

South Dakota State Plan on Aging

October 1, 2009 - September 30, 2013





STATE OF SOUTH DAKOTA

M. MICHAEL ROUNDS, GOVERNOR

July 2009

Dear Fellow South Dakotans,

It is my pleasure to present the South Dakota State Plan on Aging for fiscal years 2010 – 2013. This document reflects South Dakota's plan for responding to the needs of our elderly citizens.

The Division of Adult Services and Aging (ASA) within the Department of Social Services, serves as the State Unit on Aging and is designated as the Single Planning and Service Area (PSA) for purposes of administering funds under the Older Americans Act. The South Dakota State Plan on Aging has been developed in accordance with the guidance of all Federal statutory and regulatory requirements.

The State of South Dakota is at a crossroads in developing a sustainable system of long-term care services to meet the needs of its elderly citizens in the near and long term. In November 2007, Abt Associates, a national consulting firm, completed a study evaluating South Dakota's long-term care system in terms of utilization, cost, quality of services and outcomes for the elderly residents of the state across the continuum of care.

In March 2008, the Department convened a large task force of stakeholders to develop a course of action to implement the recommendations identified in the long term care study. This task force was charged with meeting the continuum of care needs of the elderly in South Dakota, and consisted of more than 100 members, including representatives from nursing facilities, assisted living services, home care providers, provider associates, legislators, tribes, advocates, and state agencies. From recommendations produced by this task force, Adult Services and Aging is moving forward in re-designing South Dakota's system of long term care services with the input and involvement of stakeholders across the state.

The goals, objectives and strategies set forth in the South Dakota State Plan on Aging provide opportunities to enable older South Dakotans and adults who are disabled to live independent, meaningful, and dignified lives by promoting in-home and community-based services to prevent or delay premature or inappropriate institutionalization.

The Department is committed to continued collaboration with key stakeholders to address the challenges our state is facing, and to improve the long-term care system in our great state.

Sincerely,

A handwritten signature in black ink, reading "M. Michael Rounds".

M. Michael Rounds

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Executive Summary

This South Dakota State Plan on Aging, effective October 1, 2009, through September 30, 2013, reflects South Dakota's plan for responding to the continuum of care needs of elderly South Dakotans. This document is submitted to the Administration on Aging (AoA) in compliance with federal regulations, and as mandated by the older Americans Act of 1965, as amended.

In November 2007, the South Dakota Department of Social Services and its contractor, Abt Associates of Cambridge, Massachusetts, completed an assessment and evaluation of the state's long-term care system. This came as a result of the overwhelming support of House Bill 1156, which passed during the 2006 Legislative Session, and was designed to initiate an evaluation of the South Dakota long term care system as prompted by Governor Rounds' Healthcare Commission. The study identified both challenges and opportunities in designing a system of long term care that promotes the health of its citizens, preserves independence, guards dignity and is financially responsible. As a result of the study, the Department has been actively working with key stakeholders across the state to address and identify the challenges our state is facing in meeting the continuum of care needs of our elderly population.

Challenges facing the state include a rapidly aging population; geographic mismatch between the places where services exist today and the places where the elderly population is expected to grow over the next 20 years; historically low rates of use of home and community-based services (HCBS) that can help seniors fulfill their desire to remain independent and in their homes; aging skilled nursing facilities; shortages of front-line health care workers; sharply rising costs of care coupled with tightening of federal dollars for program support and provider reimbursement; inadequate individual planning and financing of long-term care costs; and limited use of long-term care insurance.

In South Dakota, the elderly population is growing faster than national rates. By 2025:

- Number of elders will increase by 92,000 - 105,000
- Number of disabled elders will increase by 42,000 - 50,000, reaching over 10 percent of the State's population
- Number of disabled elders living in the community will rise 20,000 - 40,000, depending upon the availability of home and community based care
- The population of elders is expected to more than double in the Native American counties, where chronic health problems contribute to higher rates of disability
- In all but nine of the 66 South Dakota counties, elders will make up over 20 percent of the population. In 11 counties, elders will be over 40 percent of the local population.

While South Dakota has a high rate of nursing home bed use, the state ranks the second lowest in the country in terms of use of skilled home health services. Low rates of utilization are likely due to the lack of available providers, access problems and practice patterns that discourage use of services. The state must double home health service capacity immediately and increase capacity 3-4 fold by 2025 to meet expected population growth and move toward the national norm for home health use utilization.

Home and community-based services cover a wide spectrum of activities, including personal care assistance, cooking, transportation, meals and nutrition services, and assistance with activities of daily living. These services are limited in South Dakota for a variety of factors, including challenges

associated with service delivery in the frontier and rural parts of the state. Homemaker services in particular are fragile and there is a high rate of entry and exit of service providers.

There is no doubt, however, that adequate home and community-based services are instrumental to reducing nursing home utilization and to improving the quality of independent living for aging seniors. Without substantial increases in home and community-based services, nursing home utilization will continue at the current rate and cost the State millions more in service costs, while denying elders the ability to receive services in their own communities and remain independent as long as possible.

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More and more individuals who are older are asking to stay in their homes and communities as long as possible. The future holds many opportunities to work with South Dakota's network of providers in the quest for providing quality services for the elderly and disabled adults who need those services. As part of the effort to improve long term care in South Dakota, the Department of Social Services convened a large task force of stakeholders to develop recommendations to provide possible solutions to areas of concern identified in the Long Term Care Study. The task force had over 100 members, including representatives from nursing facilities, assisted living services, home care providers, provider associations, legislators, tribes, advocates, and state agencies.

The Task Force on Meeting the Continuum of Care Needs of the Elderly in South Dakota held its first meeting in March, 2008. Subcommittees in three key areas from the study were designated including 1) Expanding Home and Community-Based Services; 2) Right Sizing - aligning capacity where current/future needs are projected; and 3) Financing. The task force was charged with developing recommendations for meeting the care needs of South Dakota's seniors, and submitted their final report to Governor M. Michael Rounds and members of the South Dakota legislature in November 2008. The task force considered the current state of care in South Dakota and how services will need to change in the future.

One of the recommendations of the task force was to develop a single point of entry system to make access to information, assessment and referral to appropriate service providers easier. Another recommendation was to expand and enhance home and community based services. As a result, two workgroups were created and held their first meetings in June 2009. The Single Point of Entry work group is charged to develop a single point of entry model that can be implemented in South Dakota and the Home and Community-Based Services work group is challenged to find ways to enhance and expand home and community-based services in addition to finding options for funding. The Department is committed to continue working with key stakeholders across the state to address and identify the challenges our state is facing and improve the long-term care system in our state.

Simultaneously with the study on long term care, the Department of Social Services formulated a number of stakeholder financial workgroups including homemaker service providers, assisted living centers and nutrition projects. These groups were formed to analyze whether reimbursement rates are adequate and recommend changes where needed.

The goals, objectives and strategies identified in the 2010 – 2013 State Plan provide a roadmap for the future of South Dakota's elderly population and provide opportunities to enable older South Dakotans and adults who are disabled to live independent, meaningful and dignified lives while maintaining close family and community ties. In addition, our State Plan goals and objectives will align closely with the visions and expectations of the Older Americans Act.

State Plan Vision and Purpose

Every four years the South Dakota Division of Adult Services and Aging is required to develop and submit to the federal Administration on Aging a “State Plan on Aging”. The plan is mandated by federal law and is required in order for the state to receive federal funds under the Older Americans Act of 1965, as amended. The State Plan on Aging helps structure division priorities and sets an agenda for serving the needs of the elderly population in the state.

The State Plan on Aging is the principal means for describing systems of access and services will address the challenges identified in the recent long term care study as related to South Dakota’s growing and increasingly diverse older population.

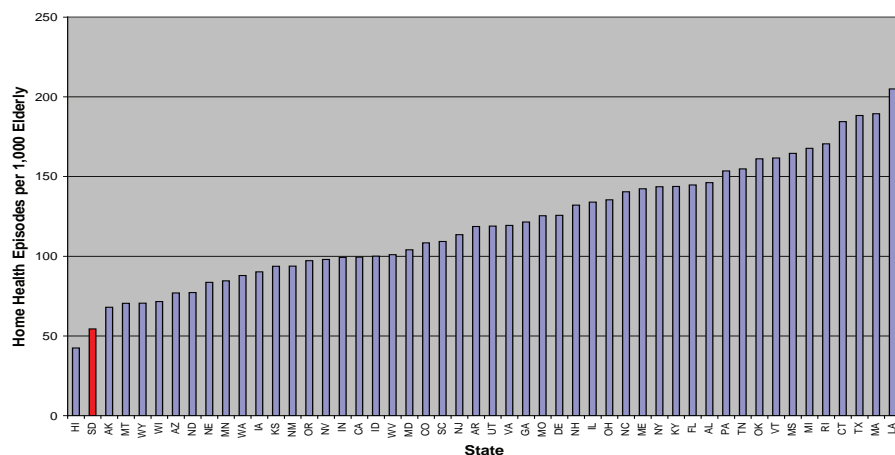
South Dakotans overwhelmingly indicate they prefer to age in place within their own homes and communities. Home health, homemaker, respite care, nutrition, adult day, and transportation services will need to be available to support the desire to age in place. The Department is planning for an expansion and enhancement in the area of home and community based services in order to meet the projected sharp increase in needs. By 2025, the number of elders over age 65 will double reaching 24 percent of the state’s population; disabled elders will increase reaching over 10 percent of the population; and the number of disabled elders living in the community will rise by 20,000 –

By 2025, the number of elders over age 65 will double, reaching 24 percent of the state’s population.

40,000. Adequate home and community based services are instrumental in reducing nursing home utilization and in improving the quality of independent living for aging seniors. Home and community based services are limited in South Dakota, due to the difficulty of providing community based services in very sparsely populated areas where there are few communities and a limited workforce. While South Dakota has a number of services available in many areas, not all are available state-wide or at the level necessary to meet the growing population of elderly citizens. There are unique challenges in

providing home and community-based services in rural and frontier areas; where distances are great and fewer people reside. If the State of South Dakota is to meet the increasing needs, service delivery will need to change.

Number of Home Health Episodes per 1,000 Elderly Residents



The 2010 – 2013 State Plan presents goals and strategies to improve the lives of persons living throughout South Dakota, especially older persons, adults with disabilities, and their families. The State Plan will be reviewed and updated based on new information, new opportunities, new challenges, and new mandates. The planning process seeks to improve the lives of people in need, build on the State's capacity to provide comprehensive services to older people and adults with disabilities, and use available resources in the most cost-effective and efficient manner possible. The State Plan will be available as a resource tool to the public, our partner agencies, providers, advocates, and caregivers.

