

## OLDER AMERICAN ACT BENEFITS COUNSELING SECTION

42 § 3058j

Older Americans Ch.35 Elder Right Protection Allotment

### CROSS REFERENCES

Administration on aging, duties and functions to include development of guidelines and model job descriptions for choosing and evaluating legal assistance developers referred to in this section, see 42 USCA § 3012.

### LIBRARY REFERENCES

#### American Digest System

Eligibility and right to benefits, see Social Security and Public Welfare 4.10.

Federal assistance for needy aged persons in general, see Social Security and Public Welfare 175.5.

#### Enclypedias

Assistance for needy aged persons in general, see C.J.S. Social Security and Public Welfare § 94.

Awards and benefits in general, see C.J.S. and Public Welfare §§ 11 to 16.

### WESTLAW ELECTRONIC RESEARCH

Social Security and public welfare cases: 356ak [add key number]. See, also, WESTLAW guide following Explanation pages of this volume.

#### *Subpart V – Outreach, Counseling, and Assistance Program*

### CROSS REFERENCES

Additional State plan requirements to include assurance that state agency will give funding priority to area agencies on aging based on programs under this subpart, see 42 USCA §3058d. Authorization of appropriations to carry out this subpart, see 42 USCA 3058a. Elder rights and legal assistance development program, see 42 USCA § 3058j. Vulnerable elder rights protection activity defined, see 42 USCA § 3058bb.

§ 3058 k. State outreach, counseling, and assistance program for Insurance and public benefits.

#### (a) Definitions

As used in this section:

##### (1) Insurance benefit

The term “insurance benefit” means a benefit under—

- (A) the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

- (B) the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);
- (C) A public or private insurance program;
- (D) a Medicare supplemental policy; or
- (E) a pension plan.

(2) Medicare Supplemental policy

The term “Medicare supplemental policy” has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U. S. C. 1395ss(g)(1).

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(3) Pension plan

The term “pension plan” means an employee pension benefit plan, as defined in section 1002(2) of Title 29.

(4) Public Benefit

The term “public benefit” means a benefit under—

- (A) the Federal Old-Age, Survivors, and Disability Insurance Benefits programs under title 11 of the social Security Act (42 U.S.C. 401 et seq.);
- (B) the Medicare program established under title XVIII of the Social Security Act [42 U.S.C. A. § 1395 et seq.] ; including benefits as a qualified Medicare beneficiary, as defined in section 1905(p) of the Social Security Act [42 U.S.C.A. § 1396d(p)];
- (C) the Medicaid program established under title XIX of the Social Security Act [42 U.S.C.A. § 1396et seq.];
- (D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);
- (E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C.8621 et seq.);
- (F) the supplemental security income program established under title XVI of the Social Security Act (42 U.S. C. 1381 et seq.): or
- (G) A program determined to be appropriate by the Assistant Secretary.

(5) State insurance assistance program

The term “State insurance assistance program” means the program established under subsection (b)(1) of this section.

(6) State public benefit assistance program

The term “State public benefit assistance program” means the program established under subsection(b)(2) of this section.

(b) Establishment

In order to receive an allotment under section 3058b of this title from funds appropriated under section 3058a(d) of this title, a State agency shall, in coordination with area agencies on aging and in accordance with this section, establish –

- (1) a program to provide to older individuals outreach, counseling, and assistance related to obtaining insurance benefits, and

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- (2) a program to provide outreach, counseling, and assistance to older individuals who may be eligible for, but who are not receiving, public benefits.
- (c) Insurance and public benefits  
The State agency shall –
- (1) in carrying out a State insurance assistance program-
    - (A) provide information and counseling to assist older individuals-
      - (i) in filing claims and obtaining benefits under title XVIII and title XIX of the Social Security Act [42 U.S.C.A. §§ 1395 et seq. and 1396 et. seq.];
      - (ii) in comparing Medicare supplemental policies and in filing claims and obtaining benefits under such policies;
      - (iii) in comparing long-term insurance policies and in filing claims and obtaining benefits under such policies;
      - (iv) in comparing other types of insurance policies not described in clause (iii) and filing claims and obtaining benefits under such policies;
      - (v) in comparing life insurance policies and in filing claims and obtaining benefits under such policies;
      - (vi) in comparing other forms of insurance policies not described in clause (v), in comparing pension plans, and in filing claims and obtaining benefits under such policies and plans as the State agency may determine be necessary ; and
      - (vii) in comparing current and future health and post-retirement needs related to pension plans, and the relationship of benefits under such plans to insurance benefits and public benefits.;
    - (B) establish a system of referrals to appropriate providers of legal assistance, and to appropriate agencies of the Federal or State government regarding the problems of older individuals related to health insurance benefits, other insurance benefits, and public need;
    - (C) give priority to providing assistance to older individuals with greatest economic need;
    - (D) ensure that services provided under the program will be coordinated with programs established under subparts II, III and IV of this part, and under subchapter III of this section chapter:
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- (E) provide for adequate and trained staff (including volunteers) necessary to carry out the program;
  - (F) ensure that staff (including volunteers) of the agency and of any agency or organization described in subsection (d) of this section will not be subject to a conflict of interest in providing services under the program;
  - (G) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to insurance benefits and public benefits;

- (H) provide for the coordination of information on insurance benefits between the staff of departments and agencies of the State government and the staff (including volunteers) of the program; and
  - (I) make recommendations related to consumer protection that may affect individuals eligible for, or receiving health or other insurance benefits; and
- (2) in carrying out a State public benefits assistance program-
- (A) carry out activities to identify older individuals with greatest economic need who may be eligible for, but who are not receiving, public benefits;
  - (B) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such benefits;
  - (C) assist older individuals in applying for such benefits;
  - (D) establish a system of referrals to appropriate providers of legal assistance, or to appropriate agencies of the Federal or State government, regarding the problems of older individuals related to public benefits;
  - (E) comply with the requirement specified in subparagraphs (C) through (F) of paragraph (1) with respect to the State public benefits assistance program;
  - (F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to public benefits;
  - (G) provide for the coordination of information on public benefits between the staff of State entities and the staff (including volunteers) of the State public benefits assistance program; and
  - (H) make recommendations related to consumer protection that may affect individuals eligible for or receiving public benefits.