

**REPORT  
OF THE  
MISSOURI HOUSE OF REPRESENTATIVES  
INTERIM COMMITTEE  
ON  
SENIOR NUTRITION**



**January 2008**

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MISSOURI HOUSE OF  
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Nutrition  
  
Vice Chairman  
Local Government  
  
Member  
Special Committee on Utilities  
Special Committee on  
Veterans  
Interim Committee: Voice  
Telephone Regulations ·  
Veterans Services

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The Honorable Rod Jetton  
Speaker  
Missouri House of Representatives  
Jefferson City, Missouri House of Representatives

January 2008

Dear Mr. Speaker:

Pursuant to your charge, your Interim Committee on Senior Nutrition gathered information about the state-funded meal programs for senior citizens. The committee traveled all over the state and held seven hearings during the fall of 2007. The committee heard testimony from members of the Area Agencies on Aging, senior center administrators, senior citizens, and employees from the Missouri Department of Health and Senior Services.

There is widespread interest in the care the seniors of Missouri receive and assuring that they have access to daily meals that are healthy. The committee expresses its gratitude to all the parties who provided testimony and information on the issue of meal programs for seniors.

The committee recognizes that caring for seniors in need of meal program assistance is a proven way to keep seniors in their homes longer and prevent them from entering nursing homes. In doing so, enclosed is our committee report and recommendations.

Sincerely,

Representative Joe Smith

**REPORT OF THE  
HOUSE OF REPRESENTATIVES  
INTERIM COMMITTEE  
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SENIOR NUTRITION**

**Committee Members**



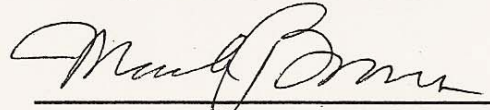
**Representative Ellen Brandom**



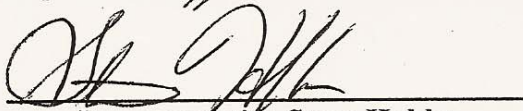
**Representative Bob Nance**



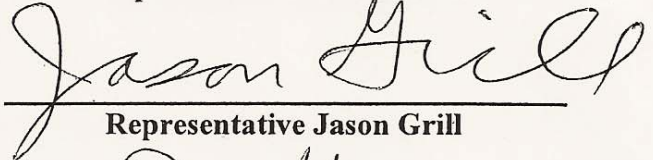
**Representative Maria Chappelle-Nadal**



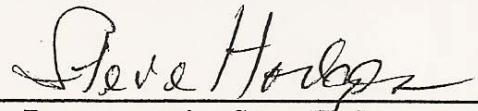
**Representative Mark Bruns**



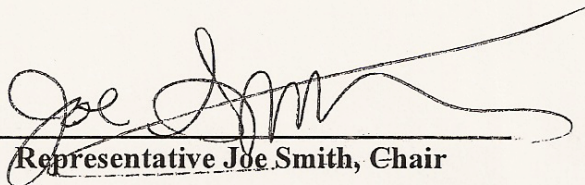
**Representative Steve Hobbs**



**Representative Jason Grill**



**Representative Steve Hodges**



**Representative Joe Smith, Chair**

We, the above-signed members of the House of Representatives Interim Committee on Senior Nutrition, do hereby respectfully submit our report to the Honorable Rod Jetton, Speaker of the House.

**FINAL REPORT OF THE  
HOUSE OF REPRESENTATIVES  
INTERIM COMMITTEE ON SENIOR NUTRITION**

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## Final Report of the Interim Committee on Senior Nutrition

January 2008

### **Introduction**

The Interim Committee on Senior Nutrition consisted of eight members. The members included Representative Ellen Brandom, Representative Mark Bruns, Representative Maria Chappelle-Nadal, Representative Jason Grill, Representative Steve Hobbs, Representative Steve Hodges, Representative Bob Nance, and Representative Joe Smith who served as committee chairman. The Interim Committee held public hearings in the cities of Springfield, Lexington, O'Fallon, Hannibal, Marble Hill, Sikeston and Jefferson City. The hearings were conducted in October and November of 2007.

