

TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 6 AREA AGENCY ON AGING REQUIREMENTS

9.2.6.1 ISSUING AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSD).
[9.2.6.1 NMAC - Rp, 9.2.6.1, 09/23/2025]

9.2.6.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.
[9.2.6.2 NMAC - Rp, 9.2.6.2, 09/23/2025]

9.2.6.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.
[9.2.6.3 NMAC - Rp, 9.2.6.3, 09/23/2025]

9.2.6.4 DURATION: Permanent.
[9.2.6.4 NMAC - Rp, 9.2.6.4, 09/23/2025]

9.2.6.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.6.5 NMAC - Rp, 9.2.6.5, 09/23/2025]

9.2.6.6 OBJECTIVE: The objective of this rule is to establish standards and responsibilities for the area agencies on aging.
[9.2.6.6 NMAC - Rp, 9.2.6.6, 09/23/2025]

9.2.6.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions.
[9.2.6.7 NMAC - Rp, 9.2.6.7, 09/23/2025]

9.2.6.8 LEGAL REFERENCES: [RESERVED]
[9.2.6.8 NMAC - Rp, 9.2.6.8, 09/23/2025]

9.2.6.9 AREA AGENCY ON AGING STRUCTURE: An area agency on aging must:

- A.** administer Older Americans Act and state programs within one or more designated planning and service areas;
- B.** have a full-time, qualified director and adequate qualified staff;
- C.** include a commitment of public, private, voluntary, and personal resources committed to supporting the system;
- D.** involve collaborative decision-making principles that include public, private, voluntary, faith-based, civic, and fraternal organizations including trusted leaders of communities in greatest economic and greatest social need, older individuals, and family caregivers in the community; and
- E.** have a board of directors comprised of leaders in the community, including leaders from groups identified as in greatest economic need and greatest social need, who have the respect, capacity, and authority necessary to convene all interested persons, assess needs, design solutions, track overall success, stimulate change, and plan community responses for the present and for the future.

[9.2.6.9 NMAC - Rp, 9.2.6.9, 09/23/2025]

9.2.6.10 AREA AGENCY ON AGING RESPONSIBILITIES: A designated area agency on aging, in accordance with 45 C.F.R. Section 1321, shall:

A. Comply, as applicable, with all federal and state statutes, rules and policies. In addition, a designated area agency on aging may not engage in any activity which is inconsistent with its statutory mission prescribed in the Older Americans Act or policies prescribed by the department.

B. Coordinate services for older persons in its planning and service area(s) and serve as an advocate and focal point for older individuals within the area. This responsibility shall include having a point of contact where anyone may go or contact for help, information, and referral on any aging issue.

C. Plan and develop collaborative linkages; share information; monitor and evaluate services; and lead the development of comprehensive and coordinated community-based systems.

D. Develop a service delivery system by contracting with other organizations to provide services to older individuals. The role of an area agency on aging is to engage in area-wide planning and development and to purchase needed services. An area agency on aging shall not provide direct services to older individuals, except where, in the judgment of the department, the area agency on aging has demonstrated that.

(1) the provision of such services by an area agency on aging is necessary to assure an adequate supply of such services; or

(2) such services are directly related to the area agency on aging's administrative function(s); or

(3) such services of comparable or higher quality can be provided more economically by the area agency on aging;

E. Conduct periodic public hearings on the effectiveness of services and the needs of older adults in the area.

F. Furnish appropriate training and technical assistance to providers of services in the area.

G. Develop and submit area plans and area plan amendments on or before dates determined by the department, or as needed, to the department for approval. Prior to department submission, proposed area plans and plan amendments shall be submitted to the agency's advisory council for review and comment. Submissions of area plans and plan amendments to the department shall be completed according to policies and guidelines issued by the department and shall cover each planning and service area administered. Proposed area plans and area plan amendments, when relevant, must:

