REPORT OF

THE

STATE AUDITOR

State Services for Older Coloradans
Department of Human Services

Performance Audit
June 2004

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This report contains the results of a performance audit of state services provided to Colorado's seniors under the Older Americans and Older Coloradans' Act programs. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Departments of Human Services and Health Care Policy and Financing.

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State Services for Older Coloradans
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Authority, Purpose, and Scope

This performance audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the Office of the State Auditor to conduct performance audits of all departments, institutions, and agencies of state government. The audit work was performed between December 2003 and June 2004, and conducted in accordance with generally accepted governmental auditing standards. The purpose of the audit was to review the Department of Human Services' oversight of services provided to seniors under the federal Older Americans Act and the state Older Coloradans' Act programs. We reviewed the quality of services provided, coordination of and access to program services, and fiscal accountability for program resources. We also reviewed service provider billing records for both the Older Americans Act and Medicaid home-based services programs. We acknowledge the assistance and cooperation extended by management and staff at the Departments of Human Services and Health Care Policy and Financing.

Overview

The Department of Human Services' (Department's) Aging Services Unit, located within the Office of Adult Disability and Rehabilitation Services, is the designated state agency for administering the Older Americans Act and Older Coloradans' Act programs. Services are managed locally through the Area Agencies on Aging (Area Agencies), located in 16 regions around the state. Area Agencies received nearly $14.6 million in federal and state funds to provide services to individuals through the Older Americans and Older Coloradans' Act programs. Area Agencies used these funds to pay about 170 local service providers, such as Volunteers of America, the Visiting Nurses Association, Meals on Wheels, or local recreation centers, to deliver services to Colorado's seniors. Services include homemaker, personal care, nutrition, health assessment, screening, and caregiver support services, among others. During Calendar Year 2003, the Department reports delivering over 3.4 million units of service to about 34,800 people through the Older Americans Act and Older Coloradans' Act programs.

Key Findings

Quality of Care

The purpose of Title III of the federal Older Americans Act is to assist state agencies and the Area Agencies with establishing a comprehensive, coordinated system for serving older individuals. Our audit reviewed the Department's and Area Agencies' practices for ensuring access to a high-quality, coordinated care system. We found:

- **Insufficient oversight, service fragmentation, and program abuses create substantial barriers for some seniors accessing program services.** The Older Americans Act program lacks a centralized, coordinated process for determining eligibility and managing services. Restructuring the program to provide a single point of contact would improve access to services and accomplish program goals. The existing Single Entry Point (SEP) system, administered by the State's Medicaid program, provides a single entry point for seniors to access an array of services, including Medicaid-covered services provided in homes and institutions. The goals of the Older Americans Act and the home-based Medicaid programs are similar—to provide supportive services in the community that allow seniors to live independently. Although the SEP program rules allow the SEPs to coordinate care for the Older Americans Act, and use non-Medicaid funds to provide this service, the Older Americans Act program is not currently included in the State's Single Entry Point system.

- **Some provider practices impair access to services.** Federal law prohibits billing seniors for Older Americans Act services, but seniors may make voluntary contributions. We found that providers billed participants for more than $10,700 in contributions. Providers also denied services if clients could not contribute, and posted suggested contribution amounts that were from 3 to 14 percent higher than cost. Three providers refused to serve individuals outside of the city limits, isolating individuals in remote areas.

- **Area Agencies and service providers do not maintain information on individuals waiting for services.** We found that 12 of the 16 Area Agencies do not track the total number of individuals waiting for services and do not require their service providers to track and report this information either. We also found that 5 of the 13 service providers in our sample that tracked waiting list information did not have an efficient system for managing their waiting lists, resulting in some individuals waiting longer for services than necessary.

- **Some providers abuse the use of nutrition supplements.** According to staff at the federal Administration on Aging, nutritional supplements, such as Ensure, should not be used to replace hot meals. Additionally, federal law prohibits service providers from earning a profit on Older American's Act services. Three of the four nutrition providers we interviewed provide meal supplements in place of hot home-delivered meals. These providers delivered about 116,000 meals in Calendar Year 2003, of which about 24,000, or 21 percent, were meal supplements. These providers were paid about $99,000 for meal supplements that cost only $43,000 to provide.

- **Lack of background checks places seniors at risk.** The Department does not require service providers to conduct background investigations on prospective employees in accordance with the Vulnerable Persons Act (Section 27-1-110, C.R.S.). We conducted background checks on about 100 service provider staff and identified four staff who had criminal convictions including felony theft, 3rd degree assault, shoplifting, and felony possession of marijuana with the intent to distribute.

- **Information on the complaint and grievance process is insufficient.** Some providers are not informing participants of their right to grieve and appeal program decisions. Further, these providers do not track complaints from program participants. As a result, seniors may not know where to report problems, complaints, and alleged mistreatment. Further, oversight agencies cannot use complaint information to evaluate or improve the quality of care.

Service Costs

We reviewed practices for managing and controlling service costs at state and local levels. We found:

- **The Social Asset Management System (SAMS), an automated information system that tracks program services, lacks essential components that are needed to manage and control payments.** Service provider payments are not linked to service data, SAMS data contain inaccuracies, and SAMS information does not consistently match information in participant casefiles.

- **Providers received payments for services that do not appear to have been provided.** We found that (1) providers received full payment for their grant awards even though, according to SAMS data, these providers delivered about 89 percent of the services required by their agreements; (2) providers routinely billed for "no-show" services; (3) providers could not furnish records showing that they actually provided the services they reported in SAMS; and (4) a provider billed the Area Agency for uncollected participant contributions, which is not permitted by the Older Americans Act. Understanding the limitations of SAMS, some of the data contained therein indicate significant payment problems and require the immediate attention of the Department. The Department and some Area Agencies do not perform reconciliations of services and payments, increasing the risk of fraud and abuse.

- **One service provider erroneously billed both the Medicaid and Older Americans Act programs for a total of $32,500 for the same transportation services.** This provider billed both the Medicaid and Older Americans Act programs for about 1,600 transportation trips between January and June 2003, in violation of federal law.

- **About $213,000 in services were provided to individuals who appeared ineligible.** In Calendar Year 2003, about 39,500 units of in-home services were provided to 1,130 individuals who did not have required impairments, such as the inability to leave their homes, listed in SAMS. Over 10,000 services, including homemaker, personal care, transportation, material aid, and adult day care services, were provided to 164 individuals that were under 60 years of age. Some individuals receiving home-delivered meals were not homebound.

- **Service providers lack appropriate controls over cash.** Some service provider staff and volunteers have unsupervised access to cash receipts. As a result, controls to prevent embezzlement are lacking.

Program Administration

The Department's Aging Services Unit is the designated state office on aging, and has primary responsibility for overseeing the Older Americans Act program at the state level, including overseeing Colorado's 16 Area Agencies. The Area Agencies oversee the network of service providers that deliver Older Americans Act services. Our audit reviewed the oversight provided at state and local levels and found that basic monitoring practices are lacking. We found:

- **Program oversight is insufficient.** The Department has not conducted regular on-site reviews of Area Agencies, and Area Agencies are not conducting sufficient review of service provider activities. Insufficient monitoring has impaired both financial and geographic access to services for seniors and increased the risk of fraud and abuse.

- **Program allocation formulas and rules need updating.** Although state rules require the Department to review the Intrastate Funding Formula at least every four years, the Department has not reviewed the Formula in over two decades. As a result, funding allocations may not reflect the needs of seniors. Additionally, although Congress last revised the Older Americans Act in 2000, the State has not revised program rules (Volume 10) since 1995. Consequently, Area Agencies do not have up-to-date information for managing programs and services.

- **Service provider participation on Advisory Councils present a conflict of interest.** We found that Advisory Council members are often involved in ownership or oversight of the service provider agencies contracting with the Area Agency. This presents a conflict of interest since, in general, the Advisory Council aids the Area Agency in selecting service providers for grant awards.

Our recommendations and the responses of the Departments of Human Services and Health Care Policy and Financing can be found in the Recommendation Locator on pages 5 through 7 of this report.

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
1	20	Pilot a system for reorganizing the Older Americans Act and Older Coloradans' Act programs, using a single entry point system for eligibility determination, assessment, service coordination, and case management, as appropriate.	Human Services Health Care Policy and Financing	Agree Agree	January 2007 August 2004
2	21	Increase access to and improve the application and eligibility determination processes for Older Americans Act services.	Human Services	Agree	April 2005
3	23	Improve access to services and decrease inappropriate service denials by increasing service provider oversight, improving access to transportation services, and providing training to the Area Agencies and service providers on appropriate service contribution solicitation practices.	Human Services	Agree	March 2005
4	25	Develop standard policies for establishing and tracking waiting lists, and analyze wait list information as part of the annual service planning process.	Human Services	Agree	September 2004
5	26	Develop a statewide policy on the use and tracking of nutrition supplements.	Human Services	Agree	March 2005
6	28	Improve the safety of vulnerable persons served by the Older Americans Act by identifying clear policies for conducting criminal background checks of service provider staff.	Human Services	Agree	June 2005
7	29	Clarify processes for informing program participants about the grievance process.	Human Services	Agree	October 2004

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
8	30	Improve service provider compliance with program rules for tracking complaints by reviewing complaint tracking processes as a part of service provider on-site reviews.	Human Services	Agree	October 2004
9	34	Improve overall accountability and functionality of SAMS data through incorporating fiscal components and billing functions, performing scheduled reviews and comparisons of SAMS data, and improving system edits to reduce data entry inconsistencies.	Human Services	Agree	June 2007
10	38	Establish fiscal controls to ensure that services paid for are provided and that program funds are spent appropriately.	Human Services	Agree	June 2005
11	38	Standardize billing practices by requiring Area Agencies to reimburse service providers on the basis of units of service.	Human Services		July 2006
12	41	Work with the United States Department of Health and Human Services (HHS) to clarify the program responsible for payment when participants are eligible for both the Older Americans Act and Medicaid programs. Recover inappropriate payments, establish appropriate billing practices, train providers on those practices, and implement procedures for identifying and recovering duplicate billings in the future.	Human Services Health Care Policy and Financing	Agree Agree	July 2005 September 2004
13	43	Reduce the costs of providing services to people who are ineligible through training and review of eligibility determination practices.	Human Services	Agree	January 2007

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
14	45	Develop training materials to train Area Agencies and service providers on appropriate cash handling procedures.	Human Services	Agree	January 2005
15	49	Establish comprehensive monitoring of Area Agencies and service providers by using a risk-based schedule for conducting on-site reviews.	Human Services	Agree	June 2005
16	50	Begin using formal contracts to award funding to the Area Agencies.	Human Services	Agree	July 2004
17	53	Develop standardized criteria for Area Agency on-site review of service providers, require that Area Agencies provide copies of on-site reviews to the Department, and train Area Agency staff to perform on-site evaluations.	Human Services	Agree	December 2004
18	53	Standardize service provider contract language.	Human Services	Agree	July 2006
19	55	Reevaluate the Intrastate Funding Formula and the Title III Part B expenditure percentages.	Human Services	Agree	September 2005
20	56	Revise Volume 10 and create a single procedures manual that provides specific direction to Area Agencies and service providers.	Human Services	Agree	June 2005
21	58	Minimize potential for conflicts of interest by developing a statewide policy concerning participation of service providers on Advisory Councils.	Human Services	Agree	April 2005

Overview

Background

The Older Americans Act, passed by Congress in 1965, funds supportive community services to all seniors over age 60 without regard to gender, ethnicity, or income. The Administration on Aging, a division of the United States Department of Health and Human Services, administers the Older Americans Act program. Authority for the program resides in Title 42 of the United States Code, Section 3001, et seq. Federal rules are further prescribed in Title 45 of the Code of Federal Regulations.

