

DEPARTMENT OF COMMUNITY HEALTH

OFFICE OF SERVICES TO THE AGING

STATE AND LOCAL PROGRAMS ON AGING

(By authority conferred on the office of services to the aging by section 11 of Act No. 180 of the Public Acts of 1981, being S400.591 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 400.20101 Definitions; A to G.

Rule 101. As used in these rules:

(a) "Act" means Act No. 180 of the Public Acts of 1981, being S400.581 et seq. of the Michigan Compiled Laws.

(b) "Area agency" or "area agency on aging" means the single local agency or organization within each planning and service area which plans for and administers the delivery of a comprehensive and coordinated system of supportive and nutrition services to older persons and which is designated pursuant to section 4(1) of the act.

(c) "Area plan" means the document which is developed by an area agency, is approved by the commission, and which describes the comprehensive and coordinated system for providing supportive and nutrition services to older persons in the planning and service area.

(d) "Commission" means the commission on services to the aging established by section 3(1) of the act.

(e) "Comprehensive and coordinated system" means a program of interrelated supportive and nutrition services designed to meet the needs of older persons in a planning and service area.

(f) "Contract" means a written agreement directly with the office or under the provisions of an area plan which establishes the rights and responsibilities of respective parties for the quality and quantity of goods or a service being provided.

(g) "Contractor" means the party or parties specified in a contract to receive remuneration in return for goods or services rendered.

(h) "Director" means the director of the office of services to the aging as established by section 5 of the act.

(i) "Grant" means an award of funds by the office to an area agency for administrative and contract purposes under provisions of an approved area plan or to another entity in accordance with criteria established by the commission.

(j) "Grantee" means the entity to which a grant is awarded and which is accountable to the office for the use of funds provided.

History: 1983 AACCS.

R 400.20102 Definitions; M to S.

Rule 102. As used in these rules:

(a) "Means test" means the measure of income, financial resources, or real property as a basis for establishing eligibility or service limits to an older person.

(b) "Nonprofit" means a nonprofit corporation registered and in good standing with the corporations and securities bureau, Michigan department of commerce, pursuant to Act No. 327 of the Public Acts of 1931, as amended, being S450.62 et seq. of the Michigan Compiled Laws.

(c) "OAA" means the older americans act of 1965, as amended, 42 U.S.C. S3001 et seq.

(d) "Office" or "state agency" means the office of services to the aging created by section 5 of the act.

(e) "Older person" means a state resident who is 60 years of age or older, and the spouse of the older persons, regardless of age.

(f) "Program cost" means all cost incurred by a grantee in managing, administering, and delivering services to older persons.

(g) "Program income" means that income accruing through payments or contributions received in connection with the provision of a service to older persons.

(h) "PSA" or "planning and service area" means a geographic area of the state designated by the commission for purposes of area plan development and area agency designation.

(i) "Service provider" means an entity under contract to a grantee, that provides services to older persons, under provisions of an approved area plan.

(j) "Service recipient" means an older person who receives services directly from a service provider.

(k) "State plan" means the document required by section 6 of the act and the OAA.

History: 1983 AACCS.

#### R 400.20103 Services system.

Rule 103. The system or organization through which financial resources shall flow in providing services and programs to the aging under provision of the act and the OAA consists of the following:

(a) The office, which is administered by the director to perform those functions and responsibilities specified by sections 5 and 6 of the act.

(b) The commission, which is responsible for those functions and responsibilities specified by sections 3 and 4 of the act.

(c) A system of grantees to plan and allocate resources for services and programs to older persons. Grantees may be area agencies established in accordance with section 9 of the act or other entities designated in accordance with criteria approved by the commission.

(d) A system of entities authorized to provide supportive and nutrition services directly to older persons. Such services shall be provided through contractual agreements in accordance with either of the following provisions:

(i) By grantees contracting with service providers under the provision of an area plan or other criteria approved by the commission and the state agency.