(1) be made available for a public review and comment period of at least 30 calendar days unless a waiver is provided by the department during an emergency or when a time sensitive action is necessary;

(2) include objectively collected, and where possible, statistically valid, data with evaluative conclusions concerning the unmet need for supportive services, nutrition services, evidence-based disease prevention and health promotion services, family caregiver support services, and multipurpose senior centers. The area agency evaluations shall consider all services in these categories regardless of the source of funding for the services;

(3) be accessible to the public in a public location and provided to the public in print by request;

(4) incorporate services which address the incidence of hunger, food insecurity and malnutrition; social isolation; and physical and mental health conditions;

(5) shall provide, to the extent feasible, for the furnishing of services through self-directed care as defined in 42 U.S.C. Section 3002; and

(6) meet all of the requirements set forth in 45 C.F.R. Section 1321.65;

H. Establish and support an advisory council. The advisory council shall carry out advisory functions which further the area agency's mission of developing and coordinating community-based systems of services for all older individuals and family and older relative caregivers specific to each planning and service area.

(1) the advisory council membership shall include individuals and representatives of community organizations who will help to enhance the leadership role of the area agency on aging in developing community-based systems of services. The advisory committee shall include:

(a) more than fifty percent older persons age 60 years or older, including minority individuals who are participants or who are eligible to participate in programs under the Older Americans Act, with efforts made to include individuals identified as in greatest economic need and greatest social need as defined in 42 U.S.C. Section 3002;

(b) representatives of older persons;

(c) representatives of health care provider organizations, including providers of veterans' health care (if appropriate);

(d) representatives of supportive services provider organizations, which may include legal assistance, nutrition, evidence-based disease prevention and health promotion, caregiver, long-term care ombudsman, and other service providers;

(e) persons with leadership experience in the private and voluntary sectors;

(f) local elected officials;

- (g) the general public;
 - (h) family caregivers;
 - (i) representatives from Indian Tribes, Pueblos, or Tribal aging programs as available;
 - (j) older relative caregivers, including kin and grandparent caregivers of children or adults age 18-59 with a disability, as available; and
 - (k) additional membership as determined by the department or the area agency on aging.
- (2) the advisory council responsibilities shall include advising the area agency on aging relative to:
- (a) all matters relating to the development and administration of the area plan;
 - (b) conducting public hearings;
 - (c) representing the interest of older persons and family caregivers;
 - (d) reviewing and commenting on community policies, programs and actions affecting older persons and family caregivers with the intent of assuring maximum coordination and responsiveness to older persons and family caregivers;
 - (e) service provision and assisting in evaluation of such;
 - (f) policies, programs and actions representing the interests of older persons and encouraging the involvement of older persons;
 - (g) developing and administering the area plan; and
 - (h) ensuring the plan is available to older individuals, family caregivers, service providers, and the general public.
- (3) the advisory council shall develop, implement and make public bylaws governing at least the following:
- (a) the role and functions of the advisory council;
 - (b) the number and characteristics of membership;
 - (c) the procedures for membership selection; and
 - (d) the procedures for the conduct of the advisory council's business and activities, including preventing conflicts of interest.
- (4) the advisory council shall review and comment upon the area plan and amendments before transmittal to the department for approval.
- (5) the advisory council shall not operate as a board of directors for the area agency on aging. Individuals may not serve on both the advisory council and the board of directors for the same entity.
- I.** Determine the extent of need for supportive services, nutrition services and multipurpose senior centers, evaluate the effectiveness of resources to meet such need and enter into agreements with providers of services to meet the need.
- J.** Collaborate with public and private entities, including adult protective services, involved in the prevention, identification and treatment of abuse, neglect, and exploitation of older adults.
- K.** Comply with the requirements of its contract with the department.
- L.** Set objectives for providing services to older adults with the greatest economic or social needs, including minority adults with low-incomes and older adults residing in rural and frontier areas.
- M.** Set objectives for providing services to caregivers of older adults and older adult caregivers.
- N.** Identify and reach populations in need and inform them of the availability of assistance. This responsibility includes the offer of special help or targeted resources for the most vulnerable older individuals, family caregivers, and those in danger of losing their independence.
- O.** If there is a population of older Native American Indians in the service area, conduct outreach activities to identify those individuals and inform them of the availability of assistance. The area agency on aging will comply with all Title III and Title VI coordination responsibilities set forth in 45 C.F.R. Section 1321.69.
- P.** Establish a grievance procedure for persons who are dissatisfied with or denied services;
- Q.** List the telephone number of the area agency on aging in each telephone directory published in its service area(s).
- R.** Coordinate planning and delivery of transportation services (including the purchase of vehicles) to assist older adults in the service area(s).
- S.** Operate in an ethical and professional manner at all times, including in the development of policies and procedures that are in compliance with state agency policies and procedures as required in 45 C.F.R.