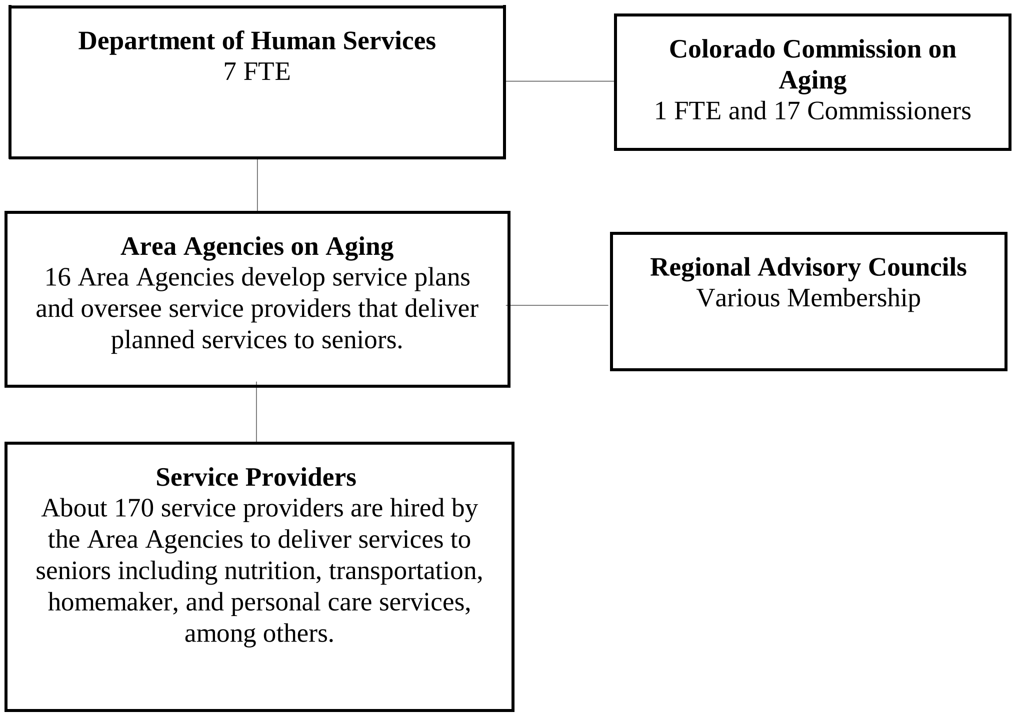
In Fiscal Year 2000, Colorado's General Assembly established the Older Coloradans' Act program to expand upon funding available under the Older Americans Act. The Older Coloradans' Act program provides state general funds to the Department of Human Services (Department) for many of the same services available under the Older Americans Act. Administration, eligibility determination, and service provision under both the Older Coloradans' and the Older Americans Act programs are the same. The Older Coloradans' Act is governed by Article 11, Title 26, of the Colorado Revised Statutes. All services provided under the Older Americans Act and Older Coloradans' Act are also governed by state rules in Section 12 of the Colorado Code of Regulations, Section 2510 (also known as Volume 10).

The purposes of both the Older Americans Act and Older Coloradans' Act programs are to (a) secure and maintain maximum independence and dignity in a home environment for older individuals, (b) remove individual and social barriers to economic and personal independence, (c) provide a continuum of care for vulnerable older individuals, and (d) secure the opportunity for older individuals to receive managed in-home and community-based long-term care.

Program Oversight

To accomplish the purpose of the Older Americans Act, federal law requires each state to create a State Aging Office to administer funding and oversee service delivery. In Colorado, the Department of Human Services' Aging Services Unit, located within the Office of Adult, Disability, and Rehabilitation Services, is the designated state agency responsible for administering the program. The Department divided the State into 16 regions. Each region has an Area Agency on Aging (Area Agency) that serves either a single county or multiple counties. Currently 12 of the

16 Area Agencies' service areas include multiple counties. The hierarchy of program oversight follows:



The responsibilities of each organization administering the Older Americans and Older Coloradans' Act programs are below.

Department of Human Services, Aging Services Unit

The Aging Services Unit has seven full-time equivalent (FTE) employees who (1) distribute Older Americans Act and Older Coloradans' Act funds to the Area Agencies; (2) set and enforce policy through rules; (3) provide leadership, training, and technical assistance to the Area Agency network; (4) review and approve Area Agencies' four-year plans; and (5) ensure that the Area Agencies provide services and spend funds in accordance with federal and state laws, rules, and regulations. The Department must submit a State Plan on Aging every four years to the federal Administration on Aging to receive Older Americans Act funds. In addition to assuring the federal government that the State's Older Americans Act program is in compliance with all relevant laws and regulations, the State Plan must address the needs of the older population and respond to any needed changes in service provision.

Area Agencies on Aging

According to federal law, any unit of general purpose local government, region within a state recognized for area-wide planning, metropolitan area, or Indian reservation may apply to the State Agency to be designated as an Area Agency. The Department consults with the Colorado Commission on Aging regarding decisions for granting, modifying, or removing Area Agency designations. Area Agencies have a variety of organizational structures. Most Area Agencies are organized within preexisting Regional Councils of Governments; however, some Area Agencies are not-for-profit organizations. Additionally, there are three Area Agencies in which the Area Agency Director is also the Director of the Single Entry Point agency for long-term care. The Department of Health Care Policy and Financing oversees the Single Entry Point agencies (SEPs). SEPs perform functional assessments for individuals who apply for and receive Medicaid long-term care services. Medicaid long-term care services include nursing facility care and care in the community provided through Medicaid home and community-based services and Medicaid home health services. County departments of social services and eligibility sites determine an individual's eligibility for Medicaid benefits.

Each Area Agency is required to develop an annual service plan that identifies the unmet needs of the elderly in its service area, represents the priorities of seniors in the community, and establishes a plan for targeting those most in need. The service plan also identifies all services that the Area Agency will fund during the year. Area Agencies are responsible for administering their plans; establishing a network of service providers to deliver planned services; and monitoring the service providers' eligibility determination, service quality, and fiscal accountability. About 170 service providers currently deliver Older Americans Act services in Colorado.

Regional Advisory Councils

The Older Americans Act and state rules (Volume 10, Section 10.215) require every Area Agency to establish a Regional Advisory Council that involves older persons and other interested individuals and organizations in developing and implementing Area Agency plans. The Advisory Council provides recommendations on the budget, the annual plan, and other issues of importance to older Americans within the service area. Federal law requires at least half of the Council members to be over age 60 and eligible for Older Americans Act services. The remaining members may include individuals or organizations that represent seniors, such as health care providers.

Colorado Commission on Aging

The Colorado Commission on Aging formally provides advice and input to the Department on issues that affect seniors. The Commission has one state FTE and seventeen Commission members. Commission members include Colorado citizens appointed by the Governor to serve four-year terms. Additionally, each of Colorado's Congressional districts is represented by two Commission members, one from each party. The Commission also includes two legislators, one from the Senate and one from the House of Representatives, and a member appointed from the state at large. The 17-member Commission must meet 10 times per year with the Director of the Department's Aging Services Unit.

Program Services and Funding

Each Area Agency provides an array of services that are outlined in its four-year plan and adjusted annually, if necessary. These services are chosen in response to the needs of the people age 60 and older who reside in the Area Agency's service area. As a result, some services listed are not available in all 16 regions. The Social Asset Management System (SAMS) tracks services by service provider and participant.

Individuals who are age 60 and older may qualify for services, and federal law requires that priority be given to older individuals with the greatest economic or social need. Service providers in local communities determine whether a participant is eligible for services. Eligibility for most types of services is determined by age. Federal law provides some additional eligibility requirements for in-home services and home-delivered meal services, including a person's disabilities, ability to leave home, and nutritional health. According to federal and state law, service providers may not use any means-based tests (tests of applicant income or resources) to determine eligibility for services. In Calendar Year 2003 about 34,800 seniors received services through the Older Americans and Older Coloradans' programs.

Older Americans Act funding is split into several different funding streams. Each funding stream pays for specific types of services, and some service types are covered by multiple funding streams. The Area Agencies are required to track Older Americans Act services and expenditures by funding stream. Services offered via the Area Agencies through Older Americans Act funds, by funding stream, include:

Supportive Services (Title III-B)— Information and referral about programs and services available to assist older adults and persons with disabilities; in-home services (homemaker, personal care, home maintenance, and chore services); transportation services; case management; material aid (providing goods or food such as clothing, smoke detectors, and eyeglasses); counseling; adult day care; health screening; employment training; education and other training; multipurpose senior centers; and legal services (to assist and advocate for older adults in resolving legal problems).

Nutrition Services (Title III-C)— Group meals at senior centers or other meal sites (C-1); home-delivered meals (C-2); nutrition education and supportive services including nutritional meal supplements, shopping assistance, blizzard boxes (extra meals delivered during snowstorms), and surplus food distribution.

Disease Prevention and Health Promotion Services (Title III-D)— Health risk assessments; routine health screening; nutritional counseling and education; health promotion programs; homemaker or personal care services; exercise and fitness programs; home injury control services; screening for prevention of depression; educational programs on medication management; information concerning diagnosis, prevention, treatment, and rehabilitation of age-related diseases and conditions; gerontological counseling; and counseling regarding social services.

National Family Caregiver Support Program (Title III-E)— Respite care to temporarily relieve the caregiver; counseling; support groups; training; and coordination and access to other supportive services. Services may be provided to an adult caring for an elderly person or for grandparents caring for younger relatives.

Congress appropriates Older Americans Act, Title III funds, and the federal Administration on Aging allocates funds to states, using a specific formula. The Administration on Aging currently awards Title III funds to Colorado in three grants: (1) funding for core services, which covers Parts B (in-home services) and C (nutrition services); (2) funding for Part D (health promotion services); and (3) funding for Part E (National Family Caregiver Support program services). The Administration on Aging requires each state to allocate funding to the Area Agencies based on an Intrastate Funding Formula. In Colorado, the Department of Human Services and the Colorado Commission on Aging develop the Intrastate Funding Formula, subject to approval by the Department of Human Services Board. The current Intrastate Funding Formula distributes Title III funding to five different targeted population blocks. Statewide, the percentage of total dollars allocated to each population block is shown in the table below.

Intrastate Funding Formula Allocations by Targeted Population Calendar Year 2003			
Targeted Population	**Percentage of Total Funds Allocated**	**Number of Individuals in Targeted Population**	**Funds Allocated**
Age 60 and Over	40	579,761	$ 5,822,573
Rural, Age 60 and Over	15	99,278	2,183,464
Minority, Age 60 and Over	15	81,346	2,183,464
Low Income, Age 60 and Over	15	42,965	2,183,464
Age 75 and Over	15	194,798	2,183,464
TOTAL	100	998,148	$14,556,429

Source: Department of Human Services' Intrastate Funding Formula and funding allocations for Calendar Year 2003.

The Department first allocates Title III funds to each population block (e.g., the block of funds for individuals over 60 years of age, the block for serving those who are over age 60 and live in rural areas, etc.). Using census data, the Department allocates the percentage of each funding block to each Area Agency based on the percentage of the State's targeted population residing in the Area Agency's service area. The Department further allocates Title III funding for core services between Part B (in-home) and Part C (nutrition services), with about 39 percent going to Part B, 40 percent to Part C-1 (group meals), and 21 percent to Part C-2 (home-delivered meals).

In total, Older Americans Act funding must be matched by at least 15 percent state or local funds. In Colorado, the State provides a 5 percent general fund match and requires Area Agencies to provide additional matching funds equal to 10 percent.

