

harm from the lack of adequate services. It is therefore the purpose of this Act, in support of the objectives of this chapter, to—

(1) make available comprehensive programs which include a full range of health, education, and supportive services to our older citizens who need them,

(2) give full and special consideration to older citizens with special needs in planning such programs, and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need.

(3) provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older citizens, and, where applicable, also furnish meaningful employment opportunities for many individuals, including older persons, young persons, and volunteers from the community, and

(4) insure that the planning and operation of such programs will be undertaken as a partnership of older citizens, community agencies, and State and local governments, with appropriate assistance from the Federal Government.

(Pub. L. 93-29, title I, §101, May 3, 1973, 87 Stat. 30; Pub. L. 97-115, §3(d), Dec. 29, 1981, 95 Stat. 1597.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93-29, May 3, 1973, 87 Stat. 30, as amended, known as the Older Americans Comprehensive Services Amendments of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 3001 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Older Americans Act of 1965 which comprises this chapter.

AMENDMENTS

1981—Par. (1). Pub. L. 97-115 substituted “supportive services” for “social services”.

SUBCHAPTER II—ADMINISTRATION ON AGING

§ 3011. Establishment of Administration on Aging

(a) Function and operation

There is established in the Office of the Secretary an Administration on Aging which shall be headed by an Assistant Secretary for Aging. Except for subchapter IX of this chapter, the Administration shall be the agency for carrying out this chapter. There shall be a direct reporting relationship between the Assistant Secretary and the Secretary. In the performance of the functions of the Assistant Secretary, the Assistant Secretary shall be directly responsible to the Secretary. The Secretary shall not approve or require any delegation of the functions of the Assistant Secretary (including the functions of the Assistant Secretary carried out through regional offices) to any other officer not directly responsible to the Assistant Secretary.

(b) Appointment of Assistant Secretary

The Assistant Secretary shall be appointed by the President by and with the advice and consent of the Senate.

(c) Office for American Indian, Alaskan Native, and Native Hawaiian Programs; Director

(1) There is established in the Administration an Office for American Indian, Alaskan Native, and Native Hawaiian Programs.

(2) The Office shall be headed by a Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Assistant Secretary.

(3) The Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging shall—

(A)(i) evaluate the adequacy of outreach under subchapter III of this chapter and subchapter X of this chapter for older individuals who are Native Americans and recommend to the Assistant Secretary necessary action to improve service delivery, outreach, coordination between subchapter III and subchapter X services, and particular problems faced by older Indians and Native Hawaiians; and

(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 3018(a) of this title to be submitted by the Assistant Secretary;

(B) serve as the effective and visible advocate in behalf of older individuals who are Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting such individuals, with particular attention to services provided to Native Americans by the Indian Health Service;

(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

(D) administer and evaluate the grants provided under this chapter to Indian tribes, public agencies and nonprofit private organizations serving Native Hawaiians;

(E) recommend to the Assistant Secretary policies and priorities with respect to the development and operation of programs and activities conducted under this chapter relating to older individuals who are Native Americans;

(F) collect and disseminate information related to problems experienced by older Native Americans, including information (compiled with assistance from public or nonprofit private entities, including institutions of higher education, with experience in assessing the characteristics and health status of older individuals who are Native Americans) on elder abuse, in-home care, health problems, and other problems unique to Native Americans;

(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older individuals who are Native Americans;

(H) develop and provide technical assistance and training programs to grantees under subchapter X of this chapter;

(I) promote coordination—

(i) between the administration of subchapter III of this chapter and the administration of subchapter X of this chapter; and

(ii) between programs established under subchapter III of this chapter by the Assistant Secretary and programs established under subchapter X of this chapter by the Assistant Secretary;

including sharing among grantees information on programs funded, and on training and technical assistance provided, under such subchapters; and

(J) serve as the effective and visible advocate on behalf of older individuals who are Indians, Alaskan Natives, and Native Hawaiians, in the States to promote the enhanced delivery of services and implementation of programs, under this chapter and other Federal Acts, for the benefit of such individuals.

(d) Office of Long-Term Care Ombudsman Programs

(1) There is established in the Administration the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the "Office").

(2)(A) The Office shall be headed by a Director of the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the "Director") who shall be appointed by the Assistant Secretary from among individuals who have expertise and background in the fields of long-term care advocacy and management. The Director shall report directly to the Assistant Secretary.