The charge of the Interim Committee was introduced in September 2007 and stated that the committee was to review, evaluate, and find ways that will improve the services provided by the Missouri Senior Nutrition Program through the local senior centers and to ensure that the services offered to our senior citizens across the State of Missouri are sufficient and adequate.

Additionally, the committee prepared a list of priorities to address at each of the hearings. Those priorities were as follows:

- 1) Review the Department of Health and Senior Services funding formula for the Area Agencies on Aging.
- 2) Review the operations, spending and service coordination of the AAAs.
- 3) Analyze the community perception and evaluation of how the needs of seniors are being met by the services the AAAs provide.

## **Overview of the Senior Nutrition Program: Funding and Programming**

### **The Older Americans Act**

The Older Americans Act (OAA) was originally enacted in 1965. It created the Administration on Aging, and established grants to states for the purposes of community planning and services to the country's seniors. An amendment to the OAA in 1973 created the Area Agencies on Aging (AAAs), and tasked the AAAs to develop coordinated service systems in partnership with federal and state agencies. The OAA authorizes grants to states for community planning programs, research and demonstration, and training projects in the field of aging. States contract with AAAs to identify local needs and provide services necessary to meet the needs of the elderly and persons with disabilities. OAA services are targeted at individuals in the greatest social and economic need.

The OAA contains seven titles<sup>1</sup>; however, for the purposes of the Interim Committee activities, Title III of the OAA was the primary focus of questioning and information provided. Title III of the OAA is as follows:

#### **Title III: Grants for State & Community Programs on Aging**

Title III-B: Support Services and Senior Centers

Title III-C-1: Congregate Nutrition Services

Title III-C-2: Home-Delivered Nutrition Services

Title III-D: Disease Prevention and Health Promotion Services

Title III-E: National Family Caregiver Support Program

Furthermore, OAA funding is required to support six core services<sup>2</sup>, of which nutrition services and preventive health services are included. The OAA places several mandates on states. One of the mandates requires the state to be divided into distinct planning and service areas that take into consideration the following:

- Where seniors are located geographically in the state;
- Where there are the greatest social and/or economic needs for services for seniors;
- The distribution of resources available to provide services;
- Any existing planning or administrative boundaries;
- The current locations including cities and municipalities which might already have infrastructure related to human services, including services for seniors.
- Any other relevant factors.

The planning and service areas coordinated based on the factors above are identified as the Area Agencies on Aging. There are ten AAA service areas in the state of Missouri<sup>3</sup>.

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<sup>1</sup> All of the Older Americans Act Titles is listed in the Appendix.

<sup>2</sup> All of the Older Americans Act core services are listed in the Appendix.

<sup>3</sup> A map of the 10 AAA regions is located in the Appendix.

### **Area Agencies on Aging**

The OAA intends for the AAAs to be the leader relative to all aging issues on behalf of all older persons by providing a wide range of functions related to advocacy, planning, coordination, inter-agency links, information sharing, brokering, monitoring and evaluation all of which is designed to develop or enhance comprehensive and coordinated community based systems in, or serving, each community in the planning and service area. These systems must be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities for as long as possible. The OAA also requires AAAs to:

- Work with elected officials to designate one or more focal points<sup>4</sup> on aging in each community to ensure access to information and services for older persons;
- List designated focal points in the area plan;
- Define “community”;
- Assure that services financed under the OAA in or on behalf of, the community will be either based at, linked to, or coordinated with focal points;
- Assure access from the focal point to services financed under the OAA; and
- Work with, or work to assure that community leadership works with other applicable agencies and institutions in the community to achieve maximum collocation at, coordination with or access to other services and opportunities for the elderly from the designated community focal points.