Section 1321.59. The area agency on aging must have policies and procedures regarding conflicts of interest in accordance with the Older Americans Act and 45 C.F.R. Section 1321.67.

- T.** Establish financial management systems in accordance with federal and state requirements.
 - U.** Implement a budget and systematic contracting process.
 - V.** Respond, within established deadlines, to requests by the department to implement specific corrective action as may be required.
 - W.** Collaborate with the foster grandparent, senior companion, and retired senior volunteer programs, the state health insurance program (SHIP), long-term care ombudsmen, and the aging and disability resource center.
 - X.** Provide information on a range of available public and private long-term care services and support options and assure that these options are readily accessible to all older individuals and family caregivers, without regard to their income level.
 - Y.** Provide effective referral from agency to agency to assure that information and assistance is provided, no matter how or where contact is made in the community.
 - Z.** Evidence sufficient flexibility to respond with appropriate individualized assistance, especially for vulnerable older individuals or family caregivers.
 - AA.** Be tailored to the specific nature of the community and the needs of older adults in the community.
 - BB.** Carry out the advocacy responsibilities described and mandated under 45 C.F.R. Section 1321.61.
- [9.2.6.10 NMAC - Rp, 9.2.6.10, 09/23/2025]

9.2.6.11 WITHDRAWAL OF AREA AGENCY ON AGING DESIGNATION: If the department determines that an area agency on aging has not made progress to correct any identified deficiency(ies), the department may initiate the withdrawal of designation process or an area agency on aging may voluntarily relinquish their designation, pursuant to 9.2.7 NMAC and 45 C.F.R. Section 1321.

[9.2.6.11 NMAC - Rp, 9.2.6.11, 09/23/2025]

9.2.6.12 AREA PLAN ADMINISTRATION: A designated area agency on aging must be responsible for the area plan administration. In this context, the area plan administration means funds used to carry out activities, as set forth in Section 306 of the Older Americans Act (42 U.S.C. Section 3026), and other activities to fulfill the mission of the area agency as set forth in 9.2.6 NMAC and in 45 C.F.R. Section 1321.55, including development of private pay programs or other contracts and commercial relationships. The resources made available to the area agency on aging shall be used in accordance with this section to finance those activities necessary to achieve the elements of a community-based system and shall be used consistent with the requirements for the provision of direct services as set forth in 45 C.F.R. Sections 1321.85 through 1321.93.

[9.2.6.12 NMAC - N, 09/23/2025]

HISTORY OF 9.2.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

SAA Rule No. 95-6, Area Agency on Aging Requirements, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-6, (filed 4/13/1995) - Repealed 6/30/2015.

9.2.6 NMAC, Area Agency on Aging Requirements filed 6/17/2015 Repealed effective 09/23/2025.

Other: 9.2.6 NMAC, Area Agency on Aging Requirements filed 6/17/2015 Replaced by 9.2.6 NMAC, Area Agency on Aging Requirements effective 09/23/2025.