

**CHAPTER 411
DIVISION 2**

DESIGNATION OF PLANNING AND SERVICE AREAS

411-002-0100 Definitions Relating to the Designation of Planning and Service Areas

(Adopted 2/5/1986)

(1) "Area Agency on Aging" means the designated entity with which the Division contracts to meet the requirements of the Older Americans Act and ORS 410.040 to 410.290 for a designated Planning and Service Area.

(2) "Division" means the Senior Services Division of the Department of Human Resources.

(3) "Planning and Service Area" means the geographical area, consisting of one or more counties, for which one Area Agency on Aging is designated by the Division to plan for and provide services under the Older Americans Act.

Statutory Authority: ORS 411

Statutes Implemented: ORS 410.040

411-002-0105 Basis for Planning and Service Area Designation

(Adopted 2/5/1986)

(1) Boundaries are within the fourteen State Administrative Districts as established by Executive Order 68-11 and subsequent orders EO-01-070-3, EO75-28, and EO79-01.

(2) The Division recognizes as "designated" those Planning and Service Areas existing as of the effective date of this rule.

(3) Designation of additional Planning and Service Areas shall be in compliance with the Older Americans Act, appropriate federal regulations, and Division rules.

(4) Any unit of general purpose local government, a region recognized for areawide planning, metropolitan area or Indian reservation may make application to the Division to be designated as a Planning and Service Area as required under Federal Regulation 45 CFR 1321.43. The Division will notify the applicant of its approval or disapproval.

(5) If an application is disapproved by the Division, the applicant may appeal for an Administrative Review to the Division, in writing, within 30 days of notice of disapproval. Upon such a request, the Division will hold an administrative review and issue a written decision.

(6) An applicant, as specified in section (4) of this rule, may appeal to the Commissioner on Aging if the Division denies designation. The applicant must appeal in writing within 30 days after receipt of the Division's Administrative Review decision or 30 days following the initial decision if the applicant does not request an Administrative Review.

(7) An Indian reservation must have at least 250 residents age 60 or over to be designated as a Planning and Service Area. Services on Indian reservations so designated shall be available to all persons 60 years of age or older who reside on the reservation.

(8) The Division will consider the distribution in the state of persons age 60 and older, including those who have greatest economic need; the views of public officials of the units of general purpose local governments; and the incidence of need for services provided under the Older Americans Act and ORS 410.040 to 410.290 and the resources to meet these needs.

(9) Prior to making a decision, the Division will conduct hearings in the county or counties requesting designation, the locality of the Area Agency on Aging currently designated for the existing Planning and Service Area and in one or more other sites designated by the Administrator of the Division.

(10) In the event the Administrator of the Division shall consider designating a new Planning and Service Area, the Governor's Commission on Senior Services shall participate in one or more public hearings, normally separate from those described above in section (9) of this rule, prior to a final decision and prior to submission to the Governor for signature as a change to the State Plan on Aging.

(11) It is the responsibility of the applicant to submit sufficient information and supporting documentation which will allow the Division to make a decision on designation. All information submitted by the applicant must specifically address section (8) of this rule and provide responses to the following questions:

(a) How has the distribution of persons age 60 and older in the current Planning and Service Area changed since the designation of the current Planning and Service Area?

(b) How has this change affected the delivery of services in the current Planning and Service Area(s)?

(c) How will the proposed designation improve the delivery of services?

(d) Why is this designation the best method to improve service delivery? Indicate which other alternatives have been considered;

(e) Will this designation have any negative effects, directly or indirectly, on the current Planning and Service Area and programs being administered in that area? Indicate and describe;

(f) Will this designation have an impact on resources available within the existing Planning and Service Area? Describe for both the proposed Planning and Service Area and the areas not covered by the proposed designation which are in the current Planning and Service Area;

(g) What are the views of public officials of units of general purpose local government within the current Planning and Service Area? Submit documentation.

(12) The Division will request comments from the existing Area Agencies on Aging and consider the overall impact within the State of Oregon.

(13) Upon receipt of a request for a new Planning and Service Area, re-evaluation of the formula for distributing Older Americans Act and Oregon Project Independence funds will be initiated by the Division.