### **Senior Centers**

Senior centers are governed by an advisory council, elected by participants of the senior center and are generally owned by local entities, city or county governments. There are approximately 290 senior centers in Missouri, with at least 1 in every county. Funding comes from local donations, contributions, and in some counties tax revenues or credits. Senior centers promote successful aging by supporting independence, health, self-improvement, and community involvement. The services offered enable older Missourians to remain in their homes as long as possible. Services include:

- Congregate meals and home-delivered meals;
- Screening clinics;
- Recreational centers;
- Social service agency branch offices;
- Mental health counseling clinics;
- Older worker employment agencies;
- Volunteer coordinating centers; and
- Community meeting halls.

### **Senior Citizens’ Services Fund**

The Senior Citizens’ Services Fund (SCSF) is voter imposed property tax<sup>5</sup> that is passed for the purpose of providing services to senior citizens. Revenues generated from the tax are governed by a board and disbursed to entities that provide services necessary

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<sup>4</sup> Focal points are most commonly senior centers or places where many seniors gather together.

<sup>5</sup> The tax can also be a sales tax; however, the property tax is far more common.

for senior citizens. Over forty counties in the state have adopted the SCSF tax and the revenues generated are given to contractors for services such as transportation, meal delivery, care coordination, and programming. Senior centers that reside in counties that have adopted the SCSF tax usually receive funding from the levy and use the additional funding to help offset the costs of operation.

**Funding Appropriated by the General Assembly:**

In fiscal years 2006 and 2007 the General Assembly appropriated over a million dollars each year in additional funding for the senior nutrition program. The additional funding was added to the DHSS appropriation for the AAAs. However, in fiscal year 2008 the General Assembly added no additional funding for senior nutrition program. Below is a chart of the total funding for DHSS for the AAAs for fiscal years 2006, 2007 and 2008. Furthermore, it is important to note that once the allotment below is appropriated to each of the AAAs from DHSS, the funding can be used for programming other than the nutrition program. Each AAA has the discretion to determine how the funds get disbursed within each program. Programming includes meals, transportation, support services, administration and other responsibilities.

	<b>2006</b>	<b>2007</b>	<b>2008</b>
General Revenue	\$ 11,354,729	\$ 12,165,411.00	\$ 12,823,901.00
<i>Additional General Revenue</i>	\$ 600,000	\$ 1,000,000	\$ -
Federal Revenue	\$ 35,316,384	\$ 36,089,562	\$ 36,622,724
<i>Additional Federal Revenue</i>	\$ 849,362	\$ 488,291	\$ -
Other Funding	\$ 430,000	\$ 430,000	\$ 200,000
<i>Total Additional Funding</i>	\$ 1,449,362	\$ 1,488,291	\$ -
<b>Total Funding</b>	<b>\$ 48,550,475</b>	<b>\$ 50,173,264</b>	<b>\$ 49,646,625</b>

## Summary of Testimony

### Department of Health and Senior Services Funding Formula for the AAAs.

#### Current Funding Formula

Funding for the AAAs is complex. Funding passes from the federal government and the state to the AAAs. Then the AAAs, under some department oversight, determine how much of that funding is to be used each year for meals, transportation, support services, administration, and other programming services. Each AAA receives an equal base which, in fiscal year 2007, was set at \$417,675, with a provision for inflationary increases. The remainder of the funding is distributed using several formulas, contingent upon both federal and state laws and regulations. The bulk of the funding for AAAs is distributed based on the Interstate Funding Formula (IFF) required by the OAA<sup>6</sup>. The IFF stipulates criteria that the state must use to allocate funds to its AAA. The criteria that are used to calculate the current formula takes several populations into consideration:

- The age 60+ population;
- The age 60+ population living below the Federal Poverty Limits (FPL);
- The age 60+ minority population living below FPL;
- The age 60+ population suffering from limited mobility/self-care disability;
- The age 60+ population speaking limited English;
- The age 60+ minority population;
- The age 60+ rural population.

In addition to the OAA funding, Missouri receives federal appropriations from Medicaid Match Funding for the cost of home delivered meals (HDMs), Social Services Block Grant (SSBG) funds used for programming costs, and USDA funding for meals served. The state of Missouri General Revenue (GR) funding comes eight different sources. Those sources include OAA State Match, Missouri Care Options, SSBG Replacement Funding, Ombudsman Funding, Hold Harmless, Medicaid State Match, Missouri Elderly and Handicapped Transportation Assistance Program.

