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AARP

BEFORE THE
COMMITTEE ON HEALTH, EDUCATION, LABOR and PENSIONS
OF
THE U.S. SENATE

REGARDING THE
2006 REAUTHORIZATION ISSUES OF THE OLDER AMERICANS ACT

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EXECUTIVE SUMMARY SHEET

A. Delivery of Home and Community-Based Long-Term Care & Ombudsman Services

1. Develop and use comprehensive, coordinated systems of long-term care that ease consumer access through a single point of entry.
2. Encourage states to develop their own home and community-based care programs using combinations of OAA and other funds to serve persons unable to meet Medicare and Medicaid requirements.
3. Encourage use of combined funding sources to supplement services provided through Medicaid.
4. Retain the separation between the roles of assessing eligibility and actual provision of service for OAA-funded entities.
5. Retain demonstration capacity to assess new and improved ways to more effectively deliver LTC and supportive services.
6. Retain Ombudsman provisions that authorize their advocacy functions and ensure adequate funding.
7. Do not expand the roles or requirements of Ombudsmen without providing adequate new funding.

B. Title V – The Senior Community Service Employment program (SCSEP)

1. Do not block grant SCSEP funds to states or compel grant competitions in all states;
2. Do not impose a higher burden of administrative costs to run the program;
3. Make no major revisions in SCSEP's administrative structure or reporting requirements that are unrelated to identified problems; or,
4. Do not alter the current percent allocation split of program funds between the national sponsors and the states as provided for in the OAA Amendments of 2000.

C. Targeting of Older Americans Act Services

1. Retain current targeting language in the Act.
2. Do not raise the age of eligibility for service because of its adverse impact on vulnerable older minority individuals.
3. Defer any plan to broaden cost-sharing under the Act pending an evaluation of the impact on under-served groups with critical needs.

D. Vulnerable Elder Rights and Consumer Rights Protections

1. Retain the current advocacy functions of entities created under the Act and their roles in all aspects of planning and implementation.
2. Retain the mandate of OAA legal services and include a floor of funding at the local level.
3. Retain Ombudsman provisions that authorize their advocacy functions and ensure adequate funding.

On behalf of AARP, thank you for this opportunity to comment on the reauthorization of the programs and services of the Older Americans Act (OAA) and how they might be made more responsive to the needs of mature and older Americans. I am Jo Reed, AARP National Advocacy Coordinator for Federal Livable Communities and Consumer Issues.

AARP is most concerned that programs, authority and partnerships that have already proven effective in meeting the needs of vulnerable older Americans be maintained and strengthened. We believe that older persons are best served by a simple reauthorization that makes only minor changes in existing programs to improve efficiency. Better coordination of existing OAA programs with other federal programs, such as proposed by the Administration in its “Choices for Independence” initiative, holds tremendous promise and merits the support of Congress.

I. Delivery of Home and Community-Based Services

Helping people to grow older in their communities with independence and dignity is a bedrock goal of the Older Americans Act. All too often, advancing age and increasing frailty threaten the ability of older persons to remain in their own homes. The fear of having to enter a nursing home, with its attendant loss of independence and threat of impoverishment, weighs heavily on the minds of many older persons and their caregiver families.

Indeed, this concern is a major basis for the National Family Caregiver Support Program and the “Choices for Independence” initiative that the Administration FY 2007 Budget proposes as part of this reauthorization cycle. AARP welcomes this initiative as both a complement to existing caregiver and service programs and an innovative step in addressing aspects of the much larger home and community-based service challenge. If this new program is adopted, however, higher OAA appropriations will be required so that other important OAA activities are not displaced. This will require real commitment and creativity given tight federal spending caps.

Over the past 15 years, states have made great strides in improving the options for older persons with disabilities who want to remain in their own homes and communities for as long as possible. AARP and our partners in the aging network have been strong advocates for the development of effective networks for delivering home and community-based long-term care services. Successful state delivery strategies include:

- expanding home and community-based care programs by consolidating federal and state funding (such as Medicaid, state-only funded programs, OAA, and Social Services Block Grant);
- streamlining administrative operations by designating a single state agency to serve as a single point of entry into the long-term care system; and

- adopting assessment and care management practices that allow targeting of resources to the persons most in need.

