

Wyoming Administrative Rules

Health, Department of

Aging Division

Chapter 4: Older Americans Act Programs

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WYOMING DEPARTMENT OF HEALTH
AGING DIVISION
OPERATIONAL RULES

CHAPTER 4

OLDER AMERICANS ACT PROGRAMS

Section 1. General Provisions.

(a) Responsibilities of grantees include:

(i) Administration of grant in accordance with these Rules and Regulations and the Older Americans Act.

(b) Non-eligible participants' fees for services and meals:

(i) Non-eligible participants shall pay the cost for services as established by the grantee and approved by the Division.

(A) Failure to make such payment will result in termination of service provision.

(ii) Non-eligible participants shall pay the cost for meals as follows:

(A) Staff and guests under age sixty (60) may consume a meal only when it will not deprive an eligible older person of an opportunity to receive a meal. These individuals are required to pay the full cost of any meal received.

(I) The required fee for the meal will be established annually by the Division.

(B) Payment for non-eligible participants will be documented.

(C) Failure to make such a payment or to be documented by the grantee for non-eligible participants' meals will result in termination of the meal provision.

(iii) Grantees may offer a meal to nutrition services staff who directly produce the meals (i.e., cooks, cooks-helpers, dishwashers, bakers, can consume a meal at no-cost to them) as a non-taxable benefit.

(iv) Grantees may offer a meal to staff members involved in the delivery of meals (i.e., bus drivers that deliver home delivered meals and who are under sixty (60) may eat a meal) for the charge of the state average raw food cost.

(v) Grantees may offer a meal to the director or site manager who is responsible for the management of the program for the charge of the state average raw food cost.

(vi) Grantees may offer a meal to individuals providing volunteer services during the meal hours by giving the volunteer an opportunity to donate for the meal. Each

grantee shall define the volunteers eligible for the meal. If the volunteer is over 60, he/she shall be counted as an eligible participant. If under the age of 60, donations shall be included in program income.

(vii) Grantees may offer a meal to other staff (i.e., bookkeeper, secretary, nurse, homemakers, and outreach workers) for the amount of the guest charge.

(viii) Grantees may offer a meal to children under the age of 12 accompanying their grandparents to the nutrition site for the charge of the state average raw food cost.

(ix) Grantees offering a meal to handicapped individuals under the age of sixty (60) will be charged according to eligibility criteria in Section 1.

(c) Program income generated by a grantee will revert to the grant fund as prescribed in the Financial Management and Accounting System of the Division.

(i) Such income shall be expended first, followed by federal, state and local funds utilizing the match requirements in Chapter 5, Section 8.

(d) Intake form:

(i) Each grantee shall record the following intake information at each site for each elderly individual:

- (A) Participant's name, address and telephone number;
- (B) Date of birth; if not known, estimate of age;
- (C) Physician's name, address and telephone number;
- (D) Name, address, telephone of person to contact in case of emergency;
- (E) Handicaps, or conditions, of which staff should be aware;
- (F) Potential supportive service needs expressed by the participant and/or identified by staff;
- (G) Race;
- (H) Gender;
- (I) Special dietary needs; and
- (J) Information regarding income (e.g., is personal income over or under current poverty guidelines).

(ii) The personal record shall be obtained and kept in accordance with the following:

- (A) Participants will be informally interviewed by appropriate staff

person within four (4) weeks after they have begun receiving nutrition or social services.

(B) Personal information obtained from the interview shall be kept confidential and shall be released only with the prior written consent of participant. (A release of information form shall be developed by the Division.)

(iii) Personal record information will not be used as a pre-requisite to program participation. If participant refuses to provide any part of information requested, this will be recorded on the in-take form.

(e) Community focal points: A community focal point shall be identified in all grants, contracts, and agreements. A facility so designated must, at a minimum:

(i) Be open five (5) days a week, Monday-Friday; between 10:00 A.M. and 2:00 P. M.;

(ii) Provide information and assistance service;

(iii) Primarily provide services for the elderly; and

(iv) Preference for designation will be given to facilities that serve a meal.

(f) Contributions for meals and services:

(i) Each grantee must:

(A) Provide each older person with an opportunity to contribute voluntarily to the cost of the meal or service;

(B) Protect the privacy of each person with respect to these contributions;

(C) Use all supportive services contributions only to expand or improve these services under Section 2;

(D) Use all nutrition services' contributions only to expand or improve these services under Section 3; and

(E) Develop a suggested contribution schedule for services and meals provided;

(I) Income ranges must be considered in the development of the schedule.

