

DEPARTMENT OF COMMUNITY HEALTH
OFFICE OF SERVICES TO THE AGING
STATE AND LOCAL PROGRAMS ON AGING

(By authority conferred on the office of services to the aging by section 11 of Act No. 180 of the Public Acts of 1981, being S400.591 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 400.20101 Definitions; A to G.

Rule 101. As used in these rules:

(a) "Act" means Act No. 180 of the Public Acts of 1981, being S400.581 et seq. of the Michigan Compiled Laws.

(b) "Area agency" or "area agency on aging" means the single local agency or organization within each planning and service area which plans for and administers the delivery of a comprehensive and coordinated system of supportive and nutrition services to older persons and which is designated pursuant to section 4(1) of the act.

(c) "Area plan" means the document which is developed by an area agency, is approved by the commission, and which describes the comprehensive and coordinated system for providing supportive and nutrition services to older persons in the planning and service area.

(d) "Commission" means the commission on services to the aging established by section 3(1) of the act.

(e) "Comprehensive and coordinated system" means a program of interrelated supportive and nutrition services designed to meet the needs of older persons in a planning and service area.

(f) "Contract" means a written agreement directly with the office or under the provisions of an area plan which establishes the rights and responsibilities of respective parties for the quality and quantity of goods or a service being provided.

(g) "Contractor" means the party or parties specified in a contract to receive remuneration in return for goods or services rendered.

(h) "Director" means the director of the office of services to the aging as established by section 5 of the act.

(i) "Grant" means an award of funds by the office to an area agency for administrative and contract purposes under provisions of an approved area plan or to another entity in accordance with criteria established by the commission.

(j) "Grantee" means the entity to which a grant is awarded and which is accountable to the office for the use of funds provided.

History: 1983 AACCS.

R 400.20102 Definitions; M to S.

Rule 102. As used in these rules:

(a) "Means test" means the measure of income, financial resources, or real property as a basis for establishing eligibility or service limits to an older person.

(b) "Nonprofit" means a nonprofit corporation registered and in good standing with the corporations and securities bureau, Michigan department of commerce, pursuant to Act No. 327 of the Public Acts of 1931, as amended, being S450.62 et seq. of the Michigan Compiled Laws.

(c) "OAA" means the older americans act of 1965, as amended, 42 U.S.C. S3001 et seq.

(d) "Office" or "state agency" means the office of services to the aging created by section 5 of the act.

(e) "Older person" means a state resident who is 60 years of age or older, and the spouse of the older persons, regardless of age.

(f) "Program cost" means all cost incurred by a grantee in managing, administering, and delivering services to older persons.

(g) "Program income" means that income accruing through payments or contributions received in connection with the provision of a service to older persons.

(h) "PSA" or "planning and service area" means a geographic area of the state designated by the commission for purposes of area plan development and area agency designation.

(i) "Service provider" means an entity under contract to a grantee, that provides services to older persons, under provisions of an approved area plan.

(j) "Service recipient" means an older person who receives services directly from a service provider.

(k) "State plan" means the document required by section 6 of the act and the OAA.

History: 1983 AACCS.

R 400.20103 Services system.

Rule 103. The system or organization through which financial resources shall flow in providing services and programs to the aging under provision of the act and the OAA consists of the following:

(a) The office, which is administered by the director to perform those functions and responsibilities specified by sections 5 and 6 of the act.

(b) The commission, which is responsible for those functions and responsibilities specified by sections 3 and 4 of the act.

(c) A system of grantees to plan and allocate resources for services and programs to older persons. Grantees may be area agencies established in accordance with section 9 of the act or other entities designated in accordance with criteria approved by the commission.

(d) A system of entities authorized to provide supportive and nutrition services directly to older persons. Such services shall be provided through contractual agreements in accordance with either of the following provisions:

(i) By grantees contracting with service providers under the provision of an area plan or other criteria approved by the commission and the state agency.

(ii) By direct contract with the state agency subject to approval by the commission.

(e) A service recipient as the beneficiary of programs and services to the aging.

History: 1983 AACCS.

R 400.20104 Grantees; reporting responsibilities and requirements.

Rule 104. (1) A grantee shall do all of the following:

(a) Submit to the office program and financial reports necessary to comply with state and federal requirements, as instructed in procedures issued by the director or as made part of the grant award instrument.

(b) Submit reports on time and in a manner prescribed by the director as part of the procedures issued pursuant to subdivision (a) of this subrule.

(c) Be responsible for obtaining and reporting necessary information from those entities with whom contracts have been made.

(2) A grantee shall obtain reports from contractors in a manner consistent with procedures issued pursuant to subrule (1) of this rule.

(3) A grantee shall be legally constituted as required under provisions of the act, the OAA, or requirements issued by the state agency.

History: 1983 AACCS.

R 400.20105 Grantees; contracting practices.

Rule 105. (1) A grantee shall not consummate a contract using funds made available, in whole or in part, through the office until an area plan or other document detailing the proposed use for financial assistance has been approved by the commission for a specified time period and notice of authorization to encumber grant funds has been issued by the director.

(2) A grantee shall contract for only those services enumerated in the area plan or other document detailing the proposed use of funds which has been approved by the commission as provided in subrule (1) of this rule.

(3) A grantee shall select contractors through a request for proposal process which gives full opportunity for free and open competition among bidders. Timely written notice shall be given to those potential contractors not selected through the process, and shall state the reasons for the grantee's decision and notice of the right to appeal.

(4) A grantee shall ensure that an assessment of each grantee's contractors is conducted in accordance with procedures and criteria issued pursuant to R 400.20301.

History: 1983 AACCS.

R 400.20106 Grantees; written operating procedures required.

