

TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 8 ADEQUATE PROPORTION OF SERVICES

9.2.8.1 ISSUING AGENCY: New Mexico Aging and Long Term Services Department (NMALTSB)
[9.2.8.1 NMAC - Rp, SAA Rule No. 95-8.1, 6/30/2015]

9.2.8.2 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.
[9.2.8.2 NMAC - Rp, SAA Rule No. 95-8.2, 6/30/2015]

9.2.8.3 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.
[9.2.8.3 NMAC - Rp, SAA Rule No. 95-8.3, 6/30/2015]

9.2.8.4 DURATION: Permanent.
[9.2.8.4 NMAC - Rp, SAA Rule No. 95-8.4, 6/30/2015]

9.2.8.5 EFFECTIVE DATE: June 30, 2015, unless a later date is cited at the end of a section.
[9.2.8.5 NMAC - Rp, SAA Rule No. 95-8.5, 6/30/2015]

9.2.8.6 OBJECTIVE: The objective of this rule is to establish standards and procedures for the federal and state-funded programs administered by the aging and long term services department.
[9.2.8.6 NMAC - Rp, SAA Rule No. 95-8.6, 6/30/2015]

9.2.8.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions.
[9.2.8.7 NMAC - Rp, SAA Rule No. 95-8.7, 6/30/2015]

9.2.8.8 LEGAL REFERENCES: [RESERVED]
[9.2.8.8 NMAC - Rp, SAA Rule No. 95-8.8, 6/30/2015]

9.2.8.9 ADEQUATE PROPORTION SERVICES: The adequate proportion services authorized under Title III of the Older Americans Act consist of:

- A.** Services associated with access, including transportation, health/mental health services, outreach, case management, and information and assistance on the availability of services and how to receive public benefits;
- B.** In-home services, including supportive services for families of older individuals with alzheimer's disease and related disorders with neurological and organic brain dysfunction; and
- C.** Legal assistance.

[9.2.8.9 NMAC - Rp, SAA Rule No. 95-8.9, 6/30/2015]

9.2.8.10 ADEQUATE PROPORTION FUNDING PERCENTAGES: Area agencies on aging that receive federal funding through the department are required to expend an adequate proportion of Older Americans Act Title III, Part B, allotments for each of three categories of services: access services, in-home services, and legal assistance.

[9.2.8.10 NMAC - Rp, SAA Rule No. 95-8.10, 6/30/2015]

9.2.8.11 WAIVER OF THE REQUIREMENT:

- A.** The department may waive the requirement if:
 - (1)** An approved plan is in place to ensure that access services, in-home services, and legal assistance are available throughout the planning and service area(s); or
 - (2)** An area agency on aging requests a waiver and documents that access services, in-home services, and legal assistance are being furnished and are sufficient to meet the need in the planning and service area(s) administered.

B. Waiver requests may be included as part of an area plan or area plan amendment. After the initial approval of a waiver, renewal requests must be submitted to the department as part of an area plan.

C. To support an initial request for a waiver, an area agency on aging must provide the following information and documentation for each category of service for which a waiver is desired:

(1) A description of the needs assessment conducted by the area agency on aging to determine the service needs of older persons in the planning and service area(s), including a description of the identified needs;

(2) A list of service providers in the planning and service area(s) that are providing the adequate proportion services for which a waiver is being requested, including the following:

(a) service(s) being provided by each service provider;

(b) eligibility criteria for each service;

(c) level and sources of funding;

(d) number of units of service and unduplicated number of older individuals receiving service for the current fiscal year; and

(e) number of projected units of service and unduplicated number of older individuals projected to receive service during the fiscal year for which the waiver is being requested;

(3) Documentation of public hearing(s) including, but not limited to the following:

(a) public announcement of the public hearing(s);

(b) specific notification sent to all interested parties;

(c) list of the interested parties sent the notification;

(d) record of the proceedings of the public hearing(s); and

(e) attendance roster(s) from the public hearing(s).

D. The department will review all requests for waivers based on the following:

(1) The submission of all the required information and documentation;

(2) Documentation of needs assessment findings which resulted in the decision to request a waiver, to include the following:

(a) needs assessment methodology;

(b) source of data, including any secondary sources; and

(c) summary of statistical data indicating needs, to include target populations;

(3) Documentation of the adequacy of the service delivery system in the planning and service area, to include:

(a) documented level of need for the service for which a waiver is being requested;

(b) service level being provided by area agency on aging service providers, including units of service, unduplicated number of persons being served, and level of funding; and

(c) any documented unmet need for the service.

[9.2.8.11 NMAC - Rp, SAA Rule No. 95-8.11, 6/30/2015]

HISTORY OF 9.2.8 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-8, Adequate Proportion of Priority Services, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-8, filed 4/13/1995 - Repealed 6/30/2015