(II) A means test may not be used.

(ii) A grantee that receives AoA funds shall not deny any older person meals or services because the older person will not or can not contribute the cost of such meals or services.

Section 2. Supportive Services and Senior Centers.

- (a) Supportive services which shall be considered for funding include:
- (i) Health services, outreach, in-home services, caregiver training, education and training, information, assistance, recreation, counseling and referral services;
 - (ii) Transportation services to facilitate access to supportive and/or nutrition services;
 - (iii) Services designed to inform, encourage, and assist older individuals in accessing and utilizing the services and facilities available to them; and
 - (iv) Services designed to:
 - (A) Assist older persons with obtaining adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their home in conformity with minimum standards of safety;
 - (B) Adapt homes to meet the needs of older individuals with physical disabilities;
 - (C) Prevent unlawful entry into residences of elderly individuals, through installation of security devices or structural modifications;
 - (D) Assist older persons in avoiding institutionalization and in returning them to their communities;
 - (E) Counsel the elderly regarding legal, health and insurance issues and concerns;
 - (F) Enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity and exercise;
 - (G) Provide pre-retirement and second career counseling for older individuals;
 - (H) Provide health screening to detect or prevent illnesses that occur most frequently in older individuals;
 - (I) Meet the unique needs of older disabled individuals;
 - (J) Promote crime prevention and participation in victim assistance programs;
 - (K) Prevent abuse, neglect or exploitation of older individuals;
 - (L) Enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services;
 - (M) Provide facility in-service training and staff development; and

(N) Develop and provide any other services which meet the standards prescribed by the Division and are necessary for the general welfare of older persons.

(b) Grantee will provide services with emphasis based on the following target populations:

(i) Provision of basic care for an eligible older person who is "at risk" of institutionalization;

(ii) Services targeted to meet the needs of elderly of greatest economic need;

(iii) Services targeted to meet the needs of elderly of greatest social need; and

(iv) Services targeted to meet the needs of minority elderly, with emphasis on low income minorities.

Section 3. Nutrition Services.

(a) Nutrition Responsibilities of State Aging Division:

(i) The Division will perform the following nutrition duties with the advice of a dietitian or an individual with comparable expertise:

(A) Assist in planning nutrition services;

(B) Coordinate nutrition services; and

(C) Monitor nutrition services.

(ii) The Division, when selecting a home-delivered meal provider, will consider the use of organizations which have demonstrated the efficient provision of home-delivered meal services.

(b) Eligibility and delivery of Congregate Meal Service:

(i) Congregate meals may be served to individuals who are:

(A) Sixty (60) years of age or over;

(B) The spouse (who may be less than sixty (60)) of an eligible participant;

(C) Handicapped/disabled less than age sixty (60) who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided;

(D) Disabled and who reside in a noninstitutional household with an older eligible participant and accompany the older participant to the meal site; or

(E) Volunteers who are not sixty (60) years of age and provide services during the meal hours for the nutrition project.

(ii) Congregate meal sites shall comply with the following:

(A) Nutrition projects will be established and administered with the advise of a dietitian or an individual with comparable expertise, person competent in the field of service in which the nutrition project is being provided, older participants, and other persons knowledgeable of older individuals' needs.

(B) Congregate meal sites will provide comprehensive supportive services in close proximity to the majority of eligible participants' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to congregate meal sites is furnished.

(C) Grantees will administer, annually, a survey to formally assess the recipients satisfaction with food quality and delivery. Surveys will be kept on file by the grantees.

(c) Eligibility and delivery of Home Delivered Meal Service:

(i) Home delivered meals may be served to individuals who are:

(A) Sixty (60) years of age or over;

(B) The spouse (who may be less than age sixty (60)) of an eligible participant;

(C) Volunteers providing services during the meal hours for the nutrition project; or

(D) Disabled and who reside at home with an older eligible participant.

(ii) The Division will develop nonfinancial criteria for eligibility to receive home delivered meal services and will periodically evaluate older participants of home delivered meal service to determine their continued eligibility.

(iii) Grantees/contractors demonstrating the ability of furnishing home-delivered meals efficiently and reasonably, shall be given consideration, where feasible. Home-delivered meals grantees/contractors shall maintain efforts to solicit voluntary support.

