

NOTICE
OF
RULEMAKING HEARING
TENNESSEE COMMISSION ON AGING

There will be a hearing before the Tennessee Commission on Aging to consider the promulgation of rules pursuant to Tennessee Code Annotated 14-6-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-126 and will take place in the Legislative Plaza in Room 14 located at Sixth Avenue, North, and Union Street, Nashville, Tennessee, at 10:00 a.m. C.S.T on the 4th day of November 1981.

SUBSTANCE
OF
RULEMAKING HEARING RULES
OF
TENNESSEE COMMISSION ON AGING

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CHAPTER 0030-1
DEFINITIONS

0030-1-.01 DEFINITIONS. As used in the rules and regulations of the Tennessee Commission on Aging, unless the context otherwise requires:

(1) "Act" means the Older Americans Act of 1965, as Amended (42 U.S.C. 3001 et. seq.).

(2) "Area Agency on Aging" means the agency designated by the State Agency in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

(3) "Administration on Aging" (AoA) means the agency established in the Office of the Secretary, Department of Health and Human Services, as part of the Office of Human Development Services, and which is charged with the responsibility of administering the provisions of the Act, except for Title V.

(4) "Commission" means the Tennessee Commission on Aging, specifically the board or board actions.

(5) "Commissioner" means the Commissioner on Aging of the Administration on Aging, Office of Human Development Services, U.S. Department of Health and Human Services.

(6) "Department" means the U.S. Department of Health and Human Services.

(7) "Federal Fiscal Year" means the period October 1 through September 30.

(8) "Planning and service area" means a geographic area of a state which serves as an administrative unit that is designated for purposes of planning, development, delivery and overall administration of services under an area plan.

(9) "Regulations" means Title 45, Code of Federal Regulations, "Grants for State and Community Programs on Aging," published March 31, 1980, Sections 1320, 1321, 1324, and 1326.

(10) "Service provider" means an entity that is awarded a contract from an Area Agency to provide services under the area plan.

(11) "State Fiscal Year" means the period July 1 through June 30.

(12) "State Agency" means the single State agency designated to develop and administer the State Plan and to be the focal point on aging in the state, i.e., the Tennessee Commission on Aging, but, more specifically, refers to the staff or staff functions rather than board actions.

(13) "Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions.

Authority: T.C.A. 14-6-104

CHAPTER 0030-2
GOVERNOR'S ADVISORY COUNCIL ON AGING
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0030-2-.01 NAME. The official name of this body shall be the Tennessee Governor's Advisory Council on Aging, hereinafter referred to as the Council.

Authority: T.C.A. 14-6-108

0030-2-.02 MEETINGS. The Council shall meet to conduct business in public session each quarter.

Authority: T.C.A. 14-6-108

0030-2-.03 COMPENSATION AND EXPENSES. Members of the Council or members of subcommittees or task forces appointed by the Council shall receive no compensation for their services other than reimbursement for travel expenses for attending authorized meetings. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General.

Authority: T.C.A. 14-6-108

0030-2-.04 OFFICERS. The officers of the Council shall be Chairman, Vice-Chairman, and Secretary.

Authority: T.C.A. 14-6-108

0030-2-.05 MEMBERSHIP.

(1) The general provisions for membership are as follows:

(a) The Council will be comprised of twelve (12) members appointed by the Governor.

(b) At least one-half (1/2) of the membership must be sixty (60) years of age or older, which membership should also include low-income and minority persons at least in proportion to their numbers in the state population.

(c) Council members must include persons with greatest economic or social need and participants of Older Americans Act programs.

(2) The qualifications for membership are as follows:

(a) One member will be appointed from each of the state's nine (9) Area Agency on Aging Advisory Councils from a list of at least two (2) nominees from each Area Agency on Aging Advisory Council.

(b) One member will be a university or college professor specializing in the problems and needs of the elderly.

