

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The top bulb has a dark blue cap, and the bottom bulb has a light blue cap.

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Report 96-976

*Older Americans Act: 105th Congress Issues*

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Updated December 1, 1998

**Abstract.** This report tracks Older Americans Act reauthorization issues, compares H.R. 4099 (Riggs) with current law, and describes other bills that were introduced in the 105th Congress, including S. 2295 (McCain). It also discusses issues in reauthorization. These include: consolidation and restructuring of programs; restructuring of the community service employment program; the interstate funding formula for supportive and nutrition services; targeting of services to low-income minority individuals; and cost-sharing for supportive and nutrition services. Authorization of the Act expired in 1995, but appropriations legislation has continued the program.

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# CRS Report for Congress

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## Older Americans Act: 105<sup>th</sup> Congress Issues

Updated December 1, 1998

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## ABSTRACT

This report sums up 105<sup>th</sup> Congress action on reauthorization of the Older Americans Act. It describes proposals that were introduced (H.R. 4099/Riggs; S. 2295/McCain; H.R. 4344/DeFazio) and discusses issues in reauthorization. Issues included: consolidation and restructuring of programs; restructuring of the community service employment program; and revision of provisions related to the interstate funding formula for supportive and nutrition services, targeting of services to low-income minority individuals, and cost-sharing for supportive and nutrition services. Neither the 104<sup>th</sup> nor the 105<sup>th</sup> Congress reauthorized the Act after its authorizations of appropriations expired in 1995. Appropriations legislation for FY1996-FY1999 has continued programs under the Act. This report will not be updated. For information on Older Americans Act funding, see CRS Report 95-917, *Older Americans Act: Programs and Funding*.

# Older Americans Act: 105<sup>th</sup> Congress Issues

## Summary

Authorizations of appropriations for the Older Americans Act expired at the end of 1995. The 105<sup>th</sup> Congress, like the 104<sup>th</sup> Congress, did not reauthorize the Act. Appropriations legislation for the last four years—FY1996 through FY1999—has continued the program.

The Older Americans Act, funded at \$1.4 billion in FY1999, has been reauthorized 12 times, the last time in 1992. Its most visible program is the elderly nutrition program, which provides 240 million congregate and home-delivered meals to older persons. Other services it funds include a wide range of supportive services, such as home care services for the frail elderly, ombudsman services for residents of long-term care facilities, and elder abuse prevention services.

In the past, the Act has received bipartisan congressional support. However, beginning with the 104<sup>th</sup> Congress, and continuing through the 105<sup>th</sup> Congress, Members of Congress have differed about certain provisions that were under discussion as part of the reauthorization. Although the House Economic and Educational Opportunities Committee and the Senate Labor and Human Resources Committee reported bills to reauthorize the Act in 1996, these bills were not acted upon by either chamber.

Issues that continued to be in controversy in the 105<sup>th</sup> Congress included proposals to: restructure the Act's programs and reduce the number of authorizations of appropriations; restructure the community service employment program; impose cost-sharing requirements on participants toward services they receive; revise the formula for distributing funds for nutrition and supportive services to states; and change provisions that target services to low income minority older persons.

In June 1998, the Chairman of the Subcommittee on Early Childhood, Youth and Families of the House Education and the Workforce Committee (which has responsibility for the Act) introduced H.R. 4099, the Older Americans Act Amendments of 1998. The bill revisited issues that remained in controversy at the end of the 104<sup>th</sup> Congress, and modified proposals that were contained in the House Committee-reported 104<sup>th</sup> Congress bill. H.R. 4099 would have reduced the 20 currently authorized programs to eight, made structural changes in the community service employment program, and modified the formula for distributing funds, among other things. The Chairman of the Subcommittee on Aging of the Senate Labor and Human Resources Committee, which has responsibility for the Act, did not introduce legislation in the 105<sup>th</sup> Congress.

