
HOUSE BILL 2572

State of Washington

60th Legislature

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By Representative Moeller

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1 AN ACT Relating to area agencies; amending RCW 74.38.020 and
2 74.38.030; adding new sections to chapter 74.38 RCW; and declaring an
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 74.38.020 and 1989 1st ex.s. c 9 s 817 are each
6 amended to read as follows:

7 As used in this chapter, the following words and phrases shall have
8 the following meaning unless the content clearly requires otherwise:

9 (1) "Area agency" means ((~~an~~)) any public or private nonprofit
10 agency, other than a state agency, permitted under the Older Americans
11 Act (42 U.S.C. Sec. 3001 et seq.), and designated by the department to
12 carry out programs or services approved by the department in a
13 designated geographical area of the state.

14 (2) "Area plan" means the document submitted annually by an area
15 agency to the department for approval which sets forth (a) goals and
16 measurable objectives, (b) review of past expenditures and accounting
17 of revenue for the previous year, (c) estimated revenue and
18 expenditures for the ensuing year, and (d) the planning, coordination,

1 administration, social services, and evaluation activities to be
2 undertaken to carry out the purposes of the Older Americans Act of 1965
3 (42 U.S.C. Sec. (~~3024~~) 3001 et seq.), as now or hereafter amended.

4 (3) "Department" means the department of social and health
5 services.

6 (4) "Office" shall mean the office on aging which is the
7 organizational unit within the department responsible for coordinating
8 and administering aging problems.

9 (5) "Eligible persons" means (~~(senior citizens)~~) persons who are:

10 (a) Sixty-five years of age or more; or

11 (b) Sixty years of age or more (~~(and are either (i) nonemployed, or~~
12 ~~(ii) employed for twenty hours per week or less))~~ or as defined by the
13 Older Americans Act (42 U.S.C. Sec. 3001 et seq.); and

14 (c) In need of services to enable them to remain in their customary
15 homes because of physical, mental, or other debilitating impairments.

16 (6) "Low income" means initial resources or subsequent income at or
17 below forty percent of the state median income as promulgated by the
18 secretary of the United States department of health(~~(, education and~~
19 ~~welfare))~~ and human services for Title XX of the Social Security Act,
20 or, in the alternative, a level determined by the department and
21 approved by the legislature.

22 (7) "Income" shall have the same meaning as in chapter 74.04 RCW,
23 as now or hereafter amended; except, that money received from RCW
24 74.38.060 shall be excluded from this definition.

25 (8) "Resource" shall have the same meaning as in chapter 74.04 RCW,
26 as now or hereafter amended.

27 (9) "Need" shall have the same meaning as in chapter 74.04 RCW, as
28 now or hereafter amended.

29 (10) "Single-purpose area agency" means a public or nonprofit
30 entity that serves a majority of clients and beneficiaries as described
31 in the Older Americans Act (42 U.S.C. 3001 et seq.), as now or
32 hereafter amended.

33 NEW SECTION. Sec. 2. A new section is added to chapter 74.38 RCW
34 to read as follows:

35 (1) When an area agency on aging has failed to comply with the
36 terms of a contract which governs the use of funds provided under that
37 contract, the secretary may address the situation by providing:

1 (a) On-site technical assistance that is performance-driven and
2 outcome-based, stressing information sharing and best practice models;

3 (b) Program instruction and regular updates on aging policy and
4 procedure manuals that provide clarification and interpretation of
5 rules governing fiscal and program issues; or

6 (c) Program and fiscal monitoring assistance, including site
7 visits, desk reviews, and analysis of both fiscal and program outcomes
8 to help identify potential weaknesses before such weaknesses result in
9 substandard performance or questioned costs.

10 (2) If the area agency on aging's lack of compliance persists after
11 delivery of the services authorized by subsection (1) of this section,
12 then the secretary may impose sanctions of various levels of severity,
13 depending upon the level of noncompliance, as follows:

14 (a) If any of the following problems occur, then the secretary may
15 require the area agency on aging to develop and implement a corrective
16 action plan acceptable to the department, submit additional or more
17 detailed financial or performance reports, and repay disallowed costs
18 for violations of its contract:

19 (i) The area agency on aging fails to file required reports
20 accurately and completely by the due date or fails to approve by an
21 approved extension date accurately and completely within five workdays
22 following notification more than twice in one fiscal year;

23 (ii) The area agency on aging fails to develop and implement a
24 corrective action plan acceptable to the department related to an
25 identified issue of contractual or legal noncompliance within forty-
26 five days of being notified by the department.

27 (b) If any of the following problems occur, then the secretary may,
28 after notice to the area agency on aging director, the director's
29 superior, and the contractor's board chair or comparable agency
30 official, restrict the area agency on aging from drawing down
31 administrative funds and prohibit participation in discretionary funds
32 application of carryover pool redistribution:

33 (i) The area agency on aging fails to correct any deficiencies
34 cited under (a) of this subsection within the time frame established
35 for corrective action;

36 (ii) The area agency on aging fails to timely complete corrective
37 actions provided in any corrective action plan;

1 (iii) The area agency on aging fails to timely submit a single
2 audit to the department, in accordance with OMB Circular A-133.