(B) No individual shall be appointed Director if—

(i) the individual has been employed within the previous 2 years by—

- (I) a long-term care facility;
- (II) a corporation that then owned or operated a long-term care facility; or
- (III) an association of long-term care facilities;

(ii) the individual—

- (I) has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service; or
- (II) receives, or has the right to receive, directly or indirectly remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or

(iii) the individual, or any member of the immediate family of the individual, is subject to a conflict of interest.

(3) The Director shall—

(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government regarding all Federal policies affecting such individuals;

(B) review and make recommendations to the Assistant Secretary regarding—

- (i) the approval of the provisions in State plans submitted under section 3027(a) of this title that relate to State Long-Term Care Ombudsman programs; and
- (ii) the adequacy of State budgets and policies relating to the programs;

(C) after consultation with State Long-Term Care Ombudsmen and the State agencies, make recommendations to the Assistant Secretary regarding—

(i) policies designed to assist State Long-Term Care Ombudsmen; and

(ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 3027(a)(9) of this title and section 3058g of this title, including provision of service to residents of board and care facilities and of similar adult care facilities;

(D) keep the Assistant Secretary and the Secretary fully and currently informed about—

(i) problems relating to State Long-Term Care Ombudsman programs; and

(ii) the necessity for, and the progress toward, solving the problems;

(E) review, and make recommendations to the Secretary and the Assistant Secretary regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;

(F) make recommendations to the Assistant Secretary and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State Long-Term Care Ombudsman programs;

(G) supervise the activities carried out under the authority of the Administration that relate to State Long-Term Care Ombudsman programs;

(H) administer the National Ombudsman Resource Center established under section 3012(a)(21)¹ of this title and make recommendations to the Assistant Secretary regarding the operation of the National Ombudsman Resource Center;

(I) advocate, monitor, and coordinate Federal and State activities of Long-Term Care Ombudsmen under this chapter;

(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 3027(a)(9) of this title and section 3058g of this title;

(K) have authority to investigate the operation or violation of any Federal law administered by the Department of Health and Human Services that may adversely affect the health, safety, welfare, or rights of older individuals; and

(L) not later than 180 days after September 30, 1992, establish standards applicable to the training required by section 3058g(h)(4) of this title.

(e) Elder abuse prevention and services

(1) The Assistant Secretary is authorized to designate within the Administration a person to

¹ See References in Text note below.

have responsibility for elder abuse prevention and services.

(2) It shall be the duty of the Assistant Secretary, acting through the person designated to have responsibility for elder abuse prevention and services—

(A) to develop objectives, priorities, policy, and a long-term plan for—

(i) facilitating the development, implementation, and continuous improvement of a coordinated, multidisciplinary elder justice system in the United States;

(ii) providing Federal leadership to support State efforts in carrying out elder justice programs and activities relating to—

(I) elder abuse prevention, detection, treatment, intervention, and response;

(II) training of individuals regarding the matters described in subclause (I); and

(III) the development of a State comprehensive elder justice system, as defined in section 3058aa-1(b) of this title;

(iii) establishing Federal guidelines and disseminating best practices for uniform data collection and reporting by States;

(iv) working with States, the Department of Justice, and other Federal entities to annually collect, maintain, and disseminate data relating to elder abuse, neglect, and exploitation, to the extent practicable;

(v) establishing an information clearinghouse to collect, maintain, and disseminate information concerning best practices and resources for training, technical assistance, and other activities to assist States and communities to carry out evidence-based programs to prevent and address elder abuse, neglect, and exploitation;

(vi) conducting research related to elder abuse, neglect, and exploitation;

(vii) providing technical assistance to States and other eligible entities that provide or fund the provision of the services described in subchapter XI;

(viii) carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation in all settings; and

(ix) promoting collaborative efforts and diminishing duplicative efforts in the development and carrying out of elder justice programs at the Federal, State and local levels; and

(B) to assist States and other eligible entities under subchapter XI to develop strategic plans to better coordinate elder justice activities, research, and training.

(3) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and section 3058aa-1 of this title.

(f) Mental health services

(1) The Assistant Secretary may designate an officer or employee who shall be responsible for the administration of mental health services authorized under this chapter.

(2) It shall be the duty of the Assistant Secretary, acting through the individual designated under paragraph (1), to develop objectives, priorities,

and a long-term plan for supporting State and local efforts involving education about and prevention, detection, and treatment of mental disorders, including age-related dementia, depression, and Alzheimer's disease and related neurological disorders with neurological and organic brain dysfunction.

