

**Georgia Department of Human Resources Division of Aging Services
Requirements for Non-Medicaid Home and Community Based Services**

Section 200.

General Service Requirements

§ 202 Program Guidelines and Requirements

October 2001

§202.1 Purpose.

The guidelines and requirements contained in this section are to be used by Area Agencies on Aging and their subcontract service providers along with any specific rules or requirements associated with fund sources.

§202.2 Scope.

These rules apply to all services provided under contract, funded in part or in whole with funds provided by the Department/Division under the Older Americans Act, as amended, or by State general revenue appropriations, or other funding source granted or contracted to the Division for use in providing services, or other funds pooled with such funds to meet the costs for services under the Older Americans Act.

§202.3 Client eligibility

With the exception of certain fund-source specific eligibility criteria, and with the exception of specific eligibility criteria for OAA congregate and home delivered meals, eligibility for services is limited to the following:

- (a) any person, age 60 or over, for all services authorized under the Older Americans Act and any such services supported by any other source of State funding; and
- (b) any person, regardless of age, who is identified as having Alzheimer's disease or a related disorder, and the families and caregivers of those persons, for state-funded Alzheimer's respite and day care services.

§202.4 Confidentiality of and access to client records.

Area Agencies shall ensure through contractual requirements that subcontractors protect client information records, according to the following minimum requirements:

- (a) no information about a client, or obtained from a client shall be disclosed in a form that identifies the person without the informed consent of the person or of his legal representative, unless the disclosure is required by court order, or for program monitoring by authorized Federal or State personnel, or the Area Agency as the local monitoring agency.
- (b) only authorized personnel as designated by the Department/Division, the Area Agency or the provider shall have access to confidential client records;¹

¹ 45CFR74.53, "Retention and Access Requirements for Records" states that HHS awarding agencies, the HHS Inspector General, the U.S. Comptroller General, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents.

- (c) confidential client records shall be maintained in secure, locked areas when not in use by authorized personnel; access to client information maintained in electronic information systems shall be limited through accepted security access practices, including, but not limited to password protections.
- (d) AAAs are responsible for arranging for and ensuring that all AAA and provider agency staff who have access to electronic systems have and use individual passwords to access the systems. Passwords may not be shared.
- (e) Area Agencies/service providers are not required to disclose to the public such information as is exempt from disclosure under the Federal Freedom of Information Act, as amended.
- (f) Area Agencies may not require a provider of legal assistance under the Older Americans Act to reveal any information that is protected by attorney-client privilege, as required in §705(b) of the Act, as amended.

§202.5 Client complaint procedures.

Area Agencies shall ensure that written client complaint procedures are established for use by each service provider. These procedures shall provide all clients with the opportunity for and means of communicating those aspects of the service which have negative impact on them. Each client must be informed of his/her right to make such complaints and of the procedures for filing such complaints prior to the beginning of service delivery.

§202.6 Client appeals procedures.

Area Agencies shall ensure that written appeals procedures are established for use by each service provider. These procedures shall provide all clients or their advocates with the opportunity to appeal provider staff decisions concerning the provision of services, including, but not limited to, the initiation or termination of services, and increases or decreases in service levels. The intent of these procedures must be to assure client satisfaction with the services provided and it is the responsibility of the service provider to give specific consideration to the clients' concerns.

§202.7 Services to private membership prohibited.

Area Agencies shall ensure that those subcontractors with contracts to operate facilities such as nutrition sites, senior centers, day care centers or provide other supportive services under the Older Americans Act or other federal or state funding shall not limit such facilities and services to membership in a specific private organization, group, association, or fraternal organization, nor show discriminating preference for such membership.

§202.8 Record maintenance and retention

- (a) Record means any item, collection, or grouping of information maintained by the Department, Division and their subcontractors related to the delivery of services through Area Agency on Aging contracts and subcontracts.
- (b) Area Agencies are responsible for ensuring that each service provider maintains documentation of the following:
 - (1) contract documents;
 - (2) expenditure reports and all accounting records used to prepare the expenditure reports, including records for program income, fees and other cash and in-kind contributions;
 - (3) programmatic records, including client information and services provided to each client as stipulated by DHR/DAS and in accordance with data maintained through automated information systems.
 - (4) property records;
 - (5) other records which are required by the terms of the contract agreement or program rules and regulations, or are otherwise reasonably considered pertinent to program regulations or contract agreement.
- (b) Additional requirements for recordkeeping may be listed in specific service requirements.
- (c) All records must be retained for a minimum of five years after termination of the contract and until resolution of any pending litigation, claim or audit involving those records.
- (d) The Area Agency, DHR/DAS, and/or their authorized representative(s) shall have access to these records for purpose of audit or to make examinations, excerpts, and transcripts for hearings or other administrative proceedings. The Federal Freedom of Information Act (5 USC 552) does not apply to such records. Unless required by Federal, State, or local law, Area Agencies are not required to permit public access to such records.

§202.9 Reporting.

- (a) All Area Agencies shall use the Division's automated information system, the Aging Information Management System (AIMS). AIMS shall be used to meet the requirements relating to financial and program performance reporting, including capturing individual client information and other such reporting as may be required by the Older Americans Act and other fund sources.

