



PROGRAM INSTRUCTION

SUA-21-PI-03

10/01/2020

TO: Subrecipients of the State Unit on Aging

FROM: Cynthia Brammeier, Administrator *Cyn*
State Unit on Aging, Division of Medicaid & Long-Term Care

BY: Ben Stromberg, Program Manager *B*

SUBJECT: Aging Services Regulations – Title 15 - Definitions

CONTENT: Title 15 Aging Services regulations were signed by the Governor on 9/16/2020 and became effective September 21, 2020.

In July 2017, Governor Ricketts issued Executive Order (EO) 17-04, Regulatory Reform. This EO required code agencies to review all regulations for specific criteria and determine areas of regulation that could be streamlined and reduced. The regulation review was completed for all MLTC regulations by the Medicaid policy team in the fall of 2017. As a result, regulations, including definitions, that were duplicative of state statute or federal regulations were removed.

Please review the regulations and statutes for full details. Below is a summary of significant changes to the regulations that were removed. A link to the Nebraska Community Services Act statutes is also provided.

Aging Regulations Reference and Summary: Title 15 - Duplicative Definitions and Regulations Removed

Title 15 Nebraska Aging Services statutes:

<https://nebraskalegislature.gov/laws/statutes.php?statute=81-2201>

The 2020, 2016 and 2006 reauthorizations of the Older Americans Act are located online: <https://acl.gov/about-acl/authorizing-statutes/older-americans-act>

OAA definitions are located in several sections, including:

OAA Section	Section content / name
102	Declaration of objectives for older Americans (101)
215	Pension counseling and information programs.
302	Grants for State and Community Programs on Aging (301)
372	National Family Caregiver Support Program (371)
412	Career preparation for the field of aging
418	Demonstration projects for multigenerational and civic engagement activities (417)
422	Community Innovations for Aging in Place
507	Demonstration projects
518	Workforce Innovation & Opportunity Act (Sec. 511)
711	Long-Term Care Ombudsman Program
761	General provisions for elder justice

If you have questions, please contact Ben at 402-471-4555 or Attn: Ben at DHHS.Aging@nebraska.gov

Aging Regulations Reference and Summary: Duplicative Definitions and Regulations
Removed

Removed Regulation	Statute #
Title 15 NAC 1 001.01C - Area Agency on Aging shall mean the agency designated by the Department as responsible for the administration of the Area Plan and Budget and Annual Plan and Budget in each Planning and Service Area.	81-2208
Title 15 NAC 1 001.01D - 001.01D Area Plan and Budget shall mean the document submitted by an Area Agency on Aging and approved by the Department which outlines for a period of five years the Area Agency on Aging's comprehensive and coordinated program of Community Aging Services for the Planning and Service Area.	81-2209
Title 15 NAC 1 001.01F - Committee shall mean the Department on Aging Advisory Committee.	81-2205
Title 15 NAC 1 001.01G - Community Aging Services shall mean those activities and services which fulfill the goals of the Nebraska Community Aging Services Act and which are necessary to promote, restore, or support senior citizen self-sufficiency and independence. These may include, but not be limited to, congregate activities such as senior centers, group meals, volunteerism, adult day care, and recreation, and individual services such as specialized transportation, meals-on-wheels, home handyman, home health care, legal services, and counseling that relates to problems of aging or encourage access to aging services.	81-2210
Title 15 NAC 1 001.01I - Comprehensive and coordinated program of services shall mean a program of interrelated supportive and nutrition services as defined in 001.01G and which are designed to meet the needs of older persons in a planning and service area.	OAA 302(1)
Title 15 NAC 1 001.01K - Department shall mean the Department on Aging.	81-2206
Title 15 NAC 1 001.01Q - Greatest economic need shall mean the need resulting from an income level at or below the poverty level as established by the Office of Management and Budget.	81-2211.01
Title 15 NAC 1 001.01S - In-home service shall mean the provision of health, medical or social services to an individual in his or her place of residence, except if such residence is a hospital, nursing facility, penitentiary, or other institution licensed by the state.	OAA 102(a)(30)

Aging Regulations Reference and Summary: Duplicative Definitions and Regulations
Removed