The AAAs use approximately 10% of their funding for administrative costs. Congregate and home delivered meals, supportive services (including transportation programs), and family caregiver programs represent the bulk of AAA expenditures, with several other programs (some unique to each individual AAA) also receiving funds. Further, AAAs receive additional funding from city and county governments, local fundraising, and client contributions (used as partial payment for transportation and meal service).

#### Proposed Funding Formula

Presently, the DHSS and the Missouri Association of Area Agencies on Aging (MA4) are discussing a new formula for the state. Despite the weight given to various factors within the current funding formula, the distribution of funding to the AAAs does

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<sup>6</sup> Older Americans Act Funding Flowchart is located in the Appendix.

not appear to meet the required consideration designated for seniors with minority, rural or poverty level needs. Projected demographic and economic indicators suggest inequities in the current formula and those inequities will become more pronounced in the very near future if factors are not adjusted. Additionally, the recent amendments to the Older Americans Act strengthened the components related to individuals with disabilities and seniors at risk of institutionalization. The need for services and considerations for an accurate allocation are crucial as the state faces:

- Aging of the “baby boomers”;
- Variance in the distribution of wealth within the “baby boomer” generation;
- The widening poverty gap;
- Increasing rates of disability and chronic disease, particularly among the poor; and
- Increasing rates of older females living alone, many of whom are divorced or have never married.

The current formula places an emphasis on the total population aged sixty and older in each AAA region, which disproportionately distributes funds to the largest and most fiscally capable areas. Additionally, the areas within the state that contain the wealthiest populations correspond with the areas of highest senior concentration. Large populations and wealth go hand in hand for several reasons. Heavily populated areas offer abounding amenities such as employment opportunities, health care, convenient consumer/retailer proximities, public goods, entertainment and leisure options. These amenities produce a correlate effect—financially able persons migrate to these areas, and a causal effect—the opportunities for gainful employment creates wealth within these areas. The result can prove disastrous for the areas experiencing net out-migration—society’s poorest members are left behind in depressed and declining economies. These are the individuals to whom assistance means the most, the individuals targeted by the OAA, and for whom the state believes can be served with greater precision through revised funding allocations. Changes in Census Bureau data components have had the most adverse effect for the planning and service areas with the highest concentration of low-income elderly. Due to the intricate nature of the Census Bureau’s focus in classifying certain demographic indicators (e.g. race and disability), as well as the limitation of decennial updates to data for the majority of formula components, an unintended weakness within the current formula structure has been revealed.

To date, DHSS has conducted comprehensive analyses and research to develop a new funding formula. This new formula equates factors of need with a strong positive relationship with poverty. In other words, the poverty rate of the population age 60+ should positively correlate with the per capita determination of individuals with the greatest social or economic need. Over the years, the current IFF which favors fund distribution to the most populous AAAs has inaccurately depicted the need present in the smaller AAAs as a direct result of their extreme differences in size. The recommended formula is designed to more specifically address the distinctive attributes of population within each of the ten AAAs, particularly as it relates to identifying the number of seniors with the greatest social and economic need. Designed to maximize the capacity of the AAAs to enable seniors to age in their homes or communities through targeted funding to groups with the highest probability of institutionalization, the formula incorporates

evidence-based practices intended to mitigate future impact to the formula that will otherwise result from changes in the U.S. Census Bureau's definition and measurement of the disabled population, age 60+. Lastly, the new construct allows greater portions of determinant data to accurately be updated annually.