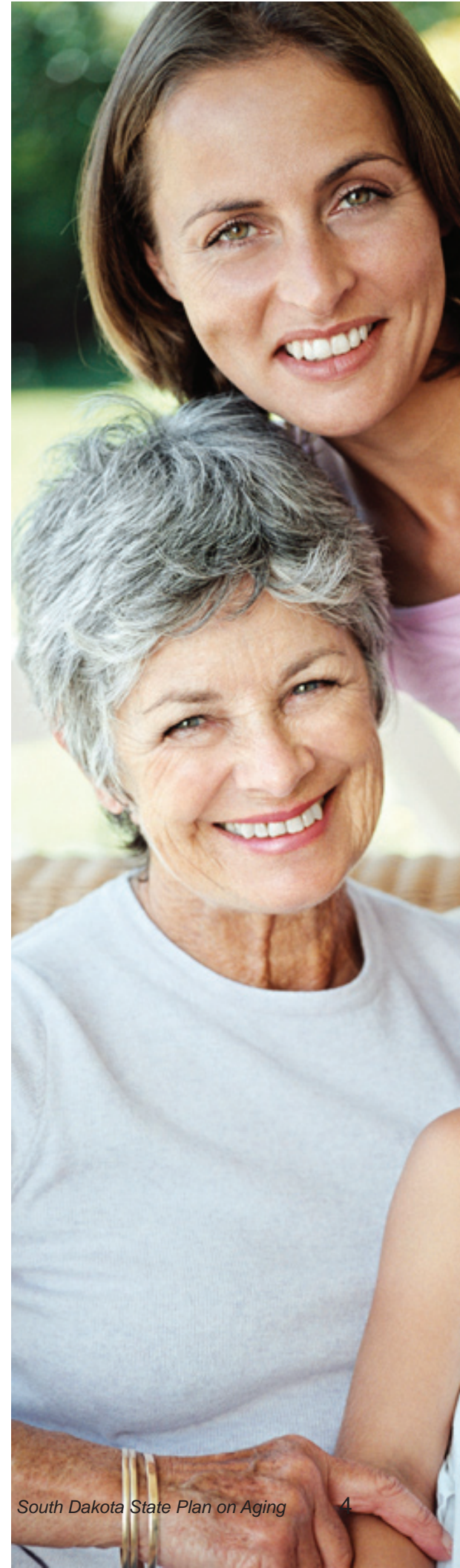
Our Mission and Values

The South Dakota Department of Social Services' vision statement is "Strong Families – South Dakota's Foundation and Our Future." The statement embodies the spirit of the department, to support families as the strong foundation our state was built upon.

The South Dakota Department of Social Services' mission is to strengthen and support individuals and families by fostering independence and personal responsibility; protecting people; providing opportunities for individuals to achieve their full potential; and promoting healthy families and safe communities by ensuring quality, cost-effective and comprehensive services are provided in cooperation with our partners.

The mission of Adult Services and Aging (ASA) is to provide opportunities to enable older South Dakotans and adults who are disabled to live independent, meaningful, and dignified lives while maintaining close family and community ties by promoting in-home and community-based services to prevent or delay premature or inappropriate institutionalization. In accordance with the Older Americans Act and other applicable state and federal laws, Adult Services and Aging provides or purchases services for South Dakotans who meet defined program guidelines. Adult Services and Aging also provides services to victims of domestic violence and compensation to victims of violent crimes.

The South Dakota State Plan supports the mission of the Older Americans Act to help elderly individuals maintain independence and dignity in their homes and communities. Additionally, the State Plan closely supports the federal Administration on Aging's current strategic goals and vision for long term care modernization.



Context

History:

The first formal program on aging in South Dakota began with the creation of the Governor's Planning Commission for the White House Conference on Aging in 1961. Then Governor Ralph Herseth appointed twelve South Dakotans to this newly established commission in 1959. This commission served as the foundation for building a Division within the Department of Social Services dedicated to the unique needs of the elderly population as well as serving adults with disabilities.

The first South Dakota Advisory Council on Aging was appointed in 1968 by Governor Nils Boe. The Advisory Council is a twelve-member board appointed by the Governor whose members are geographically located throughout the state. By design, the majority of the membership of the council consists of actual or potential consumers of services eligible under the Older Americans Act. In the past, the Advisory Council on Aging has been instrumental in supporting legislation designed to protect and assist older citizens including tax relief laws for the elderly, SSI supplement, protection from physical abuse and neglect, and from financial exploitation, discrimination of state employees on the basis of age, guardianship laws and legislation geared toward individuals with disabilities.

Who We Are:

The Division of Adult Services and Aging (ASA) within the Department of Social Services is the designated single State Unit on Aging for South Dakota, and as such is the lead agency for providing services for elderly adults and adults with disabilities in South Dakota. Adult Services and Aging is one of nine divisions within the Department of Social Services. In accordance with the Older American's Act, particular attention is focused on meeting the needs of low-income individuals, individuals belonging to minority groups, individuals with limited English language proficiency, and those older individuals living in rural and frontier areas. South Dakota is a state made up predominantly of rural and frontier counties, making most of our state a preferential service area. In order to best serve the citizens of South Dakota, the Division will continue to seek input from consumers of services through the membership of the Advisory Council on Aging, through survey, through public comment, and through compilations of letters and comments received from consumers and their families, as well as the general public.

The Division of Adult Services and Aging, as the State Unit on Aging will continue to be active in recommending and supporting proposed changes to South Dakota administrative rules, South Dakota Codified Law and Tribal Government Laws which improve the condition of elders and adults with physical disabilities in South Dakota, including tribal lands. The State Unit on Aging will continue advocacy services for individuals residing in facilities through the Ombudsman program and will continue supporting the rights and protecting the welfare and property of individuals through prompt investigation of reports of abuse, neglect or exploitation. The Division of Adult Services and Aging works closely with the Division of Medical Services which administers the Medicaid program and the Division of Economic Assistance which provides medical, nutritional, financial and case management services to improve the well being of lower income families, children, people with disabilities and the elderly, as well as determining eligibility for Medicaid long term care services.

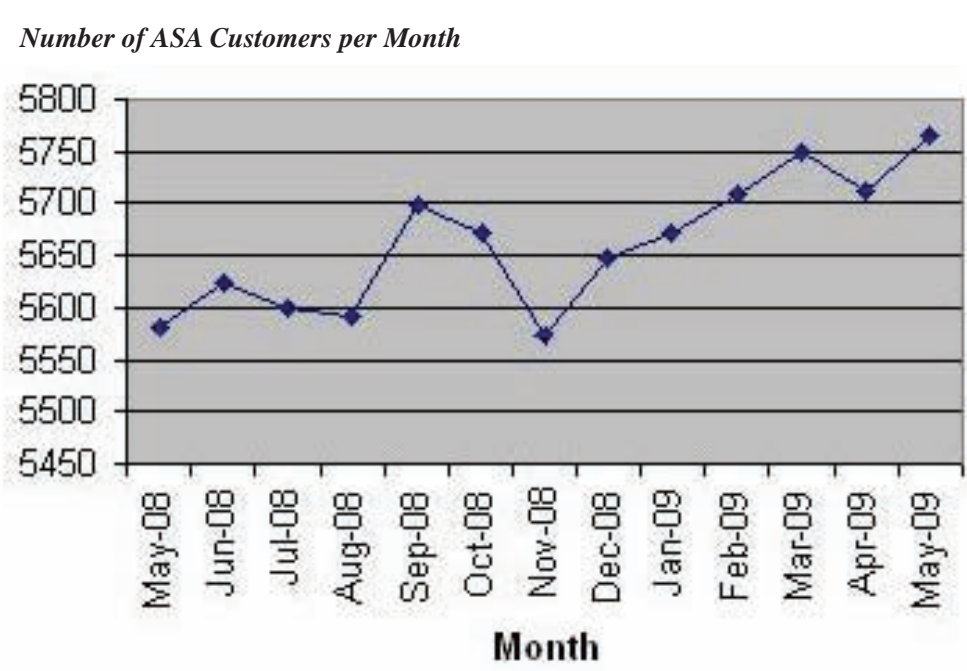
What We Do:

Within the Division of Adult Services and Aging, the state is divided in ten regions which encompass 25 local offices. Located in each Adult Services and Aging field office are Adult Services and Aging Specialists who provide information and referral services, needs assessments, case management, care plan development and adult protective services to residents of their communities. Services provided by the Division of Adult Services and Aging include:

- Contracting for services with private providers for home and community based services for older adults and adults with physical disabilities such as homemaker services and nursing services;
- Maintenance of 25 field offices where over 70 Adult Services and Aging professionals directly provide adult protective services, launching investigations into allegations of physical abuse or neglect and/or financial exploitation, involving local law enforcement, the Department of Health and the State Medicaid Fraud Control Unit as necessary;
- Provide ombudsman services at long term care facilities across the state and provide information and presentations to facilities, individuals and the general public regarding resident's rights and other topics pertinent to the elderly citizens of the state;
- Administer the Centers for Medicare and Medicaid Services (CMS) Home and Community Based Waiver program which empowers individuals to successfully remain at home or in less restrictive settings as long as possible;
- Administer the State Health Insurance Assistance Program (SHIP) which educates citizens on basic Medicare with special emphasis on the Medicare Part D Prescription Assistance Benefit;
- Administer the Administration on Aging's Title III E, Family Caregiver Program to benefit and support those individuals providing care, comfort and support to family members living at home;
- Administer the Administration on Aging's Title III B Support Services Program for benefits including transportation, adult day centers, legal services and chore services;
- Administer the Administration on Aging's Title III C Nutrition Program across South Dakota to provide nutritious meals to individuals over 60 years of age, particularly to individuals with low income and/or residing in rural or frontier areas;
- Administer the Administration on Aging's Title VII Program for Ombudsman activities and Elder Abuse Prevention through direct advocacy and education to consumers and the general public;
- Administer the Administration on Aging's Title III D Program to provide telehealth and other services to elderly adults in South Dakota;
- Administer the Nutrition Services Incentive Program (NSIP) which rewards effective performance by States and Tribal organizations in the efficient delivery of nutritious meals to older individuals. This program supports programs funded in whole or in part by Titles III and VI of the Older American's Act;
- Administer the portion of the Title XX Social Services Block Grant which is allotted to the Division of Adult Services and Aging to provide supportive services to the elderly;
- Administer other state funded programs which benefit older adults and adults with disabilities;

- Provide case management, conduct needs assessments, provide information and referral, and offer education and awareness to community organizations and the general public;
- Support Adult Day Centers utilizing Title III funds. Two of these centers operate as Inter-Generational facilities, offering both adult day services for elderly adults and adults with disabilities, as well as daycare for children;
- Maintain alliances with service organizations that work with older adults and adults with physical disabilities such as hospitals, senior centers, adult day services, contract service agencies, nutrition programs, advocacy groups, aging coalitions, and others;
- Participate in Emergency Preparedness programs by participating in prevention and awareness activities and responding during emergency situations in supportive roles as requested by the South Dakota Office of Emergency Management.

The following chart illustrates the number of individuals served by the Division of Adult Services and Aging.



Development and Planning for FY 2010 - 2013

South Dakota's State Plan on Aging outlines the State's goals and strategies to improve the lives of persons living throughout South Dakota, especially older persons, adults with disabilities, and their families. The new goals and objectives will be realized through this four-year strategic plan which provides a roadmap for the future of South Dakota's elderly population. The goals and subsequent objectives focus on the Department's commitment to meet the continuum of care needs of the elderly in South Dakota and provide supports to individuals to allow them to access services through a consumer-focused approach.

An extensive effort was made to obtain input from a variety of individuals and organizations. The Department of Social Services partnered with key stakeholders across the State of South Dakota to implement a plan to effectively address the challenges our state is facing in meeting the continuum of care needs of our elderly citizens.

In preparation for the State Plan, Department staff met with the Regional Administration on Aging staff and discussed goals of utilizing Administration on Aging funding. Several pre-planning meetings were held with Department staff to discuss the key elements of the U.S. Administration on Aging's strategic goals for long-term care modernization. The Division of Adult Services and Aging management team also held meetings to discuss the development of the State Plan and input was gathered to incorporate into the State Plan.

Additionally, the recommendations of the Long Term Care Task Force and the new State Plan goals, objectives and strategies were discussed in detail with members of the Advisory Council on Aging for approval. Comments received from members were incorporated into the State Plan. The Council on Aging unanimously approved and appreciated the direction the State is taking in order to best meet the needs of South Dakota's elderly population.