(c) One member shall be a social service professional currently engaged in the delivery of social services to the elderly.

(d) One member shall be from the Governor's personal staff or cabinet to serve during that term of office only.

(3) The term of membership is as follows:

(a) Each member shall serve a term of four (4) years.

(b) Vacancies shall be filled by appointment only for the remainder of the unexpired term.

Authority: T.C.A. 14-6-108

0030-2-.06 DUTIES AND RESPONSIBILITIES. The Governor's Advisory Council on Aging shall have the following powers and duties:

(1) To advise and assist the Tennessee Commission on Aging in the development and implementation of the State Plan on Aging.

(2) To advise the Commission, the Governor, and the Commissioner of Finance and Administration of the needs of the elderly in Tennessee.

(3) To review and comment on administrative rules and legislation which affect the elderly in Tennessee.

(4) To recommend legislation to the Commission on Aging and the Governor.

(5) To conduct public hearings and studies on the problems and needs of the elderly.

(6) To serve as an advocate within government and in the community for older persons in Tennessee.

Authority: T.C.A. 14-6-108

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0030-3-.01 NAME. The legal name of this agency shall be the Tennessee Commission on Aging, hereinafter referred to as the Commission.

Authority: T.C.A. 14-6-104

0030-3-.02 COMMUNICATIONS. The offices of the Commission shall be located in Nashville. Written communications to the Commission shall be addressed to its office in Nashville.

Authority: T.C.A. 14-6-105

0030-3-.03 MEETINGS. The Commission shall meet to conduct business in public session once each quarter.

Authority: T.C.A. 14-6-105

0030-3-.04 COMPENSATION AND EXPENSES. Members of the Commission or the members of subcommittees appointed by the Commission shall receive no compensation for their services other than a reimbursement for travel expense incurred in the performance of their official duties. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General.

Authority: T.C.A. 14-6-106

0030-3-.05 OFFICERS. The Commission shall elect from its members a Chairman and three Vice-Chairmen, one from each Grand Division of the state.

Authority: T.C.A. 14-6-105

0030-3-.06 MEMBERSHIP.

(1) The general provisions of membership are as follows:

(a) The Commission shall consist of eighteen (18) members appointed by the Governor.

(b) Appointments shall be made on the basis of recognized interest in and knowledge of the circumstances surrounding the aging.

(c) A minimum of nine (9) members shall be sixty (60) years of age or older. Commission membership shall include women and minorities in proportion to their presence in the elderly population.

(d) Staff members of programs funded wholly or in part by the Commission shall be ineligible to serve as Commission members.

(2) The qualifications for membership are as follows:

(a) One member shall be appointed from the rural area of each of the nine (9) planning and service areas.

(b) The following five (5) urban areas shall each have one representative: Shelby, Davidson, Hamilton, and Knox Counties, and the Tri Cities area of Bristol, Kingsport, and Johnson City.

(c) One member of the Governor's personal staff.

(d) The Commissioners of the State Departments of Human Services, Public Health, and Veterans Affairs.

(3) The terms of office are as follows:

(a) The terms of office for members of the Commission shall be six (6) years except for members of the Governor's personal staff and cabinet whose terms shall coincide with that of the appointing Governor.

(b) Vacancies shall be filled by appointment only for the remainder of the unexpired terms.

Authority: T.C.A. 14-6-104

0030-3-.07 EMPLOYEES.

(1) The Commission shall employ an Executive Director with the approval of the Governor for the conduct of business and, within budgetary limitations and with the approval of the Commissioner of the Department of Personnel, fix his compensation and establish his duties and functions.

(2) The Executive Director shall serve as Chief Administrative Officer and Secretary of the Commission and shall have the authority to conduct ordinary and necessary business in the name of the Commission. The Executive Director shall

serve at the pleasure of the Commission subject to personnel regulations of the State of Tennessee.

Authority: T.C.A. 14-6-107

0030-3-.08 CONFLICT OF INTEREST.