In many states, the area agencies on aging serve as “single points of entry” into comprehensive, coordinated systems of care. Such systems can ease the ability of older persons and their families to find and use long-term care services, and can help states to manage their resources effectively.

AARP supports the single point of entry approach. Maximizing linkages between various delivery systems is critical, especially access linkages like transportation or legal assistance. Without such coordination, persons who need long-term care must go from agency to agency, trying to locate programs and services for which they are eligible. They also must try to decipher the multiple and often conflicting eligibility requirements of various programs.

At the same time, AARP believes that, in general, it is preferable to retain the current separation between the assessment of eligibility and the actual provision of services, so that the agency that conducts eligibility assessments does not have a financial interest in the type and amount of services authorized. We believe that the existing arrangements function effectively.

II. Long Term Care (LTC) Ombudsman

Finding methods of monitoring and improving quality in the delivery of long-term care services is critical. Federal legislation to protect vulnerable seniors from abuse, neglect and exploitation is still pending, so the resources of the OAA remain critical [see our later comments on elder rights protections]. Long-term care clients are particularly vulnerable, and the aging network has a vital role to play in quality assurance. AARP supports adequate funding for the LTC Ombudsman program, authorized by the OAA. We strongly support maintenance of the Office of the LTC Ombudsman and the program's authority to be an effective watchdog in nursing homes and other long-term care facilities. We urge retention of provisions that enable the Ombudsman to:

- provide information to the public and lawmakers;
- comment on laws or regulations affecting care institutions;
- execute their mission free of conflict of interest at any level; and
- assure the confidentiality of resident complaints and program records.

III. Title V - The Senior Community Services Employment Program (SCSEP)

First, we should note that the AARP Foundation is one of thirteen SCSEP national sponsors. As a 501 (C) (3) organization, the Foundation is a separate entity from AARP, a 501 (C) (4) organization. AARP believes that the current SCSEP project management structure has already proven effective in meeting the needs of vulnerable older Americans, and should be preserved. In our view, the program can be best served by a simple reauthorization that makes only targeted changes to improve efficiency.

The reauthorization should not be encumbered by amendments that make major changes in the existing SCSEP program or its original, dual job opportunity and community service mission. While some constructive proposals have been made to improve Title V – SCSEP, we have serious concerns regarding plans outlined in the Administration’s FY 2007 Budget. That proposal would eliminate national grants and administer the program through state contracts with national and other groups. Such a drastic and premature change would, in our view, create significant confusion for participants and serious inefficiency in the program itself. Further, it would squander the opportunity for experienced grantees to build on past success, and new ones to prove their worth.

In general, AARP opposes proposals that:

- block grant SCSEP funds to states or compel grant competitions in all states;
- impose a higher burden of administrative costs to run the program;
- make major revisions in SCSEP's administrative structure or reporting requirements that are unrelated to identified problems; or,
- alter the current percent allocation split of program funds between the national sponsors and the states as provided for in the OAA Amendments of 2000 .

SCSEP works because it is administered in a way that responds to both older workers' and local community service needs, without the state or local government bureaucracy that would be required if administered primarily by state agencies or as a block grant. This is especially important considering the minimal attention of state and earlier federal jobs programs in addressing the special needs of older worker. *SCSEP is the only remaining federal job training initiative specifically designed to meet the needs of our aging workforce. It is critical that this highly successful program continue without disabling changes.*

SCSEP is a work training program for low-income persons age 55 and older. It is authorized to assist participants in gaining job skills and paid work experience needed to transition to permanent, unsubsidized jobs. As SCSEP is the only means-tested part of the Act, participants meet income, age, and residency requirements.