In November 2008, informational sessions delivered by Deborah K. Bowman, Secretary of the Department of Social Services regarding advancing the long term care system in South Dakota and plans for improving services to the elderly citizens were presented to the public. These meetings were open public meetings which were advertised in local and statewide newspapers in an effort to draw all interested parties. At the end of each presentation was a question and answer period during which participants could ask questions and offer opinions. Secretary Bowman was present in person at the presentation in the two largest cities, Rapid City and Sioux Falls. An additional meeting in Pierre at which Secretary Bowman was present in person was broadcast via Dakota Digital Network (DDN) to locations in Aberdeen, Brookings, Chamberlain, Hot Springs, Huron, Madison, Mitchell, Mobridge, Spearfish, Vermillion, Watertown and Yankton.

Information regarding plans for the future of South Dakota's long term care system were also presented to the South Dakota Health Care Association and the South Dakota Association of Health Care Organizations for discussion and input. Furthermore, presentations were held across the state as requested by providers or the public and input and comments were incorporated into the strategic plan. The public was invited to provide comments and suggestions for inclusion in the South Dakota State Plan on Aging through publication and invitation on the Department of Social Services website.

Focus Areas

Focus Area 1: Modernizing the Long Term Care System

South Dakota is at a crossroads in developing a sustainable system of long-term care services to meet the needs of its elderly citizens in the near and long term. The Long Term Care Study was commissioned after Governor Rounds' Healthcare Commission established a Long-Term Care and Medicaid Subcommittee to evaluate the long-term care system and infrastructure, including Medicaid funding for services, and to make recommendations to the Commission regarding health care policy. This subcommittee recommended that a comprehensive study of the state's long-term care system be conducted. The study was contracted by the Department of Social Services with Abt Associates, Inc., a national consulting firm. The study included consideration and analysis of extensive state and federal data, as well as interviews with over 100 individuals representing over 50 groups, institutions, organizations and tribal representatives across the state. The study was completed in November 2007 and produced several key findings.

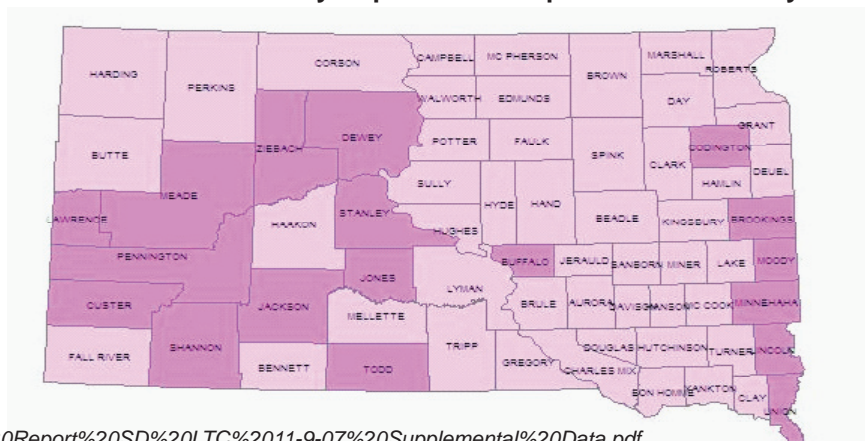
As indicated in the Evaluation of the Long-Term Care Options for South Dakota (Long Term Care Study) completed by Abt Associates, Inc. in 2007, challenges facing the state are:

1. Growth in the Elderly population will fuel a rising demand for long term care services.

In South Dakota, the elderly population is growing faster than national rates. By 2025:

- Number of elders will increase by 92,000 - 105,000
- Number of disabled elders will increase by 42,000-50,000, reaching over 10 percent of the State's population
- Number of disabled elders living in the community will rise 20,000 - 40,000, depending upon the availability of home and community based care
- The population of elders is expected to more than double in the Native American counties, where chronic health problems contribute to higher rates of disability
- In all but nine of the 65 South Dakota counties, elders will make up over 20 percent of the population. In 11 counties, elders will be over 40 percent of the local population.

Counties Where the Elderly Population is Expected to Double by 2025



Source: 2007 Abt Survey;
dss.sd.gov/news/2007/Final%20Report%20SD%20LTC%2011-9-07%20Supplemental%20Data.pdf

2. South Dakota Needs to Rebalance and Replace Nursing Facility Capacity. South Dakota has the 10th highest rate of nursing home bed utilization in the country at 6 beds per 100 elders as compared to the national average of 4.8 beds per 100 elders. Additionally, beds are not necessarily located where projections indicate they will be needed. Furthermore, many facilities are old and in need of renovation or replacement. Nearly one half of the facilities are over 40 years old and lack federally required sprinkler systems.

3. South Dakota Needs to Target Assisted Living Capacity Toward Growing Regions. Although South Dakota ranks slightly above national averages in terms of available assisted living beds, many areas of the state will require increased growth in assisted living capacity to reduce reliance on nursing home care and make a fuller continuum of care available to elders and their families.

4. South Dakota Needs to Expand Home Health Care Services. While South Dakota has a high rate of nursing home bed use, the state ranks the second lowest in the country in terms of use of skilled home health services. Low rates of utilization are likely due to the lack of available providers, access problems, and practice patterns that discourage use of services. The state must double home health service capacity immediately and increase capacity 3-4 fold by 2025 to meet expected population growth to move to national norm for home health use.

5. South Dakota Needs to Expand Home and Community-Based Services. Home and community-based services cover a wide spectrum of activities including personal care assistance, cooking, transportation, meals and nutrition services, and assistance with activities of daily living. These services are limited in South Dakota for a variety of factors, including challenges associated with service delivery in the frontier and rural parts of the state. Homemaker services in particular are fragile and there is a high rate of entry and exit of service providers. There is no doubt, however, that adequate home and community-based services are instrumental to reducing nursing home utilization and to improving the quality of independent living for aging seniors.

6. The Labor Force is Not Keeping Pace with the Growth of Elders: Shortages are Imminent. A long term care workforce shortage is evident today, and shortages will get much worse in the next 20 years. Forecasts indicate a significant and widespread shortage of both Certified Nursing Assistants and nurses. Rebalancing long-term care services and reducing the use of nursing home care cuts the estimated staffing shortages in half, but does not eliminate it.

Development of Task Force on Meeting the Continuum of Care Needs of the Elderly in South Dakota

With the leadership of Secretary Deborah K. Bowman, the Department of Social Services convened a large task force of stakeholders to prioritize and produce a plan to implement the recommendations identified in the Long Term Care Study. The task force had over 100 members, including representatives from nursing facilities, assisted living services, home care providers, provider associations, legislators, tribes, advocates, and state agencies.

The Task Force on Meeting the Continuum of Care Needs of the Elderly in South Dakota had its first meeting in March, 2008. Subcommittees in three key areas from the study were designated including 1) Expanding Home and Community-Based Services; 2) Right Sizing - aligning capacity where current/future needs are projected; and 3) Financing. Leaders in the provider systems agreed to chair

each subcommittee. Each subcommittee also had staff from the Departments of Social Services and Health to assist with preparing information for subcommittee meetings. Task force members were assigned to subcommittees to provide as many stakeholder perspectives as possible. After the initial meeting, the full task force met in May, July, September and October 2008 to consider the work of the subcommittees and come to consensus on recommendations.

The final recommendations of the task force as presented to Governor Rounds and the Legislature in November 2008 are as follows:

1. South Dakota needs to develop a single point of entry system to make access to information, assessment and referral to appropriate service providers easier. In order to ensure South Dakotans in need of long term care services know what services are available and would be the most appropriate to meet their needs, the task force recommended a single-point of entry system be developed through the Division of Adult Services and Aging within the Department of Social Services. The task force agreed that citizens, regardless of payor source, should have one place to go where everyone receives the same information, tools are available for screening to determine needs, and referrals are made to appropriate providers; whether that is a community resource or a nursing facility.

The Task Force also recommended the Department of Social Services work with hospitals to pilot different models of a coordinated discharge planning process that include having Department of Social Services staff on the discharge team and in the hospitals.

2. The Task Force recommended the State of South Dakota expand existing home and community-based services in order to better meet the needs of seniors throughout the state by supporting them to stay in their own homes and communities as long as possible. More and more individuals who are older are asking to stay in their homes and communities as long as possible while receiving the necessary support services such as home health, homemaker, respite care, nutrition, adult day services, transportation and others. While South Dakota has a number of these services available in many areas

There are unique challenges in providing home and community-based services in rural and frontier areas.

not all are available state-wide or at the level necessary

to meet the growing population of elderly. Some services, particularly home health services, are decreasing due to increasing costs and decreasing reimbursement. There are unique challenges in providing home and community-based services in rural and frontier areas; where distances are great and fewer people reside.

3. The Task Force recommended the State of South Dakota enhance existing home and community-based services to ensure services are comprehensive and meet the needs of the elderly in South Dakota. It was identified by members of the task force that existing services available in some communities would better assist people to remain in their own homes if the services were expanded and made more accessible.

4. South Dakota should implement an access critical nursing facility model to ensure people have access to care within a reasonable distance to their communities. Population demand projections for nursing facility growth indicate a need for more nursing home beds in only a few communities. Many other communities are projected to need fewer nursing home beds than what

is currently available. South Dakota's rural and frontier geography and sparse population requires that special consideration be given to ensure people have reasonable access to nursing home care across the state. This is important so that people needing nursing home care aren't forced to relocate so far from home and families will not have to travel exceptionally long distances to visit their loved ones. The task force recommended that access critical nursing facilities be designated to ensure access to nursing homes that otherwise may not remain viable due to decreasing occupancy numbers. In addition, the task force recommended the rate setting methodology for access critical facilities be modified.

5. South Dakota should right size the nursing facility industry by realigning moratorium bed levels to reflect projected demand for nursing facility services. There has been a moratorium on constructing new nursing home beds in South Dakota since 1988, except for an exception made in 2003 for construction of a nursing home on an American Indian reservation. The nursing home moratorium is contained in statute, and facility moratorium levels are based on the number of beds they had licensed as of July 1, 2005. Since that time, many facilities have decreased the number of licensed beds due to decreasing occupancy, although the total moratorium bed capacity in the state remains at the 2005 level. The discrepancy between moratorium beds available and the number of licensed beds in the state can accommodate needed nursing facility growth in areas of the state where demand is expected to exceed current bed supply.

6. South Dakota should expand nursing facility beds through an RFP-like process developed by state agencies for areas in the state that will need additional nursing facility services. The task force recommended a "Request for Proposals" (RFP) approach be used to determine future expansion.

7. South Dakota needs to maintain a sustainable financial infrastructure for the current and future system of care. The federal government's share of a state's expenditures for Medicaid is called the federal medical assistance percentage (FMAP) which is determined annually. Making available the general funds to match federal Medicaid dollars to meet the demand in the future was one of the task force's goals. The task force also examined methods to make available dollars for capital construction or renovation and to address the financial challenges providers serving a higher mix of Medicaid residents face in managing finances.

8. The Departments of Social Services and Health should continue to collect data and analyze the need for additional assisted living facilities in certain areas of the state. Members of the task force acknowledged that based upon the Abt study there will likely be a need for additional assisted living facilities. However the task force did not address the issue at this time due to not having adequate data in relationship to assisted living facilities and their related costs. The Department of Social Services has begun a process to collect the necessary data in order to more accurately project the need and costs.

South Dakota's geography and population requires that special consideration be given to ensure people have reasonable access to nursing home care.

Focus Area 2: Emergency Preparedness

The Department of Social Services and Division of Adult Services and Aging as the Single Unit on Aging for South Dakota partners with the Office of Emergency Management within the South Dakota Department of Public Safety to prepare for unforeseen emergencies, provide information to the elderly citizens of South Dakota regarding preparing for emergent situations and to take action when emergent situations arise.