(1) Members: If any matter before the Commission involves a project, transaction, or relationship in which a member of his associated institution or business has a direct or a conflicting interest, the member shall make known to the Commission that interest and excuse himself from the proceedings.

(2) Staff: No employee of the Commission shall, during his term of employment, enter into any relationship with any party involved directly or indirectly in Commission business in such a way that a conflict could arise between the employee's interests and the duties or policies of the Commission. If such a relationship arises inadvertently, it is the duty of the employee to so advise the Executive Director and take such action as he/she prescribes.

(3) Code of Conduct

(a) No State Agency employee or agent shall solicit or accept gratuities, favors, or anything of monetary value from contractors or potential contractors.

(b) To the extent possible under State law, rules, and regulations, penalties or other disciplinary actions will be applied for violations of this code by employees or agents of the State Agency.

Authority: T.C.A. 14-6-109

0030-3-.09 DUTIES AND RESPONSIBILITIES.

(1) The Commission shall promulgate bylaws to provide for the election of officers, establishment of committees, meetings, and other matters relating to Commission functions.

(2) The Commission shall allocate funds for projects and programs for the aging, subject to the limits of the appropriation by the General Assembly and funds available or received from the federal government for such projects and programs.

(3) The Commission shall create subcommittees to undertake such special studies as it shall authorize, and include in such subcommittees persons qualified in any field of activity relating to the aging.

(4) The Commission shall serve as an advocate within government and in the community for older persons in Tennessee.

(5) The Commission may establish and/or designate planning and service areas and Area Agencies on Aging, and review the boundaries of the planning and service areas and change them as necessary.

(6) The Commission shall promulgate, amend, revise, and rescind such rules as are necessary.

(7) The Commission may hold such hearings and conduct such studies or investigations concerning all matters affecting the health, safety, and welfare of older persons.

(8) The Commission shall make recommendations for legislative action to the Governor and to the legislature.

Authority: T.C.A. 14-6-105

CHAPTER 0030-5
AREA AGENCY ON AGING OPERATION

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0030-5-.01 DESIGNATION OF PLANNING AND SERVICE AREA.

(1) The Commission has designated as planning and service areas the areas covered by the boundaries as specified in the "Development District Act of 1965" (T.C.A. 13-14-101). Otherwise noted, these multi-county areas will be referred to as the PSA's.

(2) The State Agency provides an opportunity to apply to be designated as a planning and service area to any unit of general purpose local government, region, or metropolitan area, which has a population of 100,000, or Indian reservation(s). The application on behalf of an Indian reservation(s) must be made by the governing tribal organization(s).

(3) In accepting an application for designation as a planning and service area, the State Agency considers:

(a) The distribution in the state of persons age 60 and older including those with the greatest economic need;

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

(c) The incidence of need for services provided under Title III and the resources available to meet these needs; and,

(d) The boundaries of units of general purpose local government, regional planning areas, Indian reservations, existing development districts and areas within the state established for planning and administering human services. The State Agency attempts to include all portions of a development district or an Indian reservation within a single planning and service area.

(4) The State Agency documents the basis for its designation of each planning and service area.

(5) The State Agency provides an opportunity for a hearing following the procedures specified in Section 0030-8-.02 of these rules to any eligible applicant which applies for designation as a planning and service area.

(6) Any applicant for designation as a planning and service area under the above provisions whose application is denied by the State Agency may appeal the denial under the procedures specified below:

(a) The appellant must first appeal to the State Agency following the procedures specified in Section 0030-8-.02.

(b) If the hearing decision by the State Agency is unfavorable to the appellant, the appellant may appeal to the Commissioner within 30 calendar days of the decision.

(c) This appeal process, when exhausted, does not preclude seeking appropriate legal relief or appeal.

(7) When the Commissioner receives an appeal, the Commissioner requests the State Agency to submit:

(a) A copy of the appellant's application for designation as a planning and service area;

(b) A copy of the written decision of the State Agency; and,

(c) Any other relevant information the Commissioner may require.

