|  |  |  |
| --- | --- | --- |
|  |  |  |

**10**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**149**

**OFFICE OF AGING AND DISABILITY SERVICES**

**f/k/a/ OFFICE OF ELDER SERVICES**

**Chapter 5**

**POLICY MANUAL**

**Effective January 2, 2001**

Note exceptions:

Sections 40, 61, 62, 63, 68, 69 amended effective July 1, 2003

Sections 40, 61, 62, 63, 65, 68, 69, 70 and 75 amended effective July 8, 2002

Section 73 amended effective July 1, 2001

Section 74 repealed effective July 8, 2002

Section 73 repealed effective August 10, 2004

Section 71 amended effective September 1, 2004

Sections 65, 67, 70, 75 amended effective September 1, 2004

Sections 40 and 63 amended effective October 4, 2004

Sections 63 and 69 amended effective October 30, 2005

Section 10 amended effective July 1, 2006

Section 69 amended effective July 2, 2006

Sections 11, 12, 14, 15, 16 effective October 6, 2007

Sections 68 and 69, effective February 1, 2009

Sections 63 and 69 amended (EMERGENCY) effective July 1, 2009

Sections 63 and 69 amended effective September 28, 2009

Sections 11, 12, and 14 repealed effective May 28, 2018

Section 65 repealed effective February 14, 2023

11 State House Station

35 Anthony Avenue

Augusta, Maine 04333-0011

Telephone: (207) 624-5335

TTY: (207) 624-5442

TTY (Toll Free): 1 (888) 720-1925

Fax: (207) 624-5361

**NON-DISCRIMINATION NOTICE**

The Maine Department of Health and Human Services does not discriminate on the basis of sex, race, color, national origin, disability, age, gender, sexual orientation, religious or political belief, ancestry, familial or marital status, genetic information, association, previous assertion of a claim or right, or whistleblower activity, in admission or access to, or the operation of its policies, programs, services, or activities, or in hiring or employment practices.

This notice is provided as required by and in accordance with Title VI of the Civil Rights Act of 1964, as amended by the Civil Rights Restoration Act of 1991 (42 U.S.C. § 1981, 2000e *et seq*.); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794); the Age Discrimination Act of 1975, as amended (42 U.S.C. §6101 *et seq*.);Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq*.); Title IX of the Education Amendments of 1972; Section 1557 of the Affordable Care Act; the Maine Human Rights Act; Executive Order Regarding State of Maine Contracts for Services; and all other laws and regulations prohibiting such discrimination.

Questions, concerns, complaints or requests for additional information regarding the ADA and hiring or employment practices may be forwarded to the DHHS ADA/EEO Coordinators at 11 State House Station, Augusta, Maine 04333-0011; 207-287-1877 (V); 207-215-5980 (C); or Maine Relay 711 (TTY).

Questions, concerns, complaints or requests for additional information regarding the ADA and programs, services, or activities may be forwarded to the DHHS ADA/Civil Rights Coordinator, at 11 State House Station, Augusta, Maine 04333-0011; 207-287-3707 (V); Maine Relay 711 (TTY); or ADA-CivilRights.DHHS@maine.gov.

Civil rights complaints may also be filed with the U.S. Department of Health and Human Services, Office of Civil Rights, by phone at 800-368-1019 or 800-537-7697 (TDD); by mail to 200 Independence Avenue, SW, Room 509, HHS Building, Washington, D.C. 20201; or electronically at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>. Individuals who need auxiliary aids for effective communication in program and services of DHHS are invited to make their needs and preferences known to the ADA/Civil Rights Coordinator.

