

**CHAPTER 411**  
**DIVISION 2**

**DESIGNATION OF PLANNING AND SERVICE AREAS**

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

*(Amended 11/1/1999)*

(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 Chapter 410 in planning and providing services to the elderly or elderly and disabled population for a designated Planning and Service Area.

(2) "Division" means the Seniors and People with Disabilities Division of the Department of Human Services.

(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 and Oregon Revised Statute (ORS) Chapter 410.

(4) (a) "Type A Area Agency on Aging" means a designated entity that administers the Older Americans Act and Oregon Project Independence programs for a Planning and Service Area. A Type A Area Agency on Aging may be:

(A) An office or agency of a unit of general purpose local government which is selected by the chief elected official of the unit to serve as an Area Agency on Aging; or

(B) Any office or agency designated by the appropriate chief elected officials of any combination of units of general or general and special purpose local government formed in accordance with ORS Chapter 190; or

(C) A private non-profit organization.

(b) In Planning and Service Areas served by a Type A Area Agency on Aging, Medicaid, financial and adult protective services, and regulatory programs for the elderly and disabled are administered by a Multi-Service Office of the Division.

(5) "Type B Area Agency on Aging" means a designated entity that meets the definition of an area agency on aging, and is administered by a unit or combination of units of general purpose local government, and administers the Medicaid, financial and adult protective services, and regulatory programs for elderly or the elderly and disabled.

(a) A Type B Area Agency on Aging may contract with the Division for services of state employees; or

(b) A Type B Area Agency on Aging may have such employees transferred to employment by the Area Agency by transfer agreement.

(6) "Type B1 Area Agency on Aging" means a designated entity that meets the definition of a Type B area agency on aging, and administers the Medicaid, financial and adult protective services, and regulatory programs for the elderly. In a Planning and Service Area served by a Type B1 Area Agency on Aging, the Medicaid and financial assistance program for the Disabled is administered by a Disability Service Office of the Division.

(7) "Type B2 Area Agency on Aging" means a designated entity that meets the definition of a Type B1 area agency on aging and administers the Medicaid, financial, adult protective services and regulatory programs for the elderly and disabled.

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

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

*(Amended 11/1/1999)*

(1) Boundaries for Planning and Service Areas will be designated by the Division Administrator and indicated in the current State Plan on Aging.

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

(3) The official decision-making body for any unit of general purpose local government, a region recognized for area-wide planning, metropolitan area or Indian reservation may make application to the Division to be designated as a Planning and Service Area. The Division will notify the applicant of its approval or disapproval within 60 days of either the date the application is received by the Division, or any closing date for applications, whichever is later.

(4) 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.

(5) During its review of any application for Planning and Service Area designation, the Division will consider:

(a) The distribution in the state of persons age 60 and older, including those who have greatest economic and social need, particularly low-income minority elderly;

(b) The views of public officials of the units of general purpose local governments;

(c) The incidence of need for services provided under the Older Americans Act and ORS Chapter 410 and the resources to meet these needs;

(d) The boundaries of existing areas within the State which were drawn for the planning or administration of Older Americans Act programs;

(e) The location of units of general purpose local government within the State; and

(f) Any other relevant factors, including those listed in sections (8), (9) and (10) of this rule.

(6) 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. The Governor's Commission on Senior Services, and where applicable, the Oregon Disabilities Commission, shall be notified and invited to participate in these hearings.

(7) In the event the Administrator of the Division shall consider designating a new Planning and Service Area, the Governor's Commission on Senior Services, and where applicable, the Oregon Disabilities Commission, shall participate in one or more public hearings, normally separate from those described in section (6) 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.

(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 section (5) 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 its original designation?

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

(c) How would 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 under the area plan 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.

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

(10) Upon receipt of a request for designation of a new Planning and Service Area, and prior to the Division conducting hearings as required by section (6) of this rule, the impact of creating a new Planning and Service Area will be calculated by the Division, distributed to Area Agencies on Aging and made available to interested parties upon request.

(11) If an application is disapproved by the Division, the applicant may appeal for an Administrative Review to the Division. Such an appeal must be made in writing within 30 days of notice of disapproval. The Division will initiate an Administrative Review within 30 days of receipt of an appeal. A written decision will be issued within 30 days of completing the review.

(12) An applicant, as specified in section (3) of this rule, may appeal to the Assistant Secretary 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.