The Office of Emergency Management is charged with the overall mission of protecting South Dakota's citizens and their property from the effects of natural, manmade, and technological disasters. To fulfill this mission, the office recognizes and utilizes the four phases of emergency management: Preparedness; Response; Recovery; and Mitigation. The South Dakota State Emergency Operations Plan is a product of the Office of Emergency Management with the main purpose of assisting state government agencies in responding to an emergency or disaster when it exceeds the local government's capability to respond. Emergency or disaster conditions may require state agency personnel to perform their normal duties under unusual circumstances and normal functions that do not contribute to the emergency operations may be suspended or redirected for the duration of the emergency.

The South Dakota State Emergency Operations Plan establishes policy for state government agencies in their response to the threat of natural, technological, or national security emergency/disaster situations. It documents the policies, concept of operations, organizational structures and specific responsibilities of state agencies in their response to provide for the safety and welfare of its citizens and addresses the need for preparedness, response, recover, and mitigation activities to enhance the State's overall capability to cope with potential hazards. It is the responsibility of each state agency to respond in a manner consistent with its capabilities as identified and agreed to in the South Dakota State Emergency Operations Plan.

The South Dakota Department of Social Services' Continuity of Operations Plan (COOP) establishes policy and guidance to ensure the execution of the mission-essential functions for the Department in the event that an emergency threatens or incapacitates operations. Specifically, the plan is designed to: ensure that the Department is prepared to respond to emergencies, recover from them, and mitigate against their impacts; ensure that the Department is prepared to provide critical services in an environment that is threatened, diminished, or incapacitated; provide timely direction, control, and coordination to Department leadership and other critical customers before, during, and after an event or upon notification of a credible threat; establish and enact time-phased implementation procedures to activate various components of the plan; facilitate the return to normal operating conditions as soon as practical, based on circumstances and the threat environment; ensure that the plan is viable and operational, and is compliant with all guidance documents; ensure that the plan is fully capable of addressing all types of emergencies, or "all hazards" and that mission-essential functions are able to continue with minimal or no disruption during all types of emergencies.

The Office of Emergency Management maintains a Duty Officer Program which provides assistance to county emergency managers with the location and acquisition of resources and provides state agencies with information regarding current events as they relate to the agency mission requirements. The Duty Officer is on call 24 hours a day, seven days a week. The Duty Officer can be contacted by county emergency managers or by assigned state agency representatives whenever there is a need for state resources or assistance, including the National Guard.

The Office of Emergency Management also makes available brochures for public education on severe weather/storms, winter weather preparedness, family communications planning and the SD Be Ready program, which provides checklists and preparation guides to prepare individuals for a range of disaster or emergency conditions. Natural disasters, epidemics or major emergencies may require a person to isolate themselves and their family from others for a period of time. This program provides information on being informed, being ready and staying safe.

Examples of the system at work:

- When flood conditions are identified in a South Dakota community, an emergency operations plan is activated and pre-selected staff members from several different state agencies travel to the affected community to offer support and services directly in a door-to-door campaign.
- When flood conditions are identified in a neighboring state, an emergency operations plan is activated and pre-selected staff members from several different state agencies coordinate assistance with relocation of affected residents.
- When severe cold weather is projected, a call is made from the Duty Officer to the Secretary of the Department of Social Services. Within a short period of time, a message is transmitted to all field offices of Adult Services and Aging and to the Elderly Nutrition Projects warning of the severe cold forecast and to check with individuals at risk and assure an adequate supply of emergency “heater” meals are on hand.

Focus Area 3: Title VI and III Coordination

Adult Services and Aging as the State Unit on Aging for the State of South Dakota administers the Title III C Elderly Nutrition Program for the state, distributing funds provided by the Administration on Aging and supplemented by state general funds to 11 Nutrition Projects located through South Dakota. The Nutrition projects operate 207 meals sites across South Dakota, including sites in counties with some of the lowest income in the nation, and sites located on American Indian Reservations. These projects provide both congregate and home delivered meals within their service area. Tribal governments within South Dakota also receive direct Title VI funding to provide meals at an additional 24 tribal locations.

In many instances, both Title III and Title VI funds are utilized at meal sites within the same reservation boundaries, but at different communities within the reservation. Adult Services and Aging provides additional funds from Title III to four tribal nutrition programs, based on need demonstrated to the state in meeting the needs of elderly and low-income citizens in these areas. The tribal nutrition projects which receive Title III funds from Adult Services and Aging include the Cheyenne River Elderly Nutrition Program, the Rosebud Elderly Nutrition Program, the Sisseton-Wahpeton Elderly Nutrition Program, and the Standing Rock Elderly Nutrition Program.

Those tribal nutrition programs that do not receive Title III funds from Adult Services and Aging benefit from the operation of a meal site by one of the Title III Nutrition projects at a meal site within the boundaries of the reservation. Care has been taken to avoid duplication of efforts; situations do not exist where both Title III and Title VI nutrition sites both operate in the same town or city.

Focus Area 4: Faith or Community-Based Initiatives

Historically, South Dakota has ranked well below national averages in the amount of federal funding

that has been awarded to faith based organizations. There is no designated office or liaison for Faith or Community Based Initiatives in South Dakota. This lack of formal structure has not prevented collaboration between state agencies and Faith Based organizations in South Dakota, and funding opportunities are available to faith and community based organizations. As a result of the 2009 Legislative Session, Codified Law 5-18-57 became effective which states that no agency of the state may award or renew a contract for professional services exceeding fifty thousand dollars without complying with the procedures set forth in §§ 5-18-55 to 5-18-62, inclusive.

The Department of Social Services has a long standing cooperative working arrangement with Lutheran Social Services of South Dakota. Lutheran Social Services provides a variety of services to individuals regardless of age, faith, race or economic status. One service includes interpreter services to individuals of many nationalities, speaking a variety of languages. This has been of increasing importance in South Dakota as the refugee population has increased.

The Good Samaritan Society, with corporate headquarters in South Dakota, has been a partner in delivering home and community-based services in South Dakota for many years. The Good Samaritan Society sponsors both the Senior Companion program in South Dakota and sponsors one of the local Retired and Senior Volunteer Programs in South Dakota.

Recently the Department of Social Services worked cooperatively with the Good Samaritan Society and the Department of Human Services to develop a special program for individuals with challenging behaviors with a need for nursing home level of care. This pilot program began operations on July 1, 2009 and is hoped to be the model for expansion in meeting the special needs of individuals with challenging behaviors.

The Department is currently working with the Avera Health system, another faith-based organization, to develop a specialized unit for care of individuals who are ventilator dependent. The Department previously worked closely with the Avera Health system in developing a specialized unit for the care of individuals recovering from traumatic brain injury. This unit is now fully functional and at capacity.



Focus Area 5: Elder Rights Programs

The State of South Dakota operates the Ombudsman program by utilizing a network approach, including the State Ombudsman, located in the State Office, who oversees the program, maintains records of complaints and concerns in the Ombudsmanager database, and is responsible for completing the National Ombudsman Report and utilizing the National Ombudsman Resource Center to maximize the efforts of the program. This position is also responsible for preparation, coordination, oversight and delivery of educational programs regarding ombudsman issues, elder rights and culture change in long term care facilities to residents, staff, and the general public. This position is augmented by local ombudsman situated across the state, who serve as direct advocates for residents of long term care facilities in both general terms and in situations where a complaint arises with facility management or staff. The state maintains a

presence in long term care facilities, making routine visits to facilities as well as visits prompted by complaint investigations.

The Ombudsman program works closely with the Department of Health in the investigation of complaints involving life safety issues and in the routine survey process by the State Licensing Agency within the Department of Health. Open communication between the two departments allows for information sharing and prompt response to concerns. In addition, staff members of Adult Services and Aging function as Adult Protection Investigators, responding to and investigating reports of elder abuse, neglect or exploitation. Reports are received from such sources as financial institutions, family members, concerned citizens and local law enforcement. The investigators involve other parties as appropriate, which may include depending on the situation: family members, law enforcement and the Medicaid Fraud Control Unit of the South Dakota Attorney General's Office. Complaints are registered with the nature of the complaint, results of the investigation and resolution in a centrally maintained database.

Adult Services and Aging has contracts with two agencies that provide legal assistance to the elderly at locations across the state, including several locations on tribal reservation lands. These agencies have agreed to provide services in accordance with the rules of the Older Americans Act. The Division recently hired a Legal Assistance Developer to oversee the legal services contracts, and work to building the full functionality of the legal services, including coordination of provision of legal assistance, working with the ombudsman program on elder rights issues, promoting state capacity to offer financial management information to elders, assist older individuals in understanding their rights and maintain the rights of elderly citizens in guardianship.

Focus Area 6: Healthcare System Coordination

The Department of Social Services has a long standing relationship with the Department of Health in South Dakota. The agencies work cooperatively on a number of projects and share information to better the systems of care in South Dakota. In efforts to modernize the long term care system in South Dakota, the Department has involved partners from the long term care industry (nursing home and assisted living administrators), hospital administrators, home health care system providers, adult day center directors, nutrition project directors, senior citizen center directors, businessmen and women, officials from the South Dakota Health Care Association and the South Dakota Association of Healthcare Organizations, representatives from Tribal government, and officials from the Department of Health in order to get the perspective of individuals from a broad area of knowledge and expertise.

The South Dakota Foundation for Medical Care serves as the Physician Peer Review and Quality Improvement Organization (QIO) for South Dakota. The Division of Adult Services and Aging has a long standing relationship with the South Dakota Foundation for Medical Care, working cooperatively to promote health care initiatives in improving quality of care in South Dakota's nursing homes. The current cooperative project involves promoting reduction and prevention of pressure ulcers through education and use of specialized equipment designed to reduce risk.

The state has an active program for both spreading general Medicare information and Medicare Part D in particular, partnering with Senior Medicare Patrol of South Dakota and the Cooperative Extension Service to educate seniors about their benefits. This effort is made possible through funding from the Centers for Medicare and Medicaid Services under the Senior Health Information Program (SHIP) grant. The state also conducts regular outreach regarding South Dakota's Long Term Care Insurance Options. As a state which is large in size but small in population, we rely heavily on building partnerships and working cooperatively to achieve the best outcomes possible.

Goals, Objectives, Strategies, Outcome and Performance Measures

GOALS, OBJECTIVES, STRATEGIES, OUTCOME AND PERFORMANCE MEASURES

OUTCOME: Through the implementation of this plan, the Division of Adult Services and Aging seeks to provide an environment that promotes a quality of life in the health of its elderly citizens and adults who are disabled, preserves independence, guards dignity and is financially responsible.

Goal 1: Empower older South Dakotans (age 60+), adults with disabilities and their families, including those from diverse communities, to make informed decisions about health care and long term care options by providing easily accessible information regarding publicly and privately funded long term services and supports through development and implementation of a statewide system of Aging and Disability Resource Centers (ADRC).