§202.10 Client contributions

- (b) Area Agencies on Aging shall determine the extent to which subcontractors have access to AIMS, and develop policies and procedures which express local access and security protocols.
- (c) DAS shall provide any required system and software updates and specific reporting requirements to Area Agencies prior to or at the beginning of the contract period.
- (a) The Area Agencies shall ensure that each service provider establish written procedures for contributions. These procedures shall:
 - (1) provide all eligible clients, their families, or advocates with the opportunity to voluntarily contribute all or part of the cost of the service.
 - (2) assure confidentiality in the receipt and accounting for contributions;
 - (3) safeguard and account for all contributions;
 - (4) require that all client contributions be used to support or expand services provided under an approved Area Plan, in accordance with applicable federal fiscal and program regulations; and
 - (5) encourage service providers to use the most current DAS Sliding Fee Scale to establish a suggested contribution schedule which considers the income ranges of the client population.
- (b) The procedures shall not:
 - (1) require a contribution as a condition for receiving services; or
 - (2) establish income as a means test when implementing contribution schedules.

§202.11 Fees.

Area Agencies shall ensure that each service provider receiving State Community Based Services funding use the most current DAS Sliding Fee Scale to assess whether eligible clients will pay part or all of the cost of the service supported by these funds. Area Agencies shall assure that providers:

- (a) assure confidentiality in the receipt and accounting for fees collected;
- (b) safeguard and account for all revenues collected through fees;
- (c) establish policies and procedures regarding billing and collection of payments;

- (d) establish policies and procedures regarding the termination of services in the event of default on payments due;
- (e) arrange for referrals for clients terminated for non-payment to other sources of the service, including providing the service at no cost through another Federal or State award which does not require the assessment of a fee (subject to availability.)
- (f) use fees collected to support or expand services provided under an approved Area Plan, in accordance with applicable federal fiscal and program regulations;

§202.12 Uniform Cost Methodology.

Area Agencies shall ensure that all service providers use the DAS Uniform Cost Methodology annually to calculate the cost of services.

§202.13 Insurance.

Area Agencies are responsible for ensuring that each service provider organization maintains insurance that protects the health and safety of clients and employees, that comply with all applicable state and federal statutes.

§202.14 Facilities.

Area Agencies shall ensure that those contractors which operate congregate facilities, such as nutrition sites, senior centers, adult day care facilities or other such facilities funded by any grant from DAS:

- (a) locate the facility as close as possible to the majority of eligible persons in the specified target group for the service and service area; and
- (b) comply with all applicable local and state building codes, ordinances, and health department requirements, as well as all federal and state laws and regulations, in order to provide a safe environment for clients and staff.

§202.15 No Smoking Policy.

The Surgeon General of the United States has determined that the smoking of tobacco constitutes a health hazard. Smoking of tobacco is prohibited during the hours of operation of senior programs and in facilities/ physical plants, and areas within, designated for senior activities funded by DAS.

§202.16 Area Agency/Subcontractor Responsibilities for Compliance.

When a service provider fails substantially to comply with any of these requirements and/or the terms of a contract which governs the use of monies appropriated under that contract, the Area Agency may take such actions as may be legally available and appropriate to the circumstance.

Failure to comply may be evidenced through program monitoring and evaluation activities of the Area Agency or DAS or by substantiated complaints made about an area agency or its subcontractor(s).²

§202.17 Criminal Records Investigations

Area Agencies must assure that service providers employing persons having direct care, treatment or custodial responsibilities, as primary, secondary or alternative job duties conduct a criminal records investigation, according to state law and current policy of the Department of Human Resources.³ Area Agencies providing services directly and employing staff in those capacities also are bound by this requirement. Agencies using the services of volunteers are encouraged to conduct the investigations for volunteer staff who serve in the same custodial or caregiving capacities as paid staff, to better ensure client safety and to limit potential liability.

§202.18 Non-discrimination in services.

All services are to be provided to eligible recipients without regard to race, color, national origin, gender, mental or physical handicap, political or religious affiliation. Age may be considered only with regard to eligibility requirements.

§202.19 Client protection and mandatory reports.

AAAs shall develop and implement and assure that each contract agency/service provider shall develop and implement procedures for reporting suspected cases of abuse, neglect and/or exploitation of clients and shall assure that all staff are trained in using the procedures.

- (a) Staff of all AAAs and contractors for non-Medicaid Home and Community Based Services are considered mandated reporters under O.C.G.A. 30-4, "Protection of Disabled Adults and Elder Persons."
- (b) Any person employed by any funded program or service who has reasonable cause to believe that a client is in a state of abuse, neglect, or exploitation must report the abuse, neglect, or exploitation to the appropriate County Department of Family and Children Services or law enforcement agency of appropriate jurisdiction.
- (c) Persons making reports must provide the following information, at a minimum:
 - (1) name, age, and address of the resident;

² Substantiated complaints are those complaints that have been found to be true through a thorough and impartial investigation of such complaint, conducted by DAS, the Area Agency, or a court of law with jurisdiction over the complaint.

³ O.C.G.A. §35-3-38, §49-2-14 and §31-7-350 *et seq.*, Criminal Code of Georgia (O.C.G.A., Title 16), Code of Federal Regulations 42 IV, §483.420(d)(iii), Rules of the Georgia Crime Information Center Council, DHR Human Resource/Personnel Policy #504

- (2) name and address of the person responsible for the care of the client, if available;
- (3) nature and extent of the elderly or disabled person's condition;
- (4) basis of the reporter's knowledge; and
- (5) any other information relevant to an investigation.

Effective Date: November 6, 2001