(8) The procedures for the appeal consist of:

(a) Prior written notice to the appellant and the State Agency of the time and location of the hearing;

(b) The required attendance of the executive director of the State Agency or his designated representatives;

(c) An opportunity for the appellant to be represented by counsel or other representative; and,

(d) An opportunity for the appellant to be heard in person and to present documentary evidence.

(9) Decision by the Commissioner

(a) The Commissioner will issue a written decision;

(b) The Commissioner may:

1. Deny the appeal and uphold the decision of the State Agency;

2. Uphold the appeal and require the State Agency to designate the appellant as a planning and service area; and,

3. Take other appropriate action, including negotiating between the parties or remanding the appeal to the State Agency after initial findings.

(c) The Commissioner will uphold the decision of the State Agency if the State Agency has followed the procedures specified in Section 0030-8-.02 and this section, and its decision was not manifestly inconsistent with the purpose of the Older Americans Act.

(d) This appeal process, when exhausted, does not preclude seeking appropriate legal relief or appeal.

Authority: T.C.A. 14-6-105

0030-5-.02 DESIGNATION OF AREA AGENCIES ON AGING.

(1) The State Agency will designate an Area Agency in each planning and service area in which it allocates funds under this part.

(2) The Area Agency must:

(a) Develop and administer the area plan for a comprehensive and coordinated system of services; and,

(b) Serve as the advocate and focal point for older persons in the planning and service area.

(3) Before designating or redesignating an Area Agency, the State Agency will:

(a) Determine, through an onsite assessment, the capacity of the agency to carry out all the functions of an Area Agency specified in this part; and,

(b) Consider the views of the unit or units of general purpose local government within the planning and service area.

(4) The State Agency has made initial designations of Area Agencies which will remain in effect unless a re-designation is required or requested.

(5) The State Agency may designate as an Area Agency any one of the following types of agencies that has the authority and capacity to carry out the functions of an Area Agency:

(a) An established office on aging which operates within the planning and service area;

(b) Any office or agency of a unit of general purpose local government that is proposed by the chief elected official of the unit;

(c) Any office or agency proposed by the chief elected officials of a combination of units of general purpose local government; or,

(d) Any other public or private nonprofit agency, except any regional or local agency of the State.

(6) In designating or redesignating an Area Agency, the State Agency will give preference to:

(a) An established office on aging;

(b) An agency that has previously been involved primarily in aging programs; or,

(c) An Indian tribal organization in any planning

and service area whose boundaries are essentially the same as those of an Indian reservation(s).

(7) An Area Agency must be able to meet the conditions prescribed by the State Agency on Aging.

(8) The potential Area Agency must have demonstrated its capacity, through previous activities or other suitable evidence, to perform the functions required of an Area Agency on Aging.

(9) The potential agency must have areawide identification. It must be able to work with all social, economic, racial, and geographic elements of the planning and service area it seeks to serve and be able to facilitate the development of a focal point on aging within each community in the planning and service area.

(10) The State Agency may remove the designation as an Area Agency on Aging from an organization serving in that capacity. In such a case, the State Agency will follow the procedures in Section 0030-8-.03 of these rules.

Authority: T.C.A. 14-6-105

0030-5-.05 SUSPENSION OF AREA PLAN FUNDING.

(1) The suspension of funding to an Area Agency by the State Agency temporarily suspends State or federal assistance under the area plan pending corrective action by the Area Agency or pending a decision by the State Agency to terminate the contract.

(2) When conditions warrant, the State Agency may suspend area plan operations in whole or in part. Such conditions would result from the Area Agency's failure to comply with contract award stipulations, standards, or conditions.

(3) To suspend area plan operations, the State Agency shall notify the Area Agency in writing of the action being taken, the reason for such action, and the conditions of the suspension. This notice shall be given at least thirty (30) days prior to the effective date of suspension and shall note the right of the Area Agency to appeal such decision and the procedures to be followed for such an appeal.