(iv) Grantees/contractors are required to provide home delivered meals to persons meeting the eligibility criteria established through an assessment form provided by the Division.

(A) Grantee/contractors shall make eligibility criteria available to all potential referral agencies, physicians and the general public.

(B) Grantees/contractors shall make eligibility determinations within five (5) working days of the initial request for home delivered meals. Meals will be delivered

while determination is being made.

(C) Grantees/contractors or outreach workers will work with the recipient to determine if additional services are needed.

(D) Participants denied home delivered meals or who lose eligibility shall, upon written request, be granted an administrative hearing (in accordance with Chapter 2, Section 4.).

(E) Grantees/contractors will make arrangements for the availability of home delivered meal services to older persons in weather-related emergencies.

(v) Packaging and delivery of home delivered meals. Home delivered meals are required to be packaged and delivered in a manner that will maintain food safety by the following:

(A) Hot foods shall be delivered at 140 degrees F or higher. Cold foods shall be delivered at 45 degrees F or colder. Hot and cold foods shall be packaged separately.

(B) The time period between the end of cooking the food and delivery to the individual recipient shall not exceed two and one-half (2½) hours.

(C) Each grantee shall establish written procedures on the cleaning and sanitation of all home delivered meal equipment.

(D) Each grantee shall provide food safety information to the individual recipient. This may take the form of a handout or may be given verbally, and shall include washing hands before meals, eating the meals immediately upon receipt and refrigerating leftovers.

(E) Grantees will administer, annually, a survey to formally assess the recipients' satisfaction with food quality and delivery. Surveys will be kept on file by the grantees.

(d) Menu development:

(i) All menus served by the grantees, will provide hot or other appropriate meals and shall comply with the Dietary Guidelines for Americans, published by the Secretary of Agriculture.

(ii) A minimum of thirty-three and one-third percent (33-1/3%) of the Daily Recommended Dietary Allowances (RDA) must be provided by each project if providing one meal per day;

(iii) A minimum of sixty-six and two thirds percent (66-2/3%) of the RDA must be provided by each project which provides two meals per day; and

(iv) A minimum of one hundred percent (100%) of the RDA must be provided by each project which provides three (3) meals per day.

(v) The established meal pattern will be:

3 oz. of meat or meat alternative
2 (½ cup) servings of fruit and vegetables
1 serving of enriched bread or bread alternative
1 tsp. of low fat margarine
1 cup of low fat milk
½ cup serving of dessert

(vi) All menus must meet this meal pattern as a minimum.

(vii) Grantee directors may choose from Division approved menus or hire a local dietician or nutritionist to develop menus that meet the requirements of the Division. These menus shall be arranged into monthly menus and forwarded to the Division at least two (2) weeks prior to service to participants.

(viii) The Division shall review the menus and return comments to grantees prior to service. If meals contain deficiencies, grantees shall modify menus in accordance with the Division's comments in order to correct all deficiencies.

(ix) A copy of menus from each grantee shall be kept by the Division for a period of one (1) year.

(x) A copy of each month's menu shall be posted in a conspicuous place at each congregate site by the grantee.

(xi) Grantees shall maintain portion controls which follow the established meal pattern. Buffet style service is not an acceptable means of maintaining portion control.

(xii) Grantees shall use standardized recipes to assure consistent quality and quantity of the meal served.

(xiii) Grantees shall limit the substitution of foods on the monitored menus to those approved by the Division. Proper food purchases should be made, in advance, to reflect items on the menu.

(xiv) Meals are to be provided five (5) or more days a week, except where not feasible in rural areas. When meals are served less than five (5) days per week, prior approval must be obtained from the Division.

(e) Contribution of Food to Nutrition Projects:

(i) All food contributed to a grantee for use in meals provided by a project financed by federal or state funds shall be required to meet those standards of quality, sanitation and safety that apply to foods that are purchased commercially by the project in the following manner:

(A) Home canned or preserved foods shall not be accepted.

(B) Foods cooked or prepared in an individual's home shall not be accepted as meals providing one-third of RDA.

(C) Fish donated by sportsman shall not be accepted.

(D) Donated wild game meat shall not be accepted; (State of Wyoming, food service code, Chapter III, Section 1, paragraph (a)).

(E) Grantee/contractor may only accept donated domestic animals that are state inspected meat products.

