

DEPARTMENT OF AGING

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PROGRAM MEMO

TO: AREA AGENCIES ON AGING DIRECTORS	NO.: PM 04-10 (P)
SUBJECT: Older Americans Act Minimum Funding Requirements for the Long-Term Care Ombudsman Program	DATE ISSUED: May 13, 2004
REVISED	EXPIRES: Until Superseded
REFERENCES: Older Americans Act, Sections 304(d)(1)(B), 304(d)(1)(D), 306(a)(9), 307(a)(9), 705(a)(4)	SUPERSEDES:
PROGRAMS AFFECTED: <input type="checkbox"/> All <input checked="" type="checkbox"/> Title III-B <input type="checkbox"/> Title III-C1/C2 <input type="checkbox"/> Title III-D <input type="checkbox"/> Title III-E <input type="checkbox"/> Title V <input type="checkbox"/> CBSP <input type="checkbox"/> MSSP <input checked="" type="checkbox"/> Title VII <input type="checkbox"/> ADHC <input type="checkbox"/> Other: _____	
REASON FOR PROGRAM MEMO: <input type="checkbox"/> Change in Law or Regulation <input type="checkbox"/> Response to Inquiry <input checked="" type="checkbox"/> Other Specify: <u>Revised Interpretation</u>	
INQUIRIES SHOULD BE DIRECTED TO: Joseph Rodrigues, State Long-Term Care Ombudsman, Office of the State Long-Term Care Ombudsman, jrodrigu@aging.ca.gov , 916-323-6681	

BACKGROUND

The California Department of Aging (CDA) sought guidance in August 2003 from the Administration on Aging (AoA) on several funding issues related to the Ombudsman Program. Specifically, we sought clarification on the following:

- 1) Is it allowable for Area Agencies on Aging (AAA) to reduce levels of local funding for Ombudsman Programs in those cases where the original or previously higher local funding no longer exists due to local revenue losses?
- 2) Can the State reduce General Fund dollars in State Operations for the Ombudsman Program? Can the State reduce General Fund dollars in Local Assistance?
- 3) Is it allowable for the State to replace State General Fund dollars with federal Title III funds if it maintains the minimum funding level?



RESPONSE

In March 2004, the AoA responded to CDA's request for clarification. The answer to all the questions above is **yes**. In summary, AoA indicated the following:

- There is no State General Fund maintenance of effort for the Ombudsman Program. Federal law does not preclude the State from reducing State General Fund dollars from the Ombudsman Program.
- Federal law allows the State to replace General Fund dollars with federal Title IIIB funds as long as it maintains the minimum funding requirement.
- The federal minimum funding requirement for Ombudsman Programs at the State level is based solely upon federal funds and does not include State funds. The State minimum funding requirement is calculated as the total amount of federal Title IIIB funds and Title VIIA funds expended in the base year of 2000.
- The federal minimum funding requirement for local AAA Ombudsman Programs is calculated as the amount of federal Title IIIB funds expended by an AAA in FY 2000 from Title IIIB funds allocated by the Ombudsman Intrastate Funding Formula. It does not include other Title IIIB funds.
- States and AAAs may meet the federal minimum funding requirement from federal and non-federal sources.
- The Ombudsman supplantation prohibition means simply that a state must use all of its Title VII funds for Title VII activities.

IMPLICATIONS

- Federal Title VIIA dollars allocated to the Ombudsman Program must be expended on the Ombudsman Program.
- For State Operations, State General Fund dollars may be replaced with Title III or Title VIIA funds as long as CDA meets the federal minimum funding level requirement established in FY 2000.
- Following the prescribed local planning process, AAAs may reduce funding levels for their local Ombudsman Programs in federal Title IIIB funds allocated to them by the Ombudsman Intrastate Funding Formula, as long as the federal minimum funding level established in FY 2000 is maintained.
- Because the California Long-Term Care Ombudsman Program has additional State mandates (receipt and investigation of reports of suspected abuse and neglect of residents in long-term care facilities; 24-hour, seven days a week, response to calls on the State's CRISISline; the witnessing of advance health care directives and property transfers; and the distribution of the

Ombudsman Poster in all skilled nursing and residential care facilities for the elderly) beyond the core federal mandates for which the program is funded under the Older Americans Act (OAA), AAAs must retain State General Fund dollars allocated to them in the Ombudsman Program. These State General Fund dollars help support the additional mandates not funded by the OAA and must be used to support the Program consistent with the original intent of the Legislature.

EXAMPLE

In FY 2000, a AAA expended \$1,000 in federal Title IIIB funds for the Ombudsman Program. It also expended \$2,000 in Title VIIA funds, for a total expenditure of \$3,000 in federal OAA funds. Based on this expenditure of federal OAA dollars, \$3,000 is the federal minimum funding requirement for the Ombudsman Program in this AAA. In addition to the \$3,000 in federal OAA funds, the AAA also received and expended another \$2,000 in State General Fund dollars. Based on the local planning process, the AAA decides that it would like to redirect \$250 from Title IIIB Ombudsman to another Title III service. Because there are other non-federal funds available to meet the minimum funding requirement established in FY 2000, the AAA would have the discretion to redirect Title III dollars, based on local needs and following the process outlined in the OAA.

To assist AAAs in their local decision making processes, attached to this Program Memo is a spreadsheet indicating the total amount of federal Title IIIB and Title VIIA dollars expended by each AAA in the baseline year of 2000 which established the minimum funding level for each program.

Original Signed by Lynda Terry

Lynda Terry
Director

Attachment

cc: Ombudsman Program Coordinators