## Area Agency on Aging and Senior Centers

### Lack of Funding

Currently there is a substantial need to increase funding for meal program as well as other beneficial programming for low-income seniors. Each AAA struggles to allocate the federal and state funding adequately to contractors in their respective regions for services. Every year each AAA is asked to provide more services while the funding has remained stagnant and insufficient to expand services. The current funding formula does not address the economic needs of the regions adequately or equitably; therefore, more rural regions receive less funding than those in more urban areas, even if there are more low-income seniors needing meal and other assistance services. The funding struggles also affect the senior centers. Senior centers are the hub of service delivery. Senior centers provide the bulk of the meal programs to seniors needing assistance. Even though the centers raise local funds to cover operational costs, it is a daily struggle for most centers, and some face the threat of closure. Therefore, the federal and state governments need to allocate more funds to senior programs for nutrition and incorporate a need-based strategy for the current funding formula so there is more equity between actual meals served and population.

## Recommendations

After hearing all the testimony and discussing the areas where there is room for improvement within the nutrition program, the following are the Interim Committee recommendations:

**1. De-designate the Area Agencies on Aging.**

Currently there are ten AAAs operating in the state of Missouri. Small states like Alaska and Rhode Island operate with only one AAA; however, Missouri is like many other states that operate with ten or more AAA regions. Due to the large number of AAA regions in Missouri, there are several reasons that reducing the number of AAAs would be a benefit to the state. The benefits of reducing the number of AAA regions from ten to one AAA region include:

- A. Increased efficiency of the administration and programming;
- B. Administrative cost savings; and
- C. DHSS would have the increased oversight and capability to more effectively oversee the expenditures of the senior nutrition program.

De-designation can only be executed by the executive branch and is coordinated through DHSS and the governor. The Interim Committee recommends that the General Assembly assist the process by passing a resolution in support of the de-designation of the ten AAAs thereby making an endorsement of the measure. 660.050.4, RSMo has the statutory information related to de-designation.

**2. Strengthen the oversight over the AAA.**

DHSS needs to have enhanced regulation of the disbursement of funds, once received by the individual AAA. More oversight would ensure that the funding is being processed through to contractors that are providing services to the seniors and that those funds are being used with efficiency and effectiveness. Specifically, 660.057 RSMo needs to grant more administrative and operational control to DHSS by giving the ability to promulgate rules requiring the AAAs to:

- A. Perform needs assessments;
- B. Assure quality; and
- C. Establish funding integrity.

The Interim Committee recommends filing a house bill that would amend 660.057 RSMo by incorporating the recommendation above. It is noteworthy to say that the AAAs have a quasi-governmental nature due to the federal funding they receive; therefore, state enforcement through legislation will require special attention and consideration.

**3. Expand the food pantry tax credit to include senior centers.**

In 2007 the General Assembly passed a bill that authorized an income tax credit for donations of cash or food to any local food pantry. The amount of the tax credit is equal to 50% of the value of the donation and cannot exceed \$2,500

per taxpayer per year. By extending this credit to senior centers, the community is given an opportunity to better serve their seniors. The tax credit provides more of an incentive for the community to take charge of caring for their senior citizens and providing much needed resources directly to the senior centers that act as the hub of service delivery.

**4. Implement a state grant to match funds for fundraising efforts conducted by senior centers.**

The General Assembly must appropriate extra funding for the DHSS budget for Senior and Disability Services for the purpose of matching local fundraising efforts performed by the senior centers. The Interim Committee recommends that the state match funds up to 20% be given directly to the local senior center for whatever purpose they deem necessary. If the grant appropriation exceeds is allotment, the Department will administer the best way to match all grant applications on a pro-rata basis.

**5. Create a state incentive grant for passing the Senior Citizens' Services Fund tax levy.**

The Interim Committee recommends that the General Assembly appropriate more money to DHSS for the purpose of matching funds raised through the Senior Citizens Services Tax Fund. This grant will be a percentage match and will be given directly to the senior centers in any county that has passed the levy. If the grant appropriation exceeds the allotment, the Department will administer the best way to match all grant applications on a pro-rata basis. For those counties that have already passed the Senior Citizens Services Tax Fund, they shall receive a percentage matching grant for the average amount raised during the previous two years.