(4) The State Agency shall grant to any Area Agency whose area plan has been suspended in whole or in part an opportunity for a hearing in accordance with the provisions set forth in Section 0030-8-.02 of these rules.

(5) The State Agency may, at its discretion, allow federal financial participation in necessary and proper costs which the Area Agency could not reasonably avoid during the period of suspension.

(6) In suspending area plan operations, the State Agency shall determine the amount of unearned Title III funds the Area Agency has on hand. The anticipated length of suspension, the extent of area plan operations suspended, and the amount of fund balance on hand will determine whether the State Agency will require the balance to be returned.

(7) The State Agency may, at its discretion, reinstate the suspended area plan operations if it determines that conditions warrant such action.

(8) Federal participation in reinstated area plan operations may resume immediately upon reinstatement, but not for any costs accrued for those area plan operations while they were suspended. The obligational authority unearned at the time of suspension again becomes available for earning by the project at the previously established matching ratio.

(9) If the suspension of area plan operations continues for three (3) consecutive months in any budget year, federal funding of area plan operations is automatically terminated.

Authority: T.C.A. 14-6-105

0030-5-.06 TERMINATION OF AREA PLAN FUNDING.

(1) The termination of funding means the cancellation of State or federal assistance, in whole or in part, under a contract at any time prior to the date of completion.

(2) The Commission may terminate State or federal support for an area plan prior to the end of an approved budget year or project period if:

(a) The Area Agency violates the conditions under which the contract was approved;

(b) Program performance is inadequate; or,

(c) Nonfederal resources are not available.

(3) If the Commission terminates funding for an area plan, it will notify the Area Agency in writing of the action being taken and the reasons for such action. This notice will be given at least thirty (30) days prior to the effective date of termination and will specify any reports to be completed, the right of the Area Agency to appeal, and the procedure to be followed for appeal.

(4) The Commission shall grant to any Area Agency whose area plan has been terminated, in whole or in part, an opportunity for a hearing in accordance with the provisions set forth in Section 0030-8-.02 of these rules.

(5) The Commission or Area Agency may terminate the contract, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in case of partial terminations, the portion to be terminated. The Area Agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Commission shall allow full credit to the Area Agency for the federal share of the non-cancellable obligations, properly incurred by the Area Agency prior to termination.

Authority: T.C.A. 14-6-105

0030-5-.08 CONFIDENTIALITY REQUIREMENTS FOR PARTICIPANT INFORMATION.

(1) In order that the privacy of each participant in aging programs is in no way abridged, the confidentiality of all participant data gathered and maintained by the State Agency, the Area Agency, and any other agency, organization, or individual providing services under the State or area plan, shall be safeguarded by specific policies.

(2) Each participant from whom personal information is obtained shall be made aware of his or her rights to:

(a) Have full access to any information about one's self which is being kept on file;

(b) Be informed about the uses made of the information about him or her, including the identity of all persons and agencies involved and any known consequences for providing such data; and,

(c) Be able to contest the accuracy, completeness, pertinence, and necessity of information being retained about one's self and be assured that such information, when incorrect, will be corrected or amended on request.

(3) All information gathered and maintained on participants under the area plan shall be accurate, complete, and timely and shall be legitimately necessary for determining an individual's need and/or eligibility for services and other benefits.

(4) No information about, or obtained from, an individual participant shall be disclosed in any form identifiable with the individual to any person outside the agency or program involved without the informed consent of the participant or his/her legal representative, except:

(a) By court order; or,

(b) When securing client-requested services, benefits, or rights.

(5) The lists of older persons receiving services under any programs funded through the Commission shall be used solely for the purpose of providing said services, and can only be released with the informed consent of each individual on the list.

