
POLICY TRANSMITTAL NO. 09-38

DATE: JUNE 24, 2009

AGING SERVICES DIVISION

DEPARTMENT OF HUMAN SERVICES
OFFICE OF LEGISLATIVE RELATIONS AND
POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:105-10-3.

EXPLANATION: OAC 340:105-10-3 Instructions to Staff is issued to clarify the intent of the definition of civic engagement.

Original signed on 6-23-09

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WF # 09-O (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

REMOVE

340:105-10-3

INSERT

340:105-10-3, pages 1-16, revised 7-1-09

340:105-10-3. Definitions

Revised 6-1-08

(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Abuse" means the willful:

(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

(B) deprivation by a person, including a caregiver, of goods or services necessary to avoid physical harm, mental anguish, or mental illness.

"Act" means the Older Americans Act (OAA) of 1965 as amended.

"Activities of daily living (ADL)" means:

(A) eating;

(B) dressing;

(C) bathing;

(D) toileting;

(E) transferring in and out of bed or chair; and

(F) walking.

"Aging and Disability Resource Center" means an entity established by the State as part of the state system of coordinated long-term care to provide:

(A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care;

(B) personal counseling to assist a person assess existing or anticipated long-term care needs; and

(C) access to publicly-supported long-term care programs for which a person

may be eligible, by serving as a convenient point of entry for such programs.

"Area Agency on Aging (AAA)" means an agency designated under the OAA, Section 305(a)(2)(A) or the State Agency performing the functions of an AAA under the OAA, Section 305(b)(5).

"Assistive device" means an assistive technology device that has the same meaning given in Section 3 of the Assistive Technology Act of 1998 [29 U.S.C. 3002].

"At risk for institutional placement" means that an older person is unable to perform at least two activities of daily living without substantial assistance such as verbal reminding, physical cuing, or supervision and is determined by the State to be in need of placement in a long-term care facility.

"CFR" means Code of Federal Regulations in the Federal Register published by the United States (U.S.) Department of Health and Human Services, Office of Human Development, and Administration on Aging (AoA).

"Caregiver" means an adult family member, or another person, who is an informal provider of in-home and community care to a person 60 years of age or older.

"Case management service" means a service provided to an older person, at the direction of the older person or a family member of the older person:

(A) by a person who is trained or experienced in the case management skills required to deliver the services and coordination described in (B) of this paragraph;

(B) to assess the needs, and arrange, coordinate, and monitor an optimum package of services to meet the needs of the older person; and

(C) including services and coordination, such as:

(i) comprehensive assessment of the older person's physical, psychological, and social needs;

(ii) development and implementation of a service plan with the older person to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older person, including coordination of the resources and services with:

- (I) other plans existing for various formal services, such as hospital discharge plans; and
- (II) the information and assistance services funded by Title III of OAA;
- (iii) monitoring formal and informal service delivery to ensure services specified in the plan are provided;
- (iv) periodic reassessment and revision of the status of the older person with:
 - (I) the older person; or
 - (II) if necessary, a primary caregiver or family member of the older person; and
- (v) advocacy on behalf of the older person for needed services or resources in accordance with the wishes of the older person.

"Child" means a person who is not older than 18 years of age.

"Civic engagement" means a person or a collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need. 1

"Comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

- (A) facilitate accessibility to and utilization of all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;
- (B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older persons;
- (C) use available resources efficiently and with a minimum of duplication; and
- (D) encourage and assist public and private entities having unrealized potential for meeting the service needs of older persons to assist the older persons on a voluntary basis.

"Construction," with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees or

making modifications to or in connection with an existing facility in excess of double the square footage of the original facility and all physical improvements.

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

"Direct services" means any activity performed to provide services directly to an older person by the staff of a service provider, AAA, or State Agency in a single planning and service area.

"Disability" means a mental or physical impairment, or a combination of mental and physical impairments, resulting in substantial functional limitations in one or more areas of the major life activities of:

- (A) self-care;
- (B) receptive and expressive language;
- (C) learning;
- (D) mobility;
- (E) self-direction;
- (F) capacity for independent living;
- (G) economic self-sufficiency;
- (H) cognitive functioning; and
- (I) emotional adjustment.