In response to rising criticism about the lack of congressional action to consider reauthorization legislation, Senator McCain and Representative DeFazio introduced bills (S. 2295/ H.R. 4344) that would have provided a 3-year reauthorization of the Act, but would have made no substantive changes to current law. Other proposals introduced (S. 390/Mikulski; H.R. 1671/Martinez) were similar to the Administration's proposal for the 104<sup>th</sup> Congress.

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# Older Americans Act: 105<sup>th</sup> Congress Issues

## Introduction

Authorization of appropriations for the Older Americans Act expired at the end of FY1995. Its programs continued to be funded for FY1996-FY1999 through appropriations legislation for the Departments of Labor, Health and Human Services, Education and Related Agencies, and the Department of Agriculture.<sup>1</sup>

Legislation to reauthorize the Act (H.R. 4099, Older Americans Amendments of 1998) was introduced by Representative Riggs, Chairman of the Subcommittee on Early Childhood, Youth and Families of the House Education and the Workforce Committee, on June 19, 1998. It would have reauthorized the Act through FY2003.

During the 104<sup>th</sup> Congress, legislation to reauthorize the Act was reported by the House Economic and Educational Opportunities (EEO) Committee and the Senate Labor and Human Resources Committee, but was not acted upon by either chamber.<sup>2</sup> Bipartisan agreement to report the bills did not occur in either House or Senate committee.<sup>3</sup> For a detailed discussion of the bills, see CRS Report 95-32, *Older Americans Act: 104th Congress Legislation*.

## Activity During the 105th Congress

Although many Members of Congress and many aging organizations were concerned about the delay in enactment of reauthorization legislation, ultimately the 105<sup>th</sup> Congress did not take final action. The controversy raised by certain proposals in the 104<sup>th</sup> Congress bills, and devising ways to modify approaches to these proposals, were major factors in the delay in the 105<sup>th</sup> Congress.

On June 19, 1998, a bill to reauthorize the Act, H.R. 4099, the Older Americans Act Amendments of 1998, was introduced by the Chairman of the Subcommittee on Early Childhood, Youth and Families of the House Education and the Workforce Committee which has responsibility for the Act. H.R. 4099 revisited certain issues that remained in controversy at the end of the 104<sup>th</sup> Congress, and modified proposals that were contained in the House Committee-reported 104<sup>th</sup> Congress bill. These

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<sup>1</sup> For further information, see CRS Report 95-917, *Older Americans Act: Programs and Funding*, by Carol O'Shaughnessy and Alice Butler.

<sup>2</sup> This House Committee changed its name in the 105<sup>th</sup> Congress to the House Education and the Workforce Committee.

<sup>3</sup> H.R. 2570 was reported by the House Economic and Educational Opportunities (EEO) Committee on April 25, 1996; S.1643 was reported by the Senate Labor and Human Resources Committee on July 31, 1996.

include proposals to (1) consolidate authorizations of appropriations for certain programs under the Act; (2) restructure the community service employment program; (3) change the interstate formula for distribution of Title III funds for supportive and nutrition services; (4) revise certain requirements to target supportive and nutrition services to low-income minority older persons that are in current law, while retaining an overall requirement to target services to these persons; and (5) impose cost-sharing requirements for certain services so that participants contribute toward their costs. The Chairman of the Subcommittee on Aging of the Senate Labor and Human Resources Committee, which has responsibility for the Act, did not introduce legislation in the 105<sup>th</sup> Congress.

By early summer 1998, some Members of Congress were concerned that there appeared to be no action on reauthorization. In response to rising criticism from constituents and constituent organizations about the lack of action, two bills were introduced that would have reauthorized the Act through FY2001. Senator McCain introduced S. 2295 on July 13, 1998, and Representative DeFazio introduced a companion bill, H.R. 4344, on July 29, 1998. The bills would have simply reauthorized the Act, and made no substantive program changes. They received substantial congressional support — S. 2295 had 67 co-sponsors, and H.R. 4344 had 188 co-sponsors.

