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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 8.5. MELLO-GRANLUND OLDER CALIFORNIANS ACT [9000 - 9850] (*Division 8.5 repealed and added by Stats. 1996, Ch. 1097, Sec. 13.*)

CHAPTER 7.5. Community-Based Services Programs [9540 - 9547] (*Chapter 7.5 added by Stats. 1996, Ch. 1097, Sec. 13.*)

9540. It is the intent of the Legislature to ensure that older adults and adults with functional impairments receive needed services that will enable them to maintain the maximum independence permitted by their functional ability and remain in their own home or communities for as long as possible. Except where otherwise provided, community-based services programs under the Community-Based Services Network shall meet all of the minimum requirements specified in this chapter.

(Amended by Stats. 2024, Ch. 337, Sec. 25. (SB 1249) Effective January 1, 2025.)

9541. (a) The Legislature finds and declares all of the following:

(1) The purpose of the Health Insurance Counseling and Advocacy Program is to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy as to Medicare, private health insurance, and related health care coverage plans, on a statewide basis, and preserving service integrity.

(2) Lack of health insurance literacy skills can lead to misinformation or mismatched insurance needs.

(3) As health care options become increasingly complex, the Health Insurance Counseling and Advocacy Program plays a vital role in clarifying all aspects of the Medicare Program to the beneficiary served.

(b) The department shall be responsible for, but not limited to, doing both of the following:

(1) To act as a clearinghouse for information and materials relating to Medicare, managed care, health and long-term care related life and disability insurance, and related health care coverage plans.

(2) To develop additional information and materials relating to Medicare, managed care, and health and long-term care related life and disability insurance, and related health care coverage plans, as necessary.

(c) Notwithstanding the terms and conditions of the contracts, direct services contractors shall be responsible for, but not limited to, all of the following:

(1) Advising, educating, and empowering Medicare beneficiaries to make informed choices among the array of options to best fit their needs.

(2) Community education to the public on Medicare, long-term care planning, private health and long-term care insurance, managed care, and related health care coverage plans.

(3) Counseling and informal advocacy with respect to Medicare, long-term care planning, private health and long-term care insurance, managed care, and related health care coverage plans.

(4) Referral services for legal representation or legal representation with respect to Medicare appeals, Medicare related managed care appeals, and life and disability insurance problems. Legal services provided under this program shall be subject to the understanding that the legal representation and legal advocacy shall not include the filing of lawsuits against private insurers or managed health care plans. In the event that legal services are contracted for by the agency separately from counseling and education services, a formal system of coordination and referral from counseling services to legal services shall be established and maintained.

(5) Educational services supporting long-term care educational activities aimed at the general public, employers, employee groups, older adult organizations, and other groups expressing interest in long-term care planning issues.

(6) Educational services emphasizing the importance of long-term care planning, promotion of self-reliance and independence, and options for long-term care.

(7) To the extent possible, support additional emphasis on community educational activities that would provide for announcements on television and in other media describing the limited nature of Medicare, the need for long-term care planning, the function of long-term care insurance, and the availability of counseling and educational literature on those subjects.

(8) Recruitment, training, coordination, and registration, with the department, of health insurance counselors, including a large contingent of volunteer counselors designed to expand services as broadly as possible.

(9) A systematic means of capturing and reporting all required community-based services program data, as specified by the department.

(d) Participants who volunteer their time for the health insurance counseling and advocacy program may be reimbursed for expenses incurred, as specified by the department.

(e) The department, the Department of Managed Health Care, and the Department of Insurance shall jointly develop interagency procedures for referring and investigating suspected instances of misrepresentation in advertising or sales of services provided by Medicare, managed health care plans, and life and disability insurers and agents.

(f) (1) A health insurance counselor shall not provide counseling services under this chapter, unless the health insurance counselor is registered with the department.

(2) A registered volunteer health insurance counselor shall not be liable for a negligent act or omission in providing counseling services under this chapter. Immunity shall not apply to health insurance counselors for any grossly negligent act or omission or intentional misconduct.