"Disease prevention and health promotion services" means providing:

- (A) health risk assessments;
- (B) routine health screening, such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, and nutrition screening;
- (C) nutritional counseling and educational services for older persons and their primary caregivers;

(D) evidence-based health promotion programs, including programs related to prevention and mitigation of effects of chronic disease, such as:

- (i) osteoporosis;
- (ii) hypertension;
- (iii) obesity;
- (iv) diabetes;
- (v) cardiovascular disease;
- (vi) oral or dental disease;
- (vii) alcohol and substance abuse reduction;
- (viii) smoking cessation;
- (ix) weight loss and control;
- (x) stress management;
- (xi) falls prevention;
- (xii) physical activity; and
- (xiii) improved nutrition;

(E) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation provided by:

- (i) an institution of higher education;
- (ii) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or
- (iii) a community-based organization;

(F) home injury control services, including screening of high risk home environments and provision of educational programs on injury prevention, such as fall and fracture prevention;

(G) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(H) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;

(I) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(J) information concerning diagnosis, prevention, treatment, and rehabilitation concerning age related diseases and chronic disabling conditions, including:

(i) osteoporosis;

(ii) cardiovascular diseases;

(iii) diabetes; and

(iv) Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(K) gerontological counseling; and

(L) counseling regarding social services and follow-up health services based on any of the services described in (A) through (K) of this subsection.

"Elder abuse" means abuse of an older person.

"Eldercare (National Campaign)" means the AoA sponsored program to establish and promote public and private partnerships addressing the needs of the growing population of older persons and their caregivers.

"Elder justice" means efforts to:

(A) prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation;

(B) protect older persons with diminished capacity while maximizing their autonomy; and

(C) recognize a person's rights, including the right to be free of abuse, neglect, and exploitation.

"Ethnicity status." See "Race or ethnicity status."

"Exploitation" means the fraudulent or otherwise illegal, unauthorized, or improper act or process of a person, including a caregiver or fiduciary, that uses the resources of an older person for monetary or personal benefit, profit, or gain, or that results in depriving an older person of rightful access to, or use of, benefits, resources, belongings, or assets. Within this definition, a caregiver is a person who has the responsibility for the care of an older person, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and is a family member or other person providing, on behalf of the person or of a public or private agency, organization, or institution, compensated or uncompensated care to an older person.

"Fiduciary" means a person or entity with the legal responsibility to make decisions on behalf of and for the benefit of another person and to act in good faith and with fairness and includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

"Focal point" means a facility established to encourage the maximum collocation and coordination of services for older persons.

"Frail" means a condition of functionally impaired determined because the older person:

(A) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the person behaves in a manner posing a serious health or safety hazard to self or another person.

"Grandparent or older person who is a relative caregiver" means a grandparent or a stepgrandparent of a child or a relative of a child by blood, marriage, or adoption who is 55 years of age or older and:

(A) lives with the child;

(B) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(C) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

"Grantee agency" means an agency that receives funds granted or awarded by the sponsoring agency. The AAAs are grantees of the State Agency and the service providers are grantees of the AAAs.

"Grantor agency" means an agency that grants or awards funds to another entity. The State Agency is the grantor agency for the AAAs and the AAAs are the grantor agencies for the service providers.

"Greatest economic need" means the need resulting from an income level at or below the poverty line.

"Greatest social need" means the need caused by non-economic factors, including physical and mental disabilities; language barriers; and cultural, geographical, or social isolation, including that caused by racial or ethnic status that restricts the person's ability to perform normal daily tasks or threatens the person's capacity to live independently.

"Hispanic-serving institution" means the same as in Section 502 of the Higher Education Act of 1965 [20 U.S.C. 1101a].

"Impairment in activities of daily living" means the inability to perform one or more of the six ADL without personal assistance, stand-by assistance, supervision, or cues.