Other reauthorization proposals were introduced. These were S. 390, Older Americans Act Amendments of 1997 (Mikulski), and H.R. 1671, Older Americans Act Amendments of 1997 (Martinez). These bills were similar to the reauthorization proposals suggested by the Administration during the 104<sup>th</sup> Congress. They differed from H.R. 4099 and bills reported by the House and Senate Committees during the 104<sup>th</sup> Congress in a number of ways. For example, they would not have consolidated authorizations of appropriations for the Act's programs, nor would have made major structural changes in the community service employment program.

Other 105<sup>th</sup> Congress bills include S. 948 (Grassley)/H.R. 2167 (Schumer), the Pension Assistance and Counseling Act of 1997. These bills would have amended the research, training, and demonstration program authorized under Title IV of the Act to create a toll-free telephone number for individuals who are seeking information and assistance regarding pension and other retirement benefits, among other things.

The House Education and the Workforce Committee held reauthorization hearings on the Act on July 9 and 16, 1997. The Subcommittee received testimony from Administration officials and representatives of state and area agencies on aging, services providers, and Indian tribal organizations.

## **Issues in Reauthorization**

The following discusses issues that have been raised as part of the reauthorization process.

## Consolidation and Restructuring of Older Americans Act Programs

Similar to the 104<sup>th</sup> Congress House and Senate Committee reported- bills, H.R. 4099 would have consolidated and restructured certain Older Americans Act programs, and given more flexibility to states in the operation of aging service programs. Current law authorizes 20 separate programs under the Act (although some have never been funded). H.R. 4099 would have reduced the number of separately authorized programs to eight.

While the bill proposed major changes in the structure of the Act, it would have preserved core functions of the state and area agency on aging programs under Title III. These include responsibilities of these agencies to plan and coordinate service programs on behalf of older persons, and to advocate for programs and services on their behalf. Current law requirements that state and area agencies develop state and area plans on aging, taking into consideration the needs of older persons with the greatest social and economic need, would have remained intact. Similar to the 104<sup>th</sup> Congress legislation, H.R. 4099 would have eliminated a number of specific plan requirements that were viewed as burdensome to state and area agencies.

H.R. 4099 would have consolidated the authorization of appropriations for the congregate and home-delivered nutrition programs, now under two separate authorities. Under this approach, states would have received one allotment of funds for congregate and home-delivered meals, but would have been expected to assess the need for both types of nutrition services. There appeared to be consensus around this issue in the 104<sup>th</sup> Congress. The bill would have retained a separate authorization of appropriations for the U.S. Department of Agriculture portion of the nutrition program.

One aspect of proposals to consolidate programs remained controversial at the end of the 104<sup>th</sup> Congress. The House Committee-approved bill would have eliminated a separate authorization of appropriations for the long-term care ombudsman program and elder abuse prevention services, and a separate title for elder rights activities. Some aging advocates feared that these proposals would have jeopardized funding for elder rights activities. Unlike the 104<sup>th</sup> Congress House Committee-reported bill and in response to concern about its approach, H.R. 4099 would have retained a separate authorization of appropriations for the long-term care ombudsman program, and for elder abuse remediation under a new Title IV.

**Table 1** lists programs separately authorized under current law and in H.R. 4099. **Table 2** presents FY1999 appropriations for Older Americans Act programs, and authorizations of appropriations for these programs for FY1999 in H.R. 4099.

**Table 1. Programs Authorized by the Older Americans Act in Current Law, and in H.R. 4099, as introduced in the 105th Congress**

