



PROGRAM INSTRUCTION

SUA-25-PI-22

12/23/2024

TO: Sub-recipients of the State Unit on Aging

FROM: Josie Rodriguez, Administrator, State Unit on Aging

SUBJECT: Disaster Assistance and MDD Flexibility

CONTENT: Whereas 1321.99 of the Final Rule states:

(a) Section 310 of the Act (42 U.S.C. 3030) authorizes the use of funds during Presidentially declared major disaster declarations under the Stafford Act (42 U.S.C. 5121-5207) without regard to distribution through the State agency's intrastate funding formula or funds distribution plan when the following apply:

- (1) Title III services are impacted; and
- (2) Flexibility is needed as determined by the State agency.

(b) When implementing this authority, State agencies may set aside funds, up to five percent of their total Title III allocations, if specified as being allowed to be withheld for the purpose in their approved intrastate funding formula or funds distribution plan, or with prior approval from the Assistant Secretary for Aging. The following apply for use of set aside funds:

- (1) Set aside funds that are awarded under this provision must comply with the requirements at § 1321.101; and
- (2) The State agency must have policies and procedures in place to award funds set aside through the intrastate funding formula, as set forth in § 1321.49, or funds distribution plan, as set forth in § 1321.51(b), if there are no funds awarded subject to this provision within 30 days of the end of the fiscal year in which the funds were received.

The Nebraska State Unit on Aging and Nebraska Area Agencies on Aging *may* elect to submit a revision to the state's Intrastate Funding Formula, or to request prior approval from the Assistant Secretary on Aging to set aside up to 5% of the state's total III-B funding in the case of an annual fund for disaster assistance or a one-time form of assistance for a single event. The SUA in both cases would establish policies and procedures for reviewing needs and requests for assistance.

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.

1321.101(b) provides the following flexibilities that may be offered (separate from funding allowed to be set aside in 1321.99.

(b) Flexibilities a State agency may exercise under a major disaster declaration include:

(1) Allowing use of any portion of the funds of any open grant awards under Title III of the Act for disaster relief services for older individuals and family caregivers.

(2) Awarding portions of State plan administration, up to a maximum of five percent of the Title III grant award or to a maximum of the amounts set forth at § 1321.9(c)(2)(iv), for use in a planning and service area covered in whole or part under a major disaster declaration without the requirement of allocation through the intrastate funding formula or funds distribution plan to be used for direct service provision.

(3) Awarding of funds set aside to address disasters, as set forth in § 1321.99, or as determined by the Assistant Secretary for Aging, in the following ways:

(i) to an area agency serving a planning and service area covered in whole or part under a major disaster declaration without the requirement of allocation through the intrastate funding formula;

(ii) for single planning and service area States, to a service provider without the requirement of allocation through a funds distribution plan; or

(iii) to be used for direct service provision, direct expenditures, and/or procurement of items on a statewide level, if the State agency adheres to the following:

(A) The State agency judges that provision of services or procurement of supplies by the State agency is necessary to ensure an adequate supply of such services and/or that such services can be provided/supplies procured more economically, and with comparable quality, by the State agency;

(B) The State agency consults with area agencies on aging prior to exercising the flexibility, and includes the Ombudsman as set forth in part 1324, subpart A if funding for the Ombudsman program is affected;

(C) The State agency uses such set aside funding, as provided at § 1321.99, for services provided through area agencies on aging and other aging network partners to the extent reasonably practicable, in the judgment of the State agency; and

(D) The State agency ensures reporting of any clients, units, and services provided through such expenditures.

The Nebraska State Unit on Aging would need to submit a revision to the Nebraska State Plan on Aging to provide such flexibilities to subrecipients.

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