Funding for this publication was made available through the

Maine Department of Health and Human Services

Office of Aging and Disability Services

Appropriation Number 010-10A-6000-012

**TABLE OF CONTENTS** **PAGE**

**SECTION 1: DEFINITIONS** 1

**SECTION 10: THE STATE AGENCY** 1

10.01 DESIGNATION 1

10.02 POLICIES OF THE BUREAU OF ELDER AND ADULT SERVICES 1

(A) Factual and Policy Basis

(B) Policy Manual Changes

10.03 ALLOCATION OF FUNDS 2

(A) Title III Funds

(B) Priority Social Services Program (PSSP)

(C) Title V - Senior Community Service Employment Program (SCSEP)

(D) USDA Allotments

(E) Alzheimer's Respite Funds

(F) Volunteer Services Funds

(G) Adult Day Care

(H) Home Based Care Funds

(I) Congregate Housing Services Program

10.04 FUNDING FORMULAS 3

(A) The Intrastate Funding Formula

(B) Long Term Care Formula

**SECTION 15: ADULT PROTECTIVE SERVICES: GUARDIANSHIP/CONSERVATORSHIP** 1

15.01 PUBLIC GUARDIANSHIP AND CONSERVATORSHIP: INTRODUCTION 1

(A) Authorization

(B) Intent

15.02 NOMINATIONS AND REFERRALS 1

(A) Capacity

(B) Nominations

(C) Referrals

15.03 PRIVATE GUARDIANSHIP AND CONSERVATORSHIP STUDY 1

(A) Investigation/Obtaining a Legal Appointment

(B) Petition

15.04 PETITION AND COURT PLAN 2

(A) Petition

(B) Court Plan

15.05 TEMPORARY PUBLIC APPOINTMENTS 3

(A) Temporary Guardianships/Conservatorship/Other Temporary Orders

15.07 ESTATE MANAGEMENT 3

(A) Estate Management Fees and Other Administrative Expenses

(B) Retention and Disposition of Assets

15.08 *(Not in use)*

15.09 LEVELS OF AUTHORIZATION DELEGATED BY THE COMMISSIONER 4

(A) Commissioner Level Authority

(B) Delegated Authority

15.10 HUMAN IMMUNODEFICIENCY VIRUS 7

(A) Testing

(B) Confidentiality

(C) Coordination with other DHS Bureaus

15.11 CLASS MEMBER PUBLIC WARDS 8

(A) Performance Obligations

(B) Referrals for Community Support Services and ISPs

(C) Advocacy

15.12 DISMISSALS/TERMINATIONS 10

**SECTION 16: ADULT PROTECTIVE SERVICES: ADMINISTRATION** 1

16.01 OFFICE OF ELDER SERVICES REGIONAL ADULT PROTECTIVE CASE RECORDS 1

(A) Case Records

(B) Security of Case Records

(C) Retention and Destruction of Case Records

16.02 INTER-DISTRICT TRANSFERS, NOTIFICATION AND ASSISTANCE 2

(A) Transfers

(B) Assistance

(C) Role of Casework Supervisors and PPAs

(D) Exceptions

16.03 CASE REVIEW 2

**SECTION 30: AREA AGENCIES ON AGING** 1

30.01 DESIGNATION 1

(A) Application for Designation

(B) Appeal to the Commissioner of AoA

(C) Changes in PSAs

30.02 FUNCTIONS AND RESPONSIBILITIES OF AAA's 2

(A) Coordination and Provision of Services

(B) Review and Comment on Applications of Other Entities

(C) Monitoring of Related Activities

(D) Use of Local Resources

(E) Conduct of Public Hearings

(F) Represent the Interests of Older People

30.03 POLICIES AND PROCEDURES WITHIN AAA's 3

(A) Area Agency Staffing

(B) Personnel Policies

(C) Affirmative Action Plan

(D) Emergency or Disaster Plan

(E) Program Policies and Procedures

(F) Needs Assessment and Resource Inventory

30.04 COMMUNITY FOCAL POINTS 4

(A) Designation of Focal Points

(B) Developing Collocation of Services

30.05 AREA AGENCY ADVISORY COUNCIL (AAAC) 5

30.06 AAA BOARD OF DIRECTORS 5

(A) Bylaws

(B) Responsibilities

(C) Training

(D) Expenses

30.07 AREA PLANS 5

(A) Area Plan Development

(B) Amendments

(C) Public Review of the Area Plan and Amendments

(D) Responsibility of the Bureau of Elder and Adult Services

(E) Progress Reports

30.08 REQUIREMENTS FOR GRANTS AND CONTRACTS 7

(A) Must Reflect Area Plan Goals and Objectives

(B) Grants and Contracts Must Include

(C) Priority Clients

(D) Records and Reports

(E) Guidelines for Awarding Grants and Subcontracts

30.09 PROHIBITION AGAINST PROVISION OF DIRECT SERVICE 8

(A) Definitions

(B) Conditions for Consideration of a Waiver

(C) Requesting a Waiver

30.10 ELDERCARE 9

(A) Definition

(B) Prior Approval

(C) Requirements

**SECTION 40: GENERAL ADMINISTRATIVE REQUIREMENTS FOR ALL PARTIES** 1

40.01 RESPONSIBILITY OF AAA, SERVICE PROVIDERS, AND AUTHORIZED AGENTS OF THE BUREAU OF ELDER AND ADULT SERVICES WHEN DENYING, REDUCING OR TERMINATING BUREAU OF ELDER AND ADULT SERVICES FUNDED SERVICES PURSUANT TO THIS POLICY MANUAL 1

40.02 HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS (OAH) 2

(A) Parties Entitled to a Hearing

(B) Hearing Procedures

40.03 A GOOD CAUSE EXCEPTION 3

(A) Failure to File Timely Request

(B) Good Cause

(C) Right to Appeal Denial of Good Cause

40.04 COMPLAINT RESOLUTION FOR AAA, SERVICE PROVIDERS AND AUTHORIZED AGENTS OF THE BUREAU OF ELDER AND ADULT SERVICES AFFECTED BY ACTIONS OF BUREAU OF ELDER AND ADULT SERVICES. 4

(A) Parties Entitled to Complaint Resolution

(B) Complaint Resolution Procedures of the Bureau of Elder and Adult Services

40.05 CONFIDENTIALITY OF INFORMATION 5

(A) Confidentiality

(B) Public Access and Disclosure of Information by the Bureau of Elder and Adult Services