Current law	H.R. 4099, as introduced
<b>Title and programs with separate authorization of appropriations</b>	
Title II. Administration on Aging. Authorization of appropriations for AoA salaries and expenses and requirements for AoA activities and responsibilities.	Title I. General Provisions. Authorization of appropriations for AoA salaries and expenses and for streamlined AoA activities and responsibilities.
Title II. Federal Council on Aging	Not authorized.
Title III. Grants for State and Community Services on Aging	Title III. Grants for State and Community Services on Aging
Supportive services and centers. Authorizes a wide range of social services and multipurpose senior centers.	Supportive services and centers. Authorizes a wide range of social services and multipurpose senior centers. Includes in-home services for the frail elderly, long-term care ombudsman and elder abuse prevention, disease prevention and health promotion, and supportive services for caregivers.
Nutrition services  — Congregate nutrition — Home-delivered nutrition — USDA assistance Each component of the nutrition program has a separate authorization of appropriations.	Single authorization of appropriations for congregate nutrition and home-delivered nutrition services. Adds authority for nutrition services in adult day care settings.  <b>USDA</b> assistance included in nutrition program with a separate authorization of appropriations.
Disease prevention and health promotion	Services specifically authorized under supportive services and centers with no separate authorization of appropriations.
School-based meals/multigenerational activities*	Intergenerational meals programs encouraged in nutrition program. No separate authorization of appropriations.
In-home services for the frail elderly	Services authorized under supportive services and centers program. No separate authorization of appropriations.
Assistance for special needs*	No separate authorization of appropriations.
Supportive activities for caretakers*	Services authorized under supportive services and centers. No separate authorization of appropriations.

Current law	H.R. 4099, as introduced
Title IV. Training, Research, and Discretionary Projects and Programs. Includes two authorizations of appropriations, one for research, training, and demonstration and a separate authorization for service provider training.	Separate title eliminated. Broad functions included in Title I with separate authorization of appropriations for research, training, and demonstration, including a set-aside for the nationwide toll-free telephone line (elder care locator).
Title V. Community Service Employment for Older Americans.	Title V. Community Service Employment for Older Americans. (Includes changes in program administration and structure.)
Title VI. Grants for Native Americans. Separate authorizations of appropriations for grants to Indian tribal organizations and Native Hawaiian organizations.	Title II. Grants for Native American Programs on Aging. Single authorization of appropriations for grants to Indian tribal organizations and Native Hawaiian organizations.
Title VII. Vulnerable Elder Rights Protection Activities. Separate authorizations of appropriations for long care ombudsman program, elder abuse prevention program, elder rights and legal assistance,* outreach, counseling and assistance program, and Native Americans elder rights program.*	Title IV. State Long-term Care Ombudsman Programs; Services for the Prevention and Remediation of Elder Abuse, Neglect, and Exploitation. Contains requirements for state long-term care ombudsman program (Title III of the bill requires states to establish a long-term care ombudsman program). Also contains requirements for elder abuse prevention and remediation services, if a state elects to provide such services. One authorization of appropriations for both programs.  Separate authorizations of appropriations for other programs in current law are eliminated.

**Note:** \*These programs have never been funded.

**Table 2. Older Americans Act (OAA) Programs: FY1999 Appropriations and FY1999 Authorization of Appropriations in H.R. 4099, as introduced**

OAA program	FY1999 appropriations	FY1999 authorization of appropriations in H.R. 4099
AoA program administration	\$14.8 million	\$14.8 million
Supportive services and centers	\$300.3 million	\$310.2 million
Congregate and home-delivered nutrition services	\$486.4 million—total  (\$374.4 million—congregate nutrition; \$112 million—home-delivered nutrition)	\$502.5 million—congregate and home-delivered
USDA assistance	\$140 million	\$145.0 million
Disease prevention and health promotion	\$16 million	No separate authorization of funds.
In-home services for the frail elderly	\$9.8 million	No separate authorization of funds.
Research, training and demonstration activities	\$18 million. (Of this amount, \$750 thousand was used for the nationwide toll-free telephone line (elder care locator) for each of FY1994-FY1997.)	\$10.3 million. Of this amount, up to \$1 million may be used for the nationwide toll-free telephone line (elder care locator).
Long-term care ombudsman and elder abuse prevention services	\$12.1 million—total  (\$7.4 million for long-term care ombudsman services; \$4.7 million for elder abuse prevention)	\$9.4 million
Grants for Native Americans	\$18.5 million	\$19.1 million
Community service employment	\$440.2 million	\$454.7 million

## Restructuring the Community Service Employment Program

The senior community service employment program, authorized under Title V of the Act, provides opportunities for part-time employment in community service activities for unemployed, low-income older persons who have poor employment prospects. The program is funded at \$440 million in FY1999, representing 30% of Older Americans Act funds. It is administered by the Department of Labor (DoL), which awards funds directly to national sponsoring organizations<sup>4</sup> and to states.