The Department issues Notice of Grant Awards in three phases, as funding information for the prior year and upcoming year is finalized. By federal law, the Department and Area Agencies have a total of three years from the date of the federal grant to spend the granted funds or they revert to the federal government. Although the Area Agencies have more than one year to spend the federal funds awarded, the Department issues new grant awards to the Area Agencies each year. The new grants include funds carried over from the previous grant period. Total grant awards to Area Agencies for the last three calendar years are shown below.

Older Americans Act and Older Coloradans' Act Total Federal and State Allocations by Area Agency on Aging Calender Years 2001 Through 2003				
Region Number	**Region Name**	**2001**	**2002**	**2003**
1	**Northeastern Colorado Association of Local Governments**	$ 356,442	$ 434,512	$ 451,356
2A	**Larimer County Office on Aging**	641,400	853,183	793,622
2B	**Weld County Area Agency**	494,833	607,917	617,376
3A	**Denver Regional Council of Governments**	4,392,833	5,947,166	6,138,577
3B	**Boulder County Aging Services Division**	617,760	779,983	757,612
4	**Pikes Peak Area Agency**	1,078,023	1,391,422	1,346,037
5	**East Central Council of Governments**	176,203	224,620	222,206
6	**Lower Arkansas Valley Area Agency**	329,906	392,401	368,228
7	**Pueblo Area Agency**	720,091	824,350	695,324
8	**South-Central Colorado Seniors, Inc.**	320,291	388,661	390,224
9	**San Juan Basin Area Agency**	390,803	516,060	433,941
10	**Region 10 League for Economic Assistance and Planning**	428,690	610,188	629,644
11	**Associated Governments of Northwest Colorado**	610,851	822,347	760,867
12	**Alpine Area Agency**	216,490	272,042	311,610
13	**Upper Arkansas Area Agency**	326,753	413,914	426,582
14	**South Central Council of Governments**	198,702	213,276	213,223
TOTAL		**$11,300,071**	**$14,692,042**	**$14,556,429**
	Amount Carried Over From Prior Grant Periods	**($770,564)**	**($2,843,747)**	**($2,741,575)**
	Total New Funding	**$10,529,507**	**$11,848,295**	**$11,814,854**

Source: Department of Human Services' Notice of Grant Awards data for Calendar Years 2001 through 2003.
Note: Amount for each year includes federal funds not spent by the Area Agency during the current grant period that are carried forward for up to three years from the date of the federal grant. According to Department staff, the large increase in carried-over funds is the result of Area Agencies' having difficulty establishing the National Family Caregiver Support Program (Part E).

Funding for the Older Americans Act, by service type, over the last three calendar years is shown in the following table.

Older Americans Act and Older Coloradans' Act Total Federal and State Allocations by Title III Funding Stream Calender Years 2001 Through 2003[1]			
Service Type	**2001**	**2002**	**2003**
Supportive Services (Part B)	$ 4,492,195	$ 5,133,236	$ 4,899,880
Group Meals (Part C-1)	2,483,862	3,288,444	2,898,662
Home-delivered Meals (Part C-2)	1,917,796	2,439,801	2,363,033
Disease Prevention and Health Promotion (Part D)	261,765	346,527	380,480
National Family Caregiver Support (Part E)	1,065,310	2,222,981	2,809,839
Part F[2]	69,182	31,516	-
Area Agency Administration	1,009,961	1,229,537	1,204,535
TOTAL	**$11,300,071**	**$14,692,042**	**$14,556,429**

Source: Department of Human Services' Notice of Grant Awards data for Calendar Years 2001 through 2003.

[1] Includes federal funds not spent by the Area Agency during the current grant period that are carried forward for up to three years from the date of the federal grant.

[2] The 2000 Older Americans Act amendments combine Part D (formerly in-home services) and Part B. Part F (Disease Prevention and Health Promotion Services) became the new Part D. Part E (National Family Caregiver Support Program) was a new program added in 2000. Funds for Part F continued to be allocated until Calendar Year 2002 on the basis of balances carried forward from the previous three year federal grant cycle.

Audit Scope and Methodology

As part of this performance audit, we conducted site visits at four Area Agencies and 13 service providers representing rural and urban areas of the State on both the Front Range and Western Slope. We reviewed 133 participant case files, interviewed Area Agency and service provider staff, reviewed data in the Social Asset Management System (SAMS) and Medicaid service information, and interviewed other states' aging offices. We acknowledge the management and staff at the Department of Human Services' Aging Service Unit, the Area Agencies on Aging, and the Department of Health Care Policy and Financing for their assistance during the audit.

Quality of Care

Chapter 1

Introduction

The purpose of Title III of the Older Americans Act is to assist state agencies and Area Agencies on Aging (Area Agencies) with establishing a comprehensive, coordinated system for serving older individuals. The Department of Human Services (Department) awards funding to 16 Area Agencies who, in turn, award program funds to service provider agencies to process applications, determine eligibility, and deliver services to program participants. Service providers are often an applicant's first and only point of contact with the Older Americans Act program.

Our audit reviewed the Department's and Area Agencies' practices for ensuring access to a high-quality, coordinated care system. We found that insufficient oversight, service fragmentation, and program abuses create some substantial barriers for the seniors accessing program services. Program restructuring would improve access to services and coordination of care. Additionally, increased monitoring and stronger controls are needed to improve accountability and increase the quality of care provided by the Older Americans Act and Older Coloradans' Act programs.

Service Coordination

Older Americans Act services are available to anyone age 60 and older, and federal law requires that priority be given to individuals with the greatest economic or social needs. Our audit evaluated Area Agency and service provider practices for managing participant applications and services in accordance with program priorities. We concluded that the Older Americans Act program lacks a centralized, coordinated process for determining eligibility and managing services effectively.

We found that participants must contact multiple providers to qualify for services. For example, if an individual needs both nutrition services and transportation to and from the senior center meal site, that individual may have to apply for the services with two different providers: a nutrition provider and a transportation provider. Each entity will conduct a separate eligibility assessment for program services and the individual will need to provide personal information, separately, to each provider.

We also found that there is no standardized application and assessment tool to qualify applicants for services. Of the four nutrition service providers we visited, three use an in-depth intake assessment instrument and one uses a simple questionnaire. Seven service providers did not have applications available in Spanish, as required by program rules (Volume 10, Section 10.305(A)(1)(b) and (2)(d)). These practices could result in qualifying people for services in one area and denying them services in another.

Further, we found problems with service tracking and management. The Older Americans Act program does not currently provide case management services for participants. If participants want their services to be managed by a case manager, they must purchase case management services from other sources, using their own funds.

Finally, we identified significant problems with program accountability and oversight. We identified instances where services were billed to, and paid by, both the Older Americans Act and Medicaid programs. We found that the Department used Older Americans Act funds to pay for services that were not delivered in accordance with Area Agency and service provider agreements. Participants were billed for some services in violation of program rules. These problems are evidence of insufficient program management, and they directly impact the quality of services delivered to Colorado's seniors. We discuss service billing and accountability issues in more detail in Chapters 2 and 3.

Lack of coordination and lack of accountability are shortfalls of the current Older Americans Act program. Consequently, the Department needs to take immediate steps to restructure the program. To improve access and accomplish program goals, seniors need to be able to access public- and private-funded services through a single, coordinated system, such as the existing Single Entry Point (SEP) system administered by the State's Medicaid program. The SEP system provides a single entry point for seniors to access an array of services, including Medicaid-covered services provided in homes and institutions. Although SEP program rules allow the SEPs to coordinate care for the Older Americans Act and other private- and public-funded programs, the Older Americans Act program is not currently included in the State's Single Entry Point system. For the SEP system to provide services to individuals who are not Medicaid eligible, the SEP must receive funding from a source other than Medicaid. For example, the SEP system currently offers case management services to individuals who do not qualify for Medicaid. The SEPs charge fees ranging between $11 and $125 per hour, depending on the case and its complexity.

The goals of the Older Americans Act program and the home and community-based services provided through Medicaid are similar—to provide supportive services in the community that allow seniors to live independently. As a result, program eligibility determination and case management efforts, including coordination of services for the two programs, could be combined. Other states, including Oregon and Indiana, have similar programs that provide seniors with a one-stop shop for application and management of community services, including Older Americans Act, Medicaid home and community-based services, and other public- and private-funded programs.

The Department recognizes the advantages of coordinating eligibility determination and service authorization by encouraging Area Agencies to contract with the Single Entry Point agencies for case management services. Although 3 of the 16 Area Agencies currently operate as joint Area Agency/SEP offices, these joint Area Agencies/SEPs have only established agreements for referrals. This means that the SEP will refer Older Americans Act applicants to Area Agency staff for service provision but will not provide case management or other services.

The United States Department of Health and Human Services (HHS) also recognizes the value of coordinating efforts to improve access to community services for people who are elderly or who have disabilities. In 2003, HHS issued a solicitation for grant proposals from states that were interested in setting up a one-stop shop for community-based services. The grant stated that:

> A single, coordinated system of information and access for all persons seeking long term support will minimize confusion, enhance individual choice, and support informed decision-making. It will also improve the ability of state and local governments to manage resources and to monitor program quality through centralized data collection and evaluation.

The grant provided up to $800,000 to states for pilot programs establishing single points of contact for elderly and disabled individuals to access long-term community supportive services, whether funded through Medicaid, the Older Americans Act, or other public- or private-funding sources.

The grant requires the cooperation of both the Department of Human Services and the Department of Health Care Policy and Financing. We believe that the Departments should move forward with a pilot project to establish a one-stop shop for community-based services for seniors. The pilot should be flexible, ensuring that SEPs provide case management and service coordination at a range of intensities in accordance with client needs. The Department should reallocate a portion of its Older Americans Act funds to pay SEPs for managing and coordinating care to seniors who are not eligible for Medicaid, on the basis of the care that individuals require.

Reorganizing the Older Americans Act program to deliver services through a single, coordinated entry point and providing case management and service coordination, as appropriate, will substantially improve access and service quality for Colorado's seniors. Further, a centralized structure will increase program accountability and service tracking. Since implementing the pilot will take some time, the Department should take immediate steps to improve access to services by standardizing the application and assessment process and ensuring application forms and other program information are available in Spanish, as appropriate.

Recommendation No. 1:

The Department of Human Services and the Department of Health Care Policy and Financing should work together to pilot a system for reorganizing the Older Americans Act and Older Coloradans' Act programs. The pilot should use the State's current Single Entry Point system for determining eligibility, assessing participant needs, and providing service coordination and case management services, as appropriate, to individuals qualifying for Older Americans Act services.

Department of Human Services Response:

Agree. The Department agrees with this recommendation. Contingent upon grant funding and on Health Care Policy and Financing participation, Area Agencies on Aging, Single Entry Points, local governments, and the Department will pilot this recommendation by State Fiscal Year 2006-07.

Implementation Date: January 2007 (Contingent on funding).

Department of Health Care Policy and Financing Response:

Agree. Funding is the missing element that would ensure Single Entry Points (SEPs) deliver case management and service coordination for non-Medicaid persons who qualify under the Older Americans Act. The Department of Health Care Policy and Financing does not have the authority to fund case management and service coordination to non-Medicaid eligible clients. Allocating Older Americans Act funds to pay the SEPs for service coordination of non-Medicaid clients will resolve the funding issue.

Representatives from the Mesa County/Grand Junction county department of social services, county commissioners, health plan, mental health providers, legislature and medical providers got together and expressed an interest to the Department of Health Care Policy and Financing that they wanted to find a way to coordinate all services for the elderly population within their area. Mesa County may be willing to participate in a pilot program coordinating all services provided to those who qualify for under the Older American's Act. After the audit is released, the Department of Health Care Policy and Financing will discuss this issue with Mesa County.

Implementation Date: August 2004.