"Impairment in instrumental activities of daily living" means the inability to perform one or more of the eight instrumental activities of daily living (IADL) without personal assistance, stand-by assistance, supervision, or cues.

"Informal care" means care not provided as part of a public or private formal service program.

"Information and assistance (I & A)" means a service for older persons that:

(A) provides older persons current information on services available within their communities including information relating to assistive technology;

(B) links older persons with the opportunities and services available within their communities;

(C) establishes adequate follow-up procedures to the maximum extent practicable; and

(D) serves the entire community of older persons, particularly those with greatest social and economic need and those at risk for institutional placement.

"In-home service" means:

(A) services of homemakers and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, including adult day care as a respite service for families;

(E) minor modification of homes necessary to facilitate the ability of older persons to remain at home, and not available under other programs. Not more than \$250 per client may be expended annually for such modification; and

(F) personal care services.

"Instrumental activities of daily living (IADL)" means:

(A) preparing meals;

(B) shopping for personal items;

(C) managing medication;

(D) managing money;

(E) using the telephone;

(F) doing heavy housework;

(G) doing light housework; and

(H) making use of available transportation without assistance.

"Integrated long-term care" means items and services that consist of:

(A) with respect to long-term care:

(i) items or services provided under a State plan for medical assistance under the SoonerCare program established under Title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and

(ii) any other supports, items, or services that are available under any federally funded long-term care program;

(B) with respect to other health care, items and services covered under:

(i) the Medicare program established under Title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.];

(ii) the State plan for medical assistance under the SoonerCare program; or

(iii) any other federally funded health care program; and

(C) includes such items or services that are provided under a public or private managed care plan or through any other service provider.

"Legal assistance" means legal advice and representation by an attorney to an older person who has economic or social needs and includes, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney and counseling or representation by a non-lawyer where permitted by law.

"Living alone" means a one person household, using the census definition of household, where the householder lives by himself or herself in an owned or rented place of residence in a non-institutional setting, including board and care facilities, assisted living units, and group homes.

"Low income minority elderly" means a minority older person with annual income at or below the federally established poverty line.

"Low income non-minority elderly" means an older person who is not a minority with an annual income at or below the federally established poverty line.

"Means testing" means the use of an older person's income or resource to deny or limit the person's receipt of services.

"Minority elderly" means a person age 60 or older who is:

- (A) American Indian or Alaskan Native;
- (B) Asian;
- (C) Black or African American;
- (D) Hispanic or Latino; or
- (E) Native Hawaiian or Other Pacific Islander.

"Multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, to include the provision of health, such as mental health, social, nutritional, and educational services and facilities for recreational activities for older persons.

"NAPIS" means the National Aging Program Information System.

"Neglect" means the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older person or self-neglect.

"Nonprofit" means an agency, institution, or organization owned or operated by one or more corporations or associations having no part of the net earnings or benefit of any private shareholder or individual.

"OAA" means the Older Americans Act of 1965, as amended.

"OKDHS" means Oklahoma Department of Human Services.

"Older person" or **"older individual"** means anyone 60 years of age or older.

"Periodic," as used in the OAA with respect to evaluations of and public hearings on activities carried out under State and Area Plans, means, at a minimum, once each fiscal year.

"Planning and service area (PSA)" means an area designated by the State Agency under Section 305(a)(1)(E) of the OAA, as amended, for the purposes of developing and coordinating service systems.

"Poverty" means the income level defined each year by the Office of Management and Budget (OMB), and adjusted by the DHHS Secretary in accordance with subsection 673(2) of the Community Services Block Grant Act. The annual DHHS Poverty Guidelines provide dollar thresholds representing poverty levels for households of various sizes.

"Poverty line" means the official poverty line as defined by OMB in accordance with Section 673(2) of the Community Services Block Grant Act, per Section 9902(2) of Title 42 of the U.S. Code.

"Project" as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the Area Plan.

"Race or ethnicity status" reflects the requirements of OMB for obtaining information from persons regarding their self-identification of race and ethnicity.