H.R. 4099 would have made changes in (1) the distribution of funds by the federal government; (2) formula allocations to grantees; and (3) requirements regarding use of funds by grantees for enrollee wages and fringe benefits, administration, and other enrollee costs. Like the 104<sup>th</sup> Congress Committee-reported bills, H.R. 4099 would have restructured the program, in part, to respond to a 1995 General Accounting Office (GAO) report. That report reviewed certain administrative issues related to the program, including DoL's method of awarding funds, formula allocation of funds, and grantee use of funds.<sup>5</sup> H.R. 4099 would have given states more control of the administration of the program and introduced competition for funds among prospective grantee organizations.

In addition, H.R. 4099 would have retained the community service employment program as a separate Older Americans Act title, and retained DoL as the federal administrative authority. The 104<sup>th</sup> Congress legislation would have eliminated the separate title and moved the program to AoA.

***Distribution of Community Service Employment Funds by the Federal Government.*** Currently, 78% of funds are awarded by DoL directly to 10 national organizations on a non-competitive basis; 22% of funds is distributed to states. The 104<sup>th</sup> Congress bills would have transferred *all* funds now administered by national organizations to states. In contrast, H.R. 4099 would have transferred only a *portion* of funds now administered by national organizations to states, so that by FY2003, 50% of total funds would have been distributed to national organizations and 50% to states. The national organizations' share of total funds would have decreased from 78% of the total to 50% by FY2003, and the states' share would have increased from

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<sup>4</sup> The 10 national organizations are: American Association of Retired Persons; Asociacion Nacional Por Personas Mayores; Green Thumb; National Asian Pacific Center on Aging; National Center and Caucus on the Black Aged; National Council on Aging; National Council of Senior Citizens; National Indian Council on Aging; National Urban League; and the U.S. Forest Service.

<sup>5</sup> General Accounting Office. *Senior Community Service Employment Program Delivery Could Be Improved Through Legislative and Administrative Actions*. GAO/HEHS-96-4. November 1995.

22% to 50%.<sup>6</sup> In addition, the bill would have required that funds to national organizations be awarded on a competitive basis.

This approach is, in part, based on a goal of reducing the number of national organizations that operate in each state, and of giving states more control in the administration and coordination of the program. National organizations receive funds to administer the program in all but three states; in many states, multiple national organizations administer programs in addition to a designated state agency. Some state agencies have been concerned about the duplication of national organizations' activities that affect the distribution of employment positions within a state. In its report, GAO noted that there is inequitable distribution of funding within some states as well as duplication of effort among national and state sponsors.

Proponents of the approach to equalize funds for national organizations and states indicate that costs of program administration and duplication of effort within states would decrease since there would be fewer organizations that would administer the program in some states. Proponents also say that giving states more leverage in funding decisions would increase coordination of effort among all grantees in states.

The restructuring of the senior community service employment program generated substantial controversy during the 104<sup>th</sup> Congress. Some existing national grantees expressed concern that their continued existence would be threatened if more program funding were to be shifted to states, and if states, rather than the federal government, were to make decisions about which organizations would be grantees. They were also concerned that restructuring could result in disruption of jobs for some existing enrollees.<sup>7</sup> A number of organizations and some Members of

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<sup>6</sup> Despite requirements in the authorizing statute that states are to receive a larger portion of funds, appropriations law for many years has stipulated that 78% of funds be distributed to national organizations, and 22% to states. This has been a long-standing issue. In the 1978 reauthorization of the Older Americans Act, the Senate Labor and Human Resources Committee expressed concern about the "circumvention" by the Appropriations Committee of the authorizing committee formula.

