

CHAPTER 88A**PLANNING AND SERVICE AREAS AND
AREA AGENCIES ON AGING****Authority**

N.J.S.A. 40:23-6.38 and 6.44; 42 U.S.C. §§ 3001 et seq.;
and 45 C.F.R. § 1321.

Source and Effective Date

R.2005 d.382, effective November 7, 2005.
See: 36 N.J.R. 5071(a), 37 N.J.R. 4259(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 88A, Planning and Service Areas and Area Agencies on Aging, expires on May 6, 2011. See: 42 N.J.R. 3028(a).

Chapter Historical Note

Chapter 88A, Planning and Service Areas and Area Agencies on Aging, was adopted as R.1999 d.307, effective September 7, 1999. See: 31 N.J.R. 633(a), 31 N.J.R. 2620(a).

Chapter 88A, Planning and Service Areas and Area Agencies on Aging, was adopted as new rules by R.2005 d.382, effective November 7, 2005. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**8:88A-1.1 Purpose**

(a) This chapter sets forth the procedures for establishing planning and service areas within the State, and designating Area Agencies on Aging, consistent with the Older Americans Act of 1965, and amendments thereto, 42 U.S.C. §§ 3001 et seq.

(b) This chapter sets forth the procedure for revocation of the designation of an Area Agency on Aging.

(c) This chapter sets forth the procedure for redefining the boundaries of the planning and service areas of the State.

8:88A-1.2 Definitions

Words and terms used in this chapter shall have the meanings set forth below, unless the context clearly indicates otherwise.

“Act” means the Older Americans Act of 1965, P.L. 89-73 (42 U.S.C. §§ 3001 et seq.), and amendments thereto.

“Area Agency on Aging” means a public or private non-profit agency designated by the State Division in accordance with this chapter and 45 C.F.R. § 1321.17 to act as the central coordinating and planning body for older adult services within a PSA.

“Area Plan” means the document completed by each Area Agency on Aging and submitted to the State Division delineating the comprehensive and coordinated system of service delivery to be provided for older adults in the PSA through the allocation of Federal, State and local dollars.

“Assistant Secretary for Aging” means the Assistant Secretary of the United States Administration on Aging, within the Department of Health and Human Services.

“Planning and Service Area” or “PSA” means the geographic unit designated by the State Division for the allocation of funds and the delivery of services for older adults.

“Revoke” means to withdraw the designation as an Area Agency on Aging from an existing agency.

“State Division” means the Division of Aging and Community Services in the Division of Senior Services of the New Jersey Department of Health and Senior Services.

“Unit of general purpose local government” means a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions, or an Indian tribal organization.

Amended by R.2005 d.382, effective November 7, 2005.
See: 36 N.J.R. 5071(a), 37 N.J.R. 4259(a).

Rewrote definitions “Area Agency on Aging”, “Area Plan”, “Planning and Service Area” and “State Division.”

8:88A-1.3 Notice and public hearing requirements

(a) The State Division shall provide no less than 60 days written notice of any intended action to define or redefine a PSA, or designate or revoke an Area Agency on Aging designation, except that this requirement shall not apply to PSAs and Area Agency on Aging designations established prior to September 7, 1999.

(b) The notice shall be published in the New Jersey Register and in the legal notices of the newspaper of largest circulation in the geographical area affected at the time of the notice, with copies sent to all Areas Agencies on Aging and units of general purpose local governments in the area affected.

(c) The notice shall include at least the following:

1. A summary of the intended action, including the geographic locations in which the impact of the intended action will be most substantial;

2. Whether the State Division is accepting applications with respect to the intended action, with instructions relevant to the submission of application(s), if any, including the final date for submission of the application, and how additional details, such as format requirements, may be obtained; and

3. The location, time, and date for a public hearing to be held by the State Division concerning the intended action, and instructions to be followed by those persons who desire to submit written and/or oral comments at the public hearing.

(d) The State Division shall hold a public hearing within the PSA most affected by the intended action, or within the PSA where the action regarding the Area Agency on Aging is intended to occur, as appropriate, in a location that encourages full participation by county and regional aging interests, including service providers and older individuals.

1. The State Division shall maintain a record of the public hearing.

2. The hearing shall not be held until after the closing date of submission of applications, if any, so that consideration of the intended action shall be based on the applications received.

(e) The State Division shall provide written notice, as set forth in (b) above, of its final action on the matter, specifying the reasons for the decision.