**6. Repeal statute that hampers the funding process.**

Chapter 660.099 RSMo needs to be repealed. This provision requires that additional funding given to the AAAs be done through the funding formula; however, in the past 2-3 years when the legislature has approved more funding, it was not done so in this fashion. Although this is a violation, the likelihood of being sued for giving out more funding even though it was not done through the formula is low. Regardless, this provision actually hampers the legislature and when appropriating additional funding. By repealing this section, the General Assembly would eliminate the risk of lawsuit for improper funding allocation violations and reducing bureaucracy.

**7. Support funding formula changes.**

The Interim Committee recommends supporting the DHSS efforts to reform the current funding formula. The department is in discussions with the AAAs and has conducted extensive research for a new formula that is more equitable to the nutrition needs of seniors. The new formula will make more effective allowances for need as opposed to geographic location or size of population.

In addition, the Interim Committee recommends using the earmarked Medicaid funds related to home delivered meals (HDMs) be moved out of the AAA funding line (currently section 10.705 of HB 10) and into the Medicaid Home and Community Based Services funding line (currently section 10.695 of HB 10)<sup>7</sup>. This would consolidate all funding for Medicaid services in one house bill section. It would remove any implication of a funding cap on HDMs, allowing for maximized service delivery of Medicaid HDMs. The remainder of the Missouri Care Options (MCO) funding used for Medicaid match would be moved into the general AAA appropriation. As a result:

- A. No MCO funding will be used for Medicaid match. All funding related to Medicaid HDMs will be separate from AAA funds for other services. This effectively returns the AAAs to the funding system in place prior to the creation of HDM as a waived service.
- B. HDMs will be reimbursed in the same way as all other in-home services. Delivery and billing for a meal will result in the full amount of reimbursement, not the federal portion alone.
- C. Any real or perceived barriers to service delivery of Medicaid HDMs related to funding will be removed. Funding distributed to an AAA will be based solely on number of meals served, without concern for how much is or can be distributed at the beginning of each fiscal year.
- D. Approximately \$2.2M of additional general revenue previously used as Medicaid match funding, is freed to be used by AAAs for congregate and home delivered meals, in-home services, and/or transportation. In the FY08 budget, ignoring hold harmless, approximately \$11.2M of general revenue (GR) is appropriated to the AAAs (formula and earmarked); with approximately \$3.0M used as GR match for Medicaid. Under this system, approximately \$10.4M of GR would be appropriated through formula. AAAs would then receive the same \$3.0M in GR match upon service delivery.

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<sup>7</sup> There are two types of general revenue (GR) funding related to Medicaid Home Delivered Meals (HDM). \$813,326 is allocated based upon previous year's Medicaid HDM served. The remainder of the funding is Missouri Care Options funding that is distributed based upon the intrastate funding formula (IFF). The net result is that all GR funding related to the provision of a Medicaid HDM is distributed to the AAAs prior to the delivery of that meal. Additionally, it makes it appear as though there is an inherent cap on the number of Medicaid HDMs that can be served. Neither situation is ideal.

