

CHAPTER 5
DEPARTMENT FISCAL OPERATIONS

[Prior to 5/20/87, see Aging, Commission on the [20], rule 4.9 and Ch 9]
[Prior to 1/27/10, see Elder Affairs Department[321] Ch 5]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

17—5.1(231) Funds to area agencies on aging.

5.1(1) The department shall distribute funds to each area agency on aging pursuant to federal and state laws, rules, and regulations.

5.1(2) The area agencies on aging shall use funds distributed by the department for the designated purpose and pursuant to federal and state laws, rules, and regulations.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.2(231) Distribution of Older Americans Act funds to area agencies on aging. On and after July 1, 2013, the following shall apply:

5.2(1) The department shall review the formula for distribution within the state of funds received under the Older Americans Act and required to be distributed by funding formula every four years, at a minimum. The department, in its discretion, shall determine whether to maintain the existing formula or develop a new formula based on the criteria outlined in the Older Americans Act and on other relevant factors.

5.2(2) The department shall comply with all federal and state laws, rules, and regulations in developing a formula for distribution within the state of funds received under the Older Americans Act.

5.2(3) The department shall adhere to the following process to develop and adopt a formula for distribution within the state of funds received under the Older Americans Act:

a. The department shall hold a minimum of one meeting with area agencies on aging to facilitate discussion and receive comment regarding the proposed formula for distribution.

b. The department shall publish the proposed formula for distribution for review and comment by posting the information on the department's Web site. The publication shall comply with all criteria outlined in the Older Americans Act. The publication shall be posted on the department's Web site for a minimum of 30 calendar days prior to the date set for commission consideration of the proposed formula for distribution. The publication shall provide the method and time frame for acceptance of public comment.

c. The department shall distribute a press release containing the proposed funding formula to all newspapers within the state.

d. The information published pursuant to paragraph 5.2(3) "b" shall be mailed, via standard postal delivery or electronic mail, to the executive director and board chairperson of each area agency on aging a minimum of 30 calendar days prior to the date set for commission action to approve the formula for distribution.

e. The department shall accept written public comment in response to publication of the proposed formula for a minimum of 14 calendar days following publication. The method and time frame for acceptance of public comment shall be provided in the information published pursuant to paragraphs 5.2(3) "b" and "c."

f. The department shall submit the proposed formula for distribution to the Assistant Secretary of the U.S. Department of Health and Human Services for approval pursuant to the Older Americans Act.

g. The department shall review all public comments received and provide a summary for the commission's review.

h. The department shall submit to the commission for consideration a proposed formula to distribute funds within the state.

i. The commission may, in its discretion, approve or disapprove the department's proposed formula for distribution of funds within the state. If the commission disapproves the department's proposed formula, the department shall develop an alternate formula for distribution of funds within the state after following all procedures provided in rule 17—5.2(231).

j. The commission's final decision shall be posted on the department's Web site, www.aging.iowa.gov.

k. The department shall distribute federal funds proportionately based on a state fiscal year.

5.2(4) NSIP. Each area agency on aging shall receive a portion of the NSIP allotment to the department based on the proportion of an area agency on aging's eligible meals related to the total of NSIP-eligible meals for all area agencies on aging.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.3(231) Distribution of state funds. On and after July 1, 2013, the following shall apply:

5.3(1) The department shall review the formula for distribution within the state of funds received from state appropriations every four years, at a minimum. The department, in its discretion, shall determine whether to maintain the existing formula or develop a new formula based on the criteria outlined in the Older Americans Act and other relevant factors.

5.3(2) The department shall comply with all federal and state laws, rules, and regulations in developing a formula for distribution within the state of funds received from state appropriations.

5.3(3) The department shall adhere to the following process to develop and adopt a formula for distribution within the state of funds received from state appropriations:

a. The department shall hold a minimum of one meeting with area agencies on aging to facilitate discussion and receive comment regarding the proposed formula for distribution.

b. The department shall publish the proposed formula for distribution for review and comment by posting the information on the department's Web site. The publication shall comply with all criteria outlined in the Older Americans Act and state law. The publication shall be posted on the department's Web site for a minimum of 30 calendar days prior to the date set for commission action to approve the proposed formula for distribution. The publication shall provide the method and time frame for acceptance of public comment.

c. The department shall distribute a press release containing the proposed funding formula to all newspapers within the state.

d. The information published pursuant to paragraph 5.3(3) "b" shall be mailed, via standard postal delivery or electronic mail, to the executive director and board chairperson of each area agency on aging a minimum of 30 calendar days prior to the date set for commission action to approve the formula for distribution.

e. The department shall accept written public comment in response to publication of the proposed formula for a minimum of 14 calendar days following publication. The method and time frame for acceptance of public comment shall be provided in the information published pursuant to paragraphs 5.3(3) "b" and "c."

f. The department shall review all public comments received and provide a summary for the commission's review.

g. The department shall submit to the commission for consideration a proposed formula to distribute funds within the state.