Rule 106. (1) A grantee receiving funding or delegated authority received under provisions of the act shall have written procedures to govern the conduct of its operations and functions. Procedures shall describe the administrative and policy structure of the entity. Procedures shall describe the methods used in dealing with contractors or other agencies and incorporate those applicable procedures issued by the director.

(2) A grantee's written procedures shall be officially adopted by action of the entity's governing body. Before adoption, a grantee shall provide an opportunity for comment on

the proposed operating procedures by local governments, contractors, and affected agencies. Notice of opportunity for comment shall be published in a newspaper or newspapers of general circulation or by direct mail to affected parties within the grantee's geographic jurisdiction or within the PSA. A prior notice of 14 days shall be provided for public comment before the procedures are adopted by the grantee.

(3) A grantee shall provide copies of the written procedures to each of its contractors and to the office without cost. Other parties may be charged a fee not to exceed the actual per copy cost of reproduction.

History: 1983 AACs.

R 400.20107 Grantees; procedures for appeals and appeals hearings required.

Rule 107. (1) A grantee shall establish an appeals mechanism which provides the opportunity for contractors or service providers to appeal any of the following:

(a) A service provider's contract that has been suspended, terminated, or not renewed, except for cause of termination or non-renewal.

(b) A contractor's or potential contractor's application, or proposal to provide services, that was denied as provided in R 400.20105.

(c) An administrative action that imposes or limits requirements on the contractor or service provider.

(2) A grantee, through action of its governing body, shall establish and issue an appeals procedure for items covered by subrule (1)(a) and (b) of this rule which includes all of the following:

(a) Written notice to the contractor or service provider of grantee action to suspend, terminate, not renew, or deny a contract, including a notice of right to appeal.

(b) Notice that information or criteria on which the grantee's action was based is available for review by affected parties.

(c) Notice that the affected party may appear in person or by a designated representative to appeal the grantee's action.

(d) Provision for, as the initial step of any appeal, a meeting with the governing body within 30 days to review items in dispute and seek clarification or resolution to the issue in dispute. A record of the meeting, including relevant facts, shall be maintained, and a determination shall be rendered in writing by the governing body. Issues unresolved shall be appealed to arbitration.

(e) A specification that appeals proceedings shall be conducted within an aggregate timeframe of 60 days, within which all of the following shall occur:

(i) A notice of right to appeal shall be sent to the contractor within 7 days of the grantee's action.

(ii) An appeal shall be requested by the aggrieved party, in writing, within 10 days of notice as provided by paragraph (i) of this subdivision.

(iii) A hearing shall be scheduled and completed.

(iv) A decision shall be rendered and reported, in writing, to the affected parties.

(f) Notice shall be given that decisions of the governing body may be appealed to arbitration in accordance with the provisions of the American arbitration association or a similar recognized professional arbitration organization. The arbiter shall determine the distribution of costs between the parties involved in the appeal.

(g) Notice shall be provided that a grantee's hearing decision may be appealed to the state agency and that the state agency shall review and act on such appeal as provided by R 400.20309(1).

(h) A description of those circumstances under which a request for appeal hearing may be refused; such circumstances shall be limited to failure to comply with the appeal procedures required by this subrule or, to lack of standing by the appellant.

(3) A grantee, through action of its governing body, shall issue administrative appeals procedures for items covered by subrule (1)(c) of this rule which shall include all of the following:

(a) Written notice to all contractors and service providers of the administrative appeals process.

(b) Written notice that contractors or service providers may appeal administrative complaints to the grantee's governing body.

(c) Written notice to the appellant of the governing body's determination within 30 days of the appeal's filing date.

(d) Written notice of decision shall include a statement that appellants may appeal the decision to the state agency within 10 days of the written notice provided by subdivision (c) of this subrule.

(e) The grantee, prior to final adoption of its procedures as required by subrules (2) and (3) of this rule, shall first submit the procedure to the state agency for review for content and form as required by R 400.20309.

History: 1983 AACs.

R 400.20108 Contractors; responsibilities and requirements.

Rule 108. (1) A contractor shall do all of the following in providing services for older persons:

(a) Meet state and local licensing requirements which are necessary for providing a specific service.

(b) Ensure that funds are used for only those services specified in the contract instrument.

(c) Systematically obtain the views of service recipients as a basis for maintaining and improving the service.

(d) Provide systematic reports to the grantee as required by procedures issued by the office or made a part of the contract instrument.

(2) A contractor shall provide a recommended schedule for contributions by service recipients when required in procedures issued by the office.

(3) A contractor shall conform to service requirements issued by the state agency in accordance with R 400.20305. Such service requirements shall be made part of a contract instrument by reference.

(4) A contractor shall be any 1 of the following legally constituted entities:

(a) A nonprofit corporation.

(b) A for-profit corporation, established pursuant to Act No. 284 of the Public Acts of 1972, as amended, being S450.1101 et seq. of the Michigan Compiled Laws.

(c) A unit of general purpose government or agency thereof.

(5) Evidence of legal status is required as a condition to the receipt of funds provided under the act or the OAA.

History: 1983 AACs.

R 400.20109 Director; duties and responsibilities.

Rule 109. The duties of the director include all of the following:

(a) Organize and align the state agency, including its personnel and financial resources, to perform those duties and responsibilities established by the act.

(b) Consummate grant, contract, or cooperative agreements between the state agency and the federal government, area agencies, other state or local agencies and organizations so as to direct and channel resources which provide services to older persons.

(c) Serve as the official liaison between the commission and the state agency and ensure that those state agency functions which require commission action or approval are coordinated in a timely and informed manner.

(d) Ensure that the commission, grantees, and contractors are routinely notified of policy changes or program modifications for those programs administered by the state agency.

(e) Establish special committees, advisory groups, or task forces as may be needed to achieve the orderly development and implementation of the state agency's programs.

History: 1983 AACs.

PART 2. COMMISSION ON SERVICES TO THE AGING

R 400.20201 Functions and responsibilities.

