



August 14, 2023

The Honorable Alison Barkoff
Acting Assistant Secretary for Aging and Administrator
Administration for Community Living
Department of Health and Human Services
330 C Street SW
Washington, DC 20201

Submitted electronically to <http://www.regulations.gov>

Re: RIN Number 0985-AA17; Older Americans Act: Grants to State and Community Programs on Aging; Grants to Indian Tribes for Support and Nutrition Services; Grants for Supportive and Nutritional Services to Older Hawaiian Natives; and Allotments for Vulnerable Elder Rights Protection Activities

Dear Acting Assistant Secretary for Aging and Administrator Barkoff:

AARP, which advocates for the more than 100 million Americans age 50 and older, appreciates the opportunity to comment on the proposed rule updating Older Americans Act (OAA) regulations. We applaud the Administration for Community Living's (ACL) commitment to modernizing the OAA regulations which have not been substantially updated since 1988.

Our comments focus on support for family caregivers, caregiver assessments, state and area plans on aging, equity, modernizing aging network capacity, nutrition flexibility and modernization, lessons learned from COVID-19, and elder abuse protections in the following titles of the OAA:

- Title III: Grants to State and Community Programs on Aging,
- Title VI: Grants to Indian Tribes for Support and Nutrition Services, and
- Title VII: Allotments for Vulnerable Elder Rights Protection Activities.

The OAA has a powerful legacy. Since 1965, it has helped provide older Americans with the support they need to live at home with independence and dignity, deferring or eliminating more costly institutional services and hospitalizations. OAA programs include home care, congregate and home-delivered meals, case management, family caregiver support, transportation, adult day care, legal service, elder abuse prevention, and job training and employment opportunities for low-income older adults. In a typical year, OAA programs provide services for 11 million older adults. As noted in the request for information, with some exceptions, current regulations for

programs authorized under OAA date from 1988 and have not been substantively revised. There are currently no regulations to support the implementation of the National Family Caregiver Support Program (NFCSP), which was created in 2000 to support a range of services that assist family and other unpaid caregivers.

Support for Family Caregivers

AARP supports ACL's efforts in these draft regulations to clarify the family caregiver support services available under the OAA and that they must be available statewide. Most of us are, have been, or will be a family caregiver or will need help with some tasks as we age. Family caregivers are the backbone of America's care system. We estimate that family caregivers provide a staggering \$600 billion annually in unpaid care—ranging from bathing and dressing to managing finances and transportation.¹ Additionally, family caregivers are increasingly performing skilled activities that nurses typically perform—such as injections, tube feedings, and catheter care—often with little preparation or training.² Family caregivers often serve as care coordinators, navigating systems of care and different providers. By supporting family caregivers, we can support individuals staying at home—where most people prefer to remain as they age—helping to delay or prevent more costly nursing home care and unnecessary hospitalizations.

Caregiver Needs Assessments

The Supporting OAA of 2020 included language to encourage the use of caregiver assessments under NFCSP and provide technical assistance to support grantees in carrying out the assessments. Understanding the family caregiving situation is a critical step in the process for linking the family caregiver to the most appropriate support services (e.g., counseling, respite care, etc.), as the experiences and needs of each caregiver are varied. Questions regarding the skills, abilities and knowledge of family caregivers can help to identify the tasks that are most problematic and stressful for the caregiver. This information, in turn, can lead to targeting support services more effectively and efficiently. Better targeting of support services can also help maintain the health and well-being of the caregiver, sustain their ability to provide care, produce better outcomes for the care recipient, and prevent or delay nursing home placement. Any caregiver assessment should facilitate the connection of the family caregiver to services that support them in their role and well-being as a caregiver.

The National Strategy to Support Family Caregivers Goal #2 (Advance Partnerships and Engagement with Family Caregivers)³ included the use of evidence-based tools to assess and capture family caregiver needs and preferences as a key outcome. Assessing the needs of caregivers provides opportunities for a more person- and family-centered approach which in turn would link the caregiver with support in the community.