(F) Fruits and vegetables grown in personal gardens may be accepted if:

(I) They have been picked within the previous 24 hours.

(II) They are thoroughly washed to remove pesticides or herbicides that may have been used by the gardener.

(f) Sanitation & Food Safety:

(i) Grantees/contractors shall comply with all State and Local sanitation laws regarding food, safe and sanitary food handling, food storage, food preparation, food service equipment, supplies, and meal delivery.

(ii) Grantees/contractors shall provide the Division, Nutrition Program Manager with a copy of their sanitation inspection report.

(iii) Grantees/contractors shall substitute the words "hair net" for each reference to "hair restraints" in the Wyoming Food Service Regulations.

(g) Contributions:

(i) Home delivered meal organizations shall demonstrate an ability to provide home delivered meals efficiently and reasonably; and shall maintain efforts to solicit voluntary support and that OAA funds are not to be used to supplant funds from non-Federal sources.

(ii) Nutrition projects shall solicit voluntary contributions which may include food stamps.

(iii) Nutrition projects shall use contributions:

(A) To increase the number of meals served;

(B) To facilitate access to such meals; and

(C) To provide supportive services related to nutrition services.

(iv) The privacy of each person's contribution shall be protected.

(v) Each project shall establish procedures to safeguard and account for all contributions.

(h) Cash Assistance USDA Program:

(i) The Division has elected to receive cash assistance from United States Department of Agriculture (USDA) and shall administer the USDA cash-in-lieu program by the following:

(ii) The Division shall administer the USDA cash-in-lieu of commodities program to grantees who have received a "notification of grant award" to provide nutrition services to the elderly; and the Division will promptly and equitably disburse cash for the provision of eligible senior meals as follows:

(A) Authorizing and forwarding reimbursement amounts monthly to each grantee which shall be based on the number of meals served to eligible participants during the period.

(B) Grantees receiving cash-in-lieu of commodities must spend the cash by buying food produced and packaged in the United States or by purchasing contracted meals. Cash shall be sent to the grantees upon receipt of notification of cash authorization from USDA;

(C) The Division will provide final reimbursement claim of eligible meals, when USDA provides the adequate funding, within 90 days after the last day of the quarter for which reimbursement is claimed. Final reimbursement claims shall be adjusted to use the full amount appropriated by USDA.

(D) The Division will not reduce nutrition grants to reflect any USDA increase in the level of assistance.

(E) Grantees shall maintain a separate accounting of the cash-in-lieu funds and provide Division with a monthly food and production sheet with accompanying documentation of cash-in-lieu purchases.

(iii) Cash payments from USDA will be provided to nutrition projects that are in compliance of the rules and regulations administered by the State Unit on Aging. Nutrition projects not providing the correct eligible meal counts within ninety (90) days after the last day of service shall not be reimbursed for these eligible meals.

(i) Therapeutic Diets and Menus:

(i) Therapeutic diets and menus shall be provided in accordance with Section 3, (b) & (c), where feasible and appropriate, to meet the particular dietary needs arising from health requirements, religious requirements, or ethnic backgrounds.

(ii) For participants who have a physician's order, therapeutic diets shall be available, as feasible, in accordance with the following:

(A) Such participant shall have in his/her file a physician's order for the specified diet. If a written order cannot be obtained, verbal approval from the physician, documented by the director's/dietician's signature, will be acceptable.

(B) Such participant receiving a therapeutic diet and needing medical nutritional therapy shall be interviewed by a dietitian or nutrition professional responsible for planning the diet. Reassessment of need shall occur at minimum of every six (6) months and a current diet prescription shall be on file.

(j) Leftovers:

(i) Each grantee shall reduce the number of leftover meals to be no more than 5 percent of the total number of meals ordered or prepared per day.

(ii) No food shall be taken home by staff. Fresh fruit is the only food that may be taken home by participants.

(k) Outreach:

(i) Each grantee/contractor shall establish outreach activities which will assure maximum numbers of eligible participants.

(l) Nutrition Education:

(i) Grantees shall make available to all meals program participants in the congregate and home delivered meals program nutrition education targeted to those with nutritional risk and achieving optimum nutritional status, taking into account ethnic preferences, cultural factors and geographical and environmental limitations, and shall:

(ii) Provide a system of feedback from program participants regarding topics to be included in nutrition education;

(iii) Provide, through a dietitian or nutrition professional, the following:

(A) Group nutrition education programs on at least a semi-annual basis;

(B) Upon request, in-depth, one on one nutrition counseling; and

(C) Nutrition screening of participants.