## Appendix

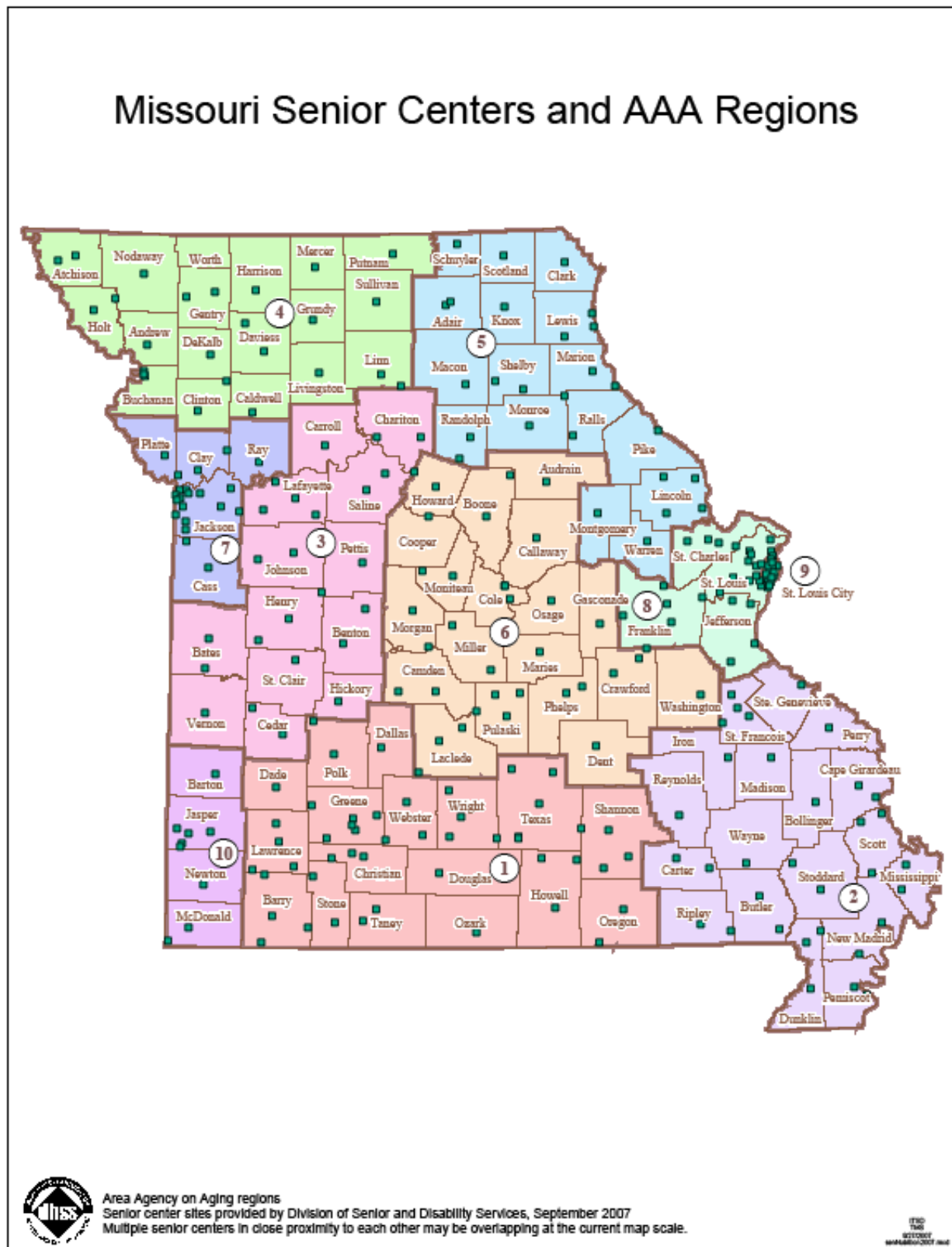
### The Older Americans Act Titles and Core Services

- I. Title I: Objectives;
- II. Title II: Administration;
- III. Title III: Grants for State and Community Programs on Aging
  - 1) Title III-B: Supportive Services and Senior Centers
  - 2) Title III-C-1: Congregate Nutrition Services
  - 3) Title III-C-2: Home-Delivered Nutrition Services
  - 4) Title III-D: Disease Prevention and Health Promotion Services
  - 5) Title III-E: National Family Caregiver Support Program
- IV. Title IV: State and Local Innovations and Projects of National Significance;
- V. Title V: Senior Community Service Employment Program (administered by the Department of Labor);
- VI. Title VI: Grants to Indian Tribes;
- VII. Title VII: Vulnerable Older Americans/Senior Rights.
- VIII. OAA services are targeted toward individuals in the greatest social and economic need.