(A) Race includes:

- (i) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America, including Central America, and who maintains tribal affiliation or community attachment;
- (ii) Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;
- (iii) Black or African American: a person having origins in any of the black racial groups of Africa;
- (iv) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands; and
- (v) White: a person having origins in any of the peoples of Europe, the Middle East, or North Africa.

(B) Ethnicity includes:

- (i) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish culture or origin, regardless of race; and
- (ii) Not Hispanic or Latino.

"Rural" means an area not defined as urban by AoA.

"Rural counties" means counties not considered urban as defined by AoA.

"Rural elderly" means older persons not considered living in urban counties as defined by AoA.

"SUOA" means Special Unit on Aging, a unit of OKDHS Aging Services Division.

"Self-directed care" means an approach to providing services, including programs, benefits, supports, and technology under the OAA intended to assist a person with activities of daily living, in which:

(A) services, including the amount, duration, scope, provider, and location of such services, are planned, budgeted, and purchased under the direction and control of the person;

(B) a person is provided with information and assistance as are necessary and appropriate to make informed decisions about care options;

(C) the needs, capabilities, and preferences of a person with respect to such services are assessed by the AAA, or other agency designated by the AAA, involved;

(D) based on the assessment, the AAA, or other agency designated by the AAA, develops together with the person and the person's family, caregiver, or legal representative:

(i) a plan of services for the person that specifies the services the person will be responsible for directing;

(ii) a determination of the role of family members, and others the person wants to participate, in providing services under the plan; and

(iii) a budget for such services; and

(E) the AAA or State Agency provides for oversight of self-directed receipt of

services, including steps to ensure the quality of services provided and the appropriate use of funds under the OAA.

"Self-neglect" means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

- (A) obtaining essential food, clothing, shelter, and medical care;
- (B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- (C) managing one's own financial affairs.

"Service provider," as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the Area Plan.

"Severe disability," as used to carry out the provisions of the OAA, means a severe chronic disability attributable to mental or physical impairment of a person that:

- (A) is likely to continue indefinitely; and
- (B) results in substantial functional limitation in three or more of the major life activities of:
 - (i) self-care;
 - (ii) receptive and expressive language;
 - (iii) learning;
 - (iv) mobility;
 - (v) self-direction;
 - (vi) capacity for independent living; and
 - (vii) economic self-sufficiency.

"Sponsoring agency" means a multipurpose or umbrella organization of a grantee.

"State Agency" means the agency designated by the State under Section 305(a)(1) of the OAA, as amended. In Oklahoma, the State Agency is OKDHS ASD.

"State system of long-term care" means the federal, state, and local programs and activities administered by a state that provide, support, or facilitate access to long-term care for persons in the state.

"Subgrantee" means an agency that subcontracts with a grantee agency. Subgrantee usually refers to the service provider, but it is possible for a service provider to subcontract with another entity.

"Taxonomy" means the uniform set of service definitions and service unit measures adopted by AoA for national reporting on programs and activities under Title III of the OAA.

"Unit of general purpose local government" means:

- (A) a political subdivision of the state having general authority and not limited to only one function or combination of related functions; or
- (B) an Indian tribal organization.

"Urban" means areas defined by AoA comprised of an:

- (A) urbanized area, a central place and its adjacent densely settled territories with a combined minimum population of 50,000; or
- (B) incorporated place or census designated place with 20,000 or more inhabitants.

"Urban counties" means urban areas as defined by AoA. Counties in Oklahoma considered urban are:

- (A) Canadian;
- (B) Cleveland;
- (C) Comanche;
- (D) Creek;
- (E) Garfield;

- (F) Logan;
- (G) McClain;
- (H) Oklahoma;
- (I) Osage;
- (J) Pottawatomie;
- (K) Rogers;
- (L) Sequoyah;
- (M) Tulsa; and
- (N) Wagoner.

(b) **Authority.** The authority for this Section is OMB Notice of Action 0985-0008.

INSTRUCTIONS TO STAFF 340:105-10-3

Issued 7-1-09

1. In the definition for "Civic engagement," the "person or a collective action" refers to the persons who receive Title III services and not the persons or entities who provide these services.