SUBCHAPTER 2. DESIGNATION AND REVOCATION OF PSAs AND AREA AGENCIES ON AGING

8:88A-2.1 Requirements for PSAs

(a) The State Division shall divide the State into distinct PSAs, based on the following factors:

1. The geographic distribution of older individuals in the State;

2. The incidence of the need for supportive services, nutrition services, multi-purpose senior centers, and legal assistance;

3. The distribution of older individuals who have greatest social and economic need (with particular attention to low-income minority individuals);

4. The distribution of older individuals who are American Indians;

5. The distribution of resources available to provide the items set forth in (a)2 above;

6. The boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, if any; and

7. The location of units of general purpose local government within the State.

8:88A-2.2 Designation as a Planning and Service Area (PSA)

(a) A PSA designation shall be subject to the following minimum standards:

1. The PSA shall encompass a unit of general purpose local government with a population of 100,000 or more; or

2. The PSA shall encompass any region within the State recognized for purposes of area-wide health planning that includes one or more units of general purpose local government.

(b) In addition to (a) above, the State Division may include within a PSA geographic areas adjacent to a unit of general purpose local government, if the State Division determines that doing so will be necessary for, and will enhance, the effective administration of services required or authorized by the Act.

(c) A PSA may be modified by the State Division on its own initiative or upon application made by the chief elected executive of any unit of general purpose local government which has a population of 100,000 or more, or by any region within the State recognized for purposes of area-wide health planning.

1. The factors for consideration of any modification of a PSA shall be those set forth at N.J.A.C. 8:88A-2.1.

2. Applications may be submitted to:

Administrator, Office of Area Aging
Administration
Division of Aging and Community Services
Department of Health and Senior Services
PO Box 807
Trenton, NJ 08625-0807

(d) Prior to taking action on designation or modification of a PSA, notice and a public hearing shall be held in accordance with N.J.A.C. 8:88A-1.3.

(e) Following the public hearing, the State Division shall review all relevant data including:

1. The testimony from the public hearing;

2. The impact such a change would have on services to older adults in the affected areas;

3. The effect on other counties and Area Agencies on Aging in the State; and

4. The administration of the State Division's programs throughout the State.

(f) Notice of the State Division's final action regarding designation of a PSA shall be in accordance with N.J.A.C. 8:88A-1.3.

(g) Any party adversely affected by the PSA designation may appeal the action to the Assistant Secretary on Aging.

1. Appeals may be made on the basis of the facts and merits of the matter that is the subject of the action or proceeding, or on procedural grounds.

Amended by R.2005 d.382, effective November 7, 2005.
See: 36 N.J.R. 5071(a), 37 N.J.R. 4259(a).
Rewrote contact information in (c)2.

8:88A-2.3 Designation of Area Agencies on Aging

(a) The State Division shall designate one Area Agency on Aging for each PSA.

(b) An Area Agency on Aging shall be one of the following:

1. An established office of aging operating within a PSA;

2. Any office or agency of a unit of general purpose local government or combination of units of general purpose local government, which is designated to function only for the purpose of serving as an Area Agency on Aging by the chief elected executive(s) of the general purpose local government; or

3. Any public or nonprofit private agency in a PSA, or any separate organizational unit of a public or private nonprofit agency within a PSA.

(c) When designating an Area Agency on Aging, the State Division shall:

1. Give a unit of general purpose local government within a PSA the right of first refusal if such unit can meet the requirements of an Area Agency on Aging;

2. Give preference to an established office on aging, if no unit of general purpose of local government within the PSA is able to meet the requirements of an Area Agency on Aging, or if no unit of general purpose of local government agrees to accept the designation of Area Agency on Aging; and

3. Give preference to a public or nonprofit agency within the PSA that is able to meet the requirements of an Area Agency on Aging only if the State Division is unable to designate an Area Agency on Aging pursuant to (c)1 and 2 above.

(d) Parties interested in being designated an Area Agency on Aging shall submit a completed application to the State Division, following a public notice by the State Division of its intent to revoke and/or make a designation of an Area Agency on Aging, or upon petition made by the interested

party to the State Division to take an action designating an Area Agency on Aging.

(e) The State Division shall specify the format of the application. Applicants may obtain the required format by contacting the State Division at the address specified at N.J.A.C. 8:88A-2.2(c)2.

(f) Applications shall contain specific information regarding the applicant's ability to fulfill the requirements of this chapter for an Area Agency on Aging and sufficient documentation for the State Division to make a determination that the entity would be able to develop and carry out an effective Area Plan.

1. The type of services that shall be provided include, but are not limited to: congregate and home-delivered meals; personal care; home health services; transportation; residential maintenance; telephone reassurance; multi-services senior centers; and, social/medical adult day care centers.

(g) Prior to designating an Area Agency on Aging, a public hearing shall be held in accordance with N.J.A.C. 8:88A-1.3.