Objective A: Continue statewide advisory group to guide statewide implementation of a Single Point of Entry/ADRC in South Dakota

Strategies:

- Identify and change state policies and regulations that impede implementation of an ADRC
- Leverage statewide resources to contribute to an ADRC development
- Develop formal linkages between publicly funded systems of long term care services

Performance Measures:

- Launch ADRC in community of Sioux Falls by December, 2010
- Develop a plan to implement ADRCs across South Dakota by December, 2013

Objective B: Develop community advisory workgroup to guide local implementation

- Identify and change local practices that impede implementation of an ADRC
- Leverage local resources to contribute to local ADRC development
- Develop formal linkages between providers of long term care services

Performance Measures:

- Launch ADRC in community of Sioux Falls by December, 2010
- Develop a plan to implement ADRCs across South Dakota by December, 2013

Objective C: Develop Single Point of Entry System/ADRC for long term care services

- Employ a system that is programmatically and fiscally integrated for long term care services for elders and coordinated with the system of long term care services for younger people with physical disabilities
- Identify current local information and awareness activities and make changes needed to ensure they are accurate, accessible, and relevant
- Develop interactive web based information system that serves as a resource database and includes real time service capacity information for certain services
- Develop outreach and marketing plan

Performance Measures:

- Survey of local information and resources to be completed by July, 2010

- Develop an operational web based database to be operational by December, 2011
- Develop an outreach and marketing plan by December, 2010

Objective D: Develop options counseling as part of current Adult Services and Aging staff responsibilities

- Review and revise existing intake screening tool to ensure it is relevant and person centered
- Review and revise existing service assessment tools and processes to provide referral and follow up protocols
- Review and revise existing case management system to ensure it is person centered
- Develop and provide staff training on options counseling process

Performance Measures:

- Implementation of revised screening tool by December, 2011
- Implementation of revised case management system by December, 2011
- Train staff on options counseling by December, 2010

Objective E: Provide streamlined process for determining program eligibility

- Integrate Medicaid financial eligibility function into ADRC

Performance Measures:

- Training to staff by December, 2011
- Transfer of Medicaid long term care eligibility process to Adult Services and Aging by December, 2011

Goal 2: Ensure access to home and community based services to enable older adults and adults with disabilities, including those from diverse communities, to have access to quality services in order to remain in their own homes and communities

Objective A: Work with key stakeholders to identify essential home and community based services

Strategies:

- Develop a process to link people to resources that allow them to remain in the setting of their choice and improve their quality of life
- Identify factors that precipitate institutionalization for individuals
- Work with physicians and mid-level practitioners to increase referrals to home health services
- Develop a process to link people to resources

Performance Measures:

- Conduct comprehensive review and analyze effectiveness of in-home services by December, 2009
- Evaluate outcomes of available services and identify service gaps by December, 2009
- Analyze provider reimbursement methods and implement changes by December, 2010
- Develop and implement a Single Point of Entry System / Aging and Disabilities Resource Center by December, 2010
- Increase home and community-based services utilization by 20% by December, 2012

Goal 3: Empower older people, including those from diverse communities, to stay active and healthy through Older American Act services and Medicare prevention benefits

Objective A: Promote health and safety in the senior population

Strategies:



- Coordinate with partner agencies to provide education on health and safety issues
- Continue to hold public education forums on the long term care partnership program
- Support Department of Health's Healthy South Dakota initiative
- Continue to promote the Family Caregiver Support program to reduce caregiver stress and assist the family in providing home support for elderly relatives

Performance Measures:

- Conduct Caregiver Survey by October, 2011
- Increase the number of funded Caregiver Support groups in the state by 20 percent by May, 2011

Objective B: Educate the public on Medicare prevention benefits

Strategies:

- Coordinate efforts of the Senior Health Insurance and Information Program (SHIINE) to communicate information regarding Medicare benefits to seniors
- Utilize Medicare publications and information in trainings
- Develop and implement an "Aging Well" informational series of presentation for seniors

Performance Measures:

- Analyze the number of seniors reached by SHIINE program presentations by October, 2009 and annually thereafter
- Implement an "Aging Well" informational series by October, 2010

Goal 4: Preserve the rights of the elderly, including those from diverse communities, and prevent their abuse, neglect and exploitation

Objective A: Strengthen and protect the rights of elderly citizens residing in facilities

Strategies:

- Increase awareness of the Ombudsman program through brochures, education and training
- Provide education and information on resident rights to residents and families
- Work cooperatively with the Department of Health to monitor resident's rights violations in facilities
- Continue to support the implementation of culture change in South Dakota nursing homes
 - Review and strengthen Ombudsman pro-

gram to further advocate for resident rights

- Continue to collaborate with the South Dakota Foundation for Medical Care on improving safety for seniors by improving health care processes and systems as set forth by the Centers for Medicare and Medicaid Services (CMS)
- Continue to partner with the Department of Health Licensure office, local law enforcement, and the Medicaid Fraud Control Unit of the South Dakota Attorney Generals office to protect the rights of individuals to be free from financial exploitation

Performance Measures:

- Update resident rights training presentation and materials by January, 2010
- State Ombudsman will make visit to every facility by October, 2011
- Increase number of Ombudsman and resident rights presentations by 10% by October, 2011

Objective B: Prevent abuse, neglect and exploitation of South Dakota's elderly citizens living in the community

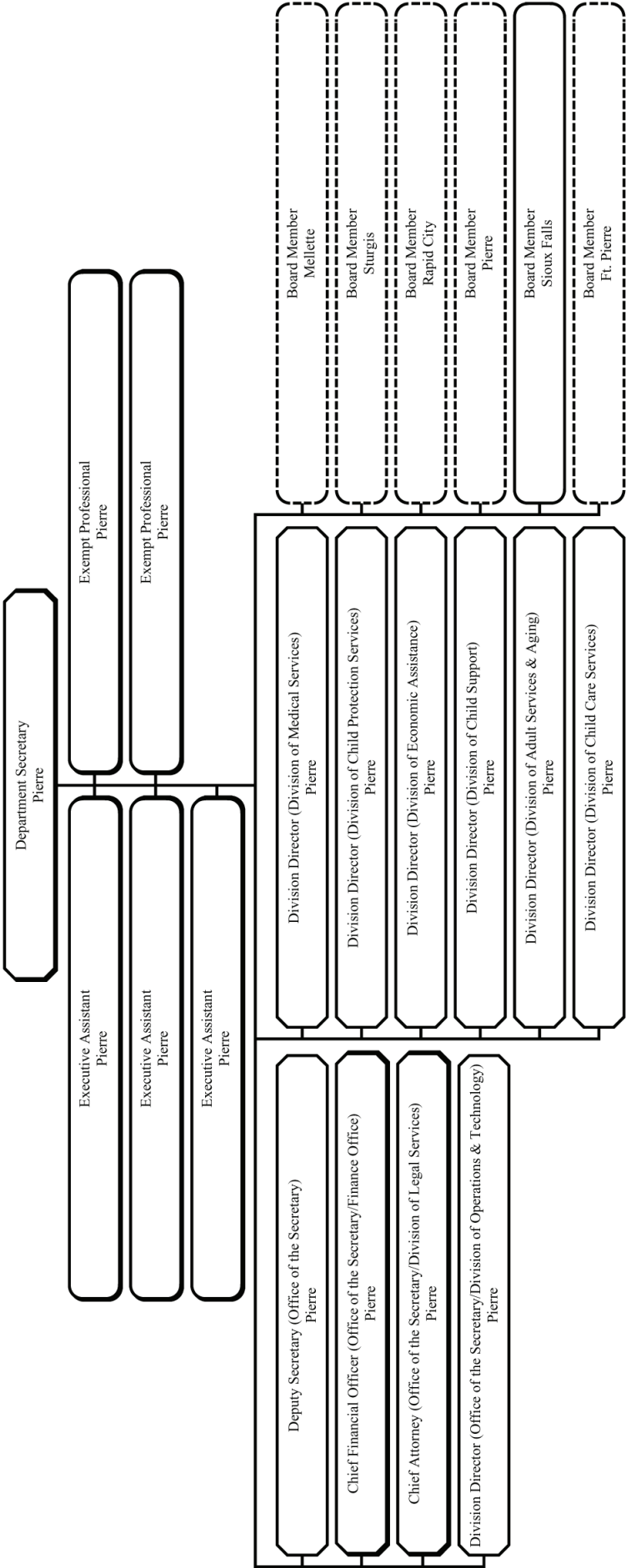
Strategies:

- Continue to provide, support and increase training to the aging network on issues surrounding the detection, reduction, correction and elimination of abuse
- Enhance monitoring and oversight of the adult protective services program to ensure consistence and quality service provision in accordance with the Older Adult Protective Services Act
- Seek legislation to reduce financial exploitation of the elderly and disabled
- Continue to serve the public by promoting education efforts, sharing of information and resources regarding elder abuse and expand outreach to rural and underserved populations
- Partner with tribal governments to produce elder protection services on reservations
- Continue support of legal services to the elderly and adults with disabilities
- Develop and implement an informational presentation for seniors on "How to prevent becoming a victim"

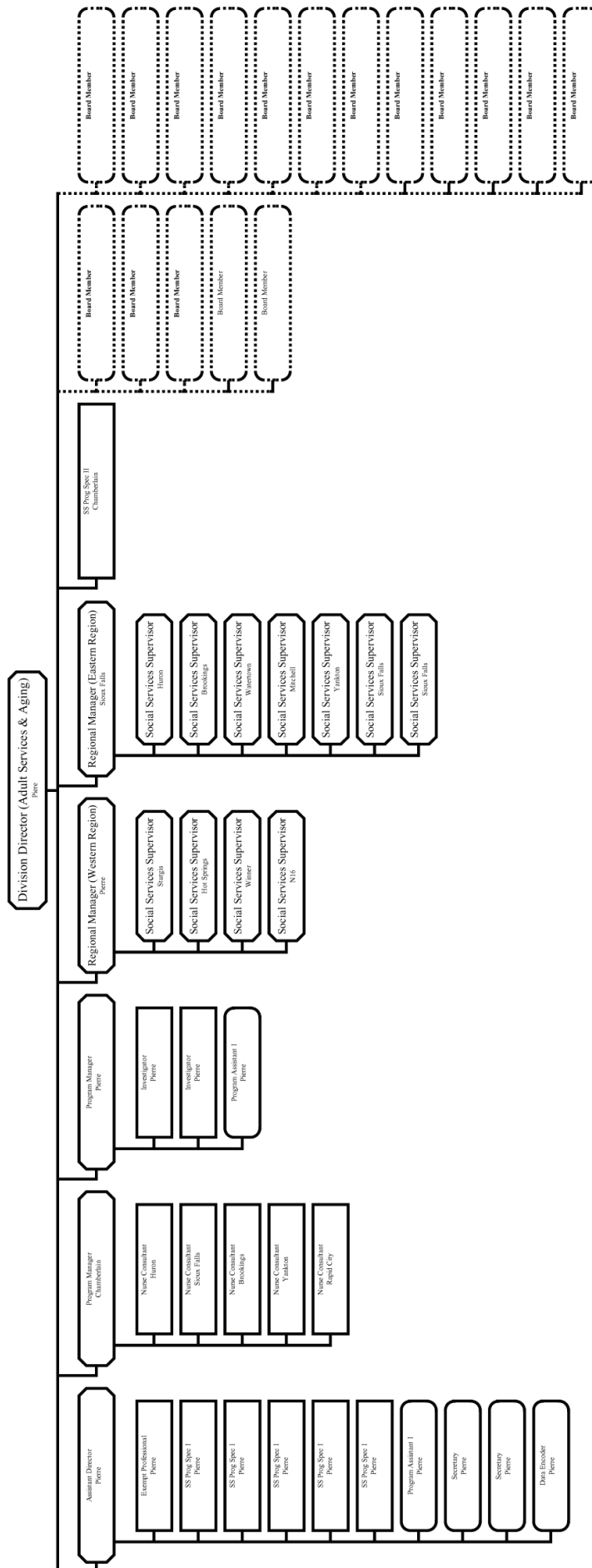
Performance Measures:

- Implement web based orientation training in recognizing the signs of abuse, neglect and exploitation to current and newly hired employees by October 2009
- Increase the number of presentations to the community regarding the signs of abuse, neglect and exploitation by 10% by October, 2011
- Survey local law enforcement regarding elder abuse, neglect and exploitation training needs by October, 2010
- Implement an information presentation on "How to prevent becoming a victim" by October, 2010

