staff of the Office of the State Long-Term Care Ombudsman shall comply with the provisions of confidentiality required by § 51.5-141 of the Code of Virginia and the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq. of the Code of Virginia) concerning confidentiality with respect to the identity of the alleging person or the service recipient and the records maintained by the office.

C. Staff of the Office of the State Long-Term Care Ombudsman shall provide identifying information to the Adult Protective Services unit of the Department of Social Services concerning the affected person or service recipient alleged to be a victim of abuse, neglect, or exploitation.

D. Staff of the Office of the State Long-Term Care Ombudsman may provide identifying information to appropriate agencies involved in the investigation of complaints, at the discretion of the State Ombudsman.

E. All substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for Aging and Rehabilitative Services, shall be bound by the provisions of subsections A through C of this section.

F. Section 51.5-140 of the Code of Virginia provides to the staff of the Office of the State Long-Term Care Ombudsman the right of access to long-term care facilities and to the residents and records of such facilities.

G. All substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for Aging and Rehabilitative Services, shall be provided the same rights of access as those set forth in subsection F of this section.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-580. Substate long-term care ombudsman programs.

A. An Area Agency on Aging shall obtain approval of its Area Plan for Aging Services from, and shall execute a contract with, the Virginia Department for Aging and Rehabilitative Services before it operates a substate ombudsman program. Such contract shall be in the form of an agreement incorporating as the scope of services the approved Area Plan for Aging Services or approved amendments thereto, signed by both parties. The contract shall provide assurances by the Area Agency that adequate legal representation, should any be necessary, shall be supplied on behalf of representatives of the substate ombudsman program acting in the scope of their services.

B. The actions of the representatives of the substate ombudsman program when acting on behalf of the Office of the State Long-Term Care Ombudsman pursuant to the duly executed contract, shall be governed, with regard to confidentiality requirements and rights of access, by the provisions of 22VAC30-60-570 B through 22VAC30-60-570 D.

C. The authority of the substate ombudsman program shall be limited to the geographic area specified in the approved Area Plan for Aging Services or in an approved area plan amendment, recognized as the scope of services of the contract.

D. The following steps will be observed under the circumstances described:

1. Staff of the substate ombudsman program shall comply with the complaint handling and reporting procedures established by the Office of the State Long-Term Care Ombudsman, in

accordance with 22VAC30-60-570 A and instructions provided by the Office of the State Long-Term Care Ombudsman.

2. Staff of the substate ombudsman program shall forward all complaints to the Office of the State Long-Term Care Ombudsman within three working days of the date on which the complaint is received by the substate ombudsman program.

3. Staff of the substate ombudsman program shall forward all complaints regarding long-term care services provided directly by or under contract by the Area Agency on Aging to the Office of the State Long-Term Care Ombudsman within one working day of the date on which the complaint is received by the substate ombudsman program.

4. Staff of the substate ombudsman program shall forward all complaints regarding the Office of the State Long-Term Care Ombudsman to the Virginia Department for Aging and Rehabilitative Services within one working day of the date on which the complaint is received by the substate ombudsman program.

E. If the substate ombudsman program utilizes volunteers to visit long-term care facilities, such utilization must be indicated in the Area Plan for Aging Services and specified in the contract. Such volunteers shall be screened and trained by the substate ombudsman program prior to their assuming their responsibilities.

F. Each volunteer in a substate ombudsman program shall sign an agreement with the program which specifies the responsibilities of the volunteer, in accordance with the Area Plan for Aging Services, as approved, and the executed contract.

G. The substate ombudsman program shall assure that each volunteer has fulfilled the minimum training requirements established by the Office of the State Long-Term Care Ombudsman Program and has signed the agreement required by 22VAC30-60-580 F.

H. The substate ombudsman program shall submit accurate and timely reports in accordance with instructions provided by the Office of the State Long-Term Care Ombudsman.

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

22VAC30-60-590. Conflict of interest.

Staff and representatives of the Office of the State Long-Term Care Ombudsman and staff and representatives of the substate ombudsman program shall have no conflicts of interest with regard to long-term care facilities, long-term care providers, and long-term care issues, pursuant to the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia).

Statutory Authority

§ 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

Historical Notes

Derived from Virginia Register Volume 29, Issue 2, eff. October 24, 2012.

DOCUMENTS INCORPORATED BY REFERENCE (22VAC30-60).

OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments, revised October 7, 1994, and further amended August 29, 1997

OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, revised November 19, 1993, amended September 30, 1999

GAO-03-673G, Government Auditing Standards (the Yellow Book), Chapter 3, 2011 Revision

OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations, revised June 27, 2003, and June 26, 2007

Statutory Authority

Historical Notes