(Pub. L. 89-73, title II, § 201, July 14, 1965, 79 Stat. 220; Pub. L. 93-29, title II, § 201(a), May 3, 1973, 87 Stat. 30; Pub. L. 93-351, § 2(a), July 12, 1974, 88 Stat. 357; Pub. L. 95-478, title V, § 503(b)(1), Oct. 18, 1978, 92 Stat. 1559; Pub. L. 98-459, title II, § 201, Oct. 9, 1984, 98 Stat. 1767; Pub. L. 100-175, title I, §§ 102, 107(a), 182(c), Nov. 29, 1987, 101 Stat. 928, 931, 964; Pub. L. 102-375, title I, § 102(b)(1)(A), (2), title II, § 201, title IX, § 904(a)(3), Sept. 30, 1992, 106 Stat. 1200, 1201, 1202, 1306; Pub. L. 103-171, § 3(a)(2), Dec. 2, 1993, 107 Stat. 1989; Pub. L. 106-501, title VIII, § 801(b)(1), Nov. 13, 2000, 114 Stat. 2291; Pub. L. 109-365, title II, § 201, Oct. 17, 2006, 120 Stat. 2527.)

REFERENCES IN TEXT

Section 3012(a)(21) of this title, referred to in subsec. (d)(3)(H), was redesignated section 3012(a)(18) of this title and section 3012(a)(24) was redesignated section 3012(a)(21) by Pub. L. 106-501, title II, § 201(1)(B), Nov. 13, 2000, 114 Stat. 2229.

AMENDMENTS

2006—Subsecs. (e), (f). Pub. L. 109-365 added subsecs. (e) and (f).

2000—Subsec. (d)(3)(C)(ii), (J). Pub. L. 106-501 substituted “3027(a)(9)” for “3027(a)(12)”.

1993—Subsec. (a). Pub. L. 103-171, § 3(a)(2)(A), (D), substituted “an Assistant Secretary for Aging” for “a Commissioner on Aging” and substituted “the Assistant Secretary” for “the Commissioner” wherever appearing.

Subsec. (b). Pub. L. 103-171, § 3(a)(2)(D), substituted “Assistant Secretary” for “Commissioner”.

Subsec. (c)(2). Pub. L. 103-171, § 3(a)(2)(B)(i), (D), substituted “a Director of the Office for” for “an Associate Commissioner on” and “Assistant Secretary” for “Commissioner”.

Subsec. (c)(3). Pub. L. 103-171, § 3(a)(2)(B)(ii), (D), substituted “Director of the Office for” for “Associate Commissioner on” in introductory provisions and “Assistant Secretary” for “Commissioner” wherever appearing in subpars. (A), (E), and (I)(ii).

Subsec. (d)(2). Pub. L. 103-171, § 3(a)(2)(C), (D), substituted “a Director of the Office of Long-Term Care Ombudsman Programs” for “an Associate Commissioner for Ombudsman Programs” in subpar. (A), “Director” for “Associate Commissioner” wherever appearing, and “Assistant Secretary” for “Commissioner” in two places in subpar. (A).

Subsec. (d)(3). Pub. L. 103-171, § 3(a)(2)(C)(ii), (D), substituted “Director” for “Associate Commissioner” in introductory provisions and “Assistant Secretary” for “Commissioner” in subpars. (B) to (F) and (H).

1992—Subsec. (a). Pub. L. 102-375, §§ 102(b)(2), 201(a), struck out “(hereinafter in this chapter referred to as the ‘Administration’)” after “Administration on Aging” and “(hereinafter in this chapter referred to as the ‘Commissioner’)” after “Commissioner on Aging” and inserted “(including the functions of the Commissioner carried out through regional offices)” after “functions of the Commissioner”.

Subsec. (c)(1). Pub. L. 102-375, § 102(b)(1)(A), substituted “Administration” for “Administration on Aging”.

Subsec. (c)(3)(A)(i). Pub. L. 102-375, § 904(a)(3)(A), inserted “individuals who are” before “Native Americans”.

Subsec. (c)(3)(B). Pub. L. 102-375, §§ 201(b)(1), 904(a)(3)(A), (B), inserted “individuals who are” before

“Native Americans within” and substituted “affecting such individuals, with particular attention to services provided to Native Americans by the Indian Health Service” for “affecting older Native Americans”.