(ii) By direct contract with the state agency subject to approval by the commission.

(e) A service recipient as the beneficiary of programs and services to the aging.

History: 1983 AACCS.

#### R 400.20104 Grantees; reporting responsibilities and requirements.

Rule 104. (1) A grantee shall do all of the following:

(a) Submit to the office program and financial reports necessary to comply with state and federal requirements, as instructed in procedures issued by the director or as made part of the grant award instrument.

(b) Submit reports on time and in a manner prescribed by the director as part of the procedures issued pursuant to subdivision (a) of this subrule.

(c) Be responsible for obtaining and reporting necessary information from those entities with whom contracts have been made.

(2) A grantee shall obtain reports from contractors in a manner consistent with procedures issued pursuant to subrule (1) of this rule.

(3) A grantee shall be legally constituted as required under provisions of the act, the OAA, or requirements issued by the state agency.

History: 1983 AACCS.

#### R 400.20105 Grantees; contracting practices.

Rule 105. (1) A grantee shall not consummate a contract using funds made available, in whole or in part, through the office until an area plan or other document detailing the proposed use for financial assistance has been approved by the commission for a specified time period and notice of authorization to encumber grant funds has been issued by the director.

(2) A grantee shall contract for only those services enumerated in the area plan or other document detailing the proposed use of funds which has been approved by the commission as provided in subrule (1) of this rule.

(3) A grantee shall select contractors through a request for proposal process which gives full opportunity for free and open competition among bidders. Timely written notice shall be given to those potential contractors not selected through the process, and shall state the reasons for the grantee's decision and notice of the right to appeal.

(4) A grantee shall ensure that an assessment of each grantee's contractors is conducted in accordance with procedures and criteria issued pursuant to R 400.20301.

History: 1983 AACCS.

R 400.20106 Grantees; written operating procedures required.

Rule 106. (1) A grantee receiving funding or delegated authority received under provisions of the act shall have written procedures to govern the conduct of its operations and functions. Procedures shall describe the administrative and policy structure of the entity. Procedures shall describe the methods used in dealing with contractors or other agencies and incorporate those applicable procedures issued by the director.

(2) A grantee's written procedures shall be officially adopted by action of the entity's governing body. Before adoption, a grantee shall provide an opportunity for comment on the proposed operating procedures by local governments, contractors, and affected agencies. Notice of opportunity for comment shall be published in a newspaper or newspapers of general circulation or by direct mail to affected parties within the grantee's geographic jurisdiction or within the PSA. A prior notice of 14 days shall be provided for public comment before the procedures are adopted by the grantee.

(3) A grantee shall provide copies of the written procedures to each of its contractors and to the office without cost. Other parties may be charged a fee not to exceed the actual per copy cost of reproduction.

History: 1983 AACCS.

R 400.20107 Grantees; procedures for appeals and appeals hearings required.

Rule 107. (1) A grantee shall establish an appeals mechanism which provides the opportunity for contractors or service providers to appeal any of the following:

(a) A service provider's contract that has been suspended, terminated, or not renewed, except for cause of termination or non-renewal.

(b) A contractor's or potential contractor's application, or proposal to provide services, that was denied as provided in R 400.20105.

(c) An administrative action that imposes or limits requirements on the contractor or service provider.

(2) A grantee, through action of its governing body, shall establish and issue an appeals procedure for items covered by subrule (1)(a) and (b) of this rule which includes all of the following:

(a) Written notice to the contractor or service provider of grantee action to suspend, terminate, not renew, or deny a contract, including a notice of right to appeal.

(b) Notice that information or criteria on which the grantee's action was based is available for review by affected parties.

(c) Notice that the affected party may appear in person or by a designated representative to appeal the grantee's action.

(d) Provision for, as the initial step of any appeal, a meeting with the governing body within 30 days to review items in dispute and seek clarification or resolution to the issue in dispute. A record of the meeting, including relevant facts, shall be maintained, and a determination shall be rendered in writing by the governing body. Issues unresolved shall be appealed to arbitration.