h. The commission may, in its discretion, approve or disapprove the department's proposed formula for distribution of funds within the state. If the commission disapproves the department's proposed formula, the department shall develop an alternate formula for distribution of funds within the state after following all procedures provided in rule 17—5.3(231).

i. The commission's final decision shall be posted on the department's Web site, www.aging.iowa.gov.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.4(231) Posting of formulas for distribution. The department shall maintain a posting of the current formulas used for distribution of state or federal funds on the department's Web site, www.aging.iowa.gov.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.5(231) Priority service expenditures. Each area agency on aging shall expend a specified minimum percentage of Older Americans Act Title III-B funds, less administration costs, for priority services. The

minimum percentage to be expended on priority services shall be established by the commission and posted on the department's Web site, www.aging.iowa.gov.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.6(231) Match requirements for Older Americans Act funds.

5.6(1) Area agencies on aging shall comply with all match requirements established by and outlined in the Older Americans Act and federal rules and regulations.

5.6(2) Older Americans Act match requirements shall be met with the use of nonfederal sources, as defined by the Older Americans Act. The match used to meet Older Americans Act requirements shall be separate and independent of the match used to meet the state match requirements.

5.6(3) If an area agency on aging fails to appropriately match Older Americans Act funds pursuant to the match requirements of the Older Americans Act, the department may take any action necessary to correct the deficiency, including but not limited to the remedies provided in rule 17—5.14(231).

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.7(231) Match requirements for state funds.

5.7(1) Area agencies on aging shall comply with all match requirements mandated by federal and state laws, rules, and regulations.

5.7(2) The match requirement for state funds of \$15 for every \$85 of state funds distributed shall be met with the use of local sources. The local sources used to meet state match requirements shall be separate and independent of the match used to meet the Older Americans Act match requirements.

5.7(3) If an area agency on aging fails to appropriately match state funds pursuant to the match requirements established in state law and rule, the department may take any action necessary to correct the deficiency, including but not limited to the remedies provided in rule 17—5.14(231).

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.8(231) Contributions. Each area agency on aging shall be allowed to receive voluntary contributions in compliance with federal and state laws, rules, and regulations.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.9(231) General reporting requirements.

5.9(1) Each area agency on aging shall submit program and financial reports to comply with federal and state program requirements.

5.9(2) Each area agency on aging shall be responsible for the following:

- a. Gathering accurate information necessary to complete reports;
- b. Completing reports on forms or in a format prescribed by the department; and
- c. Submitting reports or data to the department on or before due dates established by the department.

5.9(3) Each area agency on aging shall be solely responsible for obtaining and reporting necessary information from subgrantees, contractors and subcontractors.

5.9(4) Failure to submit complete and accurate program or financial reports by the established due dates, even if waiver is granted, may subject the area agency on aging to remedies provided in rule 17—5.14(231).

[ARC 0743C, IAB 5/15/13, effective 6/19/13; ARC 1533C, IAB 7/9/14, effective 8/13/14]

17—5.10(231) Redistribution.

5.10(1) *Redistribution of federal funds.*

a. Funds distributed pursuant to the Older Americans Act which are not expended for goods or services or both to be provided by the last day of the award period shall be available to the department for redistribution unless a written application for carryover is approved pursuant to paragraph 5.10(1) "b."

b. Funds distributed pursuant to the Older Americans Act may be carried over upon department approval of a written application. The written application must be received by the department on or before the final report due date for that fiscal year. The written application must contain the amount of funds requested for carryover. The department, in its discretion, shall approve or deny the written application.

c. Any unexpended funds distributed for administration costs pursuant to the Older Americans Act, as shown in the department's annual allotment tables, may be used only for program service expenditures in the subsequent fiscal year.

5.10(2) *Redistribution of state funds.*

a. If the department determines prior to the end of a fiscal year that an area agency on aging will not expend its state funds for goods or services or both to be provided by the last day of the fiscal year, the department may redistribute the funds to one or more area agencies on aging in accordance with demonstrated utilization or by a redistribution method specified by the department.

b. The department may, in its discretion, redistribute funds to one or more area agencies on aging based on expenditure estimates for that fiscal year. The department may redistribute funds as early as January of that fiscal year.

c. The area agencies on aging receiving the redistributed funds shall expend them by the end of the fiscal year in which they are redistributed for goods or services or both to be provided by the last day of the fiscal year.

5.10(3) *Failure to expend federal or state funds.* Failure to expend federal or state funds in accordance with the area plan may subject the area agency on aging to remedies provided in rule 17—5.14(231).

[ARC 0743C, IAB 5/15/13, effective 6/19/13; ARC 1533C, IAB 7/9/14, effective 8/13/14]

17—5.11(231) State reviews and audits.

5.11(1) Each area agency on aging shall complete an annual audit report and submit the audit report to the department for review as directed in the guidelines issued by the department.

5.11(2) The audit costs shall be negotiated and paid for by the grantee from the applicable grants.

5.11(3) The department shall provide the grantee with guidelines to be followed by the auditor.

