



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF AGING  
Harrisburg, Pa. 17101

# PENNSYLVANIA DEPARTMENT OF AGING

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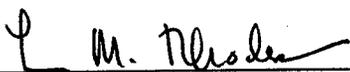
## AGING PROGRAM DIRECTIVE

**SUBJECT:** AREA AGENCY ON AGING INVOLVEMENT IN  
CORPORATE ELDERCARE ACTIVITIES

**TO:** COUNTY COMMISSIONERS                      CHAIRPERSONS, NONPROFIT AAA  
GOVERNING BOARDS

**COPIES:** EXECUTIVE STAFF                      PA COUNCIL ON AGING  
DIVISION OF FIELD                      PDA GRANTEES AND CONTRACTORS  
OPERATIONS                      COMPTROLLER  
AREA AGENCIES ON AGING                      DPW, OFFICE OF POLICY,  
ADMINISTRATION ON                      PLANNING AND EVALUATION  
AGING (AoA)

**FROM:**

  
LINDA M. RHODES  
SECRETARY  
DEPARTMENT OF AGING

**PURPOSE:** The purpose of this Aging Program Directive (APD) is to set forth the Department's policy and guidelines for the involvement of Area Agencies on Aging (AAAs) in corporate eldercare activities.

**BACKGROUND:** The U.S. Administration on Aging (AoA) has required State Units on Aging (SUAs) to develop and implement policies to ensure that the statutory responsibilities and obligations of AAAs under the Older Americans Act of 1965, as amended (OAA),

continue to be met and are in no way compromised by AAA involvement in activities related to the development and provision of corporate eldercare. This requirement of SUAs was issued under an AoA Program Instruction, AoA-PI-90-06, dated April 10, 1990. Following is an excerpt from this memorandum:

"The findings of recent studies indicate that almost 30% of employees in large corporations have the responsibility of caring for an elderly relative. The majority of these caregivers are women; but both male and female employees were found to spend over ten hours a week as caregivers. The added stress placed upon employees as a result of their caregiver responsibilities was identified as related to increased absenteeism, stress related illness, and even the necessity for employees to terminate employment.

"In response to a heightened awareness of the impact of caregiving on their employees, a number of leading corporations have begun to include eldercare among the benefits of their employees. This recognition by the private sector .... represents an important milestone in our response to the challenge of an aging population ....

".... A basic mission of State and Area Agencies on Aging under the Older Americans Act is to foster the development of comprehensive and coordinated systems of services for all older persons. They must include all types of services and resources, both public and private, which are available to serve older persons.

"The emergence of employer-initiated and supported eldercare benefits carries with it the potential of a significantly enlarged pool of resources that are available to meet the needs of our increasing population of older persons. Indeed, the availability of additional private resources which are used to assist beneficiaries under eldercare programs should enable expanded services to older persons in greatest need who are not served through corporate sponsored programs....

"State and Area Agencies on Aging, in the final analysis, have their foundation in the Older Americans Act. As such, they are public purpose agencies obliged to use publicly accountable

means to secure public interest ends. In the case of Area Agencies on Aging, this means at least two categories of obligation. The first involves faithfully conforming to all of the requirements of the Older Americans Act, as well as other Federal, State and local laws which may govern public purpose agencies which receive public funds. Beyond that, however, Area Agencies on Aging are obliged to become and remain credible vehicles of public policy. That means that they have to sustain public confidence in their objectivity and their commitment to the broad interests of the entire older population that they were created to serve, with a particular emphasis upon serving low-income minority older persons. For this reason, Area Agencies on Aging should avoid any activity which may have even the appearance of subordinating their public purpose mission to either organizational self-interest or to the private interests of particular individuals or organizations.

"We are confident that Area Agencies on Aging are fully committed to their public purpose mission and that those who are interested in corporate eldercare view this as an extension of, rather than a conflict with, their fundamental mission. We believe, as well, that each of us must pioneer new and expanded sources of public-private partnerships if we, as a Nation, are to respond to the needs of increasing numbers of older persons. For that reason, we look favorably upon the potential of corporate eldercare.

"We acknowledge, as with any pioneering effort, that there are possible pitfalls which must be avoided in our eagerness to foster greater public-private partnerships in this area. That is the reason that we are issuing this policy guidance."

(AoA-PI-90-06. pp. 2,3,8)

**REQUIREMENTS:**

**General Departmental Policy:**

As used in this APD, the terms, **eldercare and corporate eldercare** are limited to mean a benefit provided by a corporation, or other employer, on behalf of its employees who have responsibilities for the care of an older relative. The terms do not apply to the activities of insurance companies on behalf of their insured beneficiaries.