(h) Prior to taking final action, the State Division shall review all relevant data regarding its intended action and any applications received, including:

1. The testimony from the public hearing;

2. The impact such a change would have on services to older adults in the affected areas;

3. The effect on other counties and Area Agencies on Aging in the State; and,

4. The administration of the State Division's programs throughout the State.

(i) The State Division shall provide written notice directly to each applicant of its decision regarding the designation of an Area Agency on Aging, specifying the reason(s) for any denial of an application.

(j) An applicant may appeal the decision by the State Division to deny its application for designation as an Area Agency on Aging.

1. An agency shall provide notice of its appeal of the State Division's decision in writing, submitted to the State Division at the address set forth at N.J.A.C. 8:88A-2.2(c)2, no later than 30 days following the receipt of written notice from the State Division to the agency of its decision.

2. Upon receipt of a notice of an appeal, the State Division shall schedule a hearing to be held pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(k) An agency that remains dissatisfied following exhaustion of its State administrative remedies, may elect to appeal the decision to the Assistant Secretary for Aging in writing within 30 days following receipt of the final agency decision.

1. Appeals may be made on the basis of the facts and merits of the matter that is the subject of the action or proceeding, or on procedural grounds.

8:88A-2.4 Procedures for revocation of an Area Agency on Aging designation

(a) The State Division shall not revoke a designation unless notice and a public hearing has been held in accordance with N.J.A.C. 8:88A-1.3.

(b) In addition to providing notice in accordance with (a) above, the State Division shall provide personal written notice to the designated Area Agency on Aging whose designation the State Division intends to revoke at least 60 days prior to the intended action, specifying in the notice the reason(s) for the revocation, which shall not be inconsistent with N.J.A.C. 8:88A-2.5.

(c) Upon receipt of the notice of intent to revoke through the 30th day following the date on which the State Division provides written notice on the matter, an agency shall have a right to make an appeal in accordance with N.J.A.C. 8:88A-2.3(j) and (k).

1. Appeals to the Assistant Secretary on Aging may be made on the basis of the facts and merits of the matter that is the subject of the action or proceeding, or on procedural grounds.

(d) When an Area Agency on Aging designation has been revoked and not subsequently set aside, the agency whose designation has been revoked may not reapply for designation as an Area Agency on Aging for a period of five years from the effective date of the revocation.

(e) Upon revocation of an Area Agency on Aging designation, the State Division shall:

1. Designate a new Area Agency on Aging within the PSA in a timely manner; and

2. Establish a plan for the continuity of area agency functions and services in the affected PSA if designation of a new Area Agency on Aging within the PSA cannot be made contemporaneously with the revocation of an Area Agency on Aging with the PSA.

(f) In order to ensure continuity of services in the affected PSAs in accordance with (e)2 above, the State Division may, for a period of up to 180 days after its final decision to revoke a designation of an Area Agency on Aging:

1. Perform the responsibilities of an Area Agency on Aging; or

2. Assign the responsibilities of an Area Agency on Aging to another agency within the PSA.

(g) The 180-day period may be extended upon approval from the Assistant Secretary for Aging, if the State Division:

1. Requests the extension in writing from the Assistant Secretary, specifying the State Division's situation and current status; and

2. Demonstrates to the satisfaction of the Assistant Secretary the need for the extension.

8:88A-2.5 Basis for revocation of an Area Agency on Aging designation

(a) The State Division may revoke the status of an agency or organization as the Area Agency on Aging when the State Division determines that:

1. The agency or organization has not complied with Federal and State requirements for Area Agencies on Aging, as delineated in 42 U.S.C. § 3001 et seq., 42 C.F.R. 1321, N.J.S.A. 40:23-6.38 and 6.44, and this chapter;

2. The agency fails to perform functions mandated by Federal and State law and regulation;

3. The agency's Area Plan or an Area Plan amendment is not approved;

4. The agency has failed to comply with any provision of the Act, Federal regulations, or State laws in the provision or administration of an approved Area Plan;

5. The agency's activities are inconsistent with the statutory mission prescribed in the Act or conflict with the requirement in the Act that the agency function only as an Area Agency on Aging;

6. The State Division determines, through fiscal, programmatic, or on-site assessments, that the agency lacks the authority, qualified staff and/or capacity to carry out the functions of an Area Agency on Aging as set out in the Act and this chapter:

7. The agency fails to respond to a written notice of noncompliance, or fails to implement an approved plan of corrective action within the timeframe specified by the State Division in such notice or approved plan;

8. The State Division determines that the agency is using resources allocated to it by the State Division in violation of this chapter, the Act and/or Federal regulations;

9. The agency voluntarily terminates its grant or resigns as an Area Agency on Aging; or

10. The State Division has redefined the geographic boundaries of the PSA.