

This rule was filed as SAA Rule No. 95-3.

TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 3 ELIGIBILITY FOR STATE AGENCY ON AGING SERVICES

9.2.3.1 ISSUING AGENCY: New Mexico State Agency on Aging
[Recompiled 10/01/01]

9.2.3.2 SCOPE: [RESERVED]
[Recompiled 10/01/01]

9.2.3.3 STATUTORY AUTHORITY: [RESERVED]
[Recompiled 10/01/01]

9.2.3.4 DURATION: [Permanent]
[Recompiled 10/01/01]

9.2.3.5 EFFECTIVE DATE: [Filed April 13, 1995]
[Recompiled 10/01/01]

9.2.3.6 OBJECTIVE: [RESERVED]
[Recompiled 10/01/01]

9.2.3.7 DEFINITIONS: [RESERVED]
[Recompiled 10/01/01]

9.2.3.8 LEGAL REFERENCES: OAA Sections 102(8), 102(9), 102(28), 102(29), 102(30), 102(38), 306(a)(5)(A)(i), 307(a)(13)(A), 307(a)(13)(I), 307(a)(13)(M), 343, 507(1) and 612; 45 CFR 1321.69 and 1321.3; Administration on Aging (AoA) RIM 89-14; and AoA-PI-89-2.
[Recompiled 10/01/01]

9.2.3.9 TITLE III B: All persons age 60 or older and their spouses, regardless of age, within the state are eligible for Title III B services. In-home services provided with Title III B shall be available to those individuals who qualify under the additional eligibility requirements identified for Title III D, in Section 4 [now 9.2.3.11 NMAC].
[Recompiled 10/01/01]

9.2.3.10 TITLE III C:

- A. Individuals eligible to receive congregate meals and nutrition support services include:
- (1) any person age 60 or older and his/her spouse regardless of age; or
 - (2) any handicapped or disabled individuals, who have not attained 60 years of age, but who reside in housing facilities occupied primarily by elderly persons at which congregate nutrition services are provided; or
 - (3) individuals, regardless of age, providing volunteer services during meal hours based on procedures established by each area agency; or
 - (4) individuals with disabilities, regardless of age, who reside at home with or accompany eligible, older individuals, are eligible based on procedures established by each area agency, which allow nutrition providers the option to provide such services.
- B. Individuals eligible to receive home delivered meals and nutrition support services include those individuals, age 60 or older, who have been determined to be in need of home delivered meals based on an assessment of need, developed by the state agency and area agencies, which assesses functional ability, adequate support systems and risk.
- (1) Area agencies must insure that each nutrition program uses written eligibility criteria to assess the need for service. At a minimum, the following criteria must be included:

(a) an older individual must be homebound, that is unable to leave home due to a disabling physical, emotional or cognitive impairment;

(b) an older individual must be unable to participate in a congregate meal because of impairment or lack of appropriate transportation;

(c) an older individual is unable to obtain food and prepare a nutritious meal; and

(d) an older individual has no family, friends or community support able and willing to assist in meal preparation.

(2) Depending on the individual's condition, the eligibility status must be reevaluated on a regular basis, but not less frequently than once every six months; and

(3) Priority shall be given to emergency requests, in which home delivered meals are started as soon as possible after the determination of urgent need.

(4) Each area agency shall develop eligibility criteria to be used by nutrition service providers to determine whether to provide home delivered meals to the spouse of a homebound individual. The overriding consideration given in the area agency's criteria shall be that the receipt of a meal by the spouse must be in the best interest of the homebound older person. The nutrition service provider shall make the determination of spouse eligibility for home delivered meals at the same time as it makes the assessment of homebound status.

(5) An eligible participant in the congregate nutrition program may receive ten (10) home delivered meals if that participant becomes temporarily homebound. Receipt of more than the ten (10) meals requires a provider assessment of the individual's need for home delivered meals.

(6) Individuals with disabilities, regardless of age, who reside at home with eligible, older individuals, are eligible based on procedures established by each area agency, which allow nutrition providers the option to provide such services.

C. In the case of the surviving spouse of an older person where the spouse is under 60, nutrition services may continue to be provided even after the older person's death; provided that the living spouse has not remarried a person younger than 60.