Typically, eldercare benefits are provided through a contract under which the corporation, or an intermediary, makes third party payments to an Area Agency on Aging (or other agency or organization) to provide directly, or to arrange for the provision of, specified services and/or programs to a defined group of corporate employees on behalf of their older relatives. Eldercare benefits purchased from community human services agencies may cover a range of activities including caregiver education, information and referral services, care management, as well as direct client services for the older relative under an employee's care.

The terms, **corporation and employer**, are used to refer to private business entities, including partnerships, established under State or Federal law.

A basic mission of AAAs under the Older Americans Act is to foster the development of comprehensive and coordinated systems of services for all older persons. Eldercare activities which are intended to enhance the scope, quantity and quality of the services available to older persons in a Planning and Service Area (PSA) are consistent with the purpose and mission of AAAs. The Department of Aging encourages AAAs to engage in appropriate activities with employers to develop and implement eldercare programs provided that such activities are carried out in compliance with the provisions of this APD.

None of these provisions is intended to constrain the AAA from utilizing OAA Title III-B funds to promote and coordinate the development and provision of employer eldercare in its PSA. This is consistent with the statutory mission of AAAs to foster the development of comprehensive and coordinated systems of services for all older persons. The primary function of the APD is provide policy and guidance for those AAAs which become involved in the delivery of eldercare to a corporation under a contractual arrangement with the corporation.

General Provisions:

**A. Consistency with Statutory Mission.**

1. The AAA shall provide a signed Statement of Assurance (ATTACHMENT I) to the Department assuring that any eldercare activities in which it becomes involved do not and will not adversely impact upon, or in any manner create a conflict of interest with, the ability of the AAA to carry out its statutory mission as provided under Title III of the OAA and related Department policy. For the purposes of this APD, a conflict of interest is defined as circumstances that cause or may cause an agency, unit or employee to defer addressing the needs of clients from the general public in order to first address the needs of clients under a corporate eldercare contract. This definition includes an inappropriate distribution of time and/or effort of administrative personnel assigned to all eldercare development and management activities.
2. Within 30 days of the effective date of this APD, an AAA which currently has an executed contract to provide private eldercare shall submit to the Department's Bureau of Program and Field Operations for review a copy of the eldercare contract and a signed copy of the Statement of Assurance attached as ATTACHMENT I to this APD. In addition, amendments to an eldercare contract submitted under this provision shall be submitted to the Department for review within 30 days of execution.
3. Within 30 days of the execution of an eldercare contract, an AAA which plans to execute an eldercare contract shall submit to the Department's Bureau of Program and Field Operations for review a copy of the eldercare contract and, if not previously submitted, a signed copy of the Statement of Assurance attached as ATTACHMENT I to this APD. Subsequent amendments to an eldercare contract submitted under this provision shall also be submitted to the Department for review within 30 days of their execution.
4. When an AAA submits its first Program and Financial Report (PFR) each year, the AAA shall submit a list of all eldercare contracts in force at that time.

5. Information on all AAA eldercare activities shall be disclosed to the public through the AAA's regular public hearing process.
6. An AAA which intends to provide a client service directly under an eldercare contract shall meet one of the following two criteria:
  - (a) It shall have been granted a waiver from the Department under the "adequate supply" provisions of APD-90-01-05 - "Contract Management and Direct Service Provision by AAAs" to provide the specific client service.

OR

- (b) It shall submit to the Department written justification of the appropriateness of its decision to provide the service directly. This justification shall explain why the supply of other providers of that client service is not adequate to meet the needs for corporate eldercare.

Client services are as defined in APD-90-01-05 on page 4.

7. An AAA that provides eldercare under contract with a private corporation shall continue to fulfill its statutory responsibility to target its resources and services to older persons in the greatest economic and social need, with particular attention to low income minority older persons. To the extent that AAA eldercare contracts generate revenues in excess of AAA costs, AAAs are encouraged to utilize these additional revenues to enhance their targeting efforts. The Department reserves the right to restrict or prohibit an AAA's involvement in eldercare activities if an adverse impact on targeting efforts is observed.
8. The AAA shall assure that adequate steps are taken to safeguard the confidentiality of all personal, identifying information obtained regarding corporate eldercare program participants (the employed caregiver and the older relative). Procedures shall be adopted to prevent the disclosure to anyone of information about a program participant in a form which identifies the program participant unless disclosure is authorized in writing by the program participant or the program participant's legal representative, required by a court order or required for

program monitoring by the AAA, the Department of Aging or the AoA. Nothing in this requirement prohibits the disclosure of information in summary, statistical or other form which does not identify particular individuals. [NOTE: With reference to specific information needed by the employer as a function of the contracted eldercare, the written authorization for disclosure may be acquired as the participants initiate the eldercare provided on their behalf.]

