

CHAPTER 28
IOWA SENIOR LIVING PROGRAM—HOME- AND COMMUNITY-BASED
SERVICES FOR SENIORS

[Prior to 1/27/10, see Elder Affairs Department[321] Ch 28]

17—28.1(231,249H) Purpose. The purpose of the Iowa senior living program, home- and community-based services for seniors, is to create a balanced, comprehensive and affordable long-term care system that is consumer-directed, provides a balance between institutional and noninstitutional services and contributes to the quality of the lives of Iowans.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.2(231,249H) Use of funds. Funds appropriated from the senior living trust fund for home-and community-based services for seniors shall be used for activities related to the design, maintenance, or expansion of home- and community-based services for low- and moderate-income seniors including, but not limited to, adult day, personal care, respite, homemaker, chore, and transportation services which promote the independence of seniors and delay the use of institutional care by seniors with low and moderate incomes.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.3(231,249H) Definitions. Words and phrases as used in this chapter are as defined in 17 IAC 1 unless the context indicates otherwise. The following definitions also apply to this chapter:

“*Client participation*” means a payment system with an established fee or cost that allows:

1. A senior with low income to receive services for a voluntary contribution toward the cost of the service;
2. A senior with moderate income to receive services at less than the full service delivery cost; and
3. A senior with above moderate income to purchase services at full cost.

“*Contract*” means the purchase of units of services on behalf of an aggregate clientele.

“*Direct service*” means a service to a client that is administered by the area agency on aging and provided by employees of the area agency on aging.

“*Grant*” means the use of funds to underwrite an operation to support the existence of a specific service provider.

“*Income*” means wages, salaries, business income, social security benefits, veteran’s administration benefits, disability payments, retirement or pension plan income, annuity income, interest income, supplemental security income, welfare payments, and other cash income.

“*Long-term care services*” means those services specified under the medical assistance home- and community-based services waiver for the elderly or the National Aging Program Information System (NAPIS), which are designed to directly promote the independence of seniors and to delay the use of institutional care by seniors with low and moderate incomes.

“*Low income*” means:

1. For purposes of determining client eligibility for financial assistance under Iowa Code section 249H.7, household income of less than 300 percent of SSI;
2. For purposes of funding distribution under Iowa Code chapter 249H, household income at or below the official poverty guideline as defined each year by the Office of Management and Budget and adjusted by the Secretary of the U.S. Department of Health and Human Services.

“*Medical assistance program*” means the financial assistance programs established in cooperation between the state of Iowa and the Centers for Medicare and Medicaid Services (CMS) under the Medicaid state plan for lower-income Iowans with health and social needs.

“*Moderate income*” means income that is equal to or greater than 300 percent of SSI and less than 300 percent of the federal poverty guideline as defined each year by the Office of Management and Budget and adjusted by the Secretary of the U.S. Department of Health and Human Services.

“*Provider*” means an individual(s), agency(ies), public and private for-profit and not-for-profit organization(s) or other entity(ies) delivering long-term care services funded under these rules.

“*Senior*” or “*elder*” means an individual who is 60 years of age or older.

“*Senior living program*” means the senior living program created in Iowa Code chapter 249H to provide for long-term care alternative services.

“*Senior living trust fund(s)*” or “*SLTF*” means the funding mechanism established in Iowa Code chapter 249H.

“*Subcontractor of the area agencies on aging*” means a provider receiving funds by contract with an area agency on aging.

“*Supplemental security income (SSI)*” means the income level defined each year by the Social Security Administration (SSA) for the nationwide federal assistance program administered by SSA, which guarantees the defined minimum level of income for needy aged, blind, or disabled individuals by providing basic cash support.

“*Underserved*” means:

1. For service funding purposes, individuals aged 60 and over who are unable to access needed services; or
2. Areas where the service identified as needed is not available because there is no provider for that service; or
3. Existing providers of that service are regularly unable to deliver the amount of service needed.

“*Voucher*” means the mechanism used to purchase a specific service from a vendor on behalf of an individual client or clients.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.4(231,249H) Disbursement of funds.

28.4(1) Administration. The department may use up to 7 percent of the service dollars appropriated to the department from the SLTF for purposes of implementing and administering the functions delegated to the department by Iowa Code chapter 249H.

28.4(2) Identification of service needs.

a. The department, in collaboration with the area agencies on aging, shall conduct, on a four-year cycle, a statewide needs assessment designed to identify individuals aged 60 and over as underserved.

b. In addition to the funds given in 28.4(1), the department may withhold up to \$100,000 for each four-year cycle from the service dollars appropriated to the department from the SLTF to conduct a statewide needs assessment.

c. The department shall seek partners and other funding sources to share the cost of implementing the survey.

28.4(3) Process for disbursement of funds to AAA. The process for disbursement of funds to AAA shall be incorporated into the area plan process outlined in the OAA.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.5(231,249H) Eligible use of funds.

28.5(1) AAA may use up to 7 percent of the service dollars for purposes of developing, implementing and administering local long-term care services and for collecting and reporting required data.

28.5(2) The funds distributed to the AAA by the department from the senior living trust fund shall be used to:

- a.* Provide services to low- and moderate-income Iowans aged 60 and over;
- b.* Provide long-term care services to enhance the ability of seniors to appropriately avoid or delay institutionalization;
- c.* Provide services through:
 - (1) Enhancement and expansion of existing providers to serve new seniors;
 - (2) Provision of new units of service to existing seniors and new areas;
 - (3) Identification and development of new providers; and
 - (4) Addition of new funding sources to maintain current service levels when service levels would otherwise decline due to loss of purchasing power.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.6(231,249H) Client participation. The AAA may use client participation for services funded under Iowa Code chapter 249H. When client participation is used:

28.6(1) Eligibility shall be based on self-declaration by the client or declaration on the client's behalf by the client's legal representative. If the provider or AAA has reason to believe that the declaration is inaccurate or misrepresents the client's financial status, the provider or AAA may require documentation of income and resources and subsequently may discontinue further financial assistance from the senior living trust fund if the individual is found ineligible.