(6) All paid and volunteer staff members providing services or conducting other activities under the area plan shall be informed of:

(a) Their responsibility to maintain the confidentiality of any client-related information learned through the execution of their duties. Such information shall not be discussed except in a professional setting as required for the delivery of service or the conduct of other essential activities under the area plan; and,

(b) All policies and procedures adopted by the State and Area Agency to safeguard confidentiality of participant information, including those delineated in these rules.

(7) Appropriate precautions shall be taken to protect the safety of all files, microfiche, computer tapes and records in any location which contain sensitive information on individuals receiving services under the State or area plan.

(8) Interviews with program participants shall not be filmed, taped, photographed, or observed without the prior knowledge and consent of that participant individual.

(9) Any complaint filed by a participant, potential participant, or individual denied services shall be thoroughly investigated with a written response provided in a timely manner. The identity of the complainant shall not be released by the investigating agency without the express informed, written consent of the individual(s) involved.

Authority: T.C.A. 14-6-105

0030-5-.09 OPEN MEETINGS.

(1) Requirements of the Public Meetings Law (T.C.A. § 8-44-101, et. seq.) which require that "the formation of public policy and decisions is public business and shall not be conducted in secret" shall apply in each case where policy or administrative decisions which directly affect the public and are funded under the Older Americans Act or State Appropriations for Aging Programs are involved, including boards and executive committees of:

- (a) Development Districts;
- (b) Human Resource Agencies; and,
- (c) Community Action Agencies.

(2) Any private agency serving as a grantee, subgrantee, or contracting agency utilizing Older Americans Act or State Appropriations for Aging Programs by authority of these rules shall comply with all provisions of the Public Meetings Law (T.C.A. § 44-101, et. seq.) when policy or administrative decisions are made affecting those activities funded under the State or area plan.

Authority: T.C.A. 14-6-105

0030-5-.10 FREEDOM OF INFORMATION.

(1) The Area Agency shall maintain a policy of public information designed to assure that all federal, State, and local policies governing the administration of the annual area plan, contracts for the conduct of activities and services under the area plan, and periodic Area Agency reports will be reasonably available for review by interested persons.

(2) The Area Agency shall provide policy and/or program information upon request to individuals, organizations, and media representatives regarding Title III programs and services without reservation, provided the requested information does not violate the standards of confidentiality set out in Section 0030-5-.08. A reasonable pre-determined charge may be made for materials provided under this section.

(3) The Area Agency shall disseminate information about aging program development and administration in such a manner as to reach the maximum number of potential project participants representing all target groups and areas.

Authority: T.C.A. 14-6-105

CHAPTER 0030-8
RULES OF PROCEDURE FOR
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0030-8-.02 STATE AGENCY HEARINGS.

(1) The State Agency will provide an opportunity for a hearing to:

(a) Any Area Agency when the State Agency proposes to:

1. Disapprove the area plan or plan amendment submitted by the Area Agency; or,
2. Withdraw the Area Agency's designation.

(b) Any applicant for designation as a planning and service area whose application is denied;

(c) Any nutrition project which the Area Agency proposes to defund; and,

(d) Any service provider whose application to provide services under an area plan is denied or whose contract is terminated or not renewed except as provided in 45 CFR, Part 74, Subpart M, of the regulations.

(2) If any agency or organization wants a hearing, it must file a written request for a hearing with the State Agency within thirty (30) days following its receipt of the notice of the adverse action.

(3) When it receives a request for a hearing, the State Agency will notify the agency or organization of the date, time, and location of the hearing. The State Agency will complete the hearing within 120 days of the date the request for hearing was received by the State Agency. The State Agency will issue the hearing decision within sixty (60) days after the hearing is completed.