Statutory Authority: ORS 411

Statutes Implemented: ORS 410.040 & ORS 410.070

411-002-0110 Designation of Area Agencies on Aging

(Adopted 2/5/1986)

- (1) Each Planning and Service Area shall have only one designated Area Agency on Aging.
- (2) The Administrator of the Division shall designate Area Agencies on Aging.
- (3) Designation shall comply with the provisions of Section 305 of the Older Americans Act by giving right of first refusal in designating new Area Agencies on Aging to a unit of general purpose local government, the boundaries of which and the boundaries of the proposed Planning and Service Area are reasonably contiguous. If a unit of local government does not exercise this right, the Division shall give preference to an established office on aging.
- (4) An Area Agency on Aging designated shall be:
 - (a) An established office of aging operating within the Planning and Service Area; or
 - (b) An office or agency of a unit of general purpose local government, which is designated by the chief elected official of the unit to serve as an Area Agency; or
 - (c) Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government; or
 - (d) Any public or nonprofit private agency in a Planning and Service Area which is under the supervision or direction of the Division for this purpose and which can engage in the planning or provision of a broad range of supportive services, or nutrition services within the Planning and Service Areas.

(5) It is preferable that designation of new Area Agencies on Aging become effective at the beginning of the state fiscal year, July 1.

(6) Prior to making a decision, the Division shall conduct an on-site review to determine the capacity of the applicant to perform the functions of an Area Agency.

(7) An applicant requesting to replace an existing Area Agency on Aging must clearly establish the need for such a change.

(8) It is the responsibility of the applicant to submit sufficient information and supporting documentation which will allow the Division to make a decision on designation. All information submitted by the applicant must specifically address mandatory functions required of an Area Agency on Aging. These functions are outlined as follows:

(a) Staffing Functions – Area Agencies must have a qualified director and an adequate number of qualified staff (including full or part-time bookkeeper and clerical support) to operate the program. The applicant shall submit the following:

(A) Staff plan identifying number and types of positions, position descriptions with minimum qualifications and pay scales; and

(B) Draft personnel policy establishing organizational rules, standards, and compliance actions with civil rights laws, affirmative action, and hiring preference policy, and fringe benefit package, if any; and

(C) Organizational chart depicting lines of authority and internal functions and responsibilities.

(b) Planning Functions – Areas Agencies are required to develop and administer an Area Plan for a comprehensive and coordinated service delivery system in the area. The applicant shall submit the following documentation:

(A) Detailed statement covering the manner in which the new agency would prepare and administer the Area Plan, and

maintain continuity of existing services; and

(B) Description of anticipated services; and

(C) Time table for preparing and submitting the Area Plan to the Division for review and approval, including public hearing; and

(D) A narrative describing how the new agency intends to:

(i) Assess the kinds and levels of services needed by older persons in the area, and how these findings will be integrated into the planning process; and

(ii) Develop and publish methods for establishing priorities for services; and

(iii) Assure that older persons in the area have reasonably convenient access to information and referral services; and

(iv) Indicate how preference in the delivery of services will be provided to older persons with the greatest social and economic need; i.e., low income, minorities, socially isolated, and persons at risk of institutionalization.

(c) Advocacy Functions -- An Area Agency must serve as the advocate and focal point for older persons in the area. The applicant shall explain how the following matters will be accomplished:

(A) Monitoring, evaluating, and commenting on policies, program, hearings, levies, and community actions affecting older persons; and

(B) Conduct public hearings on the needs of older persons; and

(C) Represent the interests of older persons to public officials, public and private agencies or organizations; and

(D) Carry out activities in support of the State-Administered Long-Term Care Ombudsman Program; and

(E) Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons.

(d) Fiscal Functions -- As recipients of state and federal funds, Area Agencies must establish adequate financial management systems and comply with acceptable accounting practices and procedures. Specifically, the applicant shall provide the following evidence:

(A) A plan for funding start-up costs; and

(B) A detailed first-year budget of projected revenue and expenses; and

(C) A general ledger that sets forth accounting of all grant income, in-kind income, program income, other cash income, and related expenses by categorical grant; and

(D) Written financial policies that cover, as a minimum:

(i) Method for allocating direct and indirect expenses to grants; and

(ii) Method of converting line item expenses to specific services; and

(iii) A check approval procedure to provide sufficient control over transactions.