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

### **411-002-0110 Designation of Area Agencies on Aging**

*(Amended 11/1/1999)*

(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) The designation shall comply with 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, of which the boundaries, 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) A designated Area Agency on Aging shall be:

(a) An office or agency of a unit of general purpose local government, which is selected by the chief elected official of the unit to serve as an Area Agency; or

(b) Any office or agency designated by the appropriate chief elected officials of any combination of units of general or general and special purpose local government formed in accordance with ORS Chapter 190; or

(c) A private nonprofit organization.

(5) Unless otherwise requested by the applicant and approved by the Division, 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 on designation of a new Area Agency on Aging, the Division shall conduct an on-site review to determine the capacity of the applicant to perform the functions of an Area Agency on Aging.

(7) Denial of an application for designation as an Area Agency on Aging may be appealed to the Division for an Administrative Review. Such an appeal must be made in writing and received by the Division within 30 days of the notice of denial. The Division will conduct an Administrative Review and a written decision will be issued by the Division within 30 days of the completion of the Administrative Review.

Stat. Auth.: ORS 410 & 45 CFR 1321  
Stats. Implemented: ORS 410.210 - ORS 410.300

**411-002-0115**

*(Renumbered to [OAR 411-002-0170](#) 11/1/1999)*

**411-002-0120 Area Agency on Aging Applicant Requirements**

*(Adopted 11/1/1999)*

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

(2) 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.

(3) Mandatory Functions -- 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 -- An Area Agency on Aging 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;

(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 -- An Area Agency is required to develop and administer an Area Plan on aging for a comprehensive and

coordinated service delivery system in the Planning and Service 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;

(B) Description of anticipated services;

(C) Time table for preparing and submitting the Area Plan to the Division for review and approval, including one or more public hearings on the proposed plan, conducted within the service delivery area;

(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;

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

(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; and

(E) Include any necessary interagency agreements that affect the operation of the Area Agency on Aging, including an agreement with any Division offices located within the local service delivery area.

(c) Advocacy Functions -- An Area Agency on Aging 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;
- (B) Conduct public hearings on the needs of older persons;
- (C) Represent the interests of older persons to public officials, public and private agencies or organizations;
- (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. Type A Area Agencies on Aging will coordinate with the local Multi Service Office in the Planning and Service Area to insure there is coordination of programs administered by each entity.

(d) Fiscal Functions -- As recipients of state and federal funds, Area Agencies on Aging 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;
- (B) A detailed first-year budget of projected revenue and expenses;
- (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) 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 on Aging must have a board of directors (or equivalent policy making body in a governmental entity). In documenting this action, the following shall be submitted for review:

(A) Articles of incorporation, if applicable;

(B) Bylaws, if applicable, which include a description of how members are selected, and terms of service;

(C) Policy statement for monitoring and supervising activities of staff;

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

(E) Method of 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 shall 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;

(B) Frequency of Advisory Council meetings;

(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 on Aging are required to meet basic service delivery requirements. The applicant must document capability to perform or provide for services, target specific populations, and provide assurances required by the Older Americans Act.

(h) Management Control Functions -- An Area Agency on Aging 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;

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

(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;

(D) Intention to contract with an independent auditor to conduct an annual financial and compliance audit;

(E) The Area Agency on Aging must assure that any contractual providers also have an annual audit if required by federal law or rule; and

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

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

### **411-002-0130 Designation of a Type B1 Area Agency on Aging**

*(Adopted 11/1/1999)*

(1) A designated Type B1 Area Agency on Aging shall meet the requirements of OAR 411-002-0110.

(2) Notwithstanding OAR 411-002-0110(4), a designated Type B1 Area Agency on Aging shall be:

(a) 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

(b) Any office or agency designated by the appropriate chief elected officials of any combination of units of general or general and special purpose local government formed in accordance with ORS Chapter 190.

(3) Designation as any category of Type B1 area agency on aging requires written notice to the Division at least six months prior to the proposed implementation of change of status. The Division will notify the Governor's Commission on Senior Services and the Oregon Disabilities Commission.

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

### **411-002-0140 Type B1 Area Agency on Aging Applicant Requirements**

*(Adopted 11/1/1999)*

(1) It is the responsibility of the applicant to submit sufficient information and supporting documentation to allow the Division to make a decision on a type B1 designation.