Recommendation No. 2:

While the Department is working on implementing a pilot system for reorganizing the Older Americans and Older Coloradans' programs, the Department of Human Services should increase access and improve the application and eligibility determination processes for Older Americans Act services by:

a. Working with the Area Agencies to develop a single, standardized assessment and eligibility determination form and process that eliminates the need for clients to apply with multiple service providers.

b. Translating program information, including applications and assessment forms, into appropriate languages for those regions where at least 5 percent of the population primarily speaks a language other than English.

c. Providing training to Area Agency and service provider staff on the application and eligibility determination processes.

Department of Human Services Response:

Agree. The Department agrees with this recommendation and is currently in the process of developing a standardized assessment to be completed by October 2004. This assessment will be available in languages where at least 5 percent of the population primarily speaks a language other than English by January 2005. Upon completion of the new intake and assessment tool, formal training will be provided to the Area Agencies by December 2004, with the intent to limit the need for participants to contact multiple providers to access services. Area Agencies will train service providers by April 2005.

Comprehensive Implementation Date: April 2005.

Service Access

The State's service plan requires the Department and Area Agencies to give preference to individuals with the greatest economic or social needs, targeting people who have low incomes, who are minorities, and who live in rural areas. During our review we found that some service providers' practices impair seniors' financial and geographic access to the services they need to remain in their communities and avoid placement in more costly long-term care facilities.

Financial Access

Federal law allows people receiving Older Americans Act services to contribute to the cost of their services, as long as their contributions are strictly voluntary. However, program laws do not allow Area Agencies or service providers to bill or refuse services to participants because they choose not to make a contribution. State rules specifically say that "under no circumstances may an eligible client be denied service(s) by a provider who received funds from the area agency to provide that service because of a decision not to contribute for services rendered."

During the audit we identified three providers whose practices for handling voluntary contributions violate state and federal laws. One provider billed program participants over $10,700 for homemaker services delivered in Calendar Year 2003. Bills sent to participants contained language such as "balance forward" and "total amount you agreed to pay." A second provider billed participants about $19,500 for meal supplements in Calendar Year 2003. The staff at this provider stated that their policy is to deny meal supplements to individuals who cannot contribute. At a third provider, case file review identified that one participant stopped receiving meal supplements when they could no longer pay a contribution of $20 per month.

Further, we found that two of these three providers posted suggested contributions for nutrition supplements that exceeded the full cost of providing the supplements. One provider charges individuals $19.50 per case for Ensure Plus. That provider actually pays only $18.77 per case for Ensure Plus. A second provider marks up all meal supplements by 3 to 14 percent over their cost. These contribution collection practices are in direct violation of the laws and intent of the Older Americans Act program.

Geographic Access

As we have stated, federal and state laws require that Older Americans Act services be targeted to those with the greatest social needs. Social need is defined as "a need caused by non-economic factors, which include physical and mental disabilities; language barriers; and cultural, social, or geographical isolation." We identified three providers whose practices promoted, rather than reduced, geographic isolation for seniors. According to grant agreements, two providers of transportation services agreed to serve entire counties, yet these providers reported that they only served individuals who lived within the city limits. One provider that delivers home-delivered meals does not deliver to people more than five miles outside of the city limits. One case file showed that the participant did not receive home-delivered meals because the senior lived 5 miles away from the meal site. This same provider discontinued provision of home-delivered meals to one senior because of ruts in the participant's driveway that were causing food to spill. These practices leave the most isolated seniors, such as those living outside of the city limits, without access to needed nutrition services.

Transportation services are meant to help individuals continue living independently, enabling them to access community services such as grocery shopping, doctor appointments, and senior center meal sites. Geographically isolated seniors are most in need of transportation services, since transportation options are considerably limited in rural areas. Further, to live independently, seniors need to be able to access services regardless of their ability to pay. The Department and Area Agencies need to work with transportation providers to expand access for seniors in rural areas and work with all service providers to ensure qualified seniors receive services regardless of their incomes. Unless these issues are addressed, seniors are less likely to remain independent, increasing costs to state and federal governments later.

Recommendation No. 3:

The Department should work with the Area Agencies to improve access to services and decrease inappropriate service denials by:

a. Increasing service provider oversight and service planning, and targeting services to those individuals with the greatest social and economic need.

b. Working with the Area Agencies to issue specific guidance for improving access to transportation services for rural participants.

c. Providing training to Area Agencies and service providers on voluntary contributions. Service provider agreements should clarify allowable contribution solicitation practices and provide for enforcement action if providers deny services for individuals who choose not to contribute toward their services.

Department of Human Services Response:

Agree. The Department will work with the Area Agencies to increase oversight by January 2005, issue transportation guidance by March 2005, and provide training to the Area Agencies and providers on appropriate solicitation of contributions by September 2004.

Comprehensive Implementation Date: March 2005.

Wait Lists

State rules mandate that "if sufficient resources are not available to serve all eligible individuals who request a service, the area agency on aging shall ensure that preference is given to those of greatest social or economic need, with particular attention to low income minorities." The Department and Area Agencies recognize that resources are often insufficient. However, the Department has not outlined specific policies for Area Agencies and service providers to track individuals waiting for services.

We requested waiting list information from all 16 Area Agencies around the State and found that 12 of the 16 Area Agencies do not track the total number of individuals waiting for services and do not require their service providers to track and report this information either. This was confirmed during our visits with 13 service providers when we found that 8 did not have any method for tracking individuals waiting for services. The five service providers in our sample that tracked waiting list information did not have an efficient system for managing their waiting lists, resulting in some individuals waiting longer for services than necessary. For example, one of the nutrition providers we visited used a file folder to track information on seniors waiting for home-delivered meals. The information in the folder was not organized and consisted mostly of Post-it notes and telephone messages from seniors requesting services. When reviewing this file, we identified one senior who had been waiting for home-delivered meals for 11 months. When we asked the provider why the person was still waiting for services, the provider immediately placed the individual on a home-delivered meal route.

Waiting list information is a key component of the Area Agency and Department planning process, and assists with focusing scarce resources on key services. The Department needs to establish practices for tracking waiting lists in a systematic manner and ensure Area Agencies and service providers use waiting list information to plan for future services.

Recommendation No. 4:

The Department should work with the Area Agencies and service providers to develop standard policies for establishing and tracking waiting lists in an organized manner to ensure that individuals are not forgotten or overlooked when services become available. Further, the Department should require Area Agencies to compile and analyze waiting list information annually as part of developing their annual service plans.

Department of Human Services Response:

Agree. The Department will work with Area Agencies and local agencies to ensure that waiting lists are established and tracked to provide services to the consumers in their regions. The Department will establish policies that direct the Area Agencies on how waiting list information is provided to the Aging Services Unit.

Implementation Date: September 2004.

Nutrition Supplements

The intent of the nutrition program is to provide nutritious meals to seniors to improve their health and prevent them from becoming nutritionally at risk. By law, nutrition programs are required to provide at least one meal per day, five days a week, in every region of the State. Meals provided through the nutrition program are typically hot meals that constitute at least one-third of a person's daily nutritional requirements. State rules (Volume 10, Section 10.320) require Area Agencies to provide special menus, where feasible and appropriate, to meet dietary needs arising from an individual's health, religious, or ethnic background.

According to staff at the federal Administration on Aging, nutritional supplements, such as Ensure, should not be used to replace hot meals. Additionally, federal law prohibits service providers from earning a profit on Older American's Act services. Our audit found that of four nutrition providers interviewed, three provide meal supplements, such as Ensure, in place of hot home-delivered meals. For a sample of 37 individuals receiving home-delivered meals, we identified 3 seniors who received only nutritional supplements (such as cans of Ensure). One of these seniors is unable to consume solid food and the meal provider does not make alternative soft-foods available. The other two seniors did not have any disabilities or special needs that would require a liquid supplement instead of a hot meal. Yet, these two individuals did not receive a hot meal or any other delivered food in addition to the meal supplements. During 2003 these three participants received a total of close to 600 meal supplements as substitutes for home-delivered meals.

Of the three nutrition providers that routinely supply meal supplements, we identified two that abuse their use on a regular basis. Of a total of 116,000 meals delivered by these two providers in Calendar Year 2003, about 24,000, or 21 percent, were meal supplements. This is nine times the number of supplements provided by the largest provider of home-delivered meals in the State and places seniors who rely on home-delivered meals for their nutritional health at risk.

Providers have financial incentives to provide meal supplements rather than hot meals, since providers can access three different funding sources to cover more than their costs. First, providers are paid by individuals receiving the supplements. Two of the three nutrition providers we visited (that provide meal supplements) charged participants more than their costs for the supplement product. Second, all three providers charged the Area Agency for the full price of a home-delivered meal. A home-delivered meal costs about $2.23 and a meal supplement costs about $1.58, or 29 percent less. Third, all three providers also received reimbursements of about $.54 per meal for each supplement reported as a meal under the Nutrition Services Incentive Program (NSIP). NSIP provides federal funding to encourage states to efficiently deliver nutritious meals to older individuals. In total, we estimate that these three providers were paid up to $99,000 for meal supplements that cost only $43,000 to provide.

These practices directly violate program requirements, since providers are receiving more than their costs for services and providers are billing participants. We discuss problems with billing practices in Chapter 2. The Department should take immediate steps to curtail these practices to ensure that homebound seniors receive needed meals to maintain their nutritional health.

Recommendation No. 5:

The Department of Human Services and its nutritionist should work to develop a statewide policy on the use of nutrition supplements. The policy should:

a. Establish standards for provision of meal supplements and clarify the circumstances when it is appropriate to provide supplements alone and the circumstances when supplements can be supplied in addition to a nutritionally balanced meal.

b. Clarify processes for reporting meal supplements separately from home-delivered meals in the SAMS system, and requirements for reporting meal supplements to NSIP for reimbursement.

c. Standardize provider billing procedures for meal supplements.

d. Determine appropriate contribution amounts for meal supplements and clarify that these contributions must be voluntary.

Department of Human Services Response:

Agree. The Department will determine appropriate contribution amounts by October 2004 and establish policies on the appropriate use of supplements provided through the Nutrition Program by March 2005.

Comprehensive Implementation Date: March 2005.

Background Checks

Section 27-1-110, C.R.S., also known as the Vulnerable Persons Act, requires the Department of Human Services to identify its staff, or the staff of its contractors, who are in positions of providing services to vulnerable persons. The Act also requires all designated staff to undergo a criminal background check prior to hire.

We found the Department does not require Area Agencies or their service providers to conduct criminal background checks on staff providing services, even though the persons served by the program are clearly vulnerable. Of the 13 providers we visited, 12 have staff who provide unsupervised services to vulnerable persons, and 4 of those 12 providers do not conduct criminal background checks on staff. For those providers who do conduct background checks, we found that their hiring practices differ. Some stated that they would hire individuals with DUIs or a history of domestic violence, even though those persons may be driving individuals or providing unsupervised care in the person's home.

We conducted criminal background checks on a sample of about 100 staff employed by 12 service providers. These entities provide direct, unsupervised care to vulnerable persons served by the Older Americans Act program. We identified four staff that had criminal convictions including felony theft, 3rd degree assault, shoplifting, and felony possession of marijuana with the intent to distribute. The Vulnerable Persons Act precludes hiring individuals who have these types of offenses. The Department plans to investigate each case identified in our audit to determine appropriate action.

The Department's mission is to "design and deliver quality human services that improve the safety and independence of the people of Colorado." Although safety is a primary goal, the Department has not established consistent requirements to make sure that elderly and vulnerable Coloradans are served by reputable individuals.