Once enrolled, participants receive a temporary, part-time, minimum wage assignment with a host agency (a non-profit community service organization), job search assistance, and skills training as needed. The program gives “enrollees” a chance to earn an income, develop new skills, and serve their community while continuing to pursue a permanent job. Typical assignments include jobs as cashiers, clerk typists, custodians, data entry clerks, grounds keepers, teacher’s aides, hospital workers, home/health care service providers, day care workers, food preparers and public agency staff support workers.

A long-standing goal for SCSEP under the Department of Labor’s rules has been to place 20% of all participants in unsubsidized jobs in any program year. This goal is extremely challenging given that older workers qualify as “hard-to-serve” based on age alone. The AARP Foundation has regularly exceeded this goal, placing 48% of participants in the last program year and nearly doubling the goal in each year for the past decade. Because other national sponsors have also performed well, the average unsubsidized placement rate for national sponsors as a group has consistently exceeded that of the states.

National sponsor performance has also exceeded that of states with regard to serving individuals with multiple employment barriers, cost per placement, administrative costs and service to the general community. While there have been occasions over the 35-plus year life of the program where administrative cost issues have been raised, it is important to keep in mind that sponsors

operate under a maximum administrative cost cap of 15%, still well below what is allowed for most other federal jobs programs.

SCSEP meets the needs of those most economically vulnerable seniors who must work to subsist. Of those served by SCSEP in 2004, 82% were below poverty (participants qualify at up to 125% poverty), 66% were female, 62% were age 60+, 36% did not graduate high school, 15% had a disability, 16% were veterans, and 41% were minority (14% Hispanic, 38% African American, and 1% other, while 47% were white). Clearly, SCSEP serves a population that faces multiple barriers to employment. Some smaller national organizations bring unique skills for reaching older worker populations that are often underserved, especially older minority individuals. For this reason, among others, AARP has always supported using national sponsors to provide employment training opportunities.

Finally, AARP would also be very concerned about any proposals to lower the administrative cap. The practical effect of such a change would be to disadvantage minority elders because it would fall more heavily on smaller minority national sponsors such as those serving Native American, Hispanic, Asian and African American elderly. The impact would simultaneously be felt by minority communities and the national sponsors in the form of diminished service delivery capacity. Some likely consequences of a lower administrative cap that can be anticipated include:

- Outreach and support services to eligible seniors would be reduced due to decreased project staff and resources;
- Job opportunities would be diminished for low-income and minority elders and their communities, since minority sponsors serving such communities have the smallest grants, yet their program participants have the greatest need for support;
- Important community services now staffed by Title V participants might be dropped by financially strapped communities, thereby eliminating both services and job training opportunities for low income seniors; and
- Non-profits might be discouraged from seeking to be sponsors because the severe administrative caps would not be viewed as realistic for administering an effective program, and there would be concerns about draining financial resources from other organizational priorities.

IV. Targeting of OAA Services

Administration of the programs and services of the Act is more critical in these days of austere budgets than ever before. It is important to direct resources to areas that achieve the most impact while aiming to meet the goals of the Act. Toward this end, the Association supports uniform data collection procedures and definitions which permit evaluation of program effectiveness, especially regarding gaps in service to rural, frail, low income and minority older persons.

Years of studies show pockets of under-service to certain older populations by the programs of the Act. AoA has improved its ability to collect participant data in recent years. However, there are not adequate measures of the unmet need for services. Broadening the scope of data collection for Title III programs could help demonstrate their impact on special populations.

For many years, AARP has advocated targeting OAA services to persons with the greatest social and economic need and, in particular, to low-income, older minorities. AARP continues to strongly support retention of the targeting provisions of the Act. The flexible nature of the OAA programs is one of its strengths because it helps to garner broad public and political support. However, historically there have been problems in achieving adequate service delivery to older minority individuals. It is critical that new participation data collected by AoA be disseminated, so that the adequacy of current service delivery to older minorities can be evaluated. By tracking results, it is possible to ensure that more funding goes to those programs that achieve the best results with the targeted populations. Better tracking would also enhance ability to assess delivery of services to other underserved target populations like rural elders and enable more effective allocation of OAA service dollars.