(2) A Type B1 Area Agency on Aging applicant shall meet the requirements of OAR 411-002-0120 and the following additional requirements:

Mandatory Functions-- An applicant must submit information that specifically addresses the mandatory functions required of a Type B1 Area

Agency on Aging. These functions are outlined as follows:

(a) Staffing Functions -- A Type B1 area agency on aging must have an adequate number of qualified staff, including case management capability, to operate the Medicaid program for the elderly. Staffing patterns must be clearly identified for personnel who are assigned Medicaid program responsibility. Staffing must adhere to standards established by the Division.

(b) Planning Functions -- Type B1 Area Agencies on Aging are required to provide a plan describing how the agency intends to:

(A) Administer the Medicaid programs for the elderly in the PSA and how the Medicaid programs will be integrated into the overall service delivery system; and

(B) Assure that elderly Medicaid recipients in the area have reasonable access to information and services; and

(C) Include any necessary interagency agreements that affect the operation of the B1 Area Agency on Aging. The Type B1 Area Agency on Aging will coordinate with the local Disability Services Office(s) in its area to insure services that affect both the elderly and disabled occur in a timely and effective manner.

(D) Basic Service Delivery Requirements - B1 area agencies on aging are required to meet basic Medicaid service delivery requirements as required by the Division.

(E) Management Control Functions - B1 area agencies on aging must establish policies and procedures to accomplish Medicaid program goals as required by the Division.

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

**411-002-0150 Designation and Requirements of Type B2 Area Agencies on Aging**

*(Adopted 11/1/1999)*

A Type B2 Area Agency on Aging must meet the requirements of OAR 411-002-0110, 411-002-0120, 411-002-0130 and the following additional requirements: Mandatory Functions - All information submitted by the applicant must specifically address mandatory functions required of a B2 Area Agency on Aging. These functions are outlined as follows:

(1) Staffing Functions -- B2 Area Agencies on Aging must have an adequate number of qualified staff, including case management, to operate the program for disabled Medicaid recipients.

(2) Planning Functions -- B2 Area Agencies on Aging are required to develop and administer an Area Plan for a comprehensive and coordinated service delivery system in the Planning and Service Area. The applicant shall submit the following documentation:

(a) A plan describing how the new agency intends to:

(A) Assure the kinds and levels of services needed by disabled Medicaid recipients in the area, and how these findings will be integrated into the planning process; and

(B) Assure that disabled Medicaid recipients in the area have reasonable access to information and services; and

(b) Include any necessary interagency agreements that affect the operation of the Area Agency on Aging.

(3) Disability Services Advisory Council Functions -- A disability Services Advisory Council will be established to provide a way of obtaining formal opinions and recommendations from the disabled 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;

(b) Frequency of Advisory Council meetings;

(c) Expectations for staff support to the Advisory Council;

(d) Copy of the bylaws of the Disability Services Advisory Council specifying roles and functions of the Council.

(4) Basic Delivery Requirements -- B2 Area Agencies on Aging are required to meet basic service delivery requirements as required by the Division.

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

#### **411-002-0160 Changing from a Type A or Type B1 AAA to a Type B2 AAA**

*(Adopted 11/1/1999)*

(1) Type A or Type B1 Area Agencies on Aging may request to change their model of service delivery to a Type B2 Area Agency on Aging. The process for requesting the change is as follows:

(a) The AAA notifies the Division in writing of its interest in changing to a Type B2 AAA.

(b) The Division will inform the Governor's Commission on Senior Services, the Oregon Disabilities Commission and the local Disability Services Advisory Council and Senior Advisory Council and provide opportunity for local input.

(c) The AAA will provide notice to affected populations and constituencies at the local level of its intent to pursue a Type B2 model of service delivery.

(d) The AAA will involve affected stakeholders in the development of a process that includes identifying any issues of concern, a process to address these concerns, and the development of a service delivery plan.

(e) The AAA will hold public hearings within the local area during the planning process to receive comments and recommendations on the issues of concern and the service plan.

(f) The Senior Advisory Council and Disability Services Advisory Council will certify in writing that they have been involved in developing the plan.

(g) Once the plan has been approved by the Division, the operating level (office, division, or department of local jurisdiction) of the AAA will amend its name to reflect the inclusion of services to people with disabilities.