Rule 201. (1) The commission shall be responsible for those functions and responsibilities specified in sections 3 and 4 of the act.

(2) The commission shall approve the award of financial assistance to each grantee or contractor which is administered by the office.

(3) The commission shall issue, within 45 days from the beginning of each fiscal year, a listing which provides an index of its operating policies and procedures. The index shall indicate the status of those policies and procedures currently in effect, those modified or rescinded during the previous fiscal year, and those where change is contemplated during the current year.

(4) The commission shall appoint a state advisory council pursuant to section 4(1)(j) of the act. The composition of the advisory council shall conform to requirements of the OAA and its implementing regulations.

History: 1983 AACs.

R 400.20202 Grants and contracts; commission action.

Rule 202. (1) The commission shall issue procedures governing its process of review and actions for approval or disapproval of grants or contracts to be awarded and administered by the office. Procedures of the commission shall be issued through the director and shall include all of the following criteria:

- (a) Practices for scheduling dates of commission action.
- (b) Practices for conveying a notice of decision, through the director, to grantees and contractors.
- (c) Provisions to inform a grantee, a contractor, or an applicant for PSA or AAA designation whether the action is subject to appeal.
- (d) A stipulation that the grant or contract is to be administered by the office under the supervision of the director.
- (2) The commission shall only approve proposed grants or contracts for action which meet the requirements specified in R 400.20302 and R 400.20303.
- (3) The commission shall require the office, through the director, to submit an analysis and recommendation of disposition before a grant or contract is acted upon.
- (4) The commission shall issue procedures in conjunction with the director governing all of the following:
 - (a) Suspension, probation, or termination of a grantee for failure to comply with these rules or other state or federal requirements or for noncompliance with the grant agreement.
 - (b) Suspension or termination of a contractor for failure to comply with a contract agreement.
 - (c) Continuance of a local program or service for older persons in the event of suspension or termination.

History: 1983 AACCS.

R 400.20203 State and area plans; commission action.

Rule 203. (1) The commission shall not act to approve the state plan or amendments thereto required by section 6 of the act until both of the following occur:

- (a) One or more public hearings have been conducted to obtain testimony on the proposed state plan, goals, and action measures.
- (b) The proposed plan has been transmitted by the director assuring that technical and procedural requirements of state or federal law, rules, or regulation have been complied with.

(2) The commission shall approve area plans or amendments thereof as a prerequisite to grants to area agencies as provided by section 4 of the act. Before action is taken by the commission, it shall ensure all of the following:

- (a) That hearings have been conducted in the PSA to obtain public review and comment on the proposed goals and plan of implementation, assuring that adequate time was provided to evaluate public comment for the purpose of possible modification of the proposed plan.
- (b) That the area agency's governing body and advisory council have endorsed and adopted the proposed plan as submitted.
- (c) That analysis and recommended disposition of the proposed plan has been provided by the office, through the director, concerning technical and procedural requirements for area plans and R 400.20305 requirements.

History: 1983 AACCS.

R 400.20204 Public hearings.

Rule 204. (1) The commission, in cooperation with the office, shall conduct public hearings for all of the following:

- (a) The state plan.
- (b) The designation of PSAs.
- (c) The designation of area agencies.
- (d) The determination of needs, issues, and concerns of older persons.

(2) Advance hearing notice of 14 days or more shall be given through publication of the hearing notice in a newspaper of general circulation for the territory for which the hearing has applicability. The notice shall include the date, time, location, and purpose of the public hearing.

History: 1983 AACs.

R 400.20205 Designation of planning and service areas.

Rule 205. (1) The commission shall review and take action on the designation of planning and service areas. Requests for designation of PSAs shall be initiated in writing by either of the following:

(a) A unit of general purpose government which has a population of 100,000 or more, a regional area consisting of several cooperating general purpose governments, or an Indian reservation.

- (b) The commission.
- (c) The director.

(2) The commission shall approve criteria for designation of PSAs based on recommendations of the office. Criteria are to include all of the following:

- (a) Conformance with requirements of the OAA.
- (b) The relationship to other service regions established by the state through executive or legislative action.
- (c) Consultation with the governor's office and state agencies concerning the relationship to other service regions and the proposed PSA.
- (d) Review and comment by local governments and human resource agencies within the proposed PSA.

(3) The commission shall conduct 1 or more public hearings on the proposed PSA designation as provided in R 400.20204 before taking action to designate planning and service areas.

(4) At least 1 public hearing shall be held in that locality of the state where a proposed PSA designation will alter or modify the existing PSA geographic configurations.

History: 1983 AACs.

R 400.20206 Designation of area agencies on aging.

Rule 206. (1) The commission shall designate only 1 area agency on aging for each PSA.

(2) The commission shall ensure that the provisions of section 9(1) of the act and the OAA are met before taking designation action.

(3) The commission shall review requests for area agency designation on the basis of procedures issued in conjunction with the director. At a minimum, the procedures shall contain all of the following:

- (a) Instructions for applicants who wish to file a request for designation.
- (b) Specific requirements to be met by the applicant to be considered as an eligible applicant.
- (c) Specific requirements the applicant must conform to if designated as an area agency on aging.

(4) The commission shall not designate any area agency on aging until all of the following requirements have been complied with:

- (a) A technical review of the request and supporting documentation has been conducted by the office to determine conformance with the act or the OAA and its implementing regulations.
- (b) The director has submitted his or her recommendations concerning the request.
- (c) Evidence of support has been provided by resolution from a majority of the affected general purpose governments in the PSA.
- (d) A public hearing has been conducted as provided in R 400.20204.
- (e) That applicants requesting area agency designation possess the legal and organizational capacity to carry out the functions specified in this rule and R 400.20401 to R 400.20405.

History: 1983 AACs.

R 400.20207 Appeal of commission decision.