Recommendation No. 6:

The Department of Human Services should improve the safety of vulnerable persons served by the Older Americans Act by:

a. Identifying service provider staff who are subject to criminal background checks as a requirement of hire.

b. Using the Vulnerable Persons Act as a guideline for conducting background checks and for determining the offenses that, if present on a criminal record, will prevent eligibility for employment.

c. Providing training to the Area Agencies and service providers on conducting background checks.

d. Adding background check requirements to state rules (Volume 10).

Department of Human Services Response:

Agree. The Department is developing a policy regarding criminal background checks for potential hires. The Department will implement recommendation parts a, b, and c by February 2005 and part d by June 2005.

Comprehensive Implementation Date: June 2005.

Complaints and Grievances

State rules (Volume 10, Section 10.260) require service providers to furnish individuals with information on the grievance process. State rules also require providers to document all grievances and proceedings and to make the information available for inspection by the Area Agency and the Department, and for consideration by hearing boards if the matter is appealed by the service recipient or applicant for services.

Our visits with 13 service providers indicated that the providers were not informing participants of their right to grieve and appeal program decisions. Program materials provided to individuals did not consistently refer individuals to the Area Agency or the Department for assistance with eligibility decisions or complaints. Since a participant's primary contact with the program is through the service provider, participants will not be aware of the Department's or Area Agency's role in handling grievances or complaints, and complaints may go unreported and unresolved. Additionally, participants may not submit complaints to the service provider directly due to fear of retribution.

We also found that service providers do not track the complaints they receive. Of the 13 providers we visited, 11 did not have a system for recording complaints or documenting their resolution. As a result, neither the Department nor the Area Agencies can use complaint information to assess deficient provider practices, evaluate the timeliness of the complaint handling process, or improve the quality and efficiency of care.

Program participants need an avenue to report problems, complaints, and alleged mistreatment to ensure their care is not compromised. Moreover, the Department and the Area Agencies need to be systematically informed of possible problems and mistreatment reported by participants so that prompt action can be taken to protect vulnerable participants from harm.

Recommendation No. 7:

The Department of Human Services should clarify requirements for the grievance process, ensuring that Area Agencies and service providers include a description of the process, including agency contact information, on materials provided to individuals.

Department of Human Services Response:

Agree. The Department will clarify the grievance procedures for the Area Agencies. Providers will be responsible for notifying consumers of the grievance procedures.

Implementation Date: October 2004.

Recommendation No. 8:

The Department of Human Services should work with the Area Agencies to improve service provider compliance with program rules for complaint tracking and timely handling and disposition of complaints. Additionally, the Department and Area Agencies should incorporate a review of complaint tracking processes into service provider on-site reviews.

Department of Human Services Response:

Agree. The Department will work with Area Agencies to improve providers' tracking and timely handling and disposition of complaints.

Implementation Date: October 2004.

Service Costs

Chapter 2

Introduction

During Calendar Year 2003 the Department of Human Services (Department) reports delivering over 3.4 million units of service to about 34,800 people through the Older Americans Act and Older Coloradans' Act programs, an average of nearly 100 units of service per person. Area Agencies on Aging (Area Agencies) received nearly $14.6 million in federal and state funds for these programs. Area Agencies used these funds to pay local service providers, such as Volunteers of America, the Visiting Nurses Association, Meals on Wheels, or local recreation centers, to deliver services to Colorado's seniors. The average cost per person was about $418 and the average cost per unit of service was about $4.

Our audit reviewed practices for managing and controlling service costs at state and local levels. We found that the program as a whole lacks sufficient controls over payment for services, resulting in duplicate billings and inappropriate service payments. We also found that services were provided to people who are not eligible and that additional controls over cash are needed. The problems we identified raise serious concerns about the Department's fiscal management of program funds and its ability to meet service goals presented in the statewide plan and reported to the Administration on Aging.

Payment Controls

The Social Asset Management System (SAMS) is a central database developed to track the number and types of services provided to individuals and in aggregate to program participants. However, SAMS does not include any information on the dollars paid to providers for each unit of service and, therefore, does not provide any control over service provider payments or billing. In fact, the Department does not have any means of tracking service provider payments or billings other than self-reported information provided by the Area Agencies. Our audit compared the information in the SAMS database with underlying service provider documentation and services required by grant agreements. We concluded that substantial improvements to SAMS are needed to ensure information is reliable for payment controls, program management, and decision making.

We found that SAMS lacks essential components that are needed to manage and control payments. For example:

- **Payments to service providers are not linked to service data.** Basic information such as the amount billed to, and paid for, by the Older Americans Act program is not captured in SAMS. Consequently, the Department cannot compare service payments among Area Agencies and service providers, or evaluate the payments for reasonableness. Further, since SAMS service data have no relationship to payments, Area Agencies and providers have little incentive to report service data to SAMS accurately and timely.

- **SAMS does not track services by type of Title III funding.** Some services under the Older Americans Act can be purchased with more than one type of Title III funds. For example, personal care services can be paid from Part B or Part D of Title III funds. Since SAMS does not track the portion of Title III funds used to pay for each service, the Department relies on self-reported information from Area Agencies to determine the portion of Title III funds used to pay for a particular service.

We also found numerous errors in the SAMS database, raising questions about the accuracy of the data. For example:

- **Some services were not Older Americans Act services and should not have been reported in SAMS.** In June 2003, 1 of the 13 providers we visited reported over 100 transportation services in SAMS that were paid for with funding from a different program. Only services provided through Older Americans and Older Coloradans' Act program funds should be reported in SAMS.

- **Participant characteristics in SAMS did not match information on hard copy application forms.** For 45 of 133 files we reviewed (about 34 percent), SAMS data on participant services, such as whether they were living alone, had disabilities, were living in poverty, or were nutritionally at risk, did not match information on the participants' applications.

- **SAMS data are not complete.** One provider we visited did not report any services to SAMS for June 2003; however, the provider's records showed that nearly 3,000 units were delivered in that month. Another provider documented 236 units of service for June 2003, but only 85 of those units were recorded in SAMS.

Finally, we found that data are entered into SAMS inconsistently, making the data unusable for program analysis and decision making. For example:

- **Fields do not capture all relevant information.** Providers enter a "0" if an individual has no need for assistance with their activities of daily living. However, if the provider fails to enter data into this field, the system automatically defaults to a "0" as well. The system performs similarly for other data fields, such as fields specifying whether an individual is a minority, is impoverished or nutritionally at risk, or has a disability. Additionally, SAMS does not contain specific identifiers to track individuals who are receiving services but who refuse to provide identifying information. Information on unidentified recipients could be used to identify fraudulent service provider practices if trends were particularly high at one provider, or in one region.

- **Data reporting is not standardized.** Some providers report each can of the same meal supplement as a separate meal, while others report two cans as one meal. Additionally, SAMS records some services in an aggregate component (by provider and service type) and some services in a detailed component (by individual, provider, and service type). Depending on the type of service, providers should record services either in aggregate or in detail, but not in both. We reviewed SAMS data for 15 providers and found that 8 reported 12 different types of services in both the aggregate and detailed components of SAMS. We could not determine if services reported in both components were counted more than once.

The problems with SAMS data accuracy and reliability are significant, and impair the Department's ability to control costs and analyze basic data for management decision making. The Department cannot use SAMS data to accurately determine the number of participants who are impoverished, are minorities, have disabilities, or need assistance with activities of daily living. The Department cannot demonstrate that it is serving people who are most economically or socially in need, as required by program goals. Finally, reports from SAMS data may be overstating or understating the performance of Area Agencies and the State as a whole. Since federal oversight agencies receive reports from SAMS, data inaccuracies could impact future funding.

The Department needs to enhance SAMS to ensure the system is capable of providing accurate and useful data for managing Older Americans Act services and payments. This should include developing a fiscal component that captures unit of service billing and payment information. Additionally, the Department should work with Area Agencies and service providers to establish clear parameters for data reporting. Staff at the four Area Agencies we visited reported that SAMS data were not reliable and that reports were not useful. These issues must be addressed, in addition to those discussed above, to improve the overall functionality of the SAMS database.

Recommendation No. 9:

The Department of Human Services should improve overall accountability and functionality of the SAMS database by:

a. Reviewing SAMS system components to determine whether additional coding mechanisms could be implemented to better track services provided by funding source (including Parts B through E of Title III funds).

b. Incorporating fiscal components, such as billing functions, into the SAMS system to enable Area Agencies to pay providers for units of service.

c. Performing scheduled reviews and comparisons of service data reported in SAMS to identify outliers or inconsistencies, and following up with Area Agencies and service providers to determine possible causes.

d. Including specific requirements for reviewing and reconciling service provider documentation to SAMS data during Area Agency annual on-site reviews.

e. Incorporating automated system edits that eliminate inaccurate data entry and issuing specific guidance to Area Agencies and service providers to improve consistency of data entry of SAMS information.

f. Conducting surveys of Area Agencies and service providers to determine what types of reporting and system functions would improve SAMS. The Department should then work with the SAMS system contractor to implement modifications to address Area Agency and service provider concerns.

Department of Human Services Response:

Agree. The Department agrees with this recommendation. The Department will perform scheduled reviews by December 2004 and review SAMS components for coding by March 2005. Contingent upon additional funding, the Department will work with Synergy (the manufacturer of the SAMS software) to enhance the software to improve the accuracy of data and include financial components. Due to the requirement of software enhancements by

Synergy, an implementation date of June 2007 is necessary to allow for the implementation and testing of billing functions through the SAMS system.

The Department will work this year to increase provider data accuracy of client level information and to improve the system edits to SAMS by August 2005. The Department will provide the Area Agencies documentation for reviewing and reconciling provider service delivery documentation to SAMS data by April 2005 and conduct surveys by September 2004.

Comprehensive Implementation Date: June 2007.

Provider Payments

The Department requires Area Agencies and service providers to enter information on the units and types of services provided under Older Americans Act programs into SAMS. The Department then uses the data to track and report the services provided to the federal Administration on Aging. Depending on the type of service, Area Agencies or service providers can enter the service information in one of two ways: (1) for each individual served or (2) in aggregate by service type. At some Area Agencies, the Area Agency enters most of the service provider data into SAMS. At other Area Agencies, the service providers enter these data.

As part of our audit, we matched the number of units reported in SAMS to the number of units required by provider agreements and to the number of units documented in the providers' records. We conducted this analysis for 15 providers reporting to the four Area Agencies we visited. For 13 of the 15 providers we also reconciled services reported in SAMS for June 2003 to underlying service provider documentation including transportation logs, participant contact sheets, meal sign-in sheets, or delivery logs. We identified multiple instances where SAMS data did not align with provider records.

Earlier in this chapter we discussed concerns with the accuracy of service information reported in SAMS. In some cases we used alternative procedures to verify the accuracy of service provider payments. These procedures included reconciling service provider documentation to SAMS data and service provider payments. Understanding the limitations of SAMS, some of the data contained therein indicate significant payment problems and require the immediate attention of the Department. Of the 15 providers in our sample, we identified 11 that received $262,000 in payments for services that do not appear to have been delivered. We found:

- Seven providers received full payment for their grant award, even though, according to SAMS data, these providers did not provide all the services required by their agreements. The grant agreements required these seven providers to deliver over 469,000 units of service. However, these seven providers reported providing only 416,000 units, or about 89 percent of the total units required. We estimate that the Area Agencies paid these seven providers about $261,000 more than they should have. These services should have been reviewed and verified before payment. The Department should work with the Area Agencies to either substantiate these units of service or recover the funds.

- Two of the thirteen providers we visited (one nutrition provider and one transportation provider) routinely bill for "no-show" services. Department policy prohibits billing and reporting services when a participant does not show up. Between January 1, 2003, and June 30, 2003, the transportation provider billed a total of 84 no-show transportation trips for 16 participants. The total cost for these 84 trips was over $700.