3 (c) The secretary may impose one or more of the sanctions
4 authorized under subsection (a) or (b) of this section, prohibit or
5 limit the delivery of direct services by a contractor or the area
6 agency on aging, or prohibit or limit the use of a specific provider or
7 vendor for violations of a contract related to the failure to:

8 (i) Correct any deficiencies cited under subsection (a) or (b) of
9 this section within ninety days of the period established for
10 corrective action;

11 (ii) Appropriately take action upon reported or identified threats
12 to the health and safety of program participants within seventy-two
13 hours of notification or identification;

14 (iii) Appropriately report or respond to allegations of abuse,
15 neglect, exploitation, or allegations of fraud or ethics code
16 violations; or

17 (iv) Correct four or more deficiencies under subsection (a) of this
18 section or three or more deficiencies under subsection (b) of this
19 section in one fiscal year.

20 (3) If the sanctions authorized under this section have been
21 imposed on an area agency on aging, and the area agency on aging
22 continues to remain in breach of contract or fails to comply with
23 department rules and specific state and federal statutes, or the area
24 agency is found guilty of submitting false or fraudulent claims,
25 statements, documents, or the concealment of a material fact by a court
26 of competent jurisdiction, or fails to address substantiated violations
27 of ethical code requirements, as required by its contract, the
28 secretary may initiate dedesignation procedures.

29 **Sec. 3.** RCW 74.38.030 and 1975-'76 2nd ex.s. c 131 s 3 are each
30 amended to read as follows:

31 (1) The program of community based services authorized under this
32 chapter shall be administered by the department. Such services may be
33 provided by the department or through purchase of service contracts,
34 vendor payments or direct client grants.

35 The department shall, under stipend or grant programs provided
36 under RCW 74.38.060, utilize, to the maximum staffing level possible,
37 eligible persons in its administration, supervision, and operation.

1 (2) The department shall be responsible for planning, coordination,
2 monitoring and evaluation of services provided under this chapter but
3 shall avoid duplication of services.

4 (3) The department may designate area agencies in cities of not
5 less than twenty thousand population or in regional areas within the
6 state. These agencies shall submit area plans, as required by the
7 department. They shall also submit, in the manner prescribed by the
8 department, such other program or fiscal data as may be required.

9 (4) The department shall develop an annual state plan pursuant to
10 the Older Americans Act of 1965, as now or hereafter amended. This
11 plan shall include, but not be limited to:

12 (a) Area agencies' programs and services approved by the
13 department;

14 (b) Other programs and services authorized by the department; and

15 (c) Coordination of all programs and services.

16 (5) The department shall establish rules and regulations for the
17 determination of low income eligible persons. Such determination shall
18 be related to need based on the initial resources and subsequent income
19 of the person entering into a program or service. This determination
20 shall not prevent the eligible person from utilizing a program or
21 service provided by the department or area agency. However, if the
22 determination is that such eligible person is nonlow income, the
23 provision of RCW 74.38.050 shall be applied as of the date of such
24 determination.

25 (6) Area agencies on aging designated under this section may
26 provide directly, or through contract, any or all services authorized
27 under this chapter and the Older Americans Act to eligible individuals.

28 NEW SECTION. Sec. 4. A new section is added to chapter 74.38 RCW
29 to read as follows:

30 (1) The secretary may designate a single purpose or multipurpose
31 agency to serve as an area agency on aging. In designating or
32 dedesignating an area agency on aging, the secretary shall not
33 discriminate between a public agency and a private nonprofit agency.

34 (2) Prior to dedesignating an area agency on aging, the secretary
35 shall consult with the governing board and the director of the area
36 agency on aging and the chief elected official of the affected local
37 government and engage in facilitated mediation in good faith. The

1 secretary may only dedesignate an area agency on aging if it can be
2 shown that the area agency on aging has (a) not complied with
3 applicable federal or state laws or rules, (b) expended funds for
4 purposes other than the purpose for which they were intended, or (c)
5 failed to provide appropriate services for the elderly within available
6 resources. The decision to dedesignate an area agency on aging is
7 appealable to the governor after requesting a reconsideration by the
8 secretary.

9 (3) All costs associated with the dedesignation of an area agency
10 on aging shall be shared equally among the political subdivisions that
11 are included within the agency's service area.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.38 RCW
13 to read as follows:

14 The provision of services to nonolder adult individuals so as to
15 increase provision of services for older individuals shall not be
16 construed as prohibited if the provision of such services is by using
17 funds from other sources by an area agency nor does the provision of
18 such services change the area agency single purpose status.

19 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 immediately.

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