Rule 207. (1) An appeal may be made of any of the following commission actions:

- (a) Denial of a planning and service area designation.
 - (b) Withdrawal of an area agency designation.
 - (c) Disapproval of an area plan or area plan amendment.
 - (d) Termination or suspension of a grantee.
- (2) Appeal of commission actions shall be conducted in accordance with the provisions of R 400.20601 to R 400.20615.

History: 1983 AACs.

PART 3. OFFICE ON SERVICES TO THE AGING

R 400.20301 Functions and responsibilities; issuance of procedures on administration and management.

Rule 301. (1) The office shall perform those functions and responsibilities as provided in sections 5, 6, 7, and 10 of the act and those conferred by the OAA.

(2) The office, through the director, shall issue written procedures regarding its administrative and management responsibilities in accordance with the following provisions:

(a) Sections 24 to 26 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.224 to 24.226 of the Michigan Compiled Laws.

(b) Applicable federal program requirements and regulations for those federal programs administered by the office pursuant to the OAA.

(3) The office shall issue procedures to provide for all of the following:

(a) Systematic administration and management to grantees and contractors, including procedures for application, action, payment, reporting, closeout, and audit of such grants or contracts.

(b) The general conduct of business with area agencies, other grantees and contractors on an ongoing basis. Such procedures shall include program and fiscal information to interpret, instruct, or otherwise provide guidance.

(c) Methods by which state and federal program and financial requirements are to be fulfilled by grantees, contractors, and the office.

(d) The office's notice to the commission of any modification or amendment to the commission's previously approved grants, contracts, and state or area plans.

(e) Developing and maintaining a state comprehensive plan on services to the aging, including its substantive content, period of applicability, public review through hearing, and methods for amendment.

(f) Grantee assessment of those entities with which they have entered into contract to provide services, including criteria for such assessment.

(g) The processing of administrative complaints registered by grantees or contractors which are based on established policies or procedures.

(4) The director, before the adoption and issuance of office procedures, shall ensure that grantees, contractors, and other interested parties have been given an opportunity for expressing views on proposed procedures in accordance with subrule (2) of this rule.

(5) Within 45 days from the beginning of each fiscal year, the office shall issue a listing which provides an index of its operating procedures and policies. The index shall indicate the status of those procedures and policies in current effect, those rescinded or modified during the previous fiscal year, and those where change is contemplated during the current fiscal year.

History: 1983 AACCS.

R 400.20302 Distribution formulae for formula-type grants; criteria for discretionary-type grants; development; publication; use.

Rule 302. (1) The office shall develop distribution formulae and criteria for use in the allocation of state and federal grant funds to be consistent with the act and OAA.

(2) The distribution formulae shall be made an attachment to the state plan and shall be subject to commission action pursuant to R 400.20203 and R 400.20204.

(3) The office shall issue criteria for the allocation of funds which are to be determined on the basis of discretion rather than non-discretion formula, to include both of the following:

(a) A notice of grant availability, where funds are to be awarded on a discretionary basis.

(b) The requirements for making a request for such discretionary funds.

(4) The commission, as provided in R 400.20202, shall use the distribution formulae or criteria for discretionary grants, whichever is applicable, in taking action on funding decisions.

History: 1983 AACCS.

R 400.20303 Award of financial assistance through grants and contracts; criteria and procedures.

Rule 303. (1) The office shall issue, through the director, criteria and procedures for both of the following:

(a) The selection of grantees and contractors to be recommended for financial award through commission action.

(b) The effectuation of a grant or contract, awarded by commission action, through a written grant or contract instrument.

(2) The office, through the director, shall issue information and procedures on seeking financial assistance through the office, including all of the following:

(a) The instructions required to officially request, make application for, or submit a proposal for, funding through a grant or contract.

(b) Requirements to qualify as an eligible applicant.

(c) Criteria to be used in review and action by the office and the commission.

(d) Criteria for revising or amending the proposal prior to commission action.

(e) Criteria for revising or amending the grant or contract instrument after action by the commission.

(3) The office shall use a uniform grant or contract agreement instrument when making the award of financial assistance as provided in subrule (2) of this rule. Specific requirements of state or federal law, rules, or regulations shall be referenced and made addenda of the grant or contract instrument.

(4) The office, through the director, shall ensure that written procedures are issued for each state and federal program for which financial assistance is available as a grant or a contract.

History: 1983 AACCS.

R 400.20304 State plan; development; content.

Rule 304. (1) The office shall be responsible for the development, maintenance, and implementation of a state plan in accordance with the following:

(a) Provisions of section 6 of the act.

(b) Provisions of section 307 of the OAA and its implementing regulations.

(2) The state plan shall include, but not be limited to, all of the following:

(a) The duration or time frame the plan is to be in effect.

(b) The content to comply with applicable OAA requirements or its implementing regulations.

(c) A statement of how the state plan was developed in recognition of area plans and in consultation with older persons.

(d) Action steps that will be established to effectuate the plan.

(e) The funding formula, as provided in R 400.20303, shall be made an attachment to the plan.

(3) The state plan shall be subject to public hearing as provided in R 400.20204.

History: 1983 AACCS.

R 400.20305 Area plans; development of uniform standards and criteria for development, approval, and effectuation.

Rule 305. (1) The office shall develop, and the director shall issue, standards and criteria for area plans, including all of the following:

(a) The format and content for the development and preparation of area plans by area agencies.

(b) The time frame for submittal of area plans to achieve office review and commission action.

(c) The time period for which the area plan will be in effect.

(d) The use of standardized service definitions to describe the function and unit of measure for each category of service to older persons which may be provided or funded under provisions of an area plan.

(e) Procedures for revising or amending an area plan and submitting the plan for commission action.

(f) Distribution of grant monies through the area plan.

