

441—226.11(231) Evaluation and compliance. The department will monitor area agencies on aging to ensure quality performance and compliance as set forth in 45 CFR 1321 as amended to October 1, 2025.

226.11(1) Correction of deficiencies.

a. 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 will determine the remedies to be applied to the area agency on aging for failure to perform.

b. 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.

c. Notification requirements. The department will give the area agency on aging written notice of the remedy in accordance with 441—Chapter 16. The written notice of remedy will include the following:

- (1) The nature of the failure to perform.
- (2) The remedy imposed.
- (3) The effective date of the remedy.
- (4) The right to appeal the determination leading to the remedy.

d. Factors to be considered in selecting remedies. In order to select the appropriate remedy, the department will determine the seriousness of the failure to perform by considering whether the area agency on aging's failure 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.

226.11(2) Available remedies. The department may select one or more of the following remedies with reference to a cited failure to perform. 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.

a. Directed in-service training. The department may require the staff of an area agency on aging to attend an in-service training program. 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. Mandatory plan of correction. The department may require an area agency on aging to develop a mandatory plan of correction for approval by the department within specified time frames pursuant to subrule 226.11(2).

e. Reduction of funding. The department may reduce the amount of funding distributed.

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

g. Conditional approval. The department may conditionally approve area plans and amendments with required corrections to be made by the area agency on aging within no more than 90 days. If the plan is not approved, the department may withdraw designation as specified in rule 441—226.7(231).

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

i. Withdrawal of designation. The department may withdraw a designation of an area agency on aging pursuant to rule 441—226.7(231).

226.11(3) Duration of remedies. Remedies will continue until the area agency on aging has achieved substantial compliance as determined by the department or the designation as an area agency on aging is withdrawn.

226.11(4) Appeal of a determination of failure to perform.

a. An area agency on aging may appeal the department's determination of a failure to perform that leads to a remedy citation. Appeals will be provided in accordance with 441—Chapter 7, except for rule 441—7.51(17A).

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

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