(e) Board Functions -- To carry out its overall responsibilities and conduct business, an Area Agency must constitute a board of directors (or equivalent level in a governmental entity). In documenting this action, the following shall be submitted for review:

(A) Articles of incorporation, if applicable; and

(B) Bylaws, if applicable; and

(C) Policy statement for monitoring and supervising activities of

staff; and

(D) Method by which recommendations of the advisory council will be considered in policy and decision-making processes; and

(E) Method for providing opportunities for older persons representing the general public to express their views on matters of policy and program.

(f) Advisory Council Functions -- An Advisory Council will need to be established to provide a way of obtaining formal opinions and recommendations from the senior population in the area. Toward ensuring that this step will be taken, the applicant shall prepare preliminary materials on the following:

(A) Intended composition of the Advisory Council and time table for making the initial appointments; and

(B) Frequency of Advisory Council meetings; and

(C) Expectations for staff support to the Advisory Council; and

(D) Copy of the bylaws of the Advisory Council as drafted by the applicant agency, specifying roles and functions of the Council.

(g) Basic Service Delivery Requirements -- Area Agencies are required to meet basic service delivery requirements. The applicant must document capability to perform or provide for the following:

(A) Giving preference for services to older persons with the greatest economic or social needs; and

(B) Direct services when a qualified contractual agency is not available; and

(C) Nutrition services;

(i) Assess level of need for congregate and home-

delivered meals within the area; and

(ii) List locations of each nutrition site, projected meals per day, and frequency of service intended; and

(iii) Describe ability to provide home-delivered meals efficiently and reasonably; and

(iv) Further reference to staffing plan for day-to-day management of nutrition services; and

(D) Legal services to those with the greatest economic or social needs; and

(E) Information and referral services; and

(F) Transportation services; and

(G) In-home services which meet prescribed standards (OAR Chapter 411, Division 30); and

(H) Support the Long-Term Care Ombudsman Program; and

(I) Description and objectives of other planned services.

(h) Management Control Functions -- An Area Agency must establish policies and procedures to accomplish program goals. Toward this end, the applicant shall submit a plan explaining the following:

(A) Methods by which the administration of the Area Plan will be coordinated with federal programs in the community that affect older persons; and

(B) Procedures for informing older persons of the availability of services under the Area Plan; and

(C) Tentative schedule seeking applicants to provide services under the Area Plan and entering into and monitoring contracts to provide these services. When it is necessary for the Area Agency to provide any of the services directly to assure an

adequate level, it must be documented that no adequate contract provider is available; and

(D) Intention to contract with an independent auditor to conduct an annual financial and compliance audit, and assure that contractual providers have an annual audit; and

(E) How local resources (cash and in-kind) will be developed to support program activities.

Statutory Authority: ORS 411

Statutes Implemented: ORS 410.040, ORS 410.070, ORS 410.250, ORS 410.270, ORS 410.280 & ORS 410.290

411-002-0115 Withdrawal of Area Agency on Aging Designation

(Adopted 2/5/1986)

(1) In carrying out Section 305 of the Older Americans Act, the Division must withdraw the agency designation whenever it, after reasonable notice and opportunity for an Administrative Review and efforts at problem resolution have been exhausted, finds that:

(a) An area agency does not meet the requirements of 45 CFR 1321; or

(b) An area plan or plan amendment is not approved; or

(c) There is substantial failure in the provisions or administration of an approved Area Plan to comply with any provisions of the Older Americans Act or 45 CFR 1321.

(2) If the Division withdraws an Area Agency's designation under section (1) of this rule, it shall:

(a) Provide a plan for the continuity of services in the affected Planning and Service Area; and

(b) Designate a new Area Agency in the Planning and Service Area in a timely manner.

(3) After its final decision to withdraw designation of an Area Agency and if necessary to ensure continuity of services in a Planning and Service Area, the Division may, for a period up to 180 days -- And with approval of the Commissioner on Aging an added 180 days:

(a) Perform the responsibilities of the Area Agency; or

(b) Assign the responsibilities of the Area Agency to another agency in the Planning and Service Area.

Statutory Authority: ORS 411

Statutes Implemented: ORS 410.100