28.6(2) Funds generated through client participation must be used by the AAA or contracted service provider to purchase the respective service for which the funds were received.

28.6(3) An AAA may use client participation for services funded under Iowa Code section 249H.7 for persons with moderate income or above if the AAA does not utilize Older Americans Act funding for the same service category.

28.6(4) An AAA subcontractor may use client participation for services funded under Iowa Code section 249H.7 for persons with moderate income or above if the subcontractor does not receive Older Americans Act funding for the same service category.

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17—28.7(231,249H) Reallotment of unobligated funds.

28.7(1) If the department determines prior to the end of the fiscal year that an AAA will have unused funds, the department may reallocate the unused funds to one or more AAA in accordance with demonstrated utilization or by a reallocation method specified by IAPI. The AAA receiving these funds shall obligate them by the end of the fiscal year in which they are reallocated.

28.7(2) Any unobligated funds remaining at the end of the state fiscal year shall be returned to the department and deposited in the Iowa senior living trust fund.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.8(231,249H) Prohibited use of senior living trust fund moneys. SLTF moneys shall not be used to:

1. Purchase a service when the client is eligible for third-party purchase of that service by sources such as Medicare, Medicaid, Medicaid home- and community-based services (HCBS) waiver and private long-term care insurance.

2. Replace existing funding for a long-term care service.

The department may grant an exception in order to enhance access to a service if the displaced funding is subsequently dedicated by the AAA to another long-term care service for seniors and results in an increase in total AAA funding for long-term care services to seniors equal to the SLTF dollars used for replacement.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.9(231,249H) Disbursement of SLTF funds to AAA subcontractors.

28.9(1) *Use of SLTF funding by subcontractors.*

a. Funds contracted by an AAA from the SLTF shall be used to provide long-term care services to enhance the ability of Iowans aged 60 and over with low or moderate income to appropriately avoid or delay institutionalization.

b. The AAA subcontractor shall not use senior living trust funds to replace existing funding for a long-term care service. The AAA may grant an exception in order to enhance access to a service if the displaced funding is subsequently dedicated by the subcontractor to another long-term care service for the elderly and results in an increase in total funding for long-term care services by the subcontractor to seniors that is equal to the senior living trust fund dollars used for replacement.

28.9(2) *Prioritization of service contracts.* The AAA may prioritize service contracts and funding levels by applying criteria that include, but are not limited to, the following:

a. Local priorities in order to fulfill unmet needs.

b. The provider's commitment to obtain or provide matching funds.

c. Provider commitment to use client participation.

- d. Cost.
- e. The provider's history of providing quality service.

28.9(3) Criteria to receive funds as a subcontractor of an AAA.

a. The applicant for senior living trust funds must demonstrate that the proposed long-term care alternative service(s):

- (1) Will be responsive to the service priorities identified by the AAA; or
- (2) Will address other significant unmet service needs of eligible seniors as documented by the applicant.

b. The applicant must document the ability to provide the proposed services and the related administration, financial tracking and reporting required by a subcontractor under these rules.

c. The subcontractor must agree to meet the criteria set out in this subrule in addition to criteria established by the AAA in its request for proposal and contract.

d. The subcontractor shall ensure that all employees providing in-home care to clients have had a dependent adult abuse and criminal history background check and have been cleared for said functions in accordance with Iowa Code section 135C.33.

e. Senior living trust funds shall not be contracted to a provider that has been prohibited from participating in the Medicare or medical assistance programs.

f. The subcontractor shall commit to seeking third-party reimbursement when available.

28.9(4) Disbursements of funds to AAA subcontractors.

a. Method. AAA may use the method or methods of disbursing funds determined to best ensure effective provision of services that will address documented unmet needs, including contracts, grants, vouchers and direct services.

(1) Provider applications shall be due at the respective AAA office by the date given in the request for proposal for review and possible approval by the AAA.

(2) Funds shall be disbursed by the AAA following the receipt of funds from the department.

b. SLTF service dollars appropriated under Iowa Code section 249H.7 shall be disbursed to subcontractors through the area plan process as described in 17 IAC 5.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—28.10(231,249H) Reporting requirements.

28.10(1) AAA subcontractors.

a. Area agency on aging subcontractors shall submit monthly reports to the area agency on aging based upon reporting forms that are available from the AAA.

b. Subcontractor monthly reports, excepting those submitted by legal services providers, shall provide data for the previous month and by year-to-date for:

- (1) Total number of clients served; and
- (2) For each client receiving financial assistance from senior living trust funds, the report must be by service category, the number of units of service provided, the number of units of service not provided, the reasons services were not provided, and expenditures.

c. Subcontractors shall provide other information as requested by the AAA.

d. Subcontractors, excepting legal services providers, shall participate in the NAPIS client registration process.

e. Subcontractors providing legal services shall report in aggregate:

- (1) Unduplicated count of clients served;
- (2) The number of units of service provided;
- (3) The number of units of service not provided;
- (4) The reasons services were not provided; and
- (5) Expenditures.

28.10(2) Area agencies on aging.

a. Area agencies on aging shall, at a minimum, submit monthly reports to the department, as specified by the department in one or more IAPIs governing reporting requirements.

b. Each AAA shall use the NAPIS client registration process for clients receiving HCBS senior living assistance, with the exception of clients receiving legal assistance.
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17—28.11(231,249H) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

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These rules are intended to implement Iowa Code chapters 231 and 249H.

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