

(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 part for a subpart in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before September 30, 1992, to carry out each of the vulnerable elder rights protection activities described in the subpart;

(5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 3058g(a)(5)(C) of this title, on the eligibility of entities for designation as local Ombudsman entities under section 3058g(a)(5) of this title;

(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under subpart III of this part—

(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 chapter 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 subchapter in accordance with the assurances described in paragraphs (1) through (6).

(b) Privilege

Neither a State, nor a State agency, may require any provider of legal assistance under this part to reveal any information that is protected by the attorney-client privilege.

(Pub. L. 89-73, title VII, § 705, as added Pub. L. 102-375, title VII, § 701, Sept. 30, 1992, 106 Stat.

1273; amended Pub. L. 103-171, § 3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106-501, title VII, § 703, Nov. 13, 2000, 114 Stat. 2289.)

PRIOR PROVISIONS

A prior section 3058d, Pub. L. 89-73, title VII, § 706, as added Pub. L. 98-459, title VII, § 701, Oct. 9, 1984, 98 Stat. 1791, authorized appropriations for fiscal years 1985, 1986, and 1987, prior to repeal by Pub. L. 100-175, title I, § 181, title VII, § 701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 705 of Pub. L. 89-73 was classified to section 3045d of this title prior to repeal by Pub. L. 95-478.

AMENDMENTS

2000—Subsec. (a)(4). Pub. L. 106-501, § 703(1), inserted “each of” after “carry out”.

Subsec. (a)(6)(C)(iii). Pub. L. 106-501, § 703(2), inserted “and” at end.

Subsec. (a)(7), (8). Pub. L. 106-501, § 703(3) to (5), redesignated par. (8) as (7), substituted “paragraphs (1) through (6)” for “paragraphs (1) through (7)”, and struck out former par. (7) which required inclusion in the State plan of assurances that the State agency would make funds available to carry out subpart V, giving priority to area agencies on aging based on greatest need for funds, would require certain conditions of eligibility, would distribute eligibility information to area agencies on aging, and would submit certain reports.

1993—Subsec. (a)(7)(D). Pub. L. 103-171 substituted “Assistant Secretary” for “Commissioner”.

§ 3058e. Demonstration projects

(a) Establishment

From amounts made available under section 3024(d)(1)(C) of this title after September 30, 1992, each State may provide for the establishment of at least one demonstration project, to be conducted by one or more area agencies on aging within the State, for outreach to older individuals with greatest economic need with respect to—

(1) benefits available under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State program established in accordance with such title);

(2) medical assistance available under title XIX of such Act (42 U.S.C. 1396 et seq.); and

(3) benefits available under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(b) Benefits

Each outreach project carried out under subsection (a) of this section shall—

(1) provide to older individuals with greatest economic need information and assistance regarding their eligibility to receive the benefits and assistance described in paragraphs (1) through (3) of subsection (a) of this section;

(2) be carried out in a planning and service area that has a high proportion of older individuals with greatest economic need, relative to the aggregate number of older individuals in such area; and

(3) be coordinated with State and local entities that administer benefits under such titles.

(Pub. L. 89-73, title VII, § 706, as added Pub. L. 102-375, title VII, § 701, Sept. 30, 1992, 106 Stat. 1275; Pub. L. 110-234, title IV, § 4002(b)(1)(B), (2)(BB), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, § 4(a), title IV, § 4002(b)(1)(B), (2)(BB), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1), (2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVI and XIX of the Act are classified generally to subchapters XVI (§1381 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (a)(3), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 706 of Pub. L. 89-73 was classified to section 3045e of this title prior to repeal by Pub. L. 95-478.

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110-246, §4002(b)(1)(B), (2)(BB), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(BB) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

SUBPART II—OMBUDSMAN PROGRAMS

§ 3058f. Definitions

As used in this subpart:

(1) Office

The term “Office” means the office established in section 3058g(a)(1)(A) of this title.

(2) Ombudsman

The term “Ombudsman” means the individual described in section 3058g(a)(2) of this title.

(3) Local Ombudsman entity

The term “local Ombudsman entity” means an entity designated under section 3058g(a)(5)(A) of this title to carry out the duties described in section 3058g(a)(5)(B) of this title with respect to a planning and service area or other substate area.

(4) Program

The term “program” means the State Long-Term Care Ombudsman program established in section 3058g(a)(1)(B) of this title.

(5) Representative

The term “representative” includes an employee or volunteer who represents an entity designated under section 3058g(a)(5)(A) of this title and who is individually designated by the Ombudsman.

(6) Resident

The term “resident” means an individual who resides in a long-term care facility.

(Pub. L. 89-73, title VII, §711, as added Pub. L. 102-375, title VII, §702, Sept. 30, 1992, 106 Stat. 1275; amended Pub. L. 114-144, §8(b), Apr. 19, 2016, 130 Stat. 347.)

AMENDMENTS

2016—Par. (6). Pub. L. 114-144 struck out “older” before “individual”.

§ 3058g. State Long-Term Care Ombudsman program**(a) Establishment****(1) In general**

In order to be eligible to receive an allotment under section 3058b of this title from funds appropriated under section 3058a of this title and made available to carry out this subpart, a State agency shall, in accordance with this section—

(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

(B) carry out through the Office a State Long-Term Care Ombudsman program.

(2) Ombudsman

The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy. The Ombudsman shall be responsible for the management, including the fiscal management, of the Office.

(3) Functions

The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that—

(i) are made by, or on behalf of, residents, including residents with limited or no decisionmaking capacity and who have no known legal representative, and if such a resident is unable to communicate consent for an Ombudsman to work on a complaint directly involving the resident, the Ombudsman shall seek evidence to indicate what outcome the resident would have communicated (and, in the absence of evidence to the contrary, shall assume that the resident wishes to have the resident’s health, safety, welfare, and rights protected) and shall work to accomplish that outcome; and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or