IV. Vulnerable Elder Rights Protection, Consumer Protection & Legal Assistance

AARP supports retaining the advocacy functions of the OAA programs. In order to fulfill the Act's mission, it is critical that state and area agencies on aging continue to be effective and visible advocates for older persons. A critical component of this function is allowing for public participation in all aspects of the Act's planning and implementation processes.

AARP continues to support efforts by the aging network to improve access to public benefit programs by low-income older persons. Participation by older persons in public benefit programs continues to lag behind participation rates for other age groups. With the extensive changes in public benefit programs enacted by welfare reform and recent proposals to eliminate nutrition alternatives like the Commodity Supplemental Food Program (CSFP), there is even greater uncertainty among older persons regarding both access and possible eligibility. The OAA programs can play an important role in helping older persons with low incomes to gain access to other programs for which they are eligible. Such assistance can make a critical difference in the quality of life for these vulnerable individuals.

Similarly, a host of problems confronting older consumers in today's marketplace require redress. These problems range from the refusal of some managed care providers to cover certain necessary treatments to predatory lenders who convince older individuals to accept high-interest loans secured by their only asset, the equity in their homes. Older persons need quick access to legal advice before they sign a document or take action they may later regret. A 1994 AARP survey found that 13% to 18% of persons age 60 and older need the assistance of a lawyer each year to protect their rights or to redress a wrong. We suspect that the increased complexity of financial, personal and public assistance requirements have greatly increased that need, but the lack of current research on the legal needs of seniors remains a barrier to resource allocation.

AARP urges that legal assistance continue to be a required service under the Act unless waived in accordance with guidelines from the Secretary. It is critical that the current waiver process be retained. This process provides that interested parties be notified and a public hearing be held before a waiver can be granted. Without this protection, the vital interests of many of the most vulnerable elders can be waived without recourse. Legal assistance helps older persons obtain access to vital medical, insurance, housing, and social security benefits as well as providing guidance regarding nursing home and estate issues.

Unfortunately, according to the Comprehensive Legal Needs Survey conducted by the American Bar Association (ABA) in 2004, most moderate and low income persons facing problems with legal dimensions do not seek the benefit of a lawyer's services. This reaffirms similar findings in the ABA's 1994 study. Among the reasons noted are lack of awareness that their problems are legal in nature, the perceived cost of a lawyer, the effort required to find a good, qualified lawyer, and the discouraging fear of dealing with lawyers.

The OAA's mandate to provide legal services is therefore remains extremely important. This ensures the availability of legal help for at least some of the most critical problems of the neediest older Americans. Requiring services rather than providing discretion in this area is critical because legal services are controversial in some communities. Without the mandate, the fundamental principle of access to justice will be denied to some older persons. For the same reason, area agencies should be required to spend a minimum percentage of their Title IIIB funds, set by the State Unit on Aging, on legal services. Before establishment of the mandate, less than 50% of area agencies funded any legal services. Many others spent insignificant amounts on legal services. A 2002 study of legal services in New Jersey noted among its conclusions that pro bono services are inadequate to make a significant difference in access to legal assistance by those who need it. AARP therefore opposes any changes that would substitute pro bono services for OAA legal assistance without reliable data to affirm that legal needs are being met by such services.

V. Cost -Sharing Initiatives

Any proposals to broaden the scope of cost-sharing under the Act should be deferred pending a national, independent and verifiable impact analysis. AARP continues to believe that broader cost-sharing and sliding scale fees should be implemented only after carefully monitored demonstrations affirm that the most economically and socially vulnerable populations do not encounter barriers. While it may be possible to limit the number and types of services that would be affected by an expanded cost-sharing policy, the fact remains that no uniform national studies have been conducted to assess impact.

Conclusion

Again, AARP thanks the Committee for acknowledging the concerns of older Americans and strongly urges your support for the recommendations we have presented. AARP welcomes every opportunity to work with Congress, the Administration and others to preserve essential OAA programs and services while more effectively coordinating federal resources through initiatives that permit state and local flexibility in meeting the needs of an aging America.