(2) The office shall establish criteria and issue instruction to area agencies for ensuring that local governments, agencies, service providers, and older persons have an opportunity for involvement in the development, coordination, and implementation of an area plan.

(3) The office shall establish a procedure or coordination mechanism to ensure there is a coordination and correlation of data used for the development of area plans with that used for the state plan.

(4) The office shall establish and issue procedures for granting a waiver to area agencies that demonstrate they can provide a nutrition or supportive service more effectively than a contractor.

History: 1983 AACCS.

R 400.20306 Assessments of grantees and state agency contractors for performance and compliance.

Rule 306. (1) At least annually, the office shall conduct an on-site assessment of grantees and state agency contractors for the following purposes:

(a) To determine the extent of compliance in meeting state and federal requirements.

(b) To assess the performance of the grantee or its contractor in attaining objectives made part of the grant or contract agreement.

(2) The office shall issue procedures for all of the following, through the director, for grantees and contractors:

(a) Assuring that a grantee or state agency's contractor is given advance notice, in writing, of a scheduled assessment, including all of the following:

(i) The date scheduled for on-site assessment.

- (ii) The scope of the on-site assessment.
- (iii) Criteria to be used in conducting the on-site assessment.
- (b) Assuring that a written report will be submitted within 60 days to the grantee or the state agency's contractor describing the office's findings as a result of the on-site assessment.
- (c) Assuring that the grantee or the state agency's contractor may respond to the office within 21 days of receipt of the office's findings concerning any exceptions noted in the assessment report.
- (3) Each written assessment report issued by the office shall be used as a basis for the following:
 - (a) Corrective action to be taken by the grantee or the state agency's contractor.
 - (b) Suspension, probation, or termination action by the office toward the grantee or its contractor.
 - (c) Denial of eligibility, subsequent grants, or contracts due to performance or compliance factors.
- (4) Each assessment report shall make notation of changes, improvements, or corrections which have been made by the grantee or contractor since the latest annual assessment.

History: 1983 AACS.

R 400.20307 Determination of need for services to the aging.

Rule 307. (1) The office shall systematically determine the need for services to the aging on an ongoing basis focusing on statewide, institutional, and community-based settings. Needs shall be based on demographic, social, and economic indicators.

(2) The office shall use data, findings, and conclusions resulting from the determination of need for all of the following:

- (a) Preparation and development of the state plan as provided by R 400.20304.
- (b) Establishing standards and criteria for area plans as provided by R 400.20305.
- (c) Establishing priorities or limitations of grants or contracts provided by R 400.20303.
- (d) Preparing the annual report to the governor and legislature under provisions of section 6(n) of the act.

History: 1983 AACS.

R 400.20308 Recommendations to the commission; basis for action.

Rule 308. The director shall submit to the commission a report containing the recommendation of the office for each grant, contract, or area plan transmitted for commission action. The report shall contain information to guide the commission's action, including all of the following information:

- (a) The extent to which the proposed grant or contract or area plan conforms to applicable provisions of the act or the OAA.
- (b) The extent to which the request conforms to the provisions of R 400.20302.
- (c) The extent to which assessments conducted under the provisions of R 400.20306 may have an effect.

(d) The extent to which the grant or contract will provide services, in quantifiable terms, for older persons.

History: 1983 AACCS.

R 400.20309 Hearings and appeals.

Rule 309. (1) The director of the state agency shall establish procedures for receiving and processing appeals requests for both of the following:

(a) Appeal of those commission actions which are subject to appeal as provided by R 400.20207.

(b) Appeal by a grantee's contractor as provided by R 400.20107(2)(g).

(2) Notification of each commission action which is subject to appeal shall be issued by the director of the state agency to the affected party as stipulated in R 400.20207.

(3) The state agency shall conform to the requirements of R 400.20601 to R 400.20615 when undertaking an appeals transaction for those commission or state agency actions described in R 400.20207.

(4) The director of the state agency, in consultation with the commission, shall issue criteria for the development of grantee appeals procedures, including review and concurrence by the state agency as provided by R 400.20107.

(5) The commission chairperson shall appoint an appeal panel to hear those appeals received pursuant to subrule (1)(b) of this rule. The panel shall serve as the hearing body and prepare a written record of facts concerning the case and provide a recommended decision.

History: 1983 AACCS.

PART 4. AREA AGENCIES ON AGING

R 400.20401 Area agencies; designation; legal basis.

Rule 401. (1) Area agencies shall be designated by the commission in accordance with R 400.20206.

(2) Area agencies shall be established with a statutory basis as 1 of the following:

(a) A general purpose government or agency thereof.

(b) An agency designated by resolution of a combination of units of general purpose government.

(c) A nonprofit agency under the supervision or direction of the state agency.

(d) An Indian tribal organization.

History: 1983 AACCS.

R 400.20402 Area agencies; responsibilities and functions.

Rule 402. (1) Area agencies shall be responsible for those functions contained in section 9(2) of the act and section 306 of the OAA.

(2) Area agencies shall develop a comprehensive and coordinated area plan for the delivery of nutrition and supportive services to older persons for their respective PSA.

(3) Area agencies shall not be engaged in the direct provision of nutrition and supportive services. An area agency may obtain a waiver from the state agency to provide services if it can substantially demonstrate that it can provide the service more effectively and efficiently than a contractor in accordance with provisions of R 400.20305.

(4) Area agencies shall administer program, financial, and technical assistance to service providers with whom they contract in accordance with procedures issued by the office pursuant to R 400.20301 to R 400.20309 and R 400.20104 to R 400.20107.

(5) Area agencies may enter into cooperative agreements with public and private agencies in the PSA to achieve coordination and cooperation in the planning and delivery of services to older persons.

History: 1983 AACS.

R 400.20403 Area plans; preparation, approval, expenditures, and amendment.

Rule 403. (1) Area agencies shall develop an area plan in accordance with R 400.20305 and shall submit the plan for commission action in accordance with R 400.20203.