In more recent action on the funding split, for FY1997 the House Appropriations Committee proposed to increase the amount of funding allocated to states to 35% of the total, thereby reducing funds to national organizations to 65%. This action was taken in part based on recognition that the House authorizing committee was moving toward transferring all Title V funding to the states. However, in final action on FY1997 appropriations (P.L. 104-208), Congress continued to stipulate the 78%/22% split for national organizations and states, as it has done in the past.

<sup>7</sup> The modifications to the program were debated during markup of the bills by the House EEO Committee and the Senate Labor and Human Resources Committee in the 104<sup>th</sup> Congress, with certain members of the Committees voicing objections to the proposed restructuring. Some Members were concerned about the bills' approach to completely turn over the program to the states and that such a transition could be disruptive to enrollees. There was also concern that there would be a loss of the national organizations' expertise in administering the program.

An amendment to S. 1643 to maintain direct award of funding to national organizations by the federal government offered by Senator Mikulski during the Labor and Human Resources Committee markup was not approved. Senator Mikulski stated that the  
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Congress indicated that the program has operated well under the national organizations' administration, and that, because of the long-standing association of some of the organizations with the program, they have expertise to continue administering the majority of funds.

***Formula Allocations to Grantees.*** Title V funding is distributed to national organizations and states using a combination of factors, including a "hold harmless" for employment positions held by national organizations in each state in 1978, and a formula based on states' relative share of persons aged 55 and over and per capita income. In FY1998, 57% of funds were distributed according to the hold harmless provision (\$252 million out of \$440.2 million for July 1, 1998-June 30, 1999 program year); the balance is distributed according to each state's relative population of persons aged 55 and over and per capita income. Because the hold harmless provision is based on a 1978 state-by-state distribution of positions held by national organizations, it does not ensure equitable distribution of funds based on relative measures of age and per capita income. In its report on the program, GAO recommended that if Congress wishes to ensure equitable distribution of funds, it should consider eliminating or amending the hold harmless provision.

The formula in H.R. 4099 builds upon the current methodology, but it would have moved the hold harmless amount to 1998. The bill would have required that funds for FY1999-FY2003 be distributed to states based on the share of funds they received in FY1998; any funds appropriated in excess of the FY1998 level would have been distributed on the basis of states' relative share of persons age 55 and over and per capita income. Funds would have then been distributed to national organizations and to state agencies as described above.

***Use of Funds for Enrollee Wages/Fringe Benefits, Administration, and Other Enrollee Costs.*** Currently, funds are used for (1) enrollee wages and fringe benefits; (2) administration; and (3) other enrollee costs. DoL regulations require that at least 75% of funds be used for enrollee wages and fringe benefits. The law specifies that grantees are allowed to use up to 13.5% of federal funds for administration (and up to 15% in certain circumstances). Any remaining funds may be used for "other enrollee costs" that, under current DoL regulations, may include recruitment and orientation of enrollees and supportive services for enrollees, among other things. In its review, GAO found that most national organizations and some state sponsors had budgeted administrative costs in excess of the statutory limit by inappropriately classifying them as "other enrollee costs."

H.R. 4099 would have established a new minimum amount of grant funds that must be used for enrollee wages and fringe benefits, specify a limit on "other enrollee costs," and redefine such costs. First, it would have required that a minimum of 85% of a grantee's funds be used for enrollee wages and fringe benefits (compared to 75% in DOL regulations). Of these funds, up to 5% could be used for

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<sup>7</sup> (...continued)

restructuring of the Title V program would be revisited when S. 1643 reached the Senate floor. A similar amendment was proposed by Representative Kildee during the markup of H.R. 2570, but was also rejected by the EEO Committee.

“other enrollee costs.” The bill would have defined these as costs for employment-related counseling, supportive services, and transportation. This approach was designed to limit funds for administration by prohibiting funds categorized as “other enrollee costs” to be used for administration.

The bill would have retained the same limit on administrative costs as in current law, that is, up to 13.5% of a grantee’s funds (with a waiver up to 15%, if approved by the Secretary). Under this approach, grantees would have paid for enrollee assessments and training from their administrative costs.