(2) If the request for a change to an Area Agency on Aging designation is denied by the Division, the Area Agency on Aging may appeal the decision by following the procedures outlined in OAR 411-002-0110(7).

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

#### **411-002-0170 Withdrawal of Area Agency on Aging Designation**

*(Renumbered 11/1/1999)*

(1) In carrying out provisions of the Older Americans Act and ORS 410.100, 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) There is evidence of non-compliance with provisions of the Area Plan contract.

(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.

Stat. Auth.: ORS 410 & 45 CFR 1321

Stats. Implemented: ORS 410.210 - ORS 410.300

**411-002-0175 Methodology to Determine Budget Levels for Type B Area Agencies on Aging That Have Elected To Have Employment Transfer**

*(Adopted 12/30/2004)*

(1) Definitions:

(a) A “Type B Transfer AAA” means a Type B Area Agency on Aging that has elected to have employees transferred to employment by the Area Agency by transfer agreement.

(b) A “Title XIX funded position means a position that is funded, in part, by Federal funds through Title XIX of the Social Security Act.

(c) “SPD Allocated Positions” means the position categories allocated to SPD field offices. These are the categories of positions to be included for the Equity comparison.

(d) “Annual OPE” means the benefit rate as calculated by DHS. The resulting rate is used to calculate the amount of OPE per type of position.

(e) “Indirect Cost Rate” means the percentage rate used to calculate costs allocated to Type B Transfer AAA offices for indirect costs, including State Government Service Charges and Infrastructure

Charges. An established indirect cost rate will not be amended in the middle of the biennium. The initial indirect cost rate is set at 17.78% of the sum of Salary and OPE expenses. The indirect cost rate will be re-based to be effective the first day of the first biennium after the Department of Administrative Services (DAS) changes rates that it publishes in its Price List.

(2) Each Type B Transfer AAA shall provide an updated staff report to DHS not later than January 31 each year. The Type B Transfer AAA shall provide the information that DHS requests in the form that DHS prescribes.

(3) The following steps will be used to calculate the annual budget for the Type B Transfer AAAs:

(a) The updated staff report will be sorted to separate Title XIX funded positions from others. Positions that are not Title XIX funded are not included in the calculation.

(b) SPD will publish a list of Title XIX funded job categories not later than January 15 each year.

(c) The Title XIX funded positions are sorted by job category. Levels within a single job category are combined.

(d) Average step in the salary range and average salary are calculated for each job category.

(e) Management staffing will be added in the same ratio and at the same salary ranges that DHS would staff an SPD field office.

(f) Each Type B Transfer AAA will be afforded an opportunity to review the information derived in steps (a) through (d) above. Revisions may be made to the information as a result of that review.

(g) Reviewed information from steps (a) through (e) will be used to determine calculate average step in the salary range for each job category for each Type B Transfer AAA.

(h) An adjustment is made to equate the number of salary steps in the Type B Transfer AAA salary range for each job category to the

DHS salary range for each job category.

(i) The adjusted average step in the salary range is used to determine the average DHS salary for each job category.

(j) The monthly salary is multiplied by 12 and converted to an average annual salary for each job category.

(k) The Annual OPE rate is multiplied by the average annual salary for each job category to produce the average annual OPE for each job category.

(l) The sum of the average annual salary and the average annual OPE for each job category is multiplied by the number of FTE determined in steps (a) through (e) above. The product is the Total Annual Salary Plus OPE to be used in determination of the budget level.

(m) The Total Annual Salary Plus OPE is multiplied by the Indirect Cost Rate to determine aggregate annual indirect costs.

(n) The DHS standard Services and Supplies costs for field office employees is multiplied by the number of FTE to determine aggregate Services and Supplies (S&S) costs.

(o) The total annual Type B Transfer AAA annual budget level is the sum of (Total Annual Salary Plus OPE) + (aggregate annual indirect costs) + (aggregate S&S costs).

(4) The total annual Type B Transfer AAA annual budget level determined above will be reduced by 5%.

(5) DHS will use the methodology outlined in Sections (3) and (4) above when determining funding levels to recommend to the Governor for the Type B Transfer AAAs.

(6) Notwithstanding Section (5), in determining the funding levels of Type B Transfer AAAs to recommend to the Governor for the 2005-2007 biennium, DHS shall reduce the total annual Type B Transfer AAA annual budget level by 8%.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.210 - ORS 410.300