40.06 CONTRIBUTIONS FOR TITLE III SERVICES 6

40.07 PURCHASING GOODS AND SERVICES IN EXCESS OF $25,000 6

(A) Purchasing Requirements

(B) Planning Service Area Coverage Not Required

40.08 BUREAU OF ELDER AND ADULT SERVICES ACCESS TO RECORDS AND REPORTS 7

(A) Provision of Records Without Cost

(B) Providing Accurate and Timely Reports

40.09 WAIVER OR MODIFICATION OF THESE RULES 7

(A) Request for Waiver

(B) Time Period

(C) Content of Waiver Request

**SECTION 61: ADULT DAY SERVICES** 1

61.01 DEFINITIONS 1

61.02 ELIGIBILITY 3

61.03 DURATION OF SERVICES 5

61.04 COVERED SERVICES 5

61.05 NON COVERED SERVICES 6

61.06 POLICIES AND PROCEDURES 7

61.07 PROFESSIONALS AND OTHER QUALIFIED STAFF 8

61.08 CONSUMER RECORDS AND PROGRAM REPORTS 9

61.09 RESPONSIBILITIES OF THE BUREAU OF ELDER AND ADULT SERVICES 9

61.10 CONSUMER PAYMENTS 10

**SECTION 62: CONGREGATE HOUSING SERVICES PROGRAM (CHSP)** 1

62.01 DEFINITIONS 1

62.02 ELIGIBILITY 4

62.03 DURATION OF SERVICES 6

62.04 COVERED SERVICES 7

62.05 NON COVERED SERVICES 9

62.06 POLICIES AND PROCEDURES 10

62.07 PROFESSIONAL AND OTHER QUALIFIED STAFF 11

62.08 CONSUMER RECORDS AND PROGRAM REPORTS 12

62.09 RESPONSIBILITIES OF THE BUREAU OF ELDER AND ADULT SERVICES 13

62.10 CONSUMER PAYMENTS 14

**SECTION 63: IN-HOME AND COMMUNITY SUPPORT SERVICES FOR ELDERLY AND OTHER ADULTS**

63.01 DEFINITIONS

63.02 ELIGIBILITY

63.03 DURATION OF SERVICES

63.04 COVERED SERVICES

63.05 NON COVERED SERVICES

63.06 POLICIES AND PROCEDURES

63.07 PROFESSIONAL AND OTHER QUALIFIED STAFF

63.08 CONSUMER RECORDS AND PROGRAM REPORTS

63.09 RESPONSIBILITIES OF THE BUREAU OF ELDER AND ADULT SERVICES

63.10 PERSONAL SUPPORT SERVICES

63.11 CONSUMER PAYMENTS

63.12 METHOD FOR REVIEWING REQUEST FOR WAIVERS OF CONSUMER PAYMENT

**SECTION 64: LEGAL ASSISTANCE** 1

64.01 AWARD OF FUNDS 1

**SECTION 66: NATIONAL SENIOR SERVICE CORPORATION** 1

66.01 BUREAU OF ELDER AND ADULT SERVICES ADMINISTERED FUNDS FOR NSSC 1

**SECTION 67: OUTREACH, INTAKE, AND INFORMATION AND & ASSISTANCE/REFERRAL** 1

67.01 PURPOSES 1

67.02 ELIGIBILITY 1

67.03 RQUIREMENTS OF AAA 1

67.04 CONSUMER RECORDS AND REPORTS 2