Subsec. (c)(3)(E). Pub. L. 102-375, §904(a)(3)(A), (C), substituted “this chapter” for “the chapter” and inserted “individuals who are” after “older”.

Subsec. (c)(3)(F). Pub. L. 102-375, §201(b)(2), inserted before semicolon “, including information (compiled with assistance from public or nonprofit private entities, including institutions of higher education, with experience in assessing the characteristics and health status of older individuals who are Native Americans) on elder abuse, in-home care, health problems, and other problems unique to Native Americans”.

Subsec. (c)(3)(G). Pub. L. 102-375, §904(a)(3)(A), inserted “individuals who are” before “Native Americans”.

Subsec. (c)(3)(I), (J). Pub. L. 102-375, §201(b)(3)-(5), added subpars. (I) and (J).

Subsec. (d). Pub. L. 102-375, §201(c), added subsec. (d). 1987—Subsec. (a). Pub. L. 100-175, §182(c), substituted “the functions of the Commissioner” for “his functions”.

Pub. L. 100-175, §102, substituted “between the Commissioner and the Secretary” for “between the Commissioner and the Office of the Secretary” and “responsible to the Secretary” for “responsible to the Office of the Secretary”.

Subsec. (c). Pub. L. 100-175, §107(a), added subsec. (c).

1984—Subsec. (a). Pub. L. 98-459, §201(1), (3), (4), substituted “the agency” for “the principal agency”, inserted provision requiring establishment of a direct reporting relationship between Commissioner and Office of the Secretary, and substituted “approve or require” for “approve”.

Pub. L. 98-459, §201(2), which directed that “the functions of the Administration” be substituted for “his functions” in second sentence could not be executed because “his functions” appeared only in third sentence.

1978—Subsec. (a). Pub. L. 95-478 substituted “subchapter IX of this chapter” for “subchapter VI of this chapter and as otherwise specifically provided by the Older Americans Comprehensive Services Amendments of 1973”.

1974—Subsec. (a). Pub. L. 93-351 struck out provisions which had authorized the Secretary of Health, Education, and Welfare, under certain conditions, to approve a delegation of the functions of the Commissioner on Aging to officers not directly responsible to the Commissioner.

1973—Subsec. (a). Pub. L. 93-29 added subsec. (a). Former provision established the Administration on Aging in the Department of Health, Education, and Welfare.

Subsec. (b). Pub. L. 93-29 struck out provision respecting the direction of the Administration by a Commissioner on Aging, now incorporated in subsec. (a) of this section.

CHANGE OF NAME

Pub. L. 103-171, §3(c), Dec. 2, 1993, 107 Stat. 1991, provided that: “Any reference to the Commissioner on Aging in any order, rule, guideline, contract, grant, suit, or proceeding that is pending, enforceable, or in effect on the date of the enactment of this Act [Dec. 2, 1993] shall be deemed to be a reference to the Assistant Secretary for Aging.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100-175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as a note under section 3001 of this title.

MODIFICATION OF DELEGATION OF FUNCTIONS OF COMMISSIONER ON AGING IN EFFECT ON JULY 12, 1974

Pub. L. 93-351, §2(b), July 12, 1974, 88 Stat. 357, provided that: “Any delegation of the functions of the Commissioner on Aging [now Assistant Secretary for Aging] in effect on the date of enactment of this Act [July 12, 1974], issued pursuant to section 201(a) of such Act [subsec. (a) of this section], shall be modified by the Commissioner to comply with the provisions of the amendment made by this section [amending this section].”

§ 3012. Functions of Assistant Secretary

(a) Duties and functions of Administration

It shall be the duty and function of the Administration to—

(1) serve as the effective and visible advocate for older individuals within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting older individuals;

(2) collect and disseminate information related to problems of the aged and aging;

(3) directly assist the Secretary in all matters pertaining to problems of the aged and aging;

(4) administer the grants provided by this chapter;

(5) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment and implementation of programs designed to meet the needs of older individuals for supportive services, including nutrition, hospitalization, education and training services (including preretirement training, and continuing education), low-cost transportation and housing, assistive technology, and health (including mental health) services;

(6) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

(7) prepare, publish, and disseminate educational materials dealing with the welfare of older individuals;

(8) gather statistics in the field of aging which other Federal agencies are not collecting, and take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older individuals;

(9) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this chapter;

(10) coordinate Federal programs and activities related to such purposes;

(11) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and private organi-