(4) The State Agency hearing procedures for Area Agencies and service provider organizations will include:

(a) Timely written notice of the reasons for the agency action that is being appealed and the evidence on which the action was based;

(b) An opportunity to review any pertinent evidence on which the agency action was based;

(c) An opportunity to appear in person before an administrative hearing officer and/or the board of the Commission to refute the basis for the decision in accordance with Section 1360-1-7-.02(j);

(d) An opportunity to be represented by counsel or other representative;

(e) An opportunity to present witnesses and documentary evidence;

(f) An opportunity to cross-examine witnesses;
and,

(g) A written decision which sets forth the reasons for the decision and the evidence on which the decision is based.

(5) The State Agency may terminate formal hearing procedures at any point if the State Agency and agency or organization that requested the hearing negotiate a written agreement that resolves the issue(s) which led to the hearing.

Authority: T.C.A. 14-6-105

0030-8-.03 DISAPPROVAL OF AN AREA PLAN AND/OR WITHDRAWAL OF AREA AGENCY DESIGNATION.

(1) The State Agency will withdraw the Area Agency designation whenever the State Agency, after reasonable notice and opportunity for a hearing finds that:

(a) The Area Agency does not meet the requirements set out in the policies for Area Agency administration;

(b) The 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 provision of this part.

(2) If the State Agency withdraws an Area Agency's designation, it will:

(a) Notify the Commissioner in writing of its action;

(b) Provide a plan for the continuity of services in the affected planning and service area; and,

(c) Designate a new Area Agency in the planning and service area in a timely manner.

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

(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.

(4) The Commissioner may extend for a period of up to an additional 180 days the limit in the previous paragraph of this section if the State Agency:

(a) Requests an extension; and,

(b) Demonstrates to the satisfaction of the Commissioner a need for the extension.

Authority: T.C.A. 14-6-105

CHAPTER 0030-9
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0030-9-.01 Long Term Care
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0030-9-.01 LONG TERM CARE OMBUDSMAN PROGRAM SCOPE AND
AUTHORITY.

(1) The Commission shall operate a statewide long-term care ombudsman program in cooperation with the Area Agencies on Aging.

(2) The purview of ombudsman services shall extend to infirm elderly residing in skilled nursing facilities and intermediate care facilities; any other similar adult care homes, including institutional homes for the aged and residential homes for the aged as identified and licensed by the

Tennessee Department of Mental Health and Mental Retardation; any similar type homes operating within the state that have not been identified nor licensed by either department; and to infirm elderly in need of service to prevent or delay institutionalization.

(3) The Commission will employ a full-time long-term care ombudsman who will be responsible to ensure that the statewide ombudsman program fulfills all requirements of the Older Americans Act. The state long-term care ombudsman will coordinate and provide technical assistance to substate programs, and carry out all State Agency program responsibilities.

Authority: T.C.A. 14-6-105

CHAPTER 0030-10
FINANCIAL MANAGEMENT STANDARDS AND PROCEDURES

0030-10-.01 INTRASTATE FUNDING FORMULA.

(1) Federal funds received under Title III of the Older Americans Act are allocated to each of the nine Area Agencies on Aging using a formula which:

(a) Includes an identical base subgrant to each Area Agency from Title III-B funds;

(b) Reflects the proportion of the state's elderly (60 and over) population residing in the planning and service area;

(c) Reflects the proportion of the state's elderly population in greatest economic or social need residing within the planning and service area; and,

(d) Provides for each Area Agency sufficient funds to spend in rural areas at least 105 percent of the amount spent under Titles III, V, and VII of the Act for services in rural areas in the 1978 federal fiscal year.

(2) The State appropriations for multipurpose senior citizen centers are allocated to each Area Agency in the following manner:

(a) An identical base subgrant per county multiplied by the number of counties in the district;

(b) The remainder times the formula based on the district's proportion of the state's elderly population and the district's proportion of the state's elderly population with incomes below the poverty level.

(3) The State appropriation for supplementing nutrition services is allocated on the formula outlined in paragraph (2).

(4) The State Agency will revise the intrastate funding formula as follows:

(a) The proposed changes will be made available for review and comment to Area Agencies, service providers, or governmental entities which may be affected by the changes.