[Recompiled 10/01/01]

9.2.3.11 TITLE III D: To be eligible for Title III D in-home services, an individual must be 60 years of age or older, frail, without other significant support systems, and in greatest economic or social need.

[Recompiled 10/01/01]

9.2.3.12 TITLE III F: To be eligible for Title III F disease prevention and health promotion services an individual must be 60 years of age.

[Recompiled 10/01/01]

9.2.3.13 TITLE III PREFERENCE: Preference shall be given to serving those older individuals with the greatest social or economic need, with particular attention to low-income minorities.

[Recompiled 10/01/01]

9.2.3.14 TITLE V: Eligibility requirements are:

A. an individual must be 55 years of age or older; no person is ineligible solely for reasons of advanced age and no upper age limitation may be used;

B. an individual's income must be at or below one hundred twenty-five percent (125%) of the poverty level established by the U.S. office of management and budget; and

C. an individual must be a resident of the state of New Mexico.

[Recompiled 10/01/01]

9.2.3.15 TITLE VI SUPPLEMENTAL FUNDS: Eligibility for OAA Title VI programs partially funded with state funds shall follow OAA Title VI eligibility guidelines.

[Recompiled 10/01/01]

9.2.3.16 TITLE VII: To be eligible for Title VII services an individual must be 60 years of age.

[Recompiled 10/01/01]

9.2.3.17 STATE FUNDED PROGRAMS: Eligibility for programs funded solely with state funds are as follows:

- A. Health insurance and benefits assistance corps (HIBAC). Eligibility is the same as that for OAA Title III programs.
 - B. Guardianship/conservatorship/money management program. All adults (age 18 or older) in need of guardianship, conservatorship, money management or guardianship diversion services; and whose household income is at or below two hundred percent (200%) of poverty level, are eligible for services.
 - C. State funded employment program. Eligibility is the same as that for the OAA Title V program, with waivers as allowed in the employment program policy manual section.
 - D. Foster grandparent program. Eligibility is the same as that for the corporation for national and community service (CNCS) program.
 - E. Senior companion program. Eligibility is the same as that for the CNCS program.
 - F. Retired senior volunteer program. Eligibility is the same as that for the CNCS program.
 - G. The director of the state agency may establish eligibility requirements for services provided solely with state funds. Such requirements will be based on the specific needs of the individual(s) to be served, and the specific initiatives and intent of the N.M. state legislature.
- [Recompiled 10/01/01]

9.2.3.18 CONTRIBUTIONS: Payment for services shall not be a condition for participation in any services funded with Older Americans Act funding.

- A. Programs must provide each eligible participant with an opportunity to contribute, voluntarily and free from pressure, toward the cost of any provided service. Such contributions may include food stamps.
- B. The area agency must establish and implement procedures which will protect the privacy of the participant's decision to contribute or not contribute toward the service rendered.
- C. Under no circumstance may an eligible participant be denied service by a provider who receives funds from a designated area agency or the state agency to provide that service, because of a personal decision not to contribute for services.
- D. Local service providers must determine suggested contribution levels taking into consideration the income ranges of eligible individuals which they are serving.
- E. Area agencies must require that each provider post the suggested contributions at the entry point of the service premises and in a location(s) that is most convenient to the participants.
- F. Specific requirements (such as means test, required membership fees, membership requirements or even the location of the facility) which discourage or prohibit the participation by certain groups of eligible persons are prohibited when state or federal funds are used to support any portion of the cost of the services, unless federal laws allow such requirements or the state agency has approved such allowance for programs or services funded solely with state funds, based on legislative intent. For example, means tests are applied in determining eligibility for the senior employment programs, foster grandparent program, and senior companion program.
- G. Depending upon legislative intent, state statute or requirements of other federal agencies or programs, the state agency may allow programs to use sliding fee scales as a basis for charging fees for service. Such sliding fee scales must target free or low-cost participation to low-income older individuals. Such sliding fee scales must be approved by the state agency prior to implementation.

[Recompiled 10/01/01]

HISTORY OF 9.2.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-3, Eligibility for State Agency on Aging Services, filed 4/13/95.

History of Repealed Material: [RESERVED]