Removed Regulation	Statute #
Title 15 NAC 1 001.01T - Legal Assistance or legal services shall mean legal advice and education by an attorney, or by a non-lawyer where permitted by law and supervised by an attorney, to older individuals with economic or social needs.	OAA 102(a)(33)
Title 15 NAC 1 001.01Y - Older Individual shall mean any person who is 60 years of age or older, or the spouse of an individual who is 60 years of age or older, except as related to employment programs, when an older person may be 55 years of age.	81-2211.03
Title 15 NAC 1 001.01Z - Planning and Service Area (P.S.A.) shall mean a geographic area of a state for purposes of planning, development, delivery and overall administration of services under an Area Agency on Aging's Area Plan and Budget (see section 001.03).	OAA 102(a)(42)
Title 15 NAC 001.01CC - Senior service center shall mean a senior center or other community facility that provides ready access to a broad range of community aging services.	81-2211
Title 15 NAC 1 001.01EE - Unit of General Purpose Local Government shall mean a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or any Indian tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.	OAA 302(4)
<p>Title 15 NAC 1 001.06 - Governing Units of Area Agencies on Aging</p> <p>Title 15 NAC 1 001.06A - Each governing unit shall establish written policies and procedures for the selection, appointment and annual performance rating of its chief executive officer and staff including minimum qualifications of education, training, and experience for its chief executive officer.</p> <p>Title 15 NAC 1 001.06B - Each governing unit shall provide for the employment of sufficient staff to carry out the area agency's approved Area Plan and Budget and Annual Plan and Budget.</p> <p>Title 15 NAC 1 001.06C - Each governing unit shall approve an Annual Plan and Budget and a five-year Area Plan and Budget which shall be in compliance with this Act, its rules and regulations, the Older Americans Act, as amended, and its rules and regulations, attached and incorporated herein</p>	81-2218, 81-2219, and OAA 306(D)

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Removed

Removed Regulation	Statute #
<p>by reference as Attachment B. The Annual Plan and Budget must be submitted to the Department by July 1 of each year.</p> <p>Title 15 NAC 1 001.06D - Each governing unit shall approve such contracts and agreements as are necessary to carry out the functions of the Area Agency on Aging.</p>	
<p>Title 15 NAC 1 001.07S - Use of Senior Centers. The Area Agency on Aging shall be responsible for the following requirements regarding the length of time a senior center shall be used as an aging service center when funds granted by the Department are used in its acquisition, renovation, or construction, pursuant to the Older Americans Act:</p> <p>Title 15 NAC 1 001.07S1 - A facility purchased for use as a senior center shall be used for at least 10 years from the date of acquisition.</p> <p>Title 15 NAC 1 001.07S2 - A facility constructed for use as a senior center shall be used for at least 20 years from the date of completion of construction.</p> <p>Title 15 NAC 1 001.07S3 - Facilities which involve renovation costs of more than \$20,000 of state/federal money or more than 50 percent of the fair market value shall be used for at least 10 years.</p>	<p>45CFR75.316-323 and OAA Section 312</p>
<p>Title 15 NAC 1 001.11 - Maintenance of effort. Area Agencies on Aging receiving state funds under the Act shall expend, as a minimum, in their budgets, the same level of local public tax dollars as was expended under the Annual Plan and Budget for the year ending June 30, 1981.</p>	<p>Maintenance of Effort language was removed with LB 698 (2016), 81-2228 was removed.</p>
<p>Title 15 NAC 2 001.01A - Area Agency on Aging shall mean an agency designated by the Nebraska Department on Aging in compliance with Neb. Rev. State Sec, 81-2201 - 81-2228, R.R.S. 1943.</p>	<p>81-2208</p>
<p>Title 15 NAC 2 002 - CERTIFICATION PROCEDURES. Within 60 days of the adoption and promulgation of these rules and regulations, each Area Agency on Aging shall submit to the Department a Plan of Operation to either provide and supervise or subcontract for at least one certifies Care Management Unit to provide all eligible individuals residing in its planning and service area with long-term care management services.</p>	<p>81-2232</p>

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Removed Regulation	Statute #
Title 15 NAC 2 002.04 - Within 30 days of receipt of the Plan of Operation, the Department shall complete its review and notify the governing board of the Area Agency on Aging of the Department's approval or denial of Certification. If Certification is denied, the Department shall provide the reasons for denial to the governing board of the Area Agency on Aging.	81-2232
Title 15 NAC 2 002.04A4 - Failure to operate a Care Management Unit separately from a Direct Care Program of an Area Agency on Aging.	81-2231(5)
Title 15 NAC 2 002.07 - If the Area Agency does not submit a revised Plan of Operation within 30 days of the denial, or if the revised Plan of Operation is denied by the Department, the Department may request proposals from and contract with another public or private entity to serve that planning and service area, providing such entity meets the provision for certification.	81-2232
Title 15 NAC 2 006.06A - Each Long-Term Care Plan will be developed in consultation with the client after an assessment; and with the client's approval, the client's family will be consulted in the plan development.	81-2231(3)
Title 15 NAC 006.06C - Each Long-Term Care Plan will utilize and coordinate available and appropriate public and private resources so that persons receive, when reasonably possible, the level of care that best matches their level of need.	81-2230
Title 15 NAC 006.06E -_MONITORING. The Plan of Operation shall provide written policies and procedures which detail the Care Management Unit's system for periodic monitoring of the delivery of services to the client.	81-2230
Title 15 NAC 008.01 - Reimbursement by the Department shall be based upon actual casework time units.	81-2235(1)