¹ <https://www.aarp.org/ppi/info-2015/valuing-the-invaluable-2015-update.html>

² [Ibid](#)

³ <https://acl.gov/CaregiverStrategy>

We applaud ACL’s decision to include encouragement for “an evidence-informed or evidence-based caregiver assessment” in the draft regulations. We also commend language for both Title III and Title VI that promotes “person- and family-centered, trauma-informed” and “culturally sensitive” supports. AARP believes in prioritizing person- and family-centered care to meet the unique needs of the individuals receiving care and, when appropriate and necessary, their families. Both consumers and families need easy access to unbiased information that is culturally and linguistically appropriate.

We encourage ACL to add the language that links this specification on person and family centeredness and cultural sensitivity to caregiver assessments specifically including language interpretation services or other supports needed.

AARP is pleased with ACL’s recent announcement that it will launch a new technical assistance center and an important focus of the center’s work will be on advancing the adoption of caregiver assessments, as authorized in the 2020 reauthorization of OAA. AARP successfully advocated to include the caregiver assessment provisions in the 2020 OAA reauthorization.

State and Area Plans on Aging

AARP supports ACL’s efforts to clarify requirements for state and area plans on aging, specifically the sections that speak to additions to the content of the state plan including, but not limited to, evidence of consultation with area plans, and explanation of how individuals with the greatest social and economic needs are determined and served. We also commend the clarification that state and area plans be iterative and inform one another.

AARP believes in ensuring that all states engage in a comprehensive long-range planning process that spans relevant state departments, agencies, and entities to prepare for a rapidly aging and increasingly diverse population. AARP suggests that ACL consider adding language to align state plans with current efforts to develop Multisector Plans for Aging, Age-Friendly communities, and No Wrong Door (NWD)/Aging and Disability Resource Center (ADRC) Systems.

[Multisector Plans for Aging](https://multisectorplanforaging.org/) encompass efforts for restructuring state and local policies and programs while connecting a wide range of cross-sector stakeholders to collaboratively address the needs of older adults, people with disabilities, caregivers, and families.⁴ While these plans are broader than the use and administration of OAA programs, state plans should coordinate with these processes in the states. Further, the 2020 re-authorization of the OAA called for an Interagency Coordinating Committee on Healthy Aging and Age-Friendly Communities to coordinate among federal agencies for “a national set of recommendations...to support the ability of older individuals to age in place and access homelessness prevention services, facilitate preventive health care, promote age-friendly communities, and address the ability of older individuals to access long-term care supports, including access to caregivers and home- and

⁴ <https://multisectorplanforaging.org/> and <https://www.thescanfoundation.org/initiatives/multisector-plan-aging/>

community-based health services.⁵ AARP supports and promotes Age-Friendly communities which have made a commitment to actively work with residents and local advocates to make their town, city, county, or state an age-friendly place to live. Finally, NWD/ADRCs provide streamlined access for consumers and family caregivers seeking one-on-one person-centered counseling and information and referral assistance about public and private options for long-term care community development that help individuals in navigating and coordinating services and other supports.

If not in the OAA regulations, we encourage ACL to provide guidance to states with these elements in a similar format to the 2021 guidance to state unit on aging directors.⁶

Individuals with Greatest Social and Economic Need

For more than 60 years, AARP has fought to build a more equitable society—advocating for policies and programs that empower people to live longer, healthier, more productive lives. The older population is projected to become more racially and ethnically diverse as our society ages, which has enormous implications for meeting inclusive individual and family caregiver needs. Evidence shows that family caregivers from communities of color often report feeling “invisible” or left out of the decision-making process and not included in discussions and decisions around care and support. “For caregivers of color, the ability to care and advocate for their family member is often impeded by the larger context of institutional racism, implicit bias and inequities that affect people of color in every aspect of their lives.”⁷ This is also true for other groups that experience discrimination.

AARP applauds ACL’s move to define those at greatest social need by outlining specific groups and giving states and local areas the ability to further define the groups based on demographic data. AARP also supports ACL’s call to states and area agencies and service providers to provide training to staff and volunteers on person-centered and trauma-informed service. We would also encourage ACL to consider language on encouraging diversity in state and local agency staffing.

