

§ 1321.101 Flexibilities under a major disaster declaration.

(a) If a State or Indian Tribe requests and receives a major disaster declaration under the Stafford Act (42 U.S.C. 5121-5207), the State agency may use disaster relief flexibilities under Title III as set forth in this section to provide disaster relief services for areas of the State where the specific major disaster declaration is authorized and where older adults and family caregivers are affected.

(b) Flexibilities a State agency may exercise under a major disaster declaration include:

(1) Allowing use of any portion of the funds of any open grant awards under Title III of the Act for disaster relief services for older individuals and family caregivers.

(2) Awarding portions of State plan administration, up to a maximum of five percent of the Title III grant award or to a maximum of the amounts set forth at § 1321.9(c)(2)(iv), for use in a planning and service area covered in whole or part under a major disaster declaration without the requirement of allocation through the intrastate funding formula or funds distribution plan to be used for direct service provision.

(3) Awarding of funds set aside to address disasters, as set forth in § 1321.99, or as determined by the Assistant Secretary for Aging, in the following ways:

(i) to an area agency serving a planning and service area covered in whole or part under a major disaster declaration without the requirement of allocation through the intrastate funding formula;

(ii) for single planning and service area States, to a service provider without the requirement of allocation through a funds distribution plan; or

(iii) to be used for direct service provision, direct expenditures, and/or procurement of items on a statewide level, if the State agency adheres to the following:

(A) The State agency judges that provision of services or procurement of supplies by the State agency is necessary to ensure an adequate supply of such services and/or that such services can be provided/supplies procured more economically, and with comparable quality, by the State agency;

(B) The State agency consults with area agencies on aging prior to exercising the flexibility, and includes the Ombudsman as set forth in part 1324, subpart A if funding for the Ombudsman program is affected;

(C) The State agency uses such set aside funding, as provided at § 1321.99, for services provided through area agencies on aging and other aging network partners to the extent reasonably practicable, in the judgment of the State agency; and

(D) The State agency ensures reporting of any clients, units, and services provided through such expenditures.

(c) A State agency must submit a State plan amendment as set forth in § 1321.31(b) if the State agency exercises any of the flexibilities as set forth in paragraph (b) of this section. The State

plan amendment must at a minimum include the specific entities receiving funds; the amount, source, and intended use for funds; and other such justification of the use of funds.

(d) Disaster relief services may include any allowable services under the Act to eligible older individuals or family caregivers during the period covered by the major disaster declaration.

(e) Expenditures of funds under disaster relief flexibilities must be reported separately from the grant where funding was expended. State agencies may expend funds from any source within open grant awards under Title III and Title VII of the Act but must track the source of all expenditures.

(f) State agencies must have policies and procedures outlining communication with area agencies on aging and/or local service providers regarding State agency expectations for eligibility, use, and reporting of services and funds provided under these flexibilities, and include the Ombudsman as set forth in part 1324, subpart A if funding for the Ombudsman program is affected.

(g) A State agency may only make obligations exercising this flexibility during the major disaster declaration incident period or 90 days thereafter or with prior approval from the Assistant Secretary for Aging.