(iv) Maintain records of all group presentations, nutrition screening, and of one-on-one counseling.

(m) Food Stamps:

(i) Grantees shall assist all participants who desire food stamps to apply for such assistance and provide the opportunity for participants to use food stamps as their contribution toward the cost of the congregate and home delivered meal as follows:

(ii) Obtain authorization from the Division to accept food stamps;

(iii) Give a presentation on food stamp eligibility and application criteria at each congregate meal site at least twice during the budget period; and

(iv) Give written information on food stamp eligibility and application criteria to home delivered meal participants at least twice during the budget period.

(n) Information and Referral:

(i) Grantee/contractors will provide information and referral assistance, when necessary, to eligible meal participants.

Section 4. Long Term Care Ombudsman. The Division shall establish a long term care ombudsman program pursuant to W.S. 9-2-1301 through 9-2-1309 (2005) (1986 cum.supp).

(a) Definitions:

(i) "Complaint" is a concern brought to, or initiated by, the ombudsman for investigation and action:

(A) On behalf of one or more residents; and

(B) Relating to health, safety, welfare or rights of a resident.

(ii) "Consultation" is providing information and assistance to an individual or a facility.

(iii) "Long term care service" means any service, provided by an assisted living facility, adult day care facility, boarding home, home health agency, hospice, hospital swing bed, nursing care facility, personal care agency, or other type of service subject to regulation, certification or licensure by the Department, but not including habilitative care.

(iv) "Older Americans Act" means the federal Older Americans Act, as amended.

(v) "Resident" means any adult who is receiving a long term care service.

(b) Responsibilities of the Long Term Care Ombudsman include:

(i) Investigation, advocacy and mediation on behalf of adults applying for or receiving long term care services to resolve complaints concerning actions or inactions that may adversely affect resident's health, safety, welfare, or rights and that do not involve determination of compliance for maintaining a license or certification;

(ii) Monitoring the development and implementation of federal, state and local laws, regulations and policies with respect to long term care services in the state;

(iii) Establishment of a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long term care facilities for the purpose of identifying and resolving significant problems, with provision for timely submission of such data to the state agency responsible for licensing or certifying long term care facilities and to the Division;

(iv) Providing information to public agencies about the problems of residents receiving long term care services and;

(v) Referring all complaints which involve conditions, actions or omissions which are reportable to Adult Protective Services pursuant to WS 35-20-101 through 35-20-116.

(c) Investigations:

(i) The ombudsman shall conduct an appropriate inquiry into all complaints and shall notify any provider of a long term care service affected by the inquiry.

(ii) In conducting an inquiry, the ombudsman shall engage in appropriate actions including:

(A) Making inquiries of affected parties or those with the knowledge of matters necessary to establish, deny or resolve the complaint;

(B) Entering, at any reasonable time, the facility of a provider of any long term care service subject to regulation, certification or licensure by the Department; and

(C) Presenting proper identification to any long term care service provider, if requested.

(iii) Any inquiry which requires the inspection of or obtaining of medical records or other resident records which are pertinent to the inquiry shall comply with all established privacy notification requirements.

(d) Resolution of complaints:

(i) The ombudsman shall attempt to resolve the complaint using mediation and negotiation whenever possible.

(ii) Following an investigation, the ombudsman shall report the findings and recommendations to the resident or the resident's guardian and may report the findings to any other entity deemed appropriate.

(iii) The provider of the long term care service complained against shall have a reasonable opportunity to respond to the complaint.

(iv) If the problem seriously threatens the safety or well-being of a resident, the ombudsman shall refer the complaint to an appropriate agency.

(e) Retaliation. No person shall discriminate against any resident, relative or guardian of a resident, employee of a long term care service provider, or any other person because of making a complaint or providing information, in good faith, to the ombudsman.

(f) Grant applications and reports will be submitted annually in accordance with the specifications set by the Division.

Section 5. Legal Assistance. The Division shall establish a legal service network through the Legal Assistance Developer Program to provide and coordinate legal assistance to

and in behalf of the elderly, including entitlement, insurance, and pension counseling, in accordance with the Older Americans Act.

- (a) Grants and objectives will be submitted annually based on Division guidelines.