- Two of the thirteen providers in our sample could not furnish records showing that they actually provided the services reported in SAMS. During June 2003 these two providers were paid about $680 in program funds for 470 services that could not be verified. (The cost per service is low because one of the providers reported services that were paid from a different funding source. For 435 of the 470 services, only about $1 per unit of service was funded with Older Americans Act or Older Coloradans' Act funding.) We also identified one provider that did not maintain records for participants receiving meals at the senior center meal site. This provider's practice is to destroy these records as soon as the information is entered into SAMS. We could not verify the accuracy of SAMS data for any of the participants receiving senior center meals from this provider. This same provider was unable to locate files for some of the participants in our sample who received home-delivered meals. This provider reconstructed files for these participants. These practices could overstate the number of individuals served and the units of service provided, increasing the risk of fraud and abuse.

- One provider billed the Area Agency for uncollected participant contributions. Current federal and state laws allow service providers to collect program income from voluntary participant contributions, guest fees, proceeds from the sale of equipment and supplies, and interest earnings, but program income must be used to expand program services and not to defray the cost of current services. One provider's service agreement listed its cost per unit of homemaker service as $15. The service agreement stated that

> "clients contribute what they can afford and [the Area Agency] will pay the difference." This means that if the participant contributes $5 for the service, the provider bills the Area Agency for $10. If the participant contributes $15 for the service, the provider does not bill the Area Agency at all. These billing practices violate the law in two ways: (1) the provider is using participant contributions to support an existing service, rather than to expand services (the provider reports delivering only about 63 percent of the units required by its service agreement, so the contributions collected from clients were clearly not used to expand program services); and (2) the provider is using federal and state funds to supplement program income. Only voluntary participant contributions, guest fees, proceeds from the sale of equipment, and interest earnings, and not federal and state funds, qualify as program income.

Our review identified several reasons for the discrepancies between payments and services. First, billing practices are inconsistent. Service providers are permitted to bill Area Agencies on the basis of (1) the actual number of units of service provided, (2) actual expenditures for providing the service, (3) one-twelfth of the provider's grant budget each month, or (4) some combination of all three practices. When service providers bill one-twelfth of their grant budget or bill for their expenditures, it is more difficult for Area Agencies to ensure that service providers actually delivered, and billed for, the quantity of services required by their agreements. The best method for ensuring that the State pays only for services actually rendered is billing based on units of service provided.

Second, the Department and some Area Agencies do not perform audits of service provider data to reconcile the services reported in SAMS to supporting records, such as transportation trip sheets, meal sign-in sheets, or delivery logs. Further, Area Agencies do not reconcile the units of services reported in SAMS to the number of services required by provider service agreements. As a result, neither the Department nor Area Agencies can be confident that program funds are paying only for services actually delivered, or that providers are delivering the amount of services they agreed to provide.

Providers serve a vulnerable population and the risks of fraud increase without appropriate reconciliation, review, and controls. Provider practices raise serious concerns about abuse of program resources. Further, the problems directly affect the services available to older Americans. When Area Agencies pay for services that were not provided, program resources are not available to deliver services to people who need them. The Department needs to address these problems by standardizing billing practices and ensuring that Area Agencies audit and verify service provider data. The Department must take steps to ensure that Area Agencies monitor service providers, reconcile units of service data to provider records, and verify service provider compliance with service agreements. The Department should also standardize service provider billing practices to reduce the risk of overpayment.

Recommendation No. 10:

The Department of Human Services should establish fiscal controls to ensure that services paid for are provided and that program funds are spent appropriately by:

a. Requiring Area Agencies to reconcile the number of units provided and reported in SAMS to the number of units in each agreement and attempt to recover funds if all services are not provided.

b. Incorporating a review of service provider records and a reconciliation of those records to SAMS data into the Area Agencies' annual on-site evaluation of service providers.

c. Working with the Area Agencies to develop standardized practices for documenting and reporting services. The Department should investigate recovery of Older Americans Act funds and state general funds paid for undocumented services, no-show services, or services that were not provided.

Department of Human Services Response:

Agree. The Department will require the Area Agencies to reconcile the number of units in SAMS to the number of units provided by June 2005. The Department will investigate and attempt to recover funds when appropriate. Current on-site evaluation of Area Agency service provider records will incorporate a reconciliation to SAMS data for verifying billing and service unit accuracy by September 2004. The Department will work with the Area Agencies to develop standardized practices for documenting and reporting services by July 2005.

Comprehensive Implementation Date: July 2005.

Recommendation No. 11:

The Department of Human Services should standardize service provider billing practices by requiring service providers to bill, and Area Agencies to reimburse, based on unit of service. Further, the Department should require Area Agencies to monitor service provider billings by reconciling a sample of billings to services provided during annual reviews.

Department of Human Services Response:

Agree. The on-site evaluation tool that is currently in use requires a sample of service provider billing. Reconciliation to SAMS will be added as a component to the evaluation tool. In June 2005, revisions to the Volume 10 regulations will be completed. These revisions will include direction on the reconciliation of provider billing information to SAMS data. After the completion of the Volume 10 regulations, language will be included in the contracts with the Area Agencies to require billing based on unit of service when appropriate. Contracts will be in place July 2006, per Recommendation 16.

Comprehensive Implementation Date: July 2006.

Medicaid Billings

During Fiscal Year 2003 about 11,800 seniors in Colorado were eligible for services under both the Older Americans Act and home-based Medicaid programs. The intent of both Older Americans Act and home-based Medicaid programs is to provide services to individuals in their communities to avoid placement in nursing facilities. Some of the services provided by these programs are identical. The Medicaid programs that provide similar services to the Older Americans Act program are described below:

Medicaid Home and Community Based Services program for the Elderly, Blind, and Disabled (HCBS-EBD)—provides unskilled care to Medicaid recipients in their homes. The unskilled services offered by the HCBS-EBD program include adult day care, personal care, homemaker, non-medical transportation, home modification, and respite care services. To access the Medicaid HCBS-EBD program, individuals must be over 18 years of age and have a disability, require the level of care provided by a nursing facility, earn less than $1,656 per month, and have total financial resources of less than $2,000.

Medicaid Home Health program— provides skilled care to Medicaid recipients in their homes. Some of the skilled services provided by the Medicaid Home Health program include skilled nursing care, home health aide services, occupational therapy, and physical therapy. Medicaid home health services are available to all Medicaid-eligible individuals who need them.

During our review we visited 13 Older Americans Act service providers, 9 of which also provide services under the Medicaid HCBS-EBD or Home Health programs. Our review identified one service provider that, as a matter of policy, bills both the Medicaid and Older Americans Act programs for transportation services. This provider bills both programs the full reimbursement rate for each transportation trip provided to all dually eligible individuals.

Between January 1, 2003, and June 30, 2003, this service provider billed both the Medicaid and the Older Americans Act programs for about 1,600 transportation trips provided to 16 individuals. This provider received a total of about $32,500 for these 1,600 trips, or about $20 per one-way trip. Medicaid paid this provider almost $12 per trip and the Older Americans Act program paid $8.65 per trip. Under no circumstances should the provider bill both Medicaid and Older Americans Act programs for the same services.

When more than one source is available to pay for a Medicaid service, federal Medicaid laws, as well as state Medicaid rules, require Medicaid to be the payer of last resort. In other words, Medicaid providers must first determine whether other third-party resources exist for payment and must access those funds before billing Medicaid. Third party payers are defined by federal law to include other federal and state programs, unless excluded by statute. Conflicting guidance concerning payments exists under Older Americans Act law. Section 321 of the Older Americans Act states that Older Americans Act funding is to be used to supplement, not replace, other federal, state, and local funding sources. This appears to indicate that if a person is eligible to receive services through another federal program, such as Medicaid, the Older Americans Act should not be funding the same services.

The United States Department of Health and Human Services (HHS), which oversees the federal agencies that administer the Older Americans Act and Medicaid programs, is investigating each programs' payment responsibility when participants are eligible for services under both programs. The Departments of Human Services and Health Care Policy and Financing should continue to follow up with HHS until the payment issue is resolved. On the basis of HHS' decision, the Departments should establish a policy for billing Medicaid and Older Americans Act services, and the appropriate agency should recover the overbilled funds. If Medicaid is the program responsible for recovery, it should recover about $5,000. If the Older Americans Act program is responsible, it should recover about $14,000. Additionally, the appropriate agency should review all services delivered to dually eligible individuals by this transportation provider over a period of several years and recover any additional overpayments.

Recommendation No. 12:

The Department of Human Services and the Department of Health Care Policy and Financing should work with the United States Department of Health and Human Services (HHS) to clarify the program that is responsible for payment when participants are eligible for services under both the Older Americans Act and Medicaid programs. On the basis of HHS' decision, the appropriate program should recover any inappropriate payments made to the transportation provider, and review the transportation services provided to dually eligible individuals over several years to identify and recover additional overpayments, as indicated. The Departments should establish appropriate billing practices for Medicaid and Older Americans Act services and train providers on those practices. Additionally, the Departments should implement procedures for identifying and recovering duplicate billings in the future, as appropriate.

Department of Human Services Response:

Agree. The Department will develop clarification of appropriate billing practices. The Department has requested from the United States Department of Health and Human Services an interpretation of who the payer of last resort is between the Older Americans Act and Medicaid Social Security Act. On the basis of the HHS decision, the Department will investigate and determine appropriate steps for recovery of payments.

The Department will work with Health Care Policy and Financing to develop a service review process to identify duplicate billing.

Implementation Date: July 2005.

Department of Health Care Policy and Financing Response:

Agree. The Department of Health Care Policy and Financing will work with the Department of Human Services and the United States Department of Health and Human Services to clarify appropriate billing practices for these services when clients are eligible for both Medicaid and Older Americans Act Services. Service providers will be educated on the appropriate billing practices for Medicaid payments in such situations through a provider Medicaid Bulletin. Recovery will be pursued on any substantiated Medicaid overpayment. The provider will be reviewed for all other applicable service periods and any additional overpayment identified will be pursued.

Implementation Date: September 2004.

Eligibility

In general, individuals are eligible to receive Older Americans Act services as long as they are 60 years of age or older. For certain types of services, including home-delivered meals and in-home services, individuals must also have physical or mental impairments and be unable to leave their homes. We reviewed service provider data for a sample of 133 participants and reviewed data in SAMS for the State as a whole to determine whether individuals receiving Older Americans Act services were eligible to receive services. We found multiple instances where individuals did not appear to be eligible for services provided. The value of the services provided to individuals who were not eligible to receive them totaled about $213,000.

To receive in-home services, participants must have difficulty performing at least three activities of daily living and be mentally or physically unable to arrange for and manage their own services. In-home services include homemaker, personal care, chore, home health, and adult day care services, among others. We reviewed SAMS data to identify all the individuals who received in-home services during Calendar Year 2003 but did not have any listed deficiencies in their activities of daily living. We identified about 39,500 units of in-home services provided to 1,130 individuals who did not have impairments listed in SAMS. At an average cost of $4.27 per unit of service, we estimate that the total cost of services provided to nonqualifying individuals was about $168,700.

To receive home-delivered meals, participants must be unable to leave home because of a disabling physical or emotional condition. Our case file review revealed that 8 of 37 individuals receiving home-delivered meals did not appear to be homebound. These individuals either could drive, were living with family members who prepared all their meals, or were able to attend senior center meal sites. These eight individuals received nearly 700 home-delivered meals in 2003. At the cost of about $2.23 per unit for a home-delivered meal, we estimate the total cost of providing meals to these eight individuals in our sample was nearly $1,600.

To receive most other types of Older Americans Act services, participants must be at least 60 years old. Our analysis of the information in SAMS revealed that, during Calendar Year 2003, 13 of the 16 Area Agencies provided services to a total of 164 participants under 60 years of age. On average, these individuals were 49 years old.