(2) Area agencies shall receive grants from the office only under the provisions of an area plan developed and approved in accordance with subrule (1) of this rule.

(3) Area agencies shall expend monies only for those functions and services contained in their approved area plans and the grant award instruments issued by the office and in accordance with R 400.20105.

(4) Area agencies may request an amendment to their approved area plan in accordance with R 400.20305 after written notice has been given to contractors providing services under the plan and after public hearings have been conducted on the proposed amendment by the area agency.

History: 1983 AACS.

R 400.20404 Service provision; use of service providers; contracts.

Rule 404. (1) Area agencies shall contract with service providers to deliver supportive and nutrition services under the provisions of an area plan, unless otherwise authorized pursuant to R 400.20402.

(2) Area agencies shall not execute a contract until an area plan has been approved by the commission pursuant to R 400.20203 and authorization to encumber grant funds has been issued by the director pursuant to R 400.20303.

(3) Area agencies shall issue instructions for the reporting of program and fiscal information. Reference to such instructions shall be made a part of each contract instrument. Such instruments shall be consistent with those issued by the director in accordance with R 400.20202 and R 400.20303.

(4) Area agencies shall include information contained in reports required by subrule (3) of this rule as part of the reports required by the office pursuant to R 400.20104.

History: 1983 AACS.

R 400.20405 Financial allocations; requirements.

Rule 405. (1) Area agencies shall use their allocations under an approved area plan and approved grant instrument for those services which are consistent with service definitions issued pursuant to R 400.20305 and priority service needs identified by the area plan.

(2) Area agencies shall make supportive service allotments received under provisions of the OAA to ensure that an adequate proportion of the allotment is used to fund each of the following service categories:

- (a) Services associated with access to other services.
- (b) In-home services.
- (c) Legal services.

(3) Area agencies may request a waiver of subrule (2) of this rule at the time of area plan submittal required by R 400.20403.

(4) The office shall issue criteria for determining the basis of granting a waiver under subrule (3) of this rule. The criteria shall be made a part of the procedures specified in R 400.20303.

(5) Area agencies, as part of the area plan, shall describe the rationale for allocating funds made available through grants within the PSA. The rationale shall describe how funds will be distributed to meet priority nutrition and supportive service needs identified in the area plan.

History: 1983 AACs.

R 400.20406 Area agencies; written procedures required.

Rule 406. (1) Area agencies will be required to have written procedures in accordance with R 400.20106.

(2) Area agencies shall adopt written procedures as provided by R 400.20106 to govern the conduct for both of the following:

- (a) The agency's governing body or board of directors.
- (b) The agency's advisory council.
- (c) The handling of administrative complaints generated by service providers.
- (d) Assessment of contractors as provided by R 400.20105.

(3) Area agencies shall have written procedures for the conduct of public hearings to be held for any of the following:

- (a) The area plan.
- (b) Advocacy hearings on service needs determination or issues of older persons.
- (c) Hearings required pursuant to R 400.20107.

History: 1983 AACs.

R 400.20407 Service need evaluation; cooperative effort.

Rule 407. Area agencies shall cooperatively participate with service providers and the office in the determination of need for services required by R 400.20307.

History: 1983 AACs.

PART 5. FINANCIAL REQUIREMENTS

R 400.20501 Notice of financial award.

Rule 501. (1) The office, within 30 days after commission action to approve a grant or contract, shall issue a grant or contract instrument as a 2-party agreement for obligating funds.

(2) The grant or contract instrument shall constitute the official document which specifies the terms of the agreement. The grant or contract agreement shall include all of the following:

(a) Total financial amount, including both of the following:

(i) Funds provided through the office.

(ii) Funds, or services in lieu of funds, provided by the grantee or contractor.

(b) Conditions of the grant or contract, including all of the following:

(i) Beginning and ending dates for which the agreement is to be in effect.

(ii) Documentation of services to be provided or objectives to be achieved by the grant or contract.

(iii) Special conditions, if any, which may be specified as a part of commission approval action.

(c) Dated signatures of the director and authorized representative of the grantee or contractor to bind the agreement.

History: 1983 AACs.

R 400.20502 Modification of approved grants or contracts.

Rule 502. (1) A grantee or contractor of the state agency shall submit a request and gain approval of the commission for any change which modifies the grant or contract agreement in any of the following ways:

(a) Changes the program scope, planned objectives, or the character of service delivery made part of the instrument.

(b) Provides financial assistance to any person not authorized by the grant or contract instrument.

(c) Transfers to a third party the conduct of functions or responsibilities which are central to executing the purposes of the grant or contract.

(d) Alters the approved budget of the grant or contract, except as may occur through the limits of administrative discretion as provided in the agreement.

(2) Grantees or contractors of the state agency shall be notified by the director of commission action on requests initiated under the provisions of subrule (1) of this rule.

History: 1983 AACs.

R 400.20503 Grantee responsibilities when contracting for services under grant.

Rule 503. A grantee shall do all of the following when contracting for services under provisions of a grant:

(a) Contract for services within 45 days after the effective date of the grant instrument executed with the office in accordance with R 400.20501.

(b) Not alter the contract amount during the final 60 days of any fiscal year unless approved by the director.

(c) Retain a copy of each contract in the grantee's office for review and audit for a period of 3 years after contract completion.

(d) Obtain prior written approval from the state agency when proposing to contract with profit-making organizations.

History: 1983 AACS.

R 400.20504 Audits.

Rule 504. A financial audit of grantee records shall be made not less than biennially. Audits are to be conducted in accordance with standards established by the American institute of certified public accountants and requirements issued by the director of the state agency. Audit requirements shall include, but not be limited to, all of the following:

(a) Audits shall be made on an agency-wide basis to test the integrity of financial transactions and compliance with grant or contract terms.