(3) A registered volunteer health insurance counselor shall not be liable to any insurance agent, broker, employee thereof, or similarly situated person, for defamation, trade libel, slander, or similar actions based on statements made by the counselor when providing counseling, unless a statement was made with actual malice.

(4) Before providing any counseling services, a health insurance counselor shall disclose, in writing, to a recipient of counseling services pursuant to this chapter that the counselor is acting in good faith to provide information about health insurance policies and benefits on a volunteer basis, but that the information shall not be construed to be legal advice, and that the counselor is generally not liable unless their acts and omissions are grossly negligent or there is intentional misconduct on the part of the counselor.

(5) The department shall not register any applicant under this section unless the applicant has satisfactorily completed training that is approved by the department, and that consists of at least 24 hours of training that shall include, but is not limited to, all of the following subjects:

(A) Medicare.

(B) Life and disability insurance.

(C) Managed care.

(D) Retirement benefits and principles of long-term care planning.

(E) Counseling skills.

(F) Any other subject determined by the department to be necessary to the provision of counseling services under this chapter.

(6) The department shall not register any applicant under this section unless the applicant has completed all training requirements and has served an internship of cocounseling of at least 10 hours with an experienced counselor and is determined by the local program manager to be capable of discharging the responsibilities of a counselor. An applicant shall sign a conflict of interest and confidentiality agreement, as specified by the department.

(7) A counselor shall not continue to provide health insurance counseling services unless the counselor has received continuing education and training, in a manner prescribed by the department, on Medicare, managed care, life and disability insurance, and other subjects during each calendar year.

9541.5. (a) The California Department of Aging shall assess annually a fee of not less than one dollar and forty cents (\$1.40), but not more than one dollar and sixty-five cents (\$1.65), on a health care service plan for each person enrolled in a health care service plan as of December 31 of the previous year under a prepaid Medicare program that serves Medicare eligible beneficiaries within the state, and on a health care service plan for each enrollee under a Medicare supplement contract, including a Medicare Select contract, as of December 31 of the previous year, to offset the cost of counseling Medicare eligible beneficiaries on the benefits and programs available through health maintenance organizations instead of the traditional Medicare provider system.

(b) All fees collected pursuant to this section shall be deposited into the State HICAP Fund for the implementation of the Health Insurance Counseling and Advocacy Program, and shall be available for expenditure for activities as specified in Section 9541 when appropriated by the Legislature.

(c) The department may use up to 7 percent of the fee collected pursuant to subdivision (a) for the administration, assessment, and collection of that fee.

(d) It is the intent of the Legislature, in enacting this act and funding the Health Insurance Counseling and Advocacy Program, to maintain a ratio of two dollars (\$2) collected from the Insurance Fund to every one dollar (\$1) collected pursuant to subdivision (a). This ratio shall be reviewed by the Department of Finance within 30 days of January 1, 1999, and biennially thereafter to examine changes in the demographics of Medicare imminent populations, including, but not limited to, the number of citizens residing in California 55 years of age and older, the number and average duration of counseling sessions performed by counselors of the Health Insurance Counseling and Advocacy Program, particularly the number of counseling sessions regarding prepaid Medicare programs and counseling sessions regarding Medi-Gap programs, and the use of other long-term care and health-related products. Upon review, the Department of Finance shall make recommendations to the Joint Legislative Budget Committee regarding appropriate changes to the ratio of funding from the Insurance Fund and the fees collected pursuant to subdivision (a).

(e) It is the intent of the Legislature that the revenue raised from the fee assessed pursuant to subdivision (a), and according to the ratio established pursuant to subdivision (d), be used to partially offset and reduce the amount of revenue appropriated annually from the Insurance Fund for funding of the Health Insurance Counseling and Advocacy Program.

(f) There shall be established in the State Treasury a "State HICAP Fund" administered by the California Department of Aging for the purpose of collecting fee assessments described in subdivision (a), and for the sole purpose of funding the Health Insurance Counseling and Advocacy Program.

