



241 18<sup>th</sup> Street S  
Suite 403  
Arlington, VA 22202  
202-898-2578  
advancingstates.org

**Curtis Cunningham**  
PRESIDENT  
Wisconsin

**Kathleen Dougherty**  
VICE PRESIDENT  
Delaware

**Nels Holmgren**  
SECRETARY  
Utah

**Kari Benson**  
TREASURER  
Minnesota

**Bea Rector**  
AT LARGE  
Washington

**Dr. Alexis Travis**  
AT LARGE  
Michigan

**Abby Cox**  
AT LARGE  
Georgia

**Jess Bax**  
AT LARGE  
Missouri

**Duane Mayes**  
PAST PRESIDENT  
Alaska

June 24, 2021

The Honorable Charles Schumer  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi and Minority Leader McCarthy:

On behalf of ADvancing States, I am writing you in support of continuation of certain flexibilities given to state agencies during the COVID-19 pandemic. ADvancing States is a nonpartisan association of state government agencies that represents the nation's 56 state and territorial agencies on aging and disabilities. We work to support visionary state leadership, the advancement of state systems innovation, and the development of national policies that support home and community-based services for older adults and persons with disabilities. Our members administer a wide range of services and supports for older adults and people with disabilities, including overseeing Older Americans Act (OAA) programs and services. Together with our members, we work to design, improve, and sustain state systems delivering long-term services and supports for people who are older or have a disability and for their caregivers.

We are writing to you to strongly encourage you to make permanent key flexibilities that were given to state aging agencies to manage their OAA programs during the ongoing COVID-19 pandemic. These flexibilities allowed states to serve thousands of additional older Americans during the pandemic – and states do not foresee a decrease in demand in the near future. COVID-19 significantly increased demand for services due to the challenges with shelter-in-place orders and the disproportionate impact on older adults. It also shone a spotlight on key challenges and limitations of our delivery system that were already concerns before the pandemic. This includes inflexibility of service delivery, social isolation, the digital divide, and unmet needs of older adults across the country.

To address these challenges on an ongoing basis, we offer the following recommendations:

- *Waive the matching requirements for supplemental OAA funding included in the American Rescue Plan Act to align with previous stimulus packages that have not required a match.*
- *Allow for continued maximum flexibility for states to transfer up to 100% of their allotments between III-C1 and III-C2. This will allow states to continue to serve ongoing increased demand, as well as provide more person-centered services that are more responsive to consumer needs.*
- *Give states the option to waive the Dietary Reference Intakes/Dietary Guidelines for Americans (DRI/DGA) for OAA meals and have the meals still be NSIP eligible.*
- *Require ACL to work with states and area agencies on aging to examine what other flexibilities should be kept moving forward to support person-centered nutrition services for a wider population.*
- *Allow National Family Caregiver Support Program funds to be tailored to the caregiver and remove restrictions placed on supplemental services.*
- *Clarify that decisions on establishing homebound requirements for OAA services are made at the state level and do not require a waiver from ACL.*
- *Maintain maximum flexibility for state agency use of OAA funds—ushering in a new, more person-centered era for OAA programs.*

Below, we provide background and further information regarding these important flexibilities that states would like to see continue.

### **The American Rescue Plan Act**

On March 11, 2021, the President signed the American Rescue Plan (ARP) Act of 2021 into law. ARP provided \$1.9 trillion dollars in economic stimulus and other COVID-19 relief provisions. This includes a historic \$1.4 billion dollars in additional funding for OAA programs, broken down as follows:

- \$750 million for Title III-C OAA nutrition programs,
- \$460 million for Title III-B supportive services,
- \$44 million for evidence-based health promotion and disease prevention,
- \$145 million for the Title III-E National Family Caregiver Support Program, and
- \$10 million to support the State Long-term Care Ombudsman program.

ADvancing States members are incredibly grateful to Congress for this significant investment in OAA programs and services.

ARP, unlike other supplemental funding allocated for OAA programs throughout the COVID-19 pandemic, did not waive match requirements for services. Therefore, match will be required for all Title III programs in addition to State Plan and Area Plan administration. Many states have expressed deep concerns around the inclusion of match requirements in order to use the ARP funds. Many state legislatures are part-time and have already completed their sessions for the year and thus are not able to provide budget adjustments to

finance the state share of funds. In some cases, it may be as long as two years before adequate state share can be secured. Even for states where their legislature is still in session state agencies have expressed extreme challenges in coming up with the required match.

If the funds are to meet congressional intent of supporting states and older Americans during the COVID-19 pandemic, then the match requirement in the ARP must be reconsidered.

*Recommendation: Waive the matching requirements for supplemental OAA funding included in the American Rescue Plan Act to align with previous stimulus packages that have not required a match.*

### **Title III-C Nutrition Program**

*Background:* Title III-C of the OAA authorizes the congregate nutrition (III-C1) and home-delivered meals (III-C2) programs, the largest and perhaps most well-known OAA services, which are intended to address the nutritional problems of older adults. Both C1 and C2 receive separate appropriations, with congregate meals typically receiving roughly double the allotment given to home-delivered. In recent years, demand for home-delivered meals has outpaced that of congregate ones due to consumer preferences. During the pandemic, most congregate sites were shut down and states and local agencies converted all of their programs to home-delivered or other “grab and go” options for consumers.

Under the usual OAA requirements, states may transfer federal allotments for supportive services (Title III-B of the OAA), congregate nutrition, and home-delivered nutrition services among each of these allotments. Transfers must be approved by the Administration for Community Living (ACL).