Modernizing Aging Network Capacity

AARP commends ACL for the growing focus on sustaining a robust aging network at the state and local levels. Part of that development includes building the aging network’s business acumen to tap funding sources beyond the OAA to meet the needs of their communities. Despite OAA’s critical importance to more than 11 million older adults (and their families and caregivers), funding has not kept pace with population growth or inflation making it more urgent that the aging network identify additional supplemental funding from a variety of sources. With any added sources of funding, however, it is critical that aging network entities remain free of conflicts-of interest that may arise from tapping multiple funding sources.

⁵ <https://acl.gov/about-acl/authorizing-statutes/older-americans-act>

⁶ [https://acl.gov/sites/default/files/about-acl/2021-08/State%20Plan%20Guidance Plans%20Due%20Oct%202022%20-%20ACL%20SUA%20Directors%20Letter%20%2301-2021.pdf](https://acl.gov/sites/default/files/about-acl/2021-08/State%20Plan%20Guidance%20Plans%20Due%20Oct%202022%20-%20ACL%20SUA%20Directors%20Letter%20%2301-2021.pdf)

⁷ <https://www.nextavenue.org/recognizing-diverse-caregiver-experiences/>

AARP supports the proposed rule’s establishment of expectations for state and local conflicts of interest policies relative to contracts and commercial relationships. AARP applauds the conflict-of-interest clarifications that have been inserted in the proposed rule, which protect the consumer and promote disclosure and transparency.

Nutrition Flexibilities and Modernization

Congregate and home-delivered meals provided by OAA Senior Nutrition Programs support older adults in remaining in their homes. OAA-funded senior nutrition programs work to reduce food insecurity, hunger, and malnutrition; enhance socialization; and promote health and well-being of older adults. AARP supports the updates to the nutrition rules, modernization of the requirements and addition of flexibilities such as “carry-out” and similar meals to be provided through the congregate meals program.

Lessons Learned from the COVID-19 Public Health Emergency

Given the OAA provides limited guidance regarding emergency planning, AARP applauds ACL’s decision to add greater detail to the proposed regulations in this area. Studies and news outlets have reported that the impact of recent disasters—including the COVID-19 pandemic and natural disasters—affected older people more than the general adult population.⁸ AARP supports as detailed in the proposed regulations the guidance on developing sound emergency plans including requirements for continuity of operations planning, taking an all-hazards approach, and coordination with Tribal emergency management and other agencies that have responsibility for disaster relief. We particularly support the options offered for states to expedite expenditures of Title III funds during major disaster declarations. In addition, AARP recommends ACL consider requiring states to “prioritize identifying, registering, and tracking older people in local communities who cannot evacuate on their own”⁹ in the case of natural emergencies. Further, AARP supports the establishment of registries of older adults at risk and efforts to protect registry data from data mining or ransomware efforts.¹⁰

Elder Rights Protection Activities

AARP supports ACL’s inclusion of updates to the Title VII regulations specifically those that outline Ombudsman program guidance. There are many gaps in the network of services for abused and vulnerable adults. Finding emergency housing, in-home care, and responsible guardians can be difficult. Poor coordination among federal, state, and local agencies sometimes

⁸ <https://policybook.aarp.org/policy-book/long-term-services-and-supports/quality-consumer-rights-and-emergency-preparedness-all-long-term-services-and-supports-settings>

⁹ [Ibid](#)

¹⁰ [Ibid](#)

results in inadequate service delivery.¹¹ Providing this guidance for Ombudsman programs is one step towards more equitable and consistent protection from abuse across the country. It is also consistent with AARP's personal and legal rights principles including freedom from discrimination—all people have the right to be free from discrimination, ensuring protection and safety, empowering, and respecting personal and financial choices, safeguarding rights, ensuring redress, and promoting vigorous enforcement.¹²

Conclusion

AARP thanks you for the opportunity to comment on the proposed regulations, and for your continued work to improve community living for older Americans and support their family caregivers. We look forward to working with you to modernize the OAA regulation for all older Americans and their family caregivers. If you have any questions, please feel free to contact me or reach out to Rita Landgraf of our Government Affairs team at rlandgraf@aarp.org or 302-650-3255.

Sincerely,



David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs

¹¹ <https://policybook.aarp.org/policy-book/personal-and-legal-rights/elder-abuse#node-13791>

¹² <https://policybook.aarp.org/policy-book/personal-and-legal-rights/aarp-personal-and-legal-rights-principles>