(b) The office shall ensure that timely and appropriate resolution of negative audit findings and recommendations for reconciliation occur promptly.

(c) Grantees may audit contractors that have provided services if the audit conforms to minimum audit standards approved by the director.

(d) The expense of an independent audit which does not meet the standards cited in this rule shall not be authorized.

History: 1983 AACS.

R 400.20505 Audit disallowances.

Rule 505. A grantee shall be responsible for any costs disallowed as a result of any of its contractors. Resolution of audit disallowances shall be achieved between the grantee and the contractor of record.

History: 1983 AACS.

R 400.20506 Determining reasonable, allowable, and allocable costs; written procedures.

Rule 506. In accordance with R 400.20301, procedures shall be issued by the office director to all grantees and state agency contractors for determining the reasonableness, allowability, and allocability of costs.

History: 1983 AACS.

R 400.20507 Means test to deny or limit services; failure to contribute to costs.

Rule 507. (1) A grantee or contractor shall not use a means test to deny or limit a service to older persons unless specifically required by state law or federal regulation.

(2) A grantee or contractor shall not deny or limit a service to an older person who fails to contribute to the cost of the service unless authorized by specific state law or federal regulation.

History: 1983 AACs.

R 400.20508 Program income.

Rule 508. (1) A grantee and contractor shall maintain a record of all income derived through the provision of a nutrition or supportive service. The office shall issue procedures for recording program income in accordance with R 400.20301.

(2) Program income shall be used to increase or expand the level of service from which the income is derived.

(3) A grantee and contractor shall ensure that acceptable accounting procedures are established for recording the receipt and expenditure of program income.

History: 1983 AACs.

R 400.20509 Fees for services.

Rule 509. (1) A grantee or contractor shall do both of the following:

(a) Assess a service fee to persons who are not older persons unless they are volunteers in providing a nutrition service.

(b) Record fees for services as program income.

(2) A grantee or contractor shall not claim for credit or payment as a part of the grant or contract for those services rendered to noneligible persons.

History: 1983 AACs.

R 400.20510 Payments to grantees or contractors.

Rule 510. (1) The office shall only make payments for those authorized costs made in conformance with a fully executed grant or contract instrument.

(2) A grantee or contractor shall not receive payment for costs incurred until authorized under subrule (1) of this rule.

History: 1983 AACs.

R 400.20511 Withholding of payment; basis.

Rule 511. Payments may be withheld by the office under any of the following circumstances:

(a) Failure to submit reports as provided by R 400.20104.

(b) Costs of audits fail to comply with R 400.20504.

(c) Conditions of suspension or termination ordered by the director or the commission.

History: 1983 AACS.

R 400.20512 Purchase of equipment or property; permission required.

Rule 512. A grantee or contractor shall not use funds made available through the office for the purpose of purchasing equipment or property, unless specifically authorized by the act or the OAA and approved by the commission as part of the proposed grant or contract action conducted in accordance with R 400.20202.

History: 1983 AACS.

R 400.20513 Suspension of a grantee; termination of a grant; closeout of a grant; issuance of procedures.

Rule 513. (1) Procedures shall be issued by the office, pursuant to R 400.20301, for each of the following:

- (a) Suspension of a grantee.
- (b) Termination of a grant.
- (c) Closeout of a grant.
- (d) Probation of a grantee.

(2) Procedures issued in accordance with subrule (1) of this rule shall include all of the following:

- (a) A specific reason for the action and instructions for corrective actions to be taken.
- (b) Specific conditions for payment or financial settlement under the conditions of suspension or termination.
- (c) Specific steps to be taken for implementing the suspension, termination, or closeout.
- (d) Specific rights of appeal available to the grantee.
- (e) A specification of how services to older persons are to be continued under the conditions of suspension or termination.

(3) The office shall not pay for additional obligations incurred by the grantee during a period of suspension, unless expressly authorized by commission action.

(4) The office shall not pay a grantee for any financial obligations incurred after the effective grant termination date.

(5) The office may institute an emergency suspension if, considering its responsibility to protect the public's interest, a delayed suspension date would be unreasonable. Emergency suspensions shall be reviewed by the commission for action at its next regular meeting following the date of suspension. The office, through the director, shall issue criteria for determining an emergency condition in accordance with R 400.20301.

History: 1983 AACS.

PART 6. APPEALS AND APPEALS HEARINGS

R 400.20601 Notice of right to appeal; right to appeals hearing.

Rule 601. (1) The state agency director shall provide written notice to each affected party of those commission actions which are subject to appeal. The following actions are subject to appeal:

- (a) Commission action which denies an applicant's designation as a planning and service area.
- (b) Commission action which withdraws an area agency's designation.
- (c) Commission action which denies an area agency approval of its area plan or amendment thereto.
- (d) Commission action which terminates or suspends a grantee or which places a grantee on probation.
- (e) Terminating or altering a contract of a state agency contractor, except as provided by terms of the contract.

(2) The director of the state agency shall notify those parties specified in subrule (1) of this rule of all commission or state agency actions and those which may be appealed. Notice shall be provided in writing and contain all of the following:

- (a) A concise statement of the action and whether it may be appealed.
- (b) The basis for the action which makes it subject to appeal.
- (c) Reference or citation of law, rule, or regulation applicable to the action subject to appeal.
- (d) A statement to notify the affected party of right to appeal and the timeframe within which an appeal request must be initiated.

(3) Each party notified of the right to appeal and hearing shall be notified that this rule to R 400.20602 to R 400.20615 shall govern the method of proceeding.

History: 1983 AACs.

R 400.20602 Request for hearing; timeliness.

Rule 602. (1) A written notice of appeal and request for an appeals hearing shall be made to the director. Requests made by public or private agencies shall certify that the request is officially endorsed by the agency's governing body.