- States may transfer up to 40 percent of their separate allotments for congregate and home-delivered nutrition between each allotment, and under certain circumstances they can transfer an additional 10 percent.
- States may also transfer up to 30 percent of their allotments for supportive and nutrition services between each allotment.

Meals delivered through OAA nutrition programs must also meet specific dietary guidelines, referred to as the Dietary Reference Intakes (DRI) and Dietary Guidelines for Americans (DGA). Some state agencies have reported that the lack of flexibility from the guidelines—for example, requirements around providing milk to older adults, which is not digestible by many people—impacts older adults from a cultural sensitivity perspective as well as from an efficiency lens if lots of milk is going to waste.

With the onset of the pandemic, states needed exceptional flexibility to adapt and respond, and Congress answered. The Coronavirus Aid, Relief, and Economic Security (CARES) Act gave states the ability to transfer up to 100% of OAA nutrition funds between III-C1 and III-C2 without seeking Federal approval. The CARES

Act also provided ACL flexibility to waive the OAA nutritional guidelines for meals provided through III-C1 and III-C2.

Both of these changes enabled states and their local partners to keep older Americans fed and safe in their homes throughout the pandemic.

Throughout the pandemic state and local agencies have experimented with local solutions that meet older adult nutritional needs while safely providing socialization. ACL should encourage, rather than discourage, innovative state initiatives to serve older adults nutritional needs (for example, programs such as grab and go meals with a socialization component, or programs targeted towards younger older adults).

*Recommendations:*

- 1) *Amend the OAA to allow for continued, maximum flexibility for states to transfer up to 100% of their allotments between III-C1 and III-C2. This will allow states to continue to serve ongoing increased demand, as well as provide more person-centered services that are more responsive to consumer needs.*
- 2) *Amend the OAA to allow states the option to waive the DRI/DRG for OAA meals and have the meals still be NSIP eligible.*
- 3) *Require ACL to examine what other flexibilities should be kept moving forward to support person-centered nutrition services for a wider population.*

**Serving the Homebound**

*Background:* OAA services are to be targeted to individuals with the greatest social and economic need, among other factors. In the past, there has been a misunderstanding around requirements for home-delivered meals in that for individuals to be eligible they must meet homebound criterion. This is not the case before, or during the pandemic. The OAA does not establish eligibility for home-delivered meals other than that individuals must be 60 or older.

*Recommendation:* ACL should clarify that this decision is made at the state level and does not require a waiver from ACL.

**Supporting Family Caregivers**

*Background:* Title III-E of the OAA was created in 2000 when Congress established the National Family Caregiver Support Program (NFCSP). The NFCSP authorizes the following services: information and assistance, accessing available services, individual counseling, support groups and caregiver training, respite, and supplemental services.

Recipients can be adult family members age 17 and older providing care to individuals 60 years of age and older and individuals of any age with Alzheimer’s disease and related disorders; older relatives (not parents) age 55 and older providing care to children under the age of 18; and older relatives, including parents, age 55 and older providing care to adults ages 18-59 with disabilities.

The last reauthorization of the OAA occurred in March 2020 and included an important change: it removed the limitation on funding that could be used to provide support services to older relative caregivers—a change championed by state agencies. We applaud Congress for this alteration to the law. This change was extremely helpful; however, states continue to see challenges with their administration of the NFCSP, specifically:

- Limits placed on the amount of funding that can be used for supplemental services do not allow states to tailor services to caregivers and meet their particular needs;
- States and local organizations often have waitlists for highly sought-after services such as respite while simultaneously experiencing lack of demand for other services such as support groups. If caregivers have one hour free, they often do not want to attend a support group but instead do something with that time such as self-care, grocery shopping, seeing family or friends, among other important activities.

*Recommendation: Amend the OAA to allow for NFCSP funds to be tailored to the caregiver and remove restrictions placed on supplemental services.*

### **Modernizing the OAA**

*Background:* The COVID-19 pandemic exposed the weaknesses in our nations systems of care and support for older adults and people with disabilities. The efficient implementation of flexibilities provided under the PHE and state MDDs allowed state agencies and their local partners to keep older Americans fed, check-in on them in their homes, provide critical transportation and in-home services, and support vaccination efforts despite the obstacles placed in their path.

Section 310(c) the OAA unlocks unprecedented flexibility on the use of OAA funds and requires states to have a major disaster declaration approved by the Federal Emergency Management Agency (FEMA). Under this authority, states may use any OAA funds as disaster relief for older individuals, and do not need to request transfer authority prior to utilizing this flexibility. An example would be utilizing funding for grocery delivery, wellness checks, or other interventions that support older adults sheltering in place during the COVID-19 pandemic. This flexibility applies to any available funding, including unspent funds from prior years.

*Recommendation: Amend the OAA to maintain maximum flexibility for state agency use of OAA funds—ushering in a new, more person-centered era for OAA programs. This flexibility will allow states to advance*



*person-centered services that meet the needs of individuals instead of maintaining the historic constraints on type and location of OAA supports.*

We appreciate being able to provide feedback on this important topic and look forward to working with you to modernize the OAA for the well-being of our nation's seniors.

If you have any questions regarding this letter, please feel free to contact Adam Mosey at [amosey@advancingstates.org](mailto:amosey@advancingstates.org) or 202-898-2578.

Sincerely,

A handwritten signature in blue ink that reads "Martha Roherty".

Martha Roherty  
Executive Director  
ADvancing States

Cc: Members of the U.S. Senate, Members of the U.S. House of Representatives