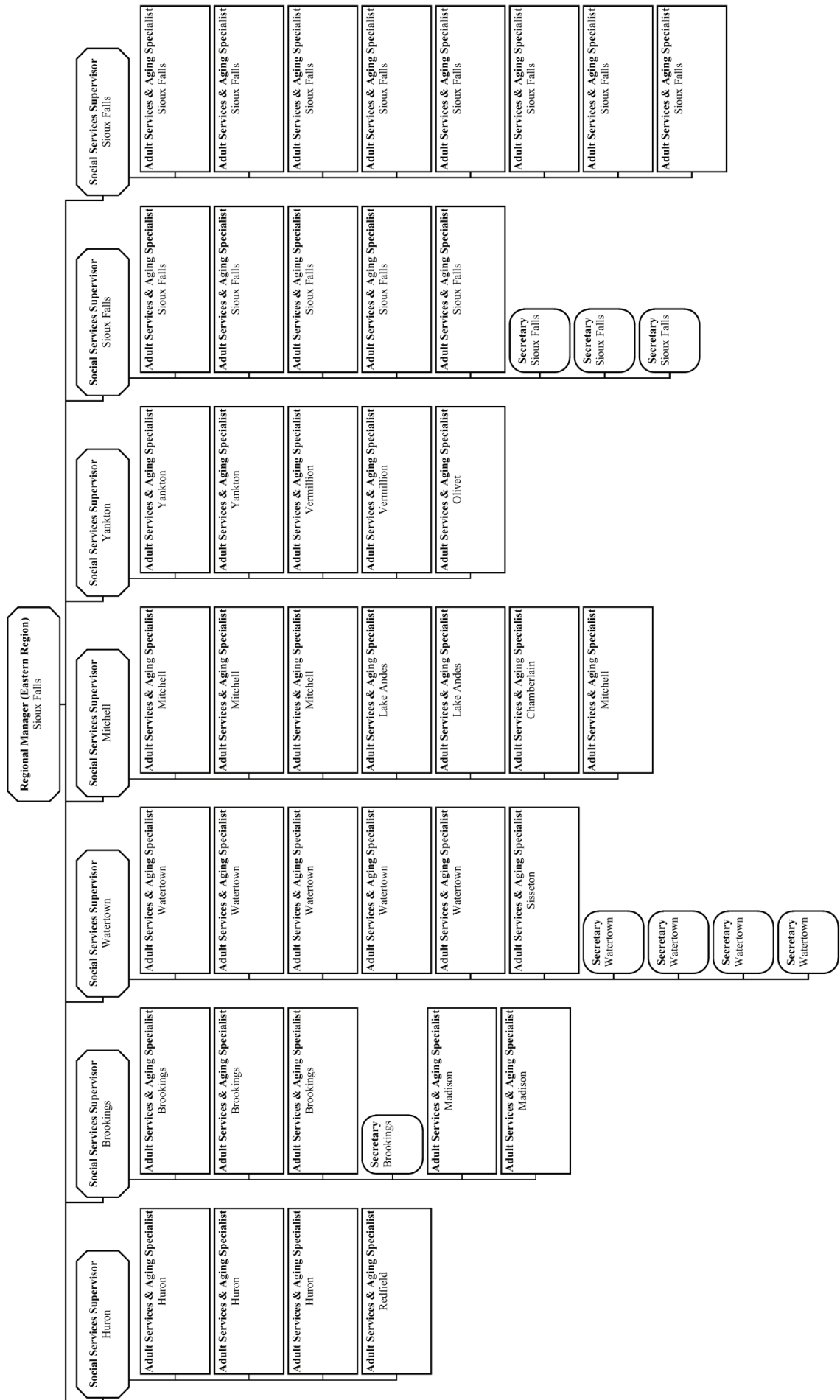
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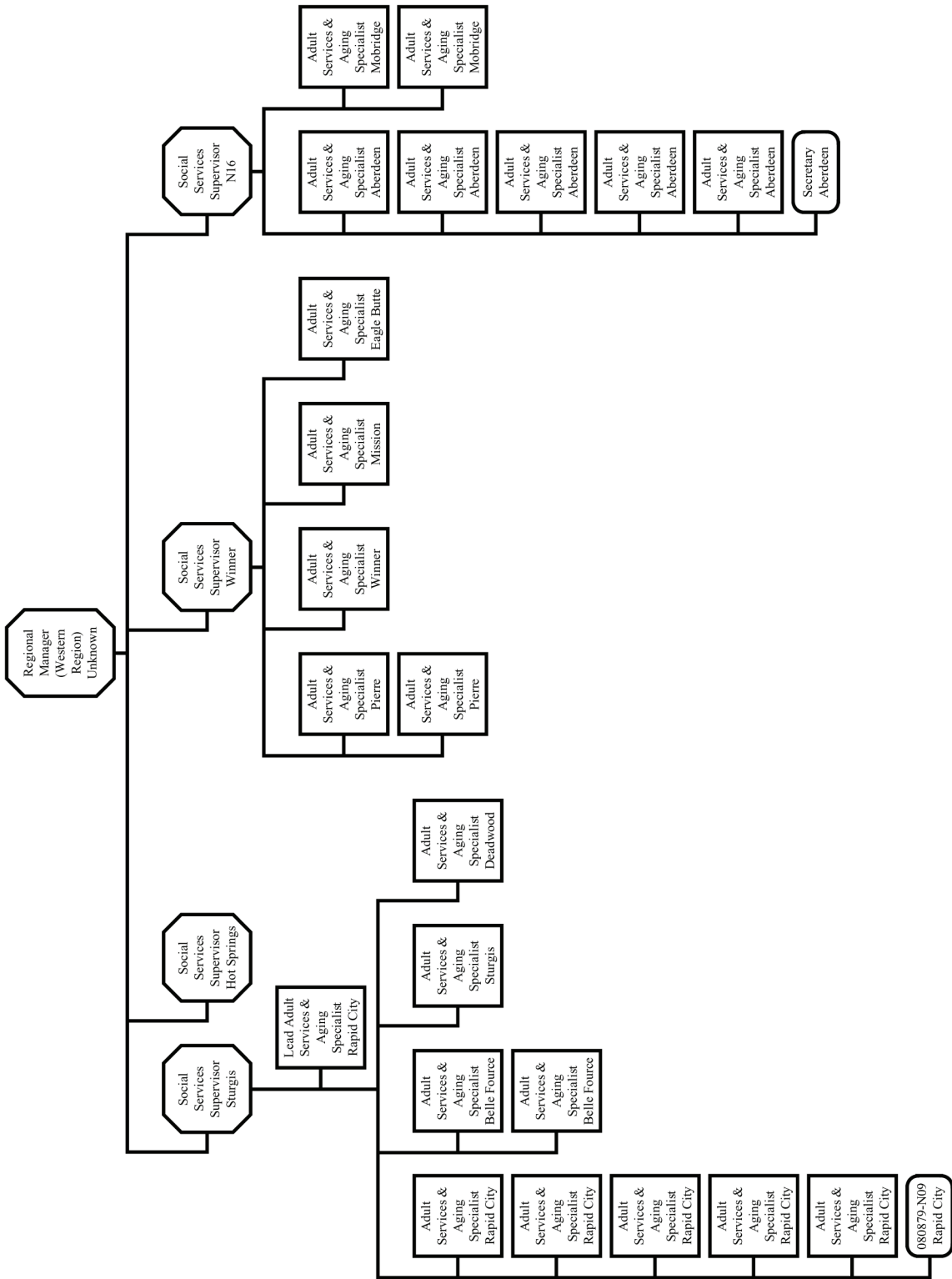
Division of Adult Services and Aging State Office - Pierre



Division of Adult Services and Aging Eastern Region



Division of Adult Services and Aging



Attachment B: FY2010 State Plan Assurances

By signing this document, the authorized official commits the State Agency on Aging to perform all listed assurances and required activities.

OLDER AMERICANS ACT (OAA) REQUIREMENTS RELATED TO STATE/AREA PLANS

Sec. 305. Organization

- (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—
- (1) the State shall, in accordance with regulations of the Assistant Secretary, designate a State agency as the sole State agency to—
 - (A) develop a State plan to be submitted to the Assistant Secretary for approval under section 307;
 - (B) administer the State plan within such State;
 - (C) be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the objectives of this Act;
 - (D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and
 - (E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A), designate the entire State as a single planning and service area), in accordance with guidelines issued by the Assistant Secretary, after considering the geographical distribution of older individuals in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance, the distribution of older individuals who have greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), the distribution of older individuals who have greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), the distribution of older individuals who are Indians residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors;
 - (2) the State agency shall—
 - (A) except as provided in subsection (b)(5), designate for each such area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;
 - (B) provide assurances, satisfactory to the Assistant Secretary, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan;
 - (C) in consultation with area agencies, in accordance with guidelines issued by the Assistant Secretary, and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received under this title that takes into account—
 - (i) the geographical distribution of older individuals in the State; and
 - (ii) the distribution among planning and service areas of older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority older individuals;
 - (D) submit its formula developed under subparagraph (C) to the Assistant Secretary for approval;
 - (E) provide assurance that preference will be given to providing services to older individuals with greatest economic need and older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) and include proposed methods of carrying out the preference in the State plan;
 - (F) provide assurances that the State agency will require use of outreach efforts described in section 307(a)(16);
 - (G)(i) set specific objectives, in consultation with area agencies on aging, for each planning and service area for providing services funded under this title to low-income minority older individuals and older individuals residing in rural areas;
 - (ii) provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals; and
 - (iii) provide a description of the efforts described in clause (ii) that will be undertaken by the State agency; and
 - (3) the State agency shall, consistent with this section, promote the development and implementation of a State

system of long-term care that is a comprehensive, coordinated system that enables older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of the older individuals and their family caregivers, by—

- (A) collaborating, coordinating, and consulting with other agencies in such State responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care;
 - (B) participating in any State government activities concerning long-term care, including reviewing and commenting on any State rules, regulations, and policies related to long-term care;
 - (C) conducting analyses and making recommendations with respect to strategies for modifying the State system of long-term care to better—
 - (i) respond to the needs and preferences of older individuals and family caregivers;
 - (ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and
 - (iii) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;
 - (D) implementing (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and
 - (E) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, and other appropriate means) of information relating to—
 - (i) the need to plan in advance for long-term care; and
 - (ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources.
- (b)(1) In carrying out the requirement of subsection (a)(1), the State may designate as a planning and service area any unit of general purpose local government which has a population of 100,000 or more. In any case in which a unit of general purpose local government makes application to the State agency under the preceding sentence to be designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of general purpose local government. A State may designate as a planning and service area under subsection (a)(1) any region within the State recognized for purposes of area wide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated under subsection (a)
- (1) such additional areas adjacent to the unit of general purpose local government or regions so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title.
 - (2) The State is encouraged in carrying out the requirement of subsection (a)(1) to include the area covered by the appropriate economic development district involved in any planning and service area designated under subsection (a)(1), and to include all portions of an Indian reservation within a single planning and service area, if feasible.
 - (3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Assistant Secretary to request re-designation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Assistant Secretary approves such an application, the Assistant Secretary shall adjust the State allotments of the areas within the planning and service area in which the interstate planning and service area is established to reflect the number of older individuals within the area who will be served by an interstate planning and service area not within the State.
 - (4) Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation under the provisions of subsection (a)(1), such unit of general purpose local government, region, metropolitan area, or Indian reservation may appeal the decision of the State agency to the Assistant Secretary. The Assistant Secretary shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Assistant Secretary may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Assistant Secretary deems appropriate.
 - (5) (A) A State which on or before October 1, 1980, had designated, with the approval of the Assistant Secretary, a single planning and service area covering all of the older individuals in the State, in which the State agency was administering the area plan, may after that date designate one or more additional planning and service areas within the State to be administered by public or private nonprofit agencies or organizations as area agencies on aging, after considering the factors specified in subsection (a)(1)(E). The State agency shall continue to perform the functions of an area agency on aging for any area of the State not included in a planning and service area for which an area agency on aging has been designated.