(g) It is the intent of the Legislature that, starting in the 2005–06 fiscal year, two million dollars (\$2,000,000) of additional funding shall be made available to local HICAP programs, to be derived from an increase in the HICAP fee and the corresponding Insurance Fund pursuant to subdivision (d). Any additional funding shall only be used for local HICAP funding and shall not be used for department or local area agencies on aging administration.

(Added by renumbering Section 9757.5 by Stats. 2015, Ch. 303, Sec. 587. (AB 731) Effective January 1, 2016.)

9542. (a) The Legislature finds and declares that the purpose of the Alzheimer's Day Care-Resource Center Program is to provide access to specialized day care resource centers for individuals with Alzheimer's disease and other dementia-related disorders and support to their families and caregivers.

(b) The following definitions shall govern the construction of this section:

(1) "Participant" means an individual with Alzheimer's disease or a disease of a related type, particularly the participant in the moderate to severe stages, whose care needs and behavioral problems may make it difficult for the individual to participate in existing care programs.

(2) "Other dementia-related disorders" means those irreversible brain disorders that result in the symptoms described in paragraph (3). This shall include, but is not limited to, multi-infarct dementia and Parkinson's disease.

(3) "Care needs" or "behavioral problems" means the manifestations of symptoms that may include, but need not be limited to, memory loss, aphasia (communication disorder), becoming lost or disoriented, confusion and agitation, with the potential for combativeness, and incontinence.

(4) "Alzheimer's day care resource center" means a center developed pursuant to this section to provide a program of specialized day care for participants with dementia.

(c) The department shall adopt policies and guidelines to carry out the purposes of this section, and the adoption thereof shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) In order to be eligible to receive funds under this section, a direct services contract applicant shall do all of the following:

(1) Provide a program and services to meet the special care needs of, and address the behavioral problems of, participants.

(2) Provide adequate and appropriate staffing to meet the nursing, psychosocial, and recreational needs of participants.

(3) Provide physical facilities that include the safeguards necessary to protect the participants' safety.

(4) Provide a program for assisting individuals who cannot afford the entire cost of the program. This may include, but need not be limited to, utilizing additional funding sources to provide supplemental aid and allowing family members to participate as volunteers at the applicant's facility.

(5) Utilize volunteers and volunteer aides and provide adequate training for those volunteers.

(6) Provide a match of not less than 25 percent of the direct services contract amount consisting of cash or in-kind contributions, identify other potential sources of funding for the applicant's facility, and outline plans to seek additional funding to remain solvent.

(7) Maintain family and caregiver support groups.

(8) Encourage family members and caregivers to provide transportation to and from the applicant's facility for participants.

(9) Concentrate on participants in the moderate to severe ranges of disability.

(10) Provide or arrange for a noon meal to participants.

(11) Serve as model centers available to other service providers for onsite training in the care of these patients.

(12) Maintain a systematic means of capturing and reporting all required community-based services program data.

(e) To the extent possible within their resources, direct services contract applicants are encouraged to:

(1) Establish contact with local educational programs, such as nursing and gerontology programs, to provide onsite training to students.

(2) Provide services to assist family members, including counseling and referrals to other resources.

(3) Involve the center in community outreach activities and provide educational and informational materials to the community.

(f) A direct services contractor shall be licensed as an adult day program, as defined in paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code, or as an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code, and shall be subject to the requirements of this division, including this chapter, for purposes of operating an Alzheimer's day care resource center. If the direct services contractor surrenders its adult day program or adult day health care center license, or if the license has been terminated as a result of noncompliance with applicable licensure or certification standards, these actions shall also serve to terminate the direct services contractor's Alzheimer's day care resource center contract.

(g) An Alzheimer's day care resource center that was not licensed as an adult day program or adult day health care center prior to January 1, 2005, shall be required to be so licensed by January 1, 2008. A direct services program that qualifies to operate as an Alzheimer's day care resource center after January 1, 2005, shall be required to be licensed as an adult day program or adult day health care center.