These 164 participants received over 10,000 services, including homemaker, personal care, transportation, material aid, and adult day care services. At an average cost of $4.27 per service, we estimate the total cost of services provided to these 164 individuals to be about $43,000.

Some of the exceptions in our test work may be due to SAMS data errors, as we discussed previously in this chapter. However, the exceptions are so widespread that they raise substantial questions regarding irregularities and overpayments. Further, these exceptions raise serious concerns about Department and Area Agency oversight of provider eligibility determination practices. All 13 of the service providers we visited were solely responsible for determining participant eligibility. Neither the Department nor the Area Agencies overseeing these providers review the eligibility determination process. Service providers have incentives to increase eligibility because, in some instances, they are paid by unit of service and they are required to serve a certain number of individuals with the program funds they receive. It is in these providers' best interest to determine that everyone who applies is eligible. As a result, it is important that the Department and Area Agencies review samples of assessments to ensure that participants were determined eligible for services appropriately. Eligibility determination is a key component to ensuring that resources are effectively used to serve seniors most in need.

Recommendation No. 13:

The Department of Human Services should reduce the costs of providing services to people who are ineligible by:

a. Training Area Agencies and service providers on correct assessment practices and methods for documenting participant eligibility.

b. Reviewing participant eligibility during the Department's on-site assessments of Area Agencies and during the Area Agencies' on-site assessments of service providers.

c. Examining options for improving the objectivity of assessments and service authorizations by using independent case managers to authorize all services or reorganizing the program as discussed in Chapter 1.

Department of Human Services Response:

Agree. The Department will provide training to the Area Agencies by December 2004, and train providers on the eligibility criteria for Older

Americans Act services by April 2005. The on-site evaluation tool will be expanded to include participant eligibility during the review by August 2004. Upon implementation of Recommendation 1, the Department will determine the feasibility of using independent case managers for authorizing services.

Comprehensive Implementation Date: January 2007.

Cash Controls

State rules require the Department and Area Agencies to "ensure that minimum standards and procedures are established for the responsible collection of, handling, and safeguarding of participant contributions and non-eligible recipient fees." State rules also require that participant contributions "be counted in the presence of a witness and both individuals shall sign a collection form attesting to the correct count." We interviewed each of the 13 providers we visited with respect to their handling of cash contributions and found that 10 lacked appropriate controls for handling cash.

We found that service provider staff and volunteers have unsupervised access to cash receipts. Service provider staff and volunteers often collect participant contributions when providing transportation or in-home services, or delivering home-delivered meals. Staff and volunteers turn in the cash collected to the service provider on a daily basis. However, the service provider does not know the amount of cash collections that should be turned in at any given time. As a result, the system lacks controls to prevent embezzlement. Area Agencies expressed concerns with cash handling procedures and would like specific guidance from the Department to implement appropriate cash controls.

Appropriate control mechanisms are available to help prevent theft in cash collections. For example, one transportation provider we interviewed used lock boxes in each vehicle. The participants could deposit money into the lock boxes, but the driver could not remove the cash. The driver turned in the lock box at the end of each day, and the service provider opened and counted the cash in a controlled environment that included appropriate separation of duties and cash handling procedures. Other service providers supply participants with self-addressed envelopes for sending contributions to the service providers' offices, and instruct participants not to give cash to service provider staff or volunteers. This enables the provider to open and account for mailed contributions in a properly controlled environment.

The Department needs to develop guidance and training on appropriate cash controls for both the Area Agencies and service providers. Additionally, the Department and Area Agencies should review cash controls during on-site visits on an annual basis.

Recommendation No. 14:

The Department of Human Services should develop training materials to train the Area Agencies and service providers on appropriate cash handling procedures, internal controls, and fraud prevention. These controls should include appropriate separation of duties for collecting, counting, and depositing cash receipts. Additionally, safeguarding mechanisms should be applied when a single individual is responsible for collecting cash and segregation of duties is not possible. The Department and Area Agencies should also evaluate service provider cash controls on an annual basis as part of their annual on-site review of service providers.

Department of Human Services Response:

Agree. The Department will develop materials and provide training on the appropriate handling of cash donations. The Department is currently reviewing provider and Area Agency cash controls while completing on-site reviews.

Implementation Date: January 2005.

Program Administration

Chapter 3

Introduction

Multiple agencies at the state, federal, and local levels administer and oversee the Older Americans Act program. The Department of Human Services'(Department's), Aging Services Unit is the designated state office on aging and has primary responsibility for overseeing the Older Americans Act program at the state level. In Colorado, a network of Area Agencies on Aging (Area Agencies) covers the 16 local service regions, identifying seniors' needs and structuring the services provided in each region. About 170 service providers work with Area Agencies to deliver an array of services to seniors. Our audit reviewed the oversight provided at state and local levels and found that some basic monitoring practices are lacking. Our recommendations for improving program management follow.

Area Agency Oversight

The Department's four-year State Plan, presented to the federal Administration on Aging, commits to a quarterly review of each Area Agency's programmatical and financial performance. During our audit we reviewed the Department's practices for monitoring Area Agencies and awarding Older Americans Act and Older Coloradans' Act program funds to the Area Agencies. We found that the Department provides minimal oversight of these programs.

We found that the Department has not conducted regular on-site reviews of Area Agencies. Three of the four Area Agencies we interviewed stated that they could not remember the last time anyone from the Department had visited to review records, case files, or general compliance with laws and regulations. Substandard monitoring practices have contributed directly to many of the problems we have identified throughout this audit. As discussed in Chapters 1 and 2, we found that Area Agencies and service providers (1) received payment for services never delivered, (2) provided services to ineligible people, and (3) billed both the Medicaid and the Older Americans Act programs for some of the same services. Insufficient monitoring has impaired both financial and geographic access to services for seniors. Further, inconsistent practices among Area Agencies and service providers have made it difficult for the Department to examine service provider activities. Increased standardization is needed, as we have recommended throughout this report, to help the Department and Area Agencies better oversee program services and improve fiscal accountability.

Additionally, the Department does not review Area Agencies' management of service providers. Although state rules require Area Agencies to conduct quarterly reviews and annual on-site visits of all service providers, the Department does not monitor the results of these reviews. Consequently, Department staff did not know that one of the four Area Agencies we visited was not conducting any on-site reviews of service providers.

Recently the Department created a tool and established a schedule for conducting on-site reviews of Area Agencies around the State. The tool includes a questionnaire for assessing the Area Agencies' compliance with program laws and rules. The Department also plans to review participant case files and underlying service documentation during on-site visits of service providers. In March 2004, the Department conducted its first on-site review of Area Agencies. As of May 2004, the Department had completed on-site reviews of four Area Agencies and plans to visit the remaining Area Agencies over the next year.

Area Agency Grants

The Department uses a Notice of Grant Award, rather than a standard state contract, to award funding to the Area Agencies. These grant awards are based on the Area Agencies' approved four-year and annual service plans. The Area Agencies' annual service plans contain information on the amount of Older Americans Act funding requested, the amount of matching funds that will be provided by the Area Agency (or its service providers), and the number of units of service and number of participants to be served, by service type. Although the combination of the Area Agencies' service plans and grant awards provide some measure of required performance, we found that provisions were not sufficient to protect program funds. Neither the grant awards nor the Area Agencies' approved service plans contained specific performance requirements, such as requirements for Area Agencies to oversee service providers. Additionally, the grant awards did not set forth the remedies available to the Department should Area Agencies fail to comply with contract provisions.

The Department's four-year plan submitted to the Administration on Aging states that beginning Fiscal Year 2004, the Department will use contracts as the vehicle for awarding funds. The four-year plan notes that contracts provide advantages, including setting forth contractor requirements in clearly worded, understandable, and legally enforceable terms, and providing specific remedies for parties if breach of contract occurs. The Department has not yet implemented standard contracts for awarding Older Americans Act funds to Area Agencies. As a result, the Department continues to lack appropriate enforcement mechanisms for addressing Area Agencies that do not perform in accordance with agreed-upon standards and service levels.

The Department has expressed concerns about the adequacy of its staff resources for monitoring the Area Agencies and service providers. The Department can address these issues by establishing a risk-based review process for Area Agencies and by using contracts to award funding to the Area Agencies. A risk-based approach uses risk factors to identify high-risk Area Agencies. High-risk Area Agencies would receive more comprehensive reviews more frequently; low-risk Area Agencies would receive less comprehensive reviews less frequently. State rules provide the Department with authority to remove an Area Agency's designation if the agency consistently fails to carry out the requirements specified in the Older Americans Act. Specific performance requirements and enforcement actions in Area Agency contracts would provide the Department with additional tools to enforce Older Americans Act program requirements.

Recommendation No. 15:

The Department of Human Services should establish comprehensive monitoring of Area Agencies and service providers by using a risk-based schedule for conducting on-site reviews. On-site reviews should include:

a. Review of Area Agencies' policies and procedures, including Area Agencies' on-site evaluations of service providers.

b. Review of Area Agencies' oversight of provider billing and service reporting practices, including reconciliation of services reported in SAMS to services documented in provider records and services required by provider agreements.

c. Interviews with service providers, including review of participant case files to ensure participants are eligible for, and receive, appropriate services.

d. Review of Area Agency and service provider financial audits.

Department of Human Services Response:

Agree. The Department has begun a comprehensive evaluation of the Area Agencies and their service providers. This will include reviewing policies, procedures, and participant case files by August 2004, and reviewing Area Agency oversight by June 2005. The Department will review the financial statement audits of Area Agencies and recommend that Area Agencies review service provider financial statement audits where available and appropriate.

Comprehensive Implementation Date: June 2005.

Recommendation No. 16:

The Department of Human Services should begin using formal contracts to award funding to the Area Agencies.

Department of Human Services Response:

Agree. The Department will work to develop and implement contracts with the Area Agencies. Upon completion of rewriting Volume 10, the Department will present a draft contract to the Area Agencies in February 2005. Negotiations with the Area Agencies and other stakeholders will occur through November 2005. The Department will allow six months for the contract approval process through the local government agencies.

Comprehensive Implementation Date: July 2006.

Service Provider Oversight

State rules (Volume 10, Section 10.250(B)) require the Area Agencies to annually evaluate the costs and benefits, quality, accessibility, utilization, priority, targeting, and overall effectiveness of all programs, services, and activities that each Area Agency funds. We found that oversight of service providers at the four Area Agencies we visited is inadequate to ensure that providers comply with applicable laws and agreements, protect participant safety, and ensure individual access to care. Additionally, we found that the methods used by Area Agencies to award program funding to service providers do not contain adequate performance standards or enforcement remedies for nonperformance.

Area Agencies must comply with state rules for monitoring service providers to retain their Area Agency designations. Currently Area Agency on-site reviews of service providers provide the Department with little assurance that providers are delivering services or spending funds in accordance with program guidelines. First, we found that only two of the four Area Agencies we visited reconciled billed services to supporting documentation in participant files or provider records. These same two Area Agencies also stated that they reconcile services reported in SAMS to the providers' supporting service detail. Although these two Area Agencies claim to perform reconciliation of billings and services reported to providers' supporting documentation, we still found problems with their service providers, indicating the reconciliations performed by the Agencies were not effective. Second, none of the Area Agencies we interviewed reviewed service provider practices for determining participants' eligibility for services. These Area Agencies also did not review service provider practices for collecting contributions from participants. Finally, on-site visits were handled inconsistently by the Area Agencies. One Area Agency did not conduct any on-site visits of service providers. This Area Agency had about 60 contracts with 33 different service providers in 2003. Information on the sufficiency of operations at these 33 providers is limited. The other three Area Agencies conducted only cursory reviews, in some cases asking service providers to respond to questions without providing any supporting documentation.