(b) Any comments on the formula or revisions to the formula must be submitted to the State Agency.

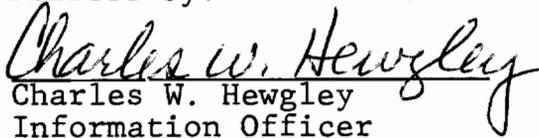
(c) The Commission will review the revisions for adoption.

(d) Proposed revisions to the formula and a summary of comments on the revisions will be submitted to the Commissioner for review and comment as an attachment to the State Plan.

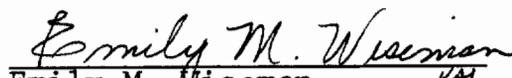
(e) The formula will be reviewed and revised as needed at least every three years in accordance with provisions of the Administrative Procedures Act.

Authority: T.C.A. 14-6-105

Drafted by:


Charles W. Hewgley
Information Officer

Proposed by:


Emily M. Wiseman ^{RM}
Executive Director

The roll-call vote by the Tennessee Commission on Aging on these rulemaking hearing rules was as follows:

	AYE	NO	ABSTAIN
<u>Raymond Brown</u>	<u>Chair not voting</u>		
<u>Mayor A. K. Bissell</u>	<u>X</u>		
<u>M. P. Bowman</u>	<u>X</u>		
<u>Azilee Canfield</u>	<u>X</u>		
<u>Peggy Chaffin</u>	<u>X</u>		
<u>Luther England</u>	<u>X</u>		
<u>Juanita Fasola</u>	<u>X</u>		
<u>Dr. Eugene Fowinkle</u>	<u>ABSENT</u>		
<u>L. O. Gillespie</u>		<u>X</u>	
<u>Louis Hobson</u>			<u>X</u>
<u>Rhoda Hyder</u>	<u>X</u>		
<u>Thomas P. Lewis</u>	<u>X</u>		
<u>Elease Loyd</u>	<u>X</u>		
<u>Commissioner Sammie Lynn Puett</u>	<u>ABSENT</u>		
<u>Arthur L. Robinson</u>	<u>X</u>		
<u>Commissioner William H. Roden</u>	<u>X</u>		
<u>Nell Wright</u>	<u>X</u>		
<u>Peaches Sheesley</u>	<u>X</u>		

I certify that this is an accurate and complete copy of rulemaking hearing rules lawfully promulgated and adopted by the Tennessee Commission on Aging on the 19th day of November 1981.

Further, I certify that these rules are properly presented for filing, a notice of rulemaking hearing having been filed in the Secretary of State's office on the 22nd day of September 1981 and such notice of rulemaking hearing having been published in the October 1981 issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 4th day of November 1981.

Emily M. Wiseman
Emily M. Wiseman
Executive Director

Raymond Brown
Raymond Brown, Chairman

Subscribed and sworn to before me this 24th day
of November, 1981.

James A. Williams
Notary Public

My Commission expires on the 31st day of
July, 1985.

All rulemaking hearing rules provided for herein have
been examined by the Attorney General and Reporter of the
State of Tennessee and are approved as to legality pur-
suant to the provisions of the Administrative Procedures
Act, Tennessee Code Annotated, Title 4, Chapter 5.

William M. Leech
William M. Leech
Attorney General and Reporter

The rulemaking hearing rules set out herein were
properly filed in the Administrative Procedures Division
of the Department of State and will become effective on
the 6th day of AUGUST, 1982, unless with-
drawn, or stayed by the Commission on Aging, or ~~disapproved~~
~~by the appropriate standing committee of the General Assembly.~~
~~This statement of effective date does not constitute the~~
~~actual effective date of the rules which follows.~~

Gentry Crowell
Gentry Crowell
Secretary of State

By: Thomas Y. Stovall

OFFICE OF
SECRETARY OF STATE

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