(h) Nothing in this chapter shall be construed to prevent existing adult day care services, including adult day health care centers, from developing a specialized program under this chapter. The applicants shall meet all of the requirements for direct services contractors in this chapter and satisfactorily demonstrate that the direct services contract funding award shall be used to develop a distinct specialized program for this target population.

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 4, Sec. 9. Effective July 28, 2009.)

9543. (a) The Legislature finds and declares that the purpose of the Brown Bag Program is to provide opportunities for sponsors and volunteers to glean through excess food stuffs that are donated, and distribute bags of food to help meet the nutritional needs of low-income older individuals.

(b) For purposes of this section "low-income older individual" means a person 60 years of age or older, with an income no higher than that of the annual basic benefit level provided under the State Supplementary Program for a person who is blind, pursuant to subdivision (a) of Section 12200.

(c) If services are being provided in compliance with subdivision (b) and it is then determined that a surplus of foodstuffs exists, the program may also provide these services to persons 60 years of age or older with an income that does not exceed 125 percent of the maximum income level for a low-income older individual, as specified in subdivision (b). The provision of services under this subdivision shall be contingent upon the availability of surplus food products, as determined by the local delivery site, and services shall be rendered within the limits of available funds. Services shall be provided to otherwise eligible low-income older individuals with incomes over the annual basic benefit level specified in subdivision (b) only after the local agency operating the program determines that the needs of low-income older individuals who meet all the requirements of subdivision (b) have been met.

(d) In order to be eligible to receive funds under this chapter, a direct services contract applicant shall meet, but need not be limited to, all of the following conditions:

- (1) Provide a cash match of 25 percent and an in-kind match of 25 percent prior to receiving funds under Chapter 7 (commencing with Section 9530) and this chapter.
- (2) Use matching sources that are derived from, but are not limited to, city, county, and federal funds, contributions, and private or business donations. Priority shall be given to those local programs with a larger local match. State money shall be used as a catalyst for charitable contributions, including in-kind and local community support.
- (3) Operate under a board of directors, with at least one low-income older individual as a representative, and other interested persons from the community.
- (4) Provide adequate space to store food with necessary access to refrigerator and freezer storage.
- (5) Utilize volunteers to distribute produce and unsold foodstuffs to low-income older individuals.
- (6) Maintain a systematic means of capturing and reporting all required community-based services program data.

(e) Food distributed to older adults shall comply with county health regulations. Except for any injury resulting from gross negligence or willful act, no county or county agency established pursuant to this chapter and no person who donates any agricultural product shall be liable for any injury, including, but not limited to, injury resulting from the ingesting of the product, as a result of any act, or the omission of any act, in connection with donating any product pursuant to this chapter.

(Amended by Stats. 2024, Ch. 337, Sec. 27. (SB 1249) Effective January 1, 2025.)

9544. (a) The Legislature finds and declares that the purpose of the Foster Grandparent Program shall be to provide personally meaningful volunteer community service opportunities to low-income older individuals through mentoring children with physical, developmental, or behavioral needs, in accordance with the federal National and Community Service Trust Act of 1993 (42 U.S.C. Sec. 12651 et seq.).

(b) For purposes of this section, "foster grandparent volunteer" means an individual who is 60 years of age or older, has an insufficient income, as determined in accordance with Part 1208 of Title 45 of the Code of Federal Regulations, and provides at least four hours a day, five days a week of foster grandparent services under this chapter.