67.05 RIGHT OF APPEAL REGARDING OUTREACH, INTAKE AND INFORMATION & REFERRAL 3

**SECTION 68: RESPITE CARE FOR PEOPLE WITH ALZHEIMER'S OR RELATED DISORDERS** 1

68.01 DEFINITIONS 1

68.02 ELIGIBILITY 2

68.03 DURATION OF SERVICES 2

68.04 COVERED SERVICES 3

68.05 NON COVERED SERVICES 3

68.06 POLICIES AND PROCEDURES 4

68.07 PROFESSIONAL AND OTHER QUALIFIED STAFF 4

68.08 CONSUMER RECORDS AND PROGRAM REPORT 5

68.09 RESPONSIBILITIES OF THE BUREAU OF ELDER AND ADULT SERVICES 6

68.10 CONSUMER PAYMENT 6

**SECTION 69: OFFICE OF ELDER SERVICES ADMINISTERED HOMEMAKER SERVICES**

69.01 DEFINITIONS

69.02 ELIGIBILITY

69.03 DURATION OF SERVICES

69.04 COVERED SERVICES

69.05 NON COVERED SERVICES

69.06 POLICIES AND PROCEDURES

69.07 PROFESSIONAL AND OTHER QUALIFIED STAFF

69.08 CONSUMER RECORDS AND PROGRAM REPORTS

69.09 RESPONSIBILITIES OF THE OFFICE OF ELDER SERVICES

69.10 CONSUMER PAYMENT

**SECTION 70: SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)** 1

70.01 REQUIREMENTS OF SUBGRANTEES 1

70.02 RESPONSIBILITIES OF THE BUREAU OF ELER AND ADULT SERVICES 1

70.03 PARTICIPANT ELIGIBILITY 1

70.04 TRAINING SITE ELIGIBILITY 1

70.05 RECORDS AND REPORTS 2

70.06 RIGHT OF APPEAL 2

**SECTION 71. CERTIFICATE OF NEED FOR NURSING FACILITY LEVEL OF CARE PROJECTS** 1

71.01 INTRODUCTION 1

71.02 DEFINITIONS 1

71.03 SCOPE OF CON-COVERED ACTIVITIES 7

71.04 IMPLICATIONS OF NONCOMPLIANCE 11

71.05 APPLICATION PROCESS 12

**SECTION 72. CONTINUING CARE RETIREMENT COMMUNITIES** 1

72.01 GENERAL REQUIREMENTS FOR PRELIMINARY CERTIFICATE OF APPROVAL 1

72.02 APPLICATION 1

72.03 FEES 1

72.04 FINAL CERTIFICATE OF AUTHORITY 1

**SECTION 74. ASSISTED LIVING SERVICES *PROGRAMS*** *(REPEALED eff. July 8, 2002)*

**SECTION 75. FAMILY CAREGIVER SUPPORT PROGRAM** 1

75.01 DEFINITIONS 1

75.02 REQUIREMENTS OF AREA AGENCIES ON AGING 1

75.03 STAFF REQUIREMENTS 3

75.04 RECORDS AND REPORTS 3

75.05 RIGHTS OF APPEAL REGARDING FAMILY CAREGIVER SUPPORT 3

**STATUTORY AUTHORITY**

**PL 99, Chap 4; 22 MRSA Sec. 312, 5106, 5107, 6203, 7303, 7915 and**

**24-A MRSA Sec. 6214**

**Recent History**

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 5, 1996

AMENDED:

