



PROGRAM INSTRUCTION

SUA-25-PI-21

12/23/2024

TO: Sub-recipients of the State Unit on Aging

FROM: Josie Rodriguez, Administrator, State Unit on Aging

SUBJECT: Designation of and designation changes to area agencies on aging

CONTENT: This program instruction provides additional details and clarification on the designation of and designation changes to Area Agencies on Aging in accordance with Title III, VI, and VII of the 2020 reauthorized Older Americans Act of 1965, 42 U.S.C. 3001 sections § 1321.13, § 1321.15, § 1321.17, § 1321.19, § 1321.21, and § 1321.23. The program instruction should be used in conjunction with NAC 15 and all other applicable requirements.

The designation and continued designation of Area Agencies on Aging planning and service area of Nebraska's Area Agencies on Aging is defined in Nebraska Revised Statutes and Nebraska Title 15 Aging Services Regulations. The State Unit on Aging will follow the statutes and regulations regarding the designation, continued designation, and withdrawal of an area agency on aging in addition to the Older Americans Act.

The State agency is responsible for designating an area agency on aging to serve each planning and service area. Only one area agency on aging shall be designated to serve each planning and service area. An area agency on aging may serve more than one planning and service area. An area agency that serves more than one planning and service area must maintain separate funding, planning, and advocacy responsibilities for each.

The State Unit on Aging will follow the additional requirements for withdrawal of area agency designation per §1321.21 of the 2020 Re-authorization of the Older Americans Act.

If a State agency withdraws an area agency's designation under this section it shall:

- (1) Provide a plan for the continuity of area agency functions and services in the affected planning and service area;
- (2) Submit a State plan amendment as set forth in § 1321.31(b) or State plan as set forth in § 1321.33; and
- (3) Designate a new area agency in the planning and service area in a timely manner.

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

If necessary to ensure continuity of services in a planning and service area, the State agency may, for a period of up to 180 days after its final decision to withdraw designation of an area agency:

- (1) Perform the responsibilities of the area agency; or
- (2) Assign the responsibilities of the area agency to another agency in the planning and service area.

The Assistant Secretary for Aging may extend the 180-day period if a State agency:

- (1) Notifies the Assistant Secretary for Aging in writing of its action under this section;
- (2) Requests an extension; and
- (3) Demonstrates to the satisfaction of the Assistant Secretary for Aging a need for the extension. Need for the extension may include the State agency's reasonable but unsuccessful attempts to procure an applicant to serve as the area agency.

Appeal to the Departmental Grant Appeals Board of the Department of Health and Human Services. Departmental Appeals Board on area agency on aging withdrawal of designation.

Per § 1321.23 of the 2020 Re-authorization of the Older American Act, any area agency on aging that has appealed a State agency's decision to withdraw area agency on aging designation, and that has been provided a hearing and a written decision, may appeal the decision to the Departmental Appeals Board in writing following receipt of the State agency's written decision, in accordance with the procedures set forth in 45 CFR part 16. The applicant must, at the time of filing an appeal with the DAB, mail a copy of the appeal to the State agency and include a certificate of service with its initial filing. The DAB may refer an appeal to its Alternative Dispute Resolution Division for mediation prior to making a decision.

If you have questions, please feel free to contact the SUA at 402-471-2307 or via email at DHHS.Aging@nebraska.gov.