(c) Direct service contractors shall meet all of the following requirements:

- (1) Be a city, county, city and county, or department of the state, or any suitable private, nonprofit organization, that demonstrates the ability to provide the specified services in a variety of settings, including, but not limited to, hospital pediatric wards, facilities for the physically, emotionally, or mentally impaired, correctional facilities, schools, daycare centers, and residences.
- (2) Recruit, select, train, and assign staff and volunteers.
- (3) Provide volunteer participants with the same benefits, transportation, stipends, and income exemptions as provided to the foster grandparent volunteers funded through the Corporation for National Service.
- (4) Provide or arrange for meals, transportation, and supervision for volunteers.
- (5) Provide benefits and meaningful volunteer service opportunities to low-income individuals 60 years of age and older.
- (6) Serve children under 21 years of age who have special needs or who could benefit from relationships with adults.
- (7) Provide services to persons, including, but not limited to, any of the following:
 - (A) Infants that are premature and have failed to thrive, children who have been abused and neglected, or chronically ill children in hospitals.
 - (B) Children who have autism, children with cerebral palsy or with intellectual or developmental disabilities, and children who have been placed in institutions.
 - (C) Children with physical disabilities, children with intellectual or developmental disabilities, children with emotional challenges, or children who are socially and culturally isolated in school settings or childcare centers, children who have been neglected, and children who have been abused in residential settings.
 - (D) Children who are delinquent and have been placed in correctional institutions.

(E) Children under 19 years of age who have been charged with committing, or adjudged to have committed, an offense that is the equivalent to a misdemeanor.

(8) Maintaining a systematic means of capturing and reporting all required community-based services program data.

(d) In addition to the opportunity to help children who have physical, developmental, or behavioral needs and would benefit from relationships with adults, foster grandparent volunteers shall receive all of the following:

(1) Expenses for transportation to and from their homes and the place where they render their services or may have transportation in buses or in other transportation made available to them.

(2) One free meal during each day in which the foster grandparent renders services.

(3) Accident insurance, an annual physical examination, and a nontaxable hourly stipend.

(e) This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or in another statute.

(Amended by Stats. 2024, Ch. 337, Sec. 28. (SB 1249) Effective January 1, 2025.)

9545. (a) The Legislature finds and declares that the purpose of the Linkages Program shall be to provide care and case management services to at-risk older individuals and adults with functional impairments with priority for enrollment given to low-income individuals, to help prevent or delay placement in nursing facilities. For purposes of this section, "care or case management" means all of the following:

(1) As appropriate, ongoing care or case management to at-risk older adults and adults with functional impairments to help prevent or delay placement in nursing facilities.

(2) Client assessment, in conjunction with the development of a service plan with the participant and other appropriate persons, to provide for needs identified by the assessment.

(3) Authorization and arrangement for the purchase of services, or referral, with followup, to volunteer, informal, or third-party payer services. Contractors shall maximize to the fullest extent possible the use of existing services resources before using program funds to purchase services for clients. Any benefits received as a result of these purchases either shall not be considered income for purposes of programs provided for under Division 9 (commencing with Section 10000) or shall not be considered an alternative resource pursuant to Section 12301.

(4) Service and participant monitoring to determine that the services obtained are appropriate to need, of acceptable quality, and provided in a timely manner.

(5) Followup with clients, including periodic contact and initiation of an interim assessment, if deemed necessary, prior to scheduled reassessment.

(6) Assistance to older individuals entering or returning home from nursing facilities and who need help to make the transition.

(7) Comprehensive and timely information, when necessary, to individuals and their families about the availability of community resources, to assist at-risk older adults and adults with functional impairments to maintain the maximum independence permitted by their functional ability.

(8) Short-term specialized assistance, including timely one-time-only assistance in securing community resources, counseling, and the arrangement of an action plan, when there is a temporary probable threat to the ability of the at-risk older adult or adult with functional impairments to remain in the most independent living arrangement permitted by their functional ability.

(b) Contractors of the Linkages Program shall have experience in community long-term care services and capability to serve the at-risk older adults and adults with functional impairments, and where applicable, ensure separateness of the programs and demonstrate protective measures to avoid conflict of interest.

(c) Contractors of the Linkages Program shall have a systematic means of capturing and reporting all required community-based services program data.

(d) (1) Each county shall deposit funds collected pursuant to Section 1465.5 of the Penal Code in its general fund, to be available for use only for the support of services provided under this chapter in that county, including county administrative costs not exceeding 10 percent of the funds collected, except as otherwise provided in this subdivision. A county may join with other counties to establish and fund a program of services under this chapter.