 November 1, 1997

(Note: Section 61 is suspended from October 15, 1997 to January 13, 1998 by the emergency adoption of 10-144 Chapter 117. Section 62.03 is suspended from October 20 by emergency adoption 97-344 effective that date, and repealed effective November 1, 1997 by adoption 97-366. See 10-144 CMR Ch. 113 for the subject matter of Section 62.03.)

AMENDED:

 December 24, 1997 - removal of three words from Section 68(D)

NON-SUBSTANTIVE CORRECTIONS:

 February 13, 1998 - numbering corrected to 15.08 and 15.09 (had been in error 15.06 and 15.08

AMENDED:

 June 2, 1998 - Section 71

NON-SUBSTANTIVE CORRECTION:

 August 5, 1998 - rule reference in Section 71.05(F)(13)(b)

AMENDED:

 September 23, 1998 - added Sections 73 and 74)

#  July 1, 1999 - Sections 40, 61, 62, 63, 68, 69, 73

August 14, 1999 - Sections 1, 40, 61, 62, 63, 66, 68, 69, 73

CORRECTION:

 October 21, 1999 - restored the November 1, 1998 version of Section 71 as authorized by a September 3, 1999 memo from Assistant Attorney General Jane Gregory

AMENDED:

 February 1, 2000 - Sections 61, 62, 63, 68, 69, 73 *(EMERGENCY - Major Substantive - undergoing legislative review)*

 March 29, 2000 - routine technical changes to Sections 63, 69, 73

 May 21, 2000 - major substantive changes to Sections 61, 62, 63, 68, 69, 73

 January 2, 2001 - Sections 1, 15, 40, 61, 62, 63, 68, 69, 74

NON-SUBSTANTIVE CORRECTIONS:

 February 5, 2001 - Introduction, Sections 10, 11, 12, 14, 16, 30, 64, 65, 66, 67, 70, 71, 72, 73 - punctuation and renumbering only

AMENDED:

 July 1, 2001 - Section 73

 May 23, 2002 - Section 73.02(A)(4), filing 2002-160 *(EMERGENCY - expires August 21, 2002.)* Note: the Department of Labor, Bureau of Rehabilitation Services, has been assigned rule-making power over this area of the Manual. The Manual is being reorganized in consequence and the relevant parts will be relocated to the Department of Labor when appropriate.

REPEALED:

 July 8, 2002 - Section 74, filing 2002-250

AMENDED:

 July 8, 2002 - Sections 40, 61, 62, 63, 65, 68, 69, and 70, filing 2002-250

NEW SECTION:

 July 8, 2002 - Section 75, filing 2002-250

AMENDED:

 July 1, 2003 - Sections 40, 61, 62, 63, 68, and 69, filing 2003-204

REPEALED:

 August 10, 2004 - Section 73, filing 2004-311

AMENDED:

 September 1, 2004 - Section 71, filing 2004-310

 September 1, 2004 - Sections 65, 67, 70, 75, filing 2004-367

 October 4, 2004 - Sections 40 and 63, filing 2004-427

 October 30, 2005 - Section 63, filing 2005-446

 October 30, 2005 - Section 69, filing 2005-447

 July 1, 2006 - Section 10, filing 2006-273

 July 2, 2006 - Section 69, filing 2006-291

 October 6, 2007 - Sections 11, 12, 14, 15, 16, filing 2007-423\

 February 1, 2009 - Sections 68 and 69, filing 2009-16

 July 1, 2009 - Sections 63 and 69, filing 2009-296 (EMERGENCY)

 September 28, 2009 - Sections 63 and 69, filing 2009-505

 May 28, 2018 - Sections 11, 12, and 14 repealed, filing 2018-086

REPEALED:

 February 14, 2023 Section 65, filing 2023-021