**B. Fiscal Controls.**

1. An AAA, or an AAA provider agency, shall not use funding provided by the Department to supplement third party payments made by an employer, or otherwise subsidize any services provided to an employer under a contract covered by this APD. This includes administrative and overhead costs which may be assignable or allocable to the eldercare contract.
2. The AAA shall take the necessary steps to insure that the public activities of the agency, both programmatic and financial, are clearly separated from the private activities under eldercare contracts. In cases where staff or other AAA resources are to be shared by both types of activities, the AAA shall develop procedures to assure the appropriate allocation, tracking and use of these resources.

**C. Requirements Applicable to AAA Eldercare Contracts.**

1. An AAA shall not execute an agreement or contract that requires an AAA to serve a specific corporation exclusively. An AAA must be free to negotiate other similar agreements or contracts with other corporations.
2. An AAA may not enter into an agreement or contract that obligates it to be identified with, or to promote, the corporation or its products, or that places it in a conflict of interest with its public mission as determined by the Department.
3. A contract must include a provision that the AAA may refuse to provide a requested service or, with appropriate notice, terminate the contract in the event that the AAA or the Department

determines that contract activities may create a conflict of interest or, in some other way, interfere with the AAA's capability to fulfill its statutory mission.

4. A contract must include a provision that, except for services actually purchased by the corporation under the contract, a client served under the contract is subject to the same priority setting policies established by the AAA for clients served under the AAA's public function. (NOTE: The Department believes it is important for corporations to understand clearly that if they only purchase care management services that does not automatically assure immediate access to referred client services available through the AAA.)
5. A contract must provide that a client served under the contract has a right to the findings, plans and recommendations of the AAA concerning the client regardless of the corporation's final decision regarding client eligibility and/or services provided.
6. A contract must provide for the confidentiality of information about eldercare program participants as required under A.8., above.
7. A contract must hold the AAA and the Department of Aging harmless and defend them in any actions brought against them on the basis of a corporation's policies or decisions regarding benefits and services provided under the contract or as a result of the outcomes of such policies or decisions.
8. The contract may not require the withholding of information about the contract and its activities or otherwise limit the ability of the AAA to act in the public interest, or restrict the ability of the Department of Aging to exercise appropriate oversight of the AAA in its fulfillment of its public mission and responsibilities.
9. Upon the amendment or renewal of an eldercare contract in existence prior to the effective date of this APD, the terms of the contract shall be made consistent with the provisions of this APD which are applicable to eldercare contracts.
10. In the event that an existing eldercare contract contains terms which may impede the AAA's abili-

ty to fulfill its statutory mission under the OAA, the AAA shall take immediate steps to amend the contract to remove or adjust these terms.

#### MONITORING BY THE DEPARTMENT

The Department of Aging will assess the AAA's compliance with this APD through the following actions:

- A. Review of contracts and related materials submitted to the Department under this APD.
- B. Review of data submitted by the AAA in its Program and Financial Reports, with special reference to data on services to low-income and minority persons.
- C. Review of self-evaluation reports submitted by the AAA after the close of each program year.
- D. Field visits and assessments of AAA activities as may be determined appropriate by the Department.
- E. Review of annual financial audits. Annual audits submitted to the Department must attest to the adequacy of the AAA financial control system.
- F. Where there is a finding that the AAA is out of compliance with the provisions of this eldercare policy, the Department of Aging will issue requirements for corrective actions. Standard due process for appeal of these actions is outlined in the standard contract agreement between the Department of Aging and AAAs.

PSA # \_\_\_\_\_

**STATEMENT OF ASSURANCE**  
on

**CORPORATE ELDERCARE**

We assure that the \_\_\_\_\_ Area Agency on Aging (PSA # \_\_\_\_\_), to the extent that it becomes involved in the development and delivery under contract of corporate eldercare services, will take steps to see that eldercare activities do not adversely impact upon, or in any manner create a conflict of interest with, the ability of the Area Agency on Aging to carry out its statutory mission and responsibilities as provided under Title III of the Older Americans Act of 1965, as amended, and related Department of Aging policy.

We assure that we are familiar with the provisions of the Department's Aging Program Directive on Corporate Eldercare (APD 91-01-05) and that any eldercare activities in which this Area Agency on Aging (AAA) becomes involved will be carried out in compliance with the provisions of APD 91-01-05.

We further assure that we will take special steps to prevent any eldercare activities by this AAA from weakening our efforts to target our resources and services to older persons in the greatest economic and social need, with particular attention to low income minority older persons.

We also assure that we will present information on all AAA eldercare activities to the public through our regular AAA public hearing process.

Signatures:

\_\_\_\_\_  
Name Title Date

\_\_\_\_\_  
Name Title Date

\_\_\_\_\_  
Name Title Date

**NOTE:** To be signed by at least two persons authorized to commit the AAA to a contractual obligation.