(2) Funds utilized pursuant to this section shall not supplant, be offset against, or in any way reduce funds otherwise appropriated for the support of services provided under this chapter.

(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, on or before September 1, 2009, the department shall issue a revised program manual, program memorandum, or similar instructions to contractors regarding the prioritization of low-income individuals.

(2) Contractors shall give priority for enrollment to low-income individuals.

(Amended by Stats. 2024, Ch. 337, Sec. 29. (SB 1249) Effective January 1, 2025.)

9546. (a) The purpose of the Respite Program shall be to provide temporary or periodic services for older adults with severe functional or cognitive limitations to relieve persons who are providing care, or recruitment and screening of providers and matching respite providers to clients.

(b) Direct services contractors shall do either one or more of the following:

(1) In acting as a respite care information and referral agency, recruiting and screening respite providers and matching respite providers to clients. Respite care registries shall consist of the names, addresses, and telephone numbers of providers, including, but not limited to, individual caregivers, volunteers, adult daycare services, including adult day health care services and services provided by licensed residential care facilities for the elderly.

(2) Arranging for and purchasing respite services for program participants.

(3) Maintaining a systematic means of capturing and reporting all required community-based services program data.

(c) This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or in another statute.

(Amended by Stats. 2024, Ch. 337, Sec. 30. (SB 1249) Effective January 1, 2025.)

9547. (a) The purpose of the Senior Companion Program shall be to provide personally meaningful volunteer community service opportunities to older adults who are low income for the benefit of adults who need assistance with activities of daily living. It is the purpose of this chapter to enable older individuals to provide care and support on a person-to-person basis to adults with special needs, such as older adults who are at risk for institutionalization, in accordance with the National and Community Service Trust Act of 1993 (42 U.S.C. Sec. 12651 et seq.).

(b) For the purposes of this chapter "senior companion volunteer" means an older adult who is 60 years of age or older, who is low-income, as determined in accordance with Part 1208 of Title 45 of the Code of Federal Regulations, and provides at least four hours a day, five days a week, of senior companion services under this chapter.

(c) Requirements of direct service contractors:

(1) Be a city, county, city and county, or department of the state, or any suitable private, nonprofit organization, that demonstrates the ability to provide the specified services in a variety of settings, including, but not limited to, in residential, nonresidential, institutional and in-home settings.

(2) Demonstrate the ability to recruit, select, train, and assign staff and volunteers.

(3) Provide volunteer participants with the same benefits, transportation, stipends, and income exemptions as provided to the senior companion volunteers funded through the Corporation for National Service.

(4) Provide or arrange for meals, transportation, and supervision for volunteers.

(5) Provide benefits and meaningful volunteer service opportunities to low-income individuals 60 years of age or older.

(6) Serve adults who have severe functional impairments.

(7) Provide services to, but not limited to, all of the following:

(A) Older adults who have severe functional or cognitive limitations that result in an individual's inability to leave the home.

(B) Individuals with mental or neurological impairments who are capable of participating in activities, but have been denied access to those activities.

(C) Older adults who have withdrawn from all social interaction.

(D) Adults with physical disabilities who wish to participate in home- and community-based services programs, but who remain on waiting lists until there is an opening.

(8) Maintain a systematic means of capturing and reporting all required community-based services program data.

(d) In addition to the opportunity to help other adults who have special needs, such as at-risk older adults, senior companion volunteers shall receive all of the following:

(1) Expenses for transportation to and from their homes and the place where they render their services or transportation in buses or in other transportation made available to them.

(2) One free meal during each day in which the senior companion renders services.

(3) Accident insurance, an annual physical examination, and a nontaxable hourly stipend.

(e) Senior companions funded under this chapter shall not be assigned to individuals already receiving in-home supportive services.

(f) This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or in another statute.

(Amended by Stats. 2024, Ch. 337, Sec. 31. (SB 1249) Effective January 1, 2025.)