- (B) Whenever a State agency designates a new area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984, the State agency shall give the right to first refusal to a unit of general purpose local government if
 - (i) such unit can meet the requirements of subsection (c), and
 - (ii) the boundaries of such a unit and the boundaries of the area are reasonably contiguous.
 - (C)(i) A State agency shall establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to—
 - (I) revoke the designation of the area agency on aging under subsection (a);
 - (II) designate an additional planning and service area in a State;
 - (III) divide the State into different planning and service areas; or
 - (IV) otherwise affect the boundaries of the planning and service areas in the State.
 - (ii) The procedures described in clause (i) shall include procedures for—
 - (I) providing notice of an action or proceeding described in clause (i);
 - (II) documenting the need for the action or proceeding;
 - (III) conducting a public hearing for the action or proceeding;
 - (IV) involving area agencies on aging, service providers, and older individuals in the action or proceeding; and
 - (V) allowing an appeal of the decision of the State agency in the action or proceeding to the Assistant Secretary.
 - (iii) An adversely affected party involved in an action or proceeding described in clause (i) may bring an appeal described in clause (ii)(V) on the basis of—
 - (I) the facts and merits of the matter that is the subject of the action or proceeding; or
 - (II) procedural grounds.
 - (iv) In deciding an appeal described in clause (ii)(V), the Assistant Secretary may affirm or set aside the decision of the State agency. If the Assistant Secretary sets aside the decision, and the State agency has taken an action described in sub-clauses (I) through (III) of clause (i), the State agency shall nullify the action.
- (c) An area agency on aging designated under subsection (a) shall be—
- (1) an established office of aging which is operating within a planning and service area designated under subsection (a);
 - (2) any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of such unit;
 - (3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose;
 - (4) any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, which is under the supervision or direction for this purpose of the designated State agency and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such planning and service area; or
 - (5) in the case of a State specified in subsection (b)(5), the State agency; and shall provide assurance, determined adequate by the State agency, that the area agency on aging will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.
- (d) The publication for review and comment required by paragraph (2)(C) of subsection (a) shall include—
- (1) a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need,
 - (2) a numerical statement of the actual funding formula to be used,
 - (3) a listing of the population, economic, and social data to be used for each planning and service area in the State, and
 - (4) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

(42 U.S.C. 3025)

Sec. 306. Area Plans

- (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—
 - (1) provide, through a comprehensive and coordinated system, for supportive services, nutrition services, and, where

appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area, the number of older individuals who have greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such area, the number of older individuals at risk for institutional placement residing in such area, and the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in the community, evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of supportive services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

- (2) provide assurances that an adequate proportion, as required under section 307(a)(2), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—
 - (A) services associated with access to services (transportation, health services (including mental health services) outreach, information and assistance, (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible) and case management services);
 - (B) in-home services, including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and
 - (C) legal assistance; and assurances that the area agency on aging will report annually to the State agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded;
- (3)(A) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations referred to in paragraph (6)(C)) as such focal point; and
- (B) specify, in grants, contracts, and agreements implementing the plan, the identity of each focal point so designated;
- (4)(A)(i)(I) provide assurances that the area agency on aging will—
 - (aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;
 - (bb) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and
- (II) include proposed methods to achieve the objectives described in items (aa) and (bb) of sub-clause (I);
- (ii) provide assurances that the area agency on aging will include in each agreement made with a provider of any service under this title, a requirement that such provider will—
 - (I) specify how the provider intends to satisfy the service needs of low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in the area served by the provider;
 - (II) to the maximum extent feasible, provide services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in accordance with their need for such services; and
 - (III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas within the planning and service area; and
- (iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—
 - (I) identify the number of low-income minority older individuals in the planning and service area;
 - (II) describe the methods used to satisfy the service needs of such minority older individuals; and
 - (III) provide information on the extent to which the area agency on aging met the objectives described in clause (i);
- (B) provide assurances that the area agency on aging will use outreach efforts that will—
 - (i) identify individuals eligible for assistance under this Act, with special emphasis on—
 - (I) older individuals residing in rural areas;
 - (II) older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
 - (III) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);

- (IV) older individuals with severe disabilities;
- (V) older individuals with limited English proficiency;
- (VI) older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
- (VII) older individuals at risk for institutional placement; and
- (ii) inform the older individuals referred to in sub-clauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and
- (C) contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals and older individuals residing in rural areas;
- (5) provide assurances that the area agency on aging will coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities, and individuals at risk for institutional placement with agencies that develop or provide services for individuals with disabilities;
- (6) provide that the area agency on aging will—
 - (A) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;
 - (B) serve as the advocate and focal point for older individuals within the community by (in cooperation with agencies, organizations, and individuals participating in activities under the plan) monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect older individuals;
 - (C)(i) where possible, enter into arrangements with organizations providing day care services for children, assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families;
 - (ii) if possible regarding the provision of services under this title, enter into arrangements and coordinate with organizations that have a proven record of providing services to older individuals, that-
 - (I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or
 - (II) came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs; and that meet the requirements under section 676B of the Community Services Block Grant Act; and
 - (iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings;
- (D) establish an advisory council consisting of older individuals (including minority individuals and older individuals residing in rural areas) who are participants or who are eligible to participate in programs assisted under this Act, family caregivers of such individuals, representatives of older individuals, service providers, representatives of the business community, local elected officials, providers of veterans' health care (if appropriate), and the general public, to advise continuously the area agency on aging on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;
- (E) establish effective and efficient procedures for coordination of—
 - (i) entities conducting programs that receive assistance under this Act within the planning and service area served by the agency; and
 - (ii) entities conducting other Federal programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b), within the area;
- (F) in coordination with the State agency and with the State agency responsible for mental health services, increase public awareness of mental health disorders, remove barriers to diagnosis and treatment, and coordinate mental health services (including mental health screenings) provided with funds expended by the area agency on aging with mental health services provided by community health centers and by other public agencies and nonprofit private organizations;
- (G) if there is a significant population of older individuals who are Indians in the planning and service area of the area agency on aging, the area agency on aging shall conduct outreach activities to identify such individuals in such area and shall inform such individuals of the availability of assistance under this Act;
- (7) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family

- caregivers, by—
- (A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;
 - (B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—
 - (i) respond to the needs and preferences of older individuals and family caregivers;
 - (ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and
 - (iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;
 - (C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and
 - (D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—
 - (i) the need to plan in advance for long-term care; and
 - (ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources;
- (8) provide that case management services provided under this title through the area agency on aging will—
- (A) not duplicate case management services provided through other Federal and State programs;
 - (B) be coordinated with services described in subparagraph (A); and
 - (C) be provided by a public agency or a nonprofit private agency that—
 - (i) gives each older individual seeking services under this title a list of agencies that provide similar services within the jurisdiction of the area agency on aging;
 - (ii) gives each individual described in clause (i) a statement specifying that the individual has a right to make an independent choice of service providers and documents receipt by such individual of such statement;
 - (iii) has case managers acting as agents for the individuals receiving the services and not as promoters for the agency providing such services; or
 - (iv) is located in a rural area and obtains a waiver of the requirements described in clauses (i) through (iii);
- (9) provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(9), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2000 in carrying out such a program under this title;
- (10) provide a grievance procedure for older individuals who are dissatisfied with or denied services under this title;
- (11) provide information and assurances concerning services to older individuals who are Native Americans (referred to in this paragraph as “older Native Americans”), including—
- (A) information concerning whether there is a significant population of older Native Americans in the planning and service area and if so, an assurance that the area agency on aging will pursue activities, including outreach, to increase access of those older Native Americans to programs and benefits provided under this title;
 - (B) an assurance that the area agency on aging will, to the maximum extent practicable, coordinate the services the agency provides under this title with services provided under title VI; and
 - (C) an assurance that the area agency on aging will make services under the area plan available, to the same extent as such services are available to older individuals within the planning and service area, to older Native Americans; and
- (12) provide that the area agency on aging will establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b) within the planning and service area.
- (13) provide assurances that the area agency on aging will—
- (A) maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;
 - (B) disclose to the Assistant Secretary and the State agency—
 - (i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and
 - (ii) the nature of such contract or such relationship;
 - (C) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this title by such agency has not resulted and will not result from such contract or such relationship;
 - (D) demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and
 - (E) on the request of the Assistant Secretary or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;

- (14) provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;
 - (15) provide assurances that funds received under this title will be used—
 - (A) to provide benefits and services to older individuals, giving priority to older individuals identified in paragraph (4)(A)(i); and
 - (B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212;
 - (16) provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care; and
 - (17) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery.
- (b)(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.
- (2) Such assessment may include—
- (A) the projected change in the number of older individuals in the planning and service area;
 - (B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;
 - (C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and
 - (D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.
- (3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—
- (A) health and human services;
 - (B) land use;
 - (C) housing;
 - (D) transportation;
 - (E) public safety;
 - (F) workforce and economic development;
 - (G) recreation;
 - (H) education;
 - (I) civic engagement;
 - (J) emergency preparedness; and
 - (K) any other service as determined by such agency.
- (c) Each State, in approving area agency on aging plans under this section, shall waive the requirement described in paragraph (2) of subsection (a) for any category of services described in such paragraph if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.
- (d) (1) Subject to regulations prescribed by the Assistant Secretary, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.
- (2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.
- (e) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.
- (f) (1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency on aging available under this title.
- (2)(A) The head of a State agency shall not make a final determination withholding funds under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State

agency.

- (B) At a minimum, such procedures shall include procedures for—
 - (i) providing notice of an action to withhold funds;
 - (ii) providing documentation of the need for such action; and
 - (iii) at the request of the area agency on aging, conducting a public hearing concerning the action.
- (3)(A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).
- (B) If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approve the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period for not more than 90 days.

Sec. 307. State Plans

- (a) Except as provided in the succeeding sentence and section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Assistant Secretary a State plan for a two-, three-, or four year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Assistant Secretary may by regulation prescribe. If the Assistant Secretary determines, in the discretion of the Assistant Secretary, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Assistant Secretary a State plan for a 1-year period that meets such criteria, for subsequent years until the Assistant Secretary determines that the State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:
 - (1) The plan shall—
 - (A) require each area agency on aging designated under section 305(a)(2)(A) to develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 306; and (B) be based on such area plans.
 - (2) The plan shall provide that the State agency will—
 - (A) evaluate, using uniform procedures described in section 202(a)(29), the need for supportive services (including legal assistance pursuant to 307(a)(11), information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;
 - (B) develop a standardized process to determine the extent to which public or private programs and resources (including volunteers and programs and services of voluntary organizations) that have the capacity and actually meet such need; and
 - (C) specify a minimum proportion of the funds received by each area agency on aging in the State to carry out part B that will be expended (in the absence of a waiver under section 306(c) or 316) by such area agency on aging to provide each of the categories of services specified in section 306(a)(2).
 - (3) The plan shall—
 - (A) include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 305(d) (concerning intrastate distribution of funds); and
 - (B) with respect to services for older individuals residing in rural areas—
 - (i) provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000;
 - (ii) identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and
 - (iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.
 - (4) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this title and title VII, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities (with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas).
 - (5) The plan shall provide that the State agency will—
 - (A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area agency on aging submitting a plan under this title, to any provider of (or applicant to provide) services;
 - (B) issue guidelines applicable to grievance procedures required by section 306(a)(10); and
 - (C) afford an opportunity for a public hearing, upon request, by any area agency on aging, by any provider of (or applicant to provide) services, or by any recipient of services under this title regarding any waiver request, including those under section 316.
 - (6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Assistant Secretary may require, and comply with such requirements as the Assistant Secretary may impose to insure the correctness of such reports.