(e) A specification that appeals proceedings shall be conducted within an aggregate timeframe of 60 days, within which all of the following shall occur:

(i) A notice of right to appeal shall be sent to the contractor within 7 days of the grantee's action.

(ii) An appeal shall be requested by the aggrieved party, in writing, within 10 days of notice as provided by paragraph (i) of this subdivision.

(iii) A hearing shall be scheduled and completed.

(iv) A decision shall be rendered and reported, in writing, to the affected parties.

(f) Notice shall be given that decisions of the governing body may be appealed to arbitration in accordance with the provisions of the American arbitration association or a similar recognized professional arbitration organization. The arbiter shall determine the distribution of costs between the parties involved in the appeal.

(g) Notice shall be provided that a grantee's hearing decision may be appealed to the state agency and that the state agency shall review and act on such appeal as provided by R 400.20309(1).

(h) A description of those circumstances under which a request for appeal hearing may be refused; such circumstances shall be limited to failure to comply with the appeal procedures required by this subrule or, to lack of standing by the appellant.

(3) A grantee, through action of its governing body, shall issue administrative appeals procedures for items covered by subrule (1)(c) of this rule which shall include all of the following:

- (a) Written notice to all contractors and service providers of the administrative appeals process.
- (b) Written notice that contractors or service providers may appeal administrative complaints to the grantee's governing body.
- (c) Written notice to the appellant of the governing body's determination within 30 days of the appeal's filing date.
- (d) Written notice of decision shall include a statement that appellants may appeal the decision to the state agency within 10 days of the written notice provided by subdivision (c) of this subrule.
- (e) The grantee, prior to final adoption of its procedures as required by subrules (2) and (3) of this rule, shall first submit the procedure to the state agency for review for content and form as required by R 400.20309.

History: 1983 AACCS.

R 400.20108 Contractors; responsibilities and requirements.

Rule 108. (1) A contractor shall do all of the following in providing services for older persons:

- (a) Meet state and local licensing requirements which are necessary for providing a specific service.
  - (b) Ensure that funds are used for only those services specified in the contract instrument.
  - (c) Systematically obtain the views of service recipients as a basis for maintaining and improving the service.
  - (d) Provide systematic reports to the grantee as required by procedures issued by the office or made a part of the contract instrument.
- (2) A contractor shall provide a recommended schedule for contributions by service recipients when required in procedures issued by the office.
- (3) A contractor shall conform to service requirements issued by the state agency in accordance with R 400.20305. Such service requirements shall be made part of a contract instrument by reference.
- (4) A contractor shall be any 1 of the following legally constituted entities:
- (a) A nonprofit corporation.
  - (b) A for-profit corporation, established pursuant to Act No. 284 of the Public Acts of 1972, as amended, being S450.1101 et seq. of the Michigan Compiled Laws.
  - (c) A unit of general purpose government or agency thereof.
  - (5) Evidence of legal status is required as a condition to the receipt of funds provided under the act or the OAA.

History: 1983 AACCS.

R 400.20109 Director; duties and responsibilities.

Rule 109. The duties of the director include all of the following:

- (a) Organize and align the state agency, including its personnel and financial resources, to perform those duties and responsibilities established by the act.
- (b) Consummate grant, contract, or cooperative agreements between the state agency and the federal government, area agencies, other state or local agencies and organizations so as to direct and channel resources which provide services to older persons.
- (c) Serve as the official liaison between the commission and the state agency and ensure that those state agency functions which require commission action or approval are coordinated in a timely and informed manner.
- (d) Ensure that the commission, grantees, and contractors are routinely notified of policy changes or program modifications for those programs administered by the state agency.
- (e) Establish special committees, advisory groups, or task forces as may be needed to achieve the orderly development and implementation of the state agency's programs.

History: 1983 AACCS.