None of the four Area Agencies reviewed the service providers' practices for conducting criminal background checks of staff who have unsupervised contact with program participants. As discussed in Chapter 1, we identified four provider staff currently working with vulnerable individuals, who had criminal histories that could jeopardize participant safety. We also found that service providers have varying thresholds for the types of criminal offenses permitted for the staff that they hire.

Provider Agreements

Area Agencies award funds to service providers primarily through service agreements. We found that these service agreements do not adequately protect state or federal funds. Service provider agreements do not clarify performance expectations such as the number or types of services to be provided. Additionally, service provider agreements do not clearly state how program income will be used to expand services.

We identified several inconsistencies in Area Agency agreements with service providers that raise questions of whether program funding is used in accordance with law. Specifically:

- Program laws and rules require that program income (typically derived from participant contributions, guest fees, proceeds from the sale of equipment, and interest income) be used to expand services and not to defray current program costs. This means that program income should be used to increase the number of services provided, improve access to services by increasing outreach or transportation to services, or provide other supportive services related to the Older Americans Act program. We found that provider agreements did not clearly state whether the units of service shown on the agreement were to be provided from Older Americans Act funds or were expanded services delivered from program income. Our review of services and program income for seven providers raised serious questions about whether these providers were using program income to expand services or to defray the cost of services that they agreed to deliver through Older American Act program funds. Specifically, these seven providers' agreements showed a total of about $603,000 in program income; however, the providers delivered about 53,000 fewer services than the approximately 469,000 services required by their agreements.

- Service provider agreements are not based on a standard fiscal or calendar year. We found that one Area Agency uses calendar year on all agreements, another Area Agency uses state fiscal year, and the other two Area Agencies we visited use a combination of calendar year, state fiscal year, and other random service periods covering partial years. Differing service periods in provider agreements make comparisons among Area Agencies or service providers nearly impossible. Reconciliation to SAMS data is arduous and the administrative burden for monitoring agreements increases greatly. The Department has not issued specific guidance to Area Agencies requiring them to standardize service periods in provider agreements.

- One Area Agency's service agreement built profit into the unit costs paid to a "for-profit" service provider. Federal law prohibits any agency from earning a profit from Older Americans Act funds. During our interviews the staff at this service provider stated that the agency earns a profit on Older Americans Act services. When we verified this information with the Area Agency, the Area Agency stated that it requested guidance from the Department on appropriate language for the for-profit contract. The Department did not respond timely and the Area Agency moved forward with the grant award.

Lack of oversight, inconsistent cost calculations and granting periods, and lack of appropriate contract enforcement provisions place program funds at risk and prevent statewide cost analysis or monitoring by either the Department or the Area Agencies. Although the Department provided Area Agencies with a copy of a standard state contract and procurement policy, the Area Agencies continue to use various mechanisms for awarding funds to service providers. To improve protection and accountability for state and federal funding, the Department should issue standardized contract language that Area Agencies must incorporate into contracts with service providers.

Recommendation No. 17:

The Department of Human Services should work with the Area Agencies to develop standardized criteria for performing on-site reviews of service providers and reporting the results to the State. Criteria should standardize practices for interviewing service providers, reviewing supporting documentation for billings and service data, and sampling and reviewing case files. The Department should provide training to Area Agency staff on performing on-site reviews of service providers.

Department of Human Services Response:

Agree. The Department will develop specific criteria for the Area Agencies to use in all service provider on-site evaluations by October 2004. Training on the criteria and how to conduct on-site evaluations will be provided to the Area Agencies by December 2004.

Implementation Date: December 2004.

Recommendation No. 18:

The Department of Human Services should work with the Area Agencies to develop standardized contract language for service provider contracts that specifies contracting periods, methods for calculating the contracted cost per unit, performance requirements, enforcement remedies, disclosure of the use of program income, and language for contracts with for-profit providers to ensure that agreements do not pay provider profits in violation of federal law.

Department of Human Services Response:

Agree. The Department will develop specific criteria that will be included in all service provider contracts. The providers' contracting period will coincide with the Area Agencies' contract period in Recommendation 16.

Comprehensive Implementation Date: July 2006.

Allocation Formulas

As discussed in the Overview chapter, Older Americans Act, Title III funds are appropriated by Congress and allocated by the federal Administration on Aging to states, using a specific formula. Each state further allocates funding to each Area Agency based on the Intrastate Funding Formula. In Colorado, the Intrastate Funding Formula is developed by the Department of Human Services and the Colorado Commission on Aging and approved by the Department of Human Services Board. State rules require the Department to review the funding formula at least every four years. However, we found that the Department's current State Plan acknowledges that the Intrastate Funding Formula has not been reviewed in over two decades.

Federal law also requires each state to determine the portion of Title III, Part B funds dedicated to access services, in-home services, and legal services. State rules currently require each Area Agency to spend at least 25 percent of Title III, Part B funds for access services, 15 percent for in-home services, and 3 percent for legal services. In Calendar Year 2003, four Area Agencies requested a waiver of the allocation requirements for Part B funds. State rules allow Area Agencies to apply for a waiver of Part B spending requirements if the Area Agencies can document that a lesser percentage of funds is needed to adequately serve the individuals in their service area. For example, if the Area Agency can provide all legal services needed to those eligible individuals who apply for only 2 percent of its Part B funding, it can apply for a waiver of the 3 percent minimum requirements.

Since both the Intrastate Funding Formula and the Part B expenditure requirements have not been evaluated in about 20 years, there is no rational basis for the allocations. The Area Agencies we interviewed supported a review of Part B funding allocations, stating that the allocations may no longer be representative of area needs. The current State Plan proposes that the Division of Aging and Adult Services and the Area Agency Directors conduct a joint review of the Intrastate Funding Formula and Part B spending requirements by the close of Federal Fiscal Year 2005 (September 30, 2005). It is important that the State's Intrastate Funding Formula and Part B spending requirements be based on reasonable and quantifiable data, including the number and types of services needed by the State's population of individuals over age 60 who are low-income, minority, and living in rural areas.

Recommendation No. 19:

The Department should reevaluate the Intrastate Funding Formula, and the Title III, Part B expenditure percentages. The Department should review service provision statistics, program expenditures, carryover of funds, and the Area Agency four-year plans, and consider input from Area Agencies and the public. The Department should document its process for determining the allocation formulas and reevaluate the formulas on a scheduled basis to ensure the formulas are adjusted as necessary.

Department of Human Services Response:

Agree. The Department will work with Area Agencies and local agencies to review the Intrastate Funding Formula. The Department has contracted with an agency to conduct a strengths/needs assessment for older individuals in Colorado. The results of that survey will be one tool used to reevaluate the allocation formula for Title III, Part B services.

Implementation Date: September 2005.

Rules and Procedures

Congress last revised the Older Americans Act in 2000. In the State's current four-year plan covering Federal Fiscal Years 2004 through 2007, the Department reported to the Administration on Aging that it had successfully completed its update of state rules to align them with federal law. However, we found that state rules (Volume 10) have not been updated since 1995.

In January 2003 the Department worked with the Area Agencies to complete an update of Volume 10. The Department first presented the rule revisions to the State Board of Human Services in August 2003, and the State Board decided to reject the rule revisions in November 2003. Board meeting minutes confirm that several Area Agencies testified against passing the rule revisions, stating concerns that the rules encouraged the Department to micromanage the Area Agencies.

While the Department is working on updating Volume 10, staff communicate revisions to policies and procedures through memorandums. The Department issued 36 memos to Area Agencies in Calendar Year 2000, 40 memos in Calendar Year 2001, 41 memos in Calendar Year 2002, and 20 memos in Calendar Year 2003. Area

Agencies have complained about the volume of these memos and state that tracking the changes and revisions is burdensome.

It is critical that revisions to Volume 10 be completed to ensure that state rules align with federal law. Further, it is crucial that Volume 10 revisions standardize practices among Area Agencies. As we have discussed, contracting, billing, service provider oversight, and service provision practices vary substantially among Area Agencies, making it difficult for the Department to evaluate and compare Area Agency performance. Additionally, Area Agencies are currently required by state rules to develop their own procedures manuals. As a result, each Area Agency's procedures are somewhat different, making the Department's oversight of the Area Agencies difficult. The Area Agencies we interviewed stated that they would like a single procedures manual that includes detailed information on how to implement state rules. Standard procedures would enable Area Agencies to operate more consistently, facilitate the Department's review of Area Agency operations, and reduce the administrative burden for both the Department and the Area Agencies.

Recommendation No. 20:

The Department should continue to work with Area Agencies to revise Volume 10 and create a single procedures manual that provides Area Agencies and their service providers with specific direction on conducting their operations. At a minimum, the manual should standardize service provider billing and payment practices, service reporting, service cost calculations, application and eligibility determination processes, use of meal supplements, and processes for conducting background checks.

Department of Human Services Response:

Agree. The Department will continue to work with the Area Agencies to revise Volume 10. A final draft will be submitted to the Department of Human Services State Board office by February 2005. The Department anticipates the approval of the Regulations by June 2005. A Policy and Procedures Manual will be developed in conjunction with rule development.

Comprehensive Implementation Date: June 2005.

Conflicts of Interest

Each Area Agency has an Advisory Council that helps the Area Agency perform a number of duties, including developing the Area Agency's service plan, performing outreach activities, and selecting service providers that will deliver the services identified in the plan. According to state rules, participation on Advisory Councils is inappropriate for service providers that intend to apply for or already receive Older Americans Act funds. Specifically, Volume 10, Section 10.402(B) states:

> Subgrantees of the state shall not serve on a policy board or advisory council of an area agency or other organization which is either the recipient of OAA funds, or has submitted a grant application for such funds.

Although this provision clearly states that fund applicants or grantees should not serve on advisory boards, another provision in state rules appears to allow providers to serve on advisory boards as long as they do not take part in the grant awarding process. Volume 10, Section 10.402 (D) states:

> Members of area agency advisory councils who are board members of agencies which have submitted applications for an award of funds to the [Area Agency] shall not take part in the advisory process which evaluates such applications and shall abstain from casting a vote to approve or disapprove of such application. Neither shall there be participation in any evaluation, assessment or review of [an Area Agency] grantee's operations on the part of an area agency advisory council member, nor participation in any other activity which can be considered a conflict of interest because of such member's official relationship with the grantee organization.

Federal statutes and rules allow participation of supportive service providers on Area Agency Advisory Councils but do not address the issue of whether a supportive service provider can be a current, or future, grantee of the program. During our interviews with four Area Agencies, we found that Advisory Council members are often involved in ownership or oversight of the service provider agencies contracting with the Area Agency. This presents a conflict of interest, since, in general, the Advisory Council aids the Area Agency in selecting service providers for grant awards. The presence of a service provider (or their representative) on the Advisory Council may increase the likelihood that the provider receives funding.

For public policy reasons, service providers should not hold positions where they can directly, or indirectly, influence funding decisions or selection of service providers.

The Department should propose revisions to rules to clarify that applicants and recipients of Older Americans Act funds cannot participate on Area Agency Advisory Councils.

Recommendation No. 21:

The Department of Human Services should minimize the potential for conflicts of interest among Advisory Council members by working with the Area Agencies to develop a statewide policy concerning the participation of service providers on Advisory Councils. The policy should identify appropriate safeguards to prevent providers that participate on Advisory Councils from receiving preferential treatment or funding as a result of their service.

Department of Human Services Response:

Agree. The Department will work with the Area Agencies in developing specific criteria regarding the conflict of interest by January 2005, and provide training to the Area Agencies by April 2005.

Comprehensive Implementation Date: April 2005.

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