***Performance Standards.*** H.R. 4099 would have required the Secretary of Labor to publish regulations establishing performance standards.<sup>8</sup> The standards would have included requirements that:

- at least 20% of participants are placed in unsubsidized employment, and that they remain in unsubsidized jobs for at least 4 months after placement;
- there be a specific percentage reduction in participants’ dependency on public assistance, as a result of program participation;
- a specific percentage of participants receive employment and training through other federal, state and local training programs; and
- there be a specific percentage increase in employment opportunities in underserved areas.

The bill also specifies penalties and adjustment to grants if grantees fail to meet the standards.

## **Interstate Funding Formula for Supportive and Nutrition Services**

The way in which AoA distributes nutrition and supportive funds to states continued to be as issued during the 105<sup>th</sup> Congress as it had during the 104<sup>th</sup> congress. Current law requires the Administration on Aging (AoA) to distribute Title III funds for supportive and nutrition services to states based on their relative share of the population aged 60 and older. In addition to specifying certain minimum funding amounts, the law contains a “hold harmless” provision requiring that no state receive less than it received in FY1987.

AoA distributes funds for supportive and nutrition services in the following way. First, states are allotted funds in an amount equal to their FY1987 allocations, which were based on estimates of states’ relative share of the total U.S. population in 1985.<sup>9</sup> Second, the balance of the appropriation is allotted to states based on their relative share of the population aged 60 and over as derived from the most recently

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<sup>8</sup> Development of performance standards for the program was also discussed during the 104<sup>th</sup> Congress. During markup of the Senate bill by the Committee on Labor and Human Resources, Senator Mikulski introduced an amendment that would have established certain performance standards for the program.

<sup>9</sup> There is usually a two-year time lag in availability of estimates of state population from the U.S. Census Bureau; therefore, for example, 1998 funding allotments relied on 1996 state population estimates.

available estimates of state population. And third, state allotments are adjusted to assure that the minimum grant requirements are met. The effect of this methodology is that the majority of funds are distributed according to population estimates that do not reflect the most recent population trends. For example, for FY1998, 84% of total Title III funds were distributed according to the FY1987 “hold harmless.” The remainder of funds appropriated was distributed according to 1996 population data.

The method that AoA uses to meet the 1987 “hold harmless” provision has received some scrutiny. In a 1994 report, GAO concluded that Title III funds are not distributed according to the requirements of the statute.<sup>10</sup> GAO concluded that the method employed by AoA does not distribute funds proportionately according to states’ relative share of the older population, based on the most recent population data and, therefore, negatively affects states whose older population is growing faster than others. GAO recommended that AoA revise its method to allot funds to states, first, on the basis of the most current population estimates, and then adjust the allotments to meet the hold harmless and statutory minimum requirements.

H.R. 4099 would have followed the GAO recommendation by requiring that funds be distributed, first, according to the most recent data on states’ relative share of persons 60 years and older. The bill then stipulated that no state would receive less than it received in FY1998, thereby creating a 1998 hold harmless requirement. The intent of this approach was to have more of total funding distributed according to the most recent population data as total funding increases over the FY1998 level, but at the same time assuring that states allotments would not go below their FY1998 levels. The actual effect of this approach in FY1999 would have been that states would have generally received approximately the same amount as they received in FY1998 because funding for nutrition and supportive services did not increase between those years.

H.R. 4099 differed from the 104<sup>th</sup> Congress House Committee-reported bill, which would have gradually eliminated the 1987 hold harmless requirement over a period of years. Some states were concerned about this approach, indicating that without a hold harmless provision, they would have lost funds. H.R. 4099’s hold harmless provision may have ameliorated concerns of some states that would have lost funds under the 104<sup>th</sup> Congress bill.<sup>11</sup>

## **Targeting of Services to Low-Income Minority Older Persons**

Targeting of services to low-income minority older persons continued to be a subject of review during the 105th Congress, as it has during past reauthorizations of the Act. Current law contains numerous requirements that state and area agencies

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<sup>10</sup> U.S. General Accounting Office. *Older Americans Act. Title III Funds Not Distributed According to Statute.* GAO/HEHS-94-37. January 1994.