5.11(4) Failure to fully comply with state review and audit requirements by the due dates, even if waiver is granted, may subject the area agency on aging to remedies provided in rule 17—5.14(231).

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.12(231) Acquisition of goods and services. All area agency on aging acquisitions of goods and services shall be in compliance with state and federal laws, rules and regulations.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.13(231) Records—contract administration. The department and each area agency on aging shall maintain records and reports for purchases and contracts that utilize state or federal funds. The records and reports shall be maintained pursuant to federal and state laws, rules, and regulations.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

17—5.14(231) Correction of deficiencies.

5.14(1) *Remedies.* The purpose of remedies is to ensure prompt action is taken by an area agency on aging to correct deficiencies arising from failure to perform as identified by this rule. The department shall determine the remedies to be applied to the area agency on aging for failure to perform.

5.14(2) *Number of remedies.* The department may apply one or more remedies for each deficiency constituting failure to perform or for all deficiencies constituting failure to perform.

5.14(3) *Notification requirements.* The department shall give the area agency on aging written notice of remedy at least 15 calendar days before the effective date of the remedy. The written notice of remedy shall include the following:

a. The nature of the failure to perform.

b. The remedy imposed.

c. The effective date of the remedy.

d. The right to appeal the determination leading to the remedy.

5.14(4) *Factors to be considered in selecting remedies.*

a. In order to select the appropriate remedy, the department shall determine the seriousness of the failure to perform. To determine the seriousness of the failure to perform, the department shall consider whether the area agency on aging's failure(s) to perform:

- (1) Is isolated.
- (2) Constitutes a pattern.
- (3) Is broad in scope.
- (4) Creates a financial burden for the department, other area agencies on aging, or the aging network.
- (5) Creates an administrative burden for the department, other area agencies on aging, or the aging network.

b. In selecting an appropriate remedy, the department may also consider the area agency on aging's prior history of failure to perform in general and specifically with reference to the cited failure to perform.

5.14(5) Available remedies. The department may select one or more of the following remedies with reference to a cited failure to perform:

a. *Directed in-service training.* The department may require the staff of an area agency on aging to attend an in-service training program if education is likely to correct the failure to perform. The area agency on aging is responsible for the payment for the directed in-service training.

b. *Department monitoring.* The department may require an area agency on aging to receive increased monitoring by the department. The frequency and duration of the monitoring is within the discretion of the department.

c. *Directed plan of correction.* The department may develop a plan of correction and require an area agency on aging to take action within specified time frames.

d. *Reduction of funding.* The department may reduce the amount of funding distributed.

e. *Investigative audit.* The department may require an area agency on aging receive an investigative audit. The area agency on aging is responsible for the payment for this investigative audit.

f. *Other remedies.* The department may also impose other remedies, as appropriate.

g. *Dedesignation.* The department may request dedesignation of an area agency on aging pursuant to rule 17—4.6(231).

5.14(6) Duration of remedies. Remedies shall continue until:

a. The area agency on aging has achieved substantial compliance as determined by the department or based upon a revisit or after an examination of credible written evidence that the department can verify without an on-site visit; or

b. The area agency on aging is dedesignated.

5.14(7) Mandatory plan of correction. Each area agency on aging that has been cited for a failure to perform shall submit a plan of correction for approval by the department regardless of which remedies are applied.

5.14(8) Procedures for plan of correction. Within 30 calendar days following receipt of the written notice of remedy pursuant to subrule 5.14(3), the area agency on aging shall submit a plan of correction to the department.

a. *Contents of plan.* The plan of correction shall contain the following information:

(1) How the area agency on aging will correct the failure to perform;

(2) How the area agency on aging will act to protect consumers within the affected area;

(3) The measures the area agency on aging will take or the systems it will alter to ensure that the problem does not reoccur;

(4) How the area agency on aging plans to monitor its performance to make sure that solutions are sustained; and

(5) The date(s) when corrective action will be completed.

b. *Review of plan.* The department shall review the plan of correction within 30 calendar days of receipt. The department may request additional information or revisions to the plan, which shall be provided by the area agency on aging as requested.

5.14(9) Appeal of a determination of failure to perform.

a. An area agency on aging may request a hearing on a determination of a failure to perform that leads to a remedy citation. The affected area agency on aging shall file the request for hearing in writing to the department within 60 calendar days from receipt of the written notice of remedy.

b. Hearings shall be conducted pursuant to 17—Chapter 13, with an administrative law judge appointed as the presiding officer and with the department as the final decision maker with subject matter jurisdiction.

c. An area agency on aging may not appeal the choice of remedy, including the factors considered by the department in choosing the remedy.

[ARC 0743C, IAB 5/15/13, effective 6/19/13]

These rules are intended to implement Iowa Code chapter 231.

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¹ Effective date of 20—9.22(2) delayed 70 days by the Administrative Rules Review Committee.

² Effective date of Ch 5 delayed 70 days by the Administrative Rules Review Committee.