- (7)(A) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.
- (B) The plan shall provide assurances that—
- (i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;
 - (ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and
 - (iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.
- (8)(A) The plan shall provide that no supportive services, nutrition services, or in-home services will be directly provided by the State agency or an area agency on aging in the State, unless, in the judgment of the State agency—
- (i) provision of such services by the State agency or the area agency on aging is necessary to assure an adequate supply of such services;
 - (ii) such services are directly related to such State agency's or area agency on aging's administrative functions; or
 - (iii) such services can be provided more economically, and with comparable quality, by such State agency or area agency on aging.
- (B) Regarding case management services, if the State agency or area agency on aging is already providing case management services (as of the date of submission of the plan) under a State program, the plan may specify that such agency is allowed to continue to provide case management services.
- (C) The plan may specify that an area agency on aging is allowed to directly provide information and assistance services and outreach.
- (9) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this title for fiscal year 2000, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2000.
- (10) The plan shall provide assurances that the special needs of older individuals residing in rural areas will be taken into consideration and shall describe how those needs have been met and describe how funds have been allocated to meet those needs.
- (11) The plan shall provide that with respect to legal assistance—
- (A) the plan contains assurances that area agencies on aging will
 - (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance;
 - (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Assistant Secretary; and
 - (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;
 - (B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency on aging makes a finding, after assessment, pursuant to standards for service promulgated by the Assistant Secretary, that any grantee selected is the entity best able to provide the particular services;
 - (C) the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals;
 - (D) the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and
 - (E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.
- (12) The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of

abuse of older individuals—

- (A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—
 - (i) public education to identify and prevent abuse of older individuals;
 - (ii) receipt of reports of abuse of older individuals;
 - (iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and
 - (iv) referral of complaints to law enforcement or public protective service agencies where appropriate;
 - (B) the State will not permit involuntary or coerced participation in the program of services described in this paragraph by alleged victims, abusers, or their households; and
 - (C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.
- (13) The plan shall provide assurances that each State will assign personnel (one of whom shall be known as a legal assistance developer) to provide State leadership in developing legal assistance programs for older individuals throughout the State.
- (14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—
- (A) identify the number of low-income minority older individuals in the State, including the number of low income minority older individuals with limited English proficiency; and
 - (B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.
- (15) The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—
- (A) to utilize in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and
 - (B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—
 - (i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and
 - (ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.
- (16) The plan shall provide assurances that the State agency will require outreach efforts that will—
- (A) identify individuals eligible for assistance under this Act, with special emphasis on—
 - (i) older individuals residing in rural areas;
 - (ii) older individuals with greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas;
 - (iii) older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas;
 - (iv) older individuals with severe disabilities;
 - (v) older individuals with limited English-speaking ability; and
 - (vi) older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
 - (B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.
- (17) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, to enhance services and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.
- (18) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(7), for older individuals who—
- (A) reside at home and are at risk of institutionalization because of limitations on their ability to function

- independently;
- (B) are patients in hospitals and are at risk of prolonged institutionalization; or
- (C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.
- (19) The plan shall include the assurances and description required by section 705(a).
- (20) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.
- (21) The plan shall—
 - (A) provide an assurance that the State agency will coordinate programs under this title and programs under title VI, if applicable; and
 - (B) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits provided under this title, if applicable, and specify the ways in which the State agency intends to implement the activities.
- (22) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(8).
- (23) The plan shall provide assurances that demonstrable efforts will be made—
 - (A) to coordinate services provided under this Act with other State services that benefit older individuals; and
 - (B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.
- (24) The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this title, to services under title VI, to comprehensive counseling services, and to legal assistance.
- (25) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.
- (26) The plan shall provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the State agency or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title.
- (27) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.
- (28)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.
- (B) Such assessment may include—
 - (i) the projected change in the number of older individuals in the State;
 - (ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;
 - (iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and
 - (iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.
- (29) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.
- (30) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

Sec. 308, Planning, Coordination, Evaluation, and Administration of State Plans

- (b)(3)(E) No application by a State under subparagraph (b)(3)(A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

Sec. 316. Waivers.

- (a) **IN GENERAL.**—The Assistant Secretary may waive any of the provisions specified in subsection (b) with respect to a State, upon receiving an application by the State agency containing or accompanied by documentation sufficient to establish, to the satisfaction of the Assistant Secretary, that—
- (1) approval of the State legislature has been obtained or is not required with respect to the proposal for which waiver is sought;
 - (2) the State agency has collaborated with the area agencies on aging in the State and other organizations that would be affected with respect to the proposal for which waiver is sought;
 - (3) the proposal has been made available for public review and comment, including the opportunity for a public hearing upon request, within the State (and a summary of all of the comments received has been included in the application); and
 - (4) the State agency has given adequate consideration to the probable positive and negative consequences of approval of the waiver application, and the probable benefits for older individuals can reasonably be expected to outweigh any negative consequences, or particular circumstances in the State otherwise justify the waiver.
- (b) **REQUIREMENTS SUBJECT TO WAIVER.**—The provisions of this title that may be waived under this section are—
- (1) any provision of sections 305, 306, and 307 requiring statewide uniformity of programs carried out under this title, to the extent necessary to permit demonstrations, in limited areas of a State, of innovative approaches to assist older individuals;
 - (2) any area plan requirement described in section 306(a) if granting the waiver will promote innovations or improve service delivery and will not diminish services already provided under this Act;
 - (3) any State plan requirement described in section 307(a) if granting the waiver will promote innovations or improve service delivery and will not diminish services already provided under this Act;
 - (4) any restriction under paragraph (5) of section 308(b), on the amount that may be transferred between programs carried out under part B and part C; and
 - (5) the requirement of section 309(c) that certain amounts of a State allotment be used for the provision of services, with respect to a State that reduces expenditures under the State plan of the State (but only to the extent that the non-Federal share of the expenditures is not reduced below any minimum specified in section 304(d) or any other provision of this title).
- (c) **DURATION OF WAIVER.**—The application by a State agency for a waiver under this section shall include a recommendation as to the duration of the waiver (not to exceed the duration of the State plan of the State). The Assistant Secretary, in granting such a waiver, shall specify the duration of the waiver, which may be the duration recommended by the State agency or such shorter time period as the Assistant Secretary finds to be appropriate.
- (d) **REPORTS TO SECRETARY.**—With respect to each waiver granted under this section, not later than 1 year after the expiration of such waiver, and at any time during the waiver period that the Assistant Secretary may require, the State agency shall prepare and submit to the Assistant Secretary a report evaluating the impact of the waiver on the operation and effectiveness of programs and services provided under this title.

Sec. 705. Additional State Plan Requirements.

- (a) **ELIGIBILITY.**—In order to be eligible to receive an allotment under this subtitle, a State shall include in the State plan submitted under section 307—
- (1) an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;
 - (2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;
 - (3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;
 - (4) an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out each of the vulnerable elder rights protection activities described in the chapter;
 - (5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5);
 - (6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3—
 - (A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—
 - (i) public education to identify and prevent elder abuse;

- (ii) receipt of reports of elder abuse;
 - (iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and
 - (iv) referral of complaints to law enforcement or public protective service agencies if appropriate;
- (B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph
- (A) by alleged victims, abusers, or their households; and
- (C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—
- (i) if all parties to such complaint consent in writing to the release of such information;
 - (ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or
 - (iii) upon court order; and
- (7) a description of the manner in which the State agency will carry out this title in accordance with the assurances described in paragraphs (1) through (6).



Marilyn Kinsman, Director
Division of Adult Services and Aging
July 15, 2009

Attachment C: Response to Specific Assurances

305(a)(2)(E).....305(a)(2)(G).....307(a)(14).....307(a)(3)(B).....307(a)(10)

With a land mass of 75,884.6 square miles and a total population of 754,844 according the 2000 US Census, South Dakota supports an average of 9.9 persons per square mile. The State of South Dakota has only two standard Metropolitan communities (Sioux Falls and Rapid City). The remainder of the state is classified as either rural or frontier. According to the Frontier Education Center, over one-third of South Dakota's population lives in a frontier area. South Dakota's minority population is predominantly Native American, with Native Americans representing 8.3 % of the population. All other minority populations together represent just over one percent of the population. Native Americans live in higher concentrations in the counties including or closely located to tribal lands. Data from the 2000 census indicates that eight counties in South Dakota have a population made up of over 50% Native Americans. (Shannon, Todd, Buffalo, Dewey, Ziebach, Corson, Bennett and Mellette). 98.2% of the population is Native Born and only 1.8% percent is foreign born. 93.5% of the population speaks English only. Of those that speak a language other than English (6.5%), 4.2% also speak English well and only 2.3% speak English less than well. Additionally, 13% of the population is below the poverty level in South Dakota.

Methods of Carrying out service preference of older individuals with the greatest economic or social needs, with particular attention to low income minority individuals:

- South Dakota supplements Title VI tribal nutrition programs on four of South Dakota's reservations. In addition, the South Dakota Title III nutrition program operates meal sites at additional sites on or in close proximity to tribal lands.

Tribal Nutrition Site	2008 Title III C Meals Served	2008 Title VI Meals Served	2009 Title III C Meals Served	2009 Title VI Meals Served
Cheyenne River	5,626	8,087	5,720	9,814
Rosebud	29,333	49,103	29,328	32,447
Sisseton-Wahpeton	4,180	45,056	5,626	8,087
Standing Rock	4,180	44,377	4,176	35,958

**As reported by the tribal nutrition sites on the State Fiscal Year*

- The Division of Adult Services and Aging works through 25 field offices located throughout the state, providing services to individuals in all counties. Screening methodologies are employed to ascertain that the individuals receiving preference for assistance are either elderly or adults with disabilities and in most need. Service is provided in all counties, including all tribal lands. Special circumstances are in place on the Pine Ridge Indian Reservation in Shannon County. According to the US Census Bureau's 2007 estimate, Shannon County is home to a population of which 47.4% are below poverty. No homemaker services provider could be located to provide contract services in this remote area. In this area only, the Department of Social Services, Division of Adult Services and Aging employs two part-time homemaker aides to assure homemaker services are delivered to the residents in need.
- Lutheran Social Services of South Dakota, with whom the Department of Social Services enjoys a good working relationship maintains provides interpreter services for a variety of different languages as needed.
- One of the contract providers through the Title III nutrition projects employs a woman of Native American heritage, who speaks the Lakota language, as a cook in the nutrition program. In addition to her services as a cook, this woman also volunteers for the SHIINE program, the Senior Health Insurance Program (SHIP) in South Dakota. Her knowledge of the language and ability to speak comfortably with tribal elders has broken both language and culture barriers in an area of the state that is challenged both by economy and social conditions.

306(a)(2) Demonstration of funds expended for priority services:

The following table illustrates the amount of Title III funds expended on the specified categories (Transportation – access to services, Case management – In home services, and Legal assistance) over the last three federal fiscal years. In the category of legal assistance, when it was noted that there was a dramatic drop off in clients served and funds used from

2006 to 2007, the Division intervened to encourage enhanced services. The efforts paid off with resurgence in service delivered in 2008.

Title III Funds	FFY 2006	FFY 2007	FFY 2008
Transportation	187,780	294,615	314,710
Case Management	921,608	1,271,329	1,112,450
Legal Assistance	79,618	45,794	138,401

307(a)(21)
see page 14 of State Plan

307(a)(29-30)
see pages 13 and 14 of State Plan

705(a)(7)
See pages 15 and 16 of State Plan

Attachment D: Advisory Council Members

ADULT SERVICES AND AGING ADVISORY COUNCIL ON AGING MEMBERS

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<p>Sam Wilson 5101 S. Nevada Ave. Ste. 150 Sioux Falls, SD 57108 W: 605-362-3045 swilson@aarp.org</p>	<p>Vacant</p>