(2) Freedom to make an appeal request shall not be limited or interfered with in any way. If needed, the office shall assist the party in filing and processing the request.

(3) Parties shall have 30 days from the mailing of notice provided by R 400.20601 to submit an appeal by certified mail and request an appeals hearing.

History: 1983 AACs.

R 400.20603 Denial or dismissal of request for hearing.

Rule 603. (1) The director shall deny or dismiss the request for an appeals hearing under any of the following circumstances:

- (a) A request was not submitted within the 30 days provided.
- (b) A request is withdrawn by an aggrieved party through written notice before issuance of the final decision.
- (c) An aggrieved party abandons a hearing.

- (d) The office has no jurisdiction over the matter.
- (e) An issue is not appealable.
- (2) Abandonment occurs if an aggrieved party, without good cause as determined by the hearing officer, fails to appear or be represented at the scheduled hearing.
- (3) Written notice shall be given by the director to an aggrieved party stating the reasons for denial or dismissal as provided in subrule (2) of this rule.

History: 1983 AACCS.

R 400.20604 Hearings; place and notice.

Rule 604. (1) A hearing shall be conducted at a reasonable time, date, and place which will normally be in state facilities at Lansing.

(2) A notice of hearing shall be mailed to the aggrieved party or its representative of record not less than 10 days before the hearing date and shall include all of the following:

- (a) Time, date, and place of hearing.
- (b) A citation of the provision of the regulation, rule, or law involved.
- (c) A citation of the issue being heard.

History: 1983 AACCS.

R 400.20605 Hearings officer.

Rule 605. A hearing for each appeal of a state agency or commission action shall be conducted by a hearings officer. A hearings officer assigned to preside shall not have been involved in the initial determination of the action in question. As a general rule, a hearings officer will be an administrative law judge from within a principal department of state government.

History: 1983 AACCS.

R 400.20606 Powers of hearings officer.

Rule 606. A presiding hearings officer may do all of the following:

- (a) Administer oaths or affirmations.
- (b) Sign and issue subpoenas in the name of the agency, requiring the attendance and giving of testimony by witnesses or the production of books, papers, and other documentary evidence to the extent permitted by law.
- (c) Provide for the taking of testimony by depositions.
- (d) Regulate the course of the hearing, set the time and place for continued hearings, and fix the time for filing briefs and other documents.

History: 1983 AACCS.

R 400.20607 Hearing considerations.

Rule 607. A hearing shall include consideration of all of the following:

- (a) The manner by which the issue under appeal was guided by federal regulation, state law, the act, or rule.
- (b) The timeliness by which the office or commission acted on the issue being appealed.
- (c) The bearing or relationship to procedures issued by the director in accordance with state law or rule.

History: 1983 AACS.

R 400.20608 Rights of parties.

Rule 608. A party to a hearing or its authorized representative shall have the opportunity to do all of the following:

- (a) Examine the contents of its file and all documents and records to be used by the office at the hearing at a reasonable time before the date of the hearing and during the hearing.
- (b) Represent the case directly or by an authorized representative. The office and commission have the right to be represented by legal counsel and other representatives.
- (c) Bring witnesses.
- (d) Establish all pertinent facts and circumstances.
- (e) Advance any relevant arguments without undue interference.
- (f) Question any testimony or evidence, including cross-examining adverse witnesses.

History: 1983 AACS.

R 400.20609 Evidence; oath.

Rule 609. (1) A witness or party testifying shall be put under oath or affirmation.

(2) Insofar as practical, the hearings officer shall follow the rules of evidence as applied in a nonjury civil case in circuit court. If necessary, evidence not admissible thereunder may be admitted, unless precluded by statute, if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Effect shall be given to rules of privilege recognized by law. Incompetent, irrelevant, immaterial, or unduly repetitious evidence may be excluded. Objections to offers of evidence may be made and shall be noted in the record.

History: 1983 AACS.

R 400.20610 Adjournments; continuances.

Rule 610. An adjournment or continuance may be granted by a hearings officer for good cause. Good cause includes the absence of material witnesses and necessary evidence.

History: 1983 AACS.

R 400.20611 Hearings officer's opinion.

Rule 611. A hearings officer's opinion shall be prepared in writing subsequent to the hearing and shall contain his or her findings of fact, conclusions of law, and a

recommendation to the director as to the proper decision, based exclusively on the evidence and other materials introduced at the hearing.

History: 1983 AACS.

R 400.20612 Decisions.

Rule 612. (1) A decision, to be issued by the director, shall be based exclusively on the hearings officer's opinion, evidence, and other material introduced at the hearing.

(2) The record shall consist of an official report containing the substance of what transpired at the hearing, together with all exhibits and motions filed in the proceeding, and the recommendation of the hearings officer. The record shall be available to the grievant at a place accessible to the grievant or his or her representative of record.

(3) Prompt, definitive, and final administrative action shall be taken within 90 days of the request for a hearing, unless otherwise provided by governing state or federal laws and rules.

(4) All parties and their representatives shall be promptly notified, in writing, by registered mail, of the decision, including the director's or commission's decision and order, including the hearings officer's opinion.

History: 1983 AACS.

R 400.20613 Retroactivity.

Rule 613. When a hearing decision is favorable to the aggrieved party the office shall make corrective retroactive actions in accordance with the requirements of state or federal regulation, rule, or law.

History: 1983 AACS.

R 400.20614 Rehearing following decision.

Rule 614. A hearing decision adverse to the aggrieved party is not subject to a rehearing upon the same issue, unless newly discovered, relevant evidence is to be presented.

History: 1983 AACS.

R 400.20615 Appeal of decisions.

Rule 615. Decisions made pursuant to R 400.20612 may be appealed as follows:

(a) To the U.S. commissioner on aging for those applicable matters related to the OAA and applicable federal regulations.

(b) To the circuit court of Ingham county.

History: 1983 AACS.