<sup>11</sup> The Senate Committee-approved bill would have taken a different approach to changing the formula. It would have based allotments for supportive and nutrition services on two factors: a composite measure that attempts to capture the relative size of a state’s relative “elderly in-need” (EIN) percentage; and, a measure of a state’s relative total taxable resources compared to the state’s relative EIN.

on aging target services to persons in greatest social and economic need, with particular attention on low-income minority older persons. It also requires that the agencies set specific objectives for serving low-income minority older persons and that program development, advocacy, and outreach efforts be focused on these groups. Service providers are required to meet specific objectives set by area agencies for providing services to low-income minority older persons, and area agencies are required to describe in their area plans how they have met these objectives.

The House bill, as introduced in the 104<sup>th</sup> Congress, would have retained requirements that the Title III program focus on older persons who have the greatest social and economic need, but would have deleted a number of provisions on specific targeting on low-income minority older persons that are in current law. These deletions were debated during markup of the bill by the EEO Committee; an amendment to the bill that would have restored certain targeting requirements contained in current law was rejected.

H.R. 4099 contains targeting provisions that are similar to those contained in the 104<sup>th</sup> Congress House Committee-reported bill, but also contains other references that were not in the Committee-reported bill. It would have required that (1) state agencies develop a formula to distribute funds within the state, taking into account the geographical distribution of older individuals with greatest social or economic need; (2) preference be given to providing services to older individuals with greatest social and economic need, with particular attention to low-income minority older individuals; (3) state and area agencies evaluate the need for services by older individuals with the greatest social and economic need, with particular attention to low-income older individuals; and (4) state and area agencies conduct outreach to older individuals with the greatest social and economic need, and to low-income older individuals.

The bill did not contain all references to low-income minority older individuals that are in current law. Therefore, the targeting issue continued to be debated during the 105<sup>th</sup> Congress.

## **Cost-Sharing for Services by Older Persons**

One of the most frequent issues to arise in past reauthorization legislation has been whether the Act should allow mandatory cost sharing for certain social services. Under current law and regulations, mandatory fees are prohibited, but nutrition and supportive services providers are allowed to solicit *voluntary* contributions from older persons toward the costs of services. Older persons may not be denied a service because they will not or cannot make a contribution. Funds collected through voluntary contributions are to be used to expand services. In the past, Congress has resisted any attempts to allow Older Americans Act programs to charge fees for services.

H.R. 4099 would have allowed states to apply cost sharing to most Title III services on a sliding scale basis. It would have prohibited cost sharing for certain services — these are information and assistance, outreach, benefits counseling, case management, and ombudsman and other protective services. It would have prohibited states from imposing cost sharing on individuals with low income (as

defined by the state, but no lower than 125% of the federal poverty level), and would have required that incomes of older persons be determined on a self-declaration basis. It would have prohibited states from denying older persons services because of an inability to pay, and would have continued to allow older persons to make voluntary contributions for services, as under current law. This cost-sharing provision is the same as that in the 104<sup>th</sup> House Committee-approved bill. The Administration's bill for the 104<sup>th</sup> Congress also proposed a new provision on cost-sharing. It contained some of the same elements as the House and Senate-Committee approved bills, but would have also exempted nutrition services from cost-sharing.

State and area agencies on aging have been in favor of a policy that would allow them to impose cost sharing for certain services, arguing, in part, that such a policy would eliminate barriers to coordination with other state-funded services programs that do require cost sharing, and would improve targeting of services to those most in need. Some representatives of aging services programs, such as those representing minority/ethnic elderly, have been opposed to cost sharing, arguing, in part, that a mandatory cost sharing policy would discourage participation by low-income and minority older persons and would create a welfare stigma. In the 1987 and 1992 reauthorizations of the Act, Congress considered, but ultimately rejected, proposals to change the current voluntary contributions policy.