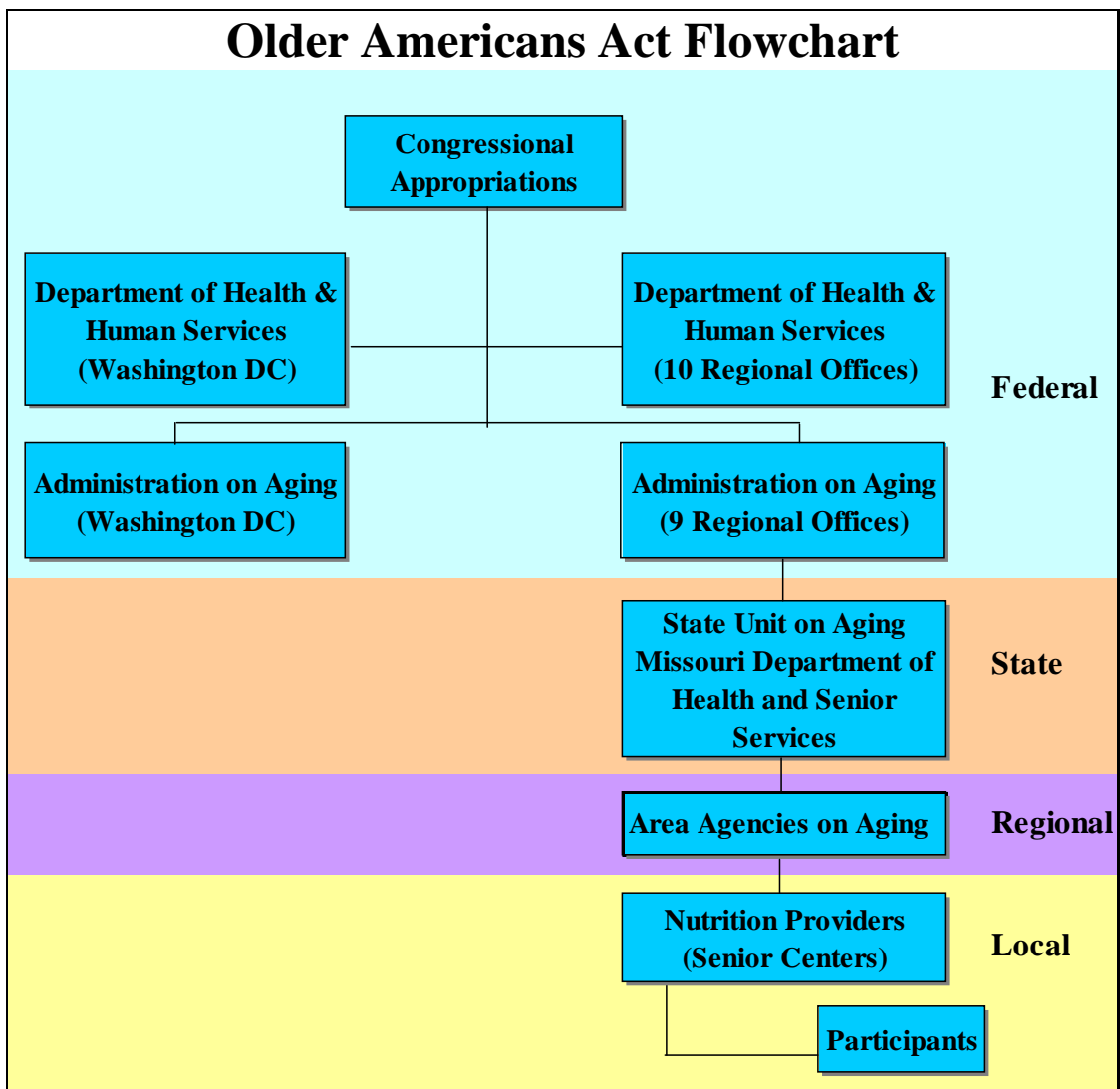
Funding supports six core services:

- I. Support Services
  - a. Transportation, In-home Care, Community-based Services, Adult Day Care, and Information and Referral assistance
- II. Nutrition Services
  - a. Congregate and Home Delivered Meals
- III. Preventive Health Services
  - a. Nutrition education and healthy living information;
- IV. National Family Caregiver Support Program
  - a. Assistance to primary caregivers and grandparents caring for grandchildren
- V. Elder Rights Services
- VI. Advocacy for individuals in the community and/or long-term care facilities.
- VII. Services to Native Alaskans, Native Hawaiians, and Native Americans.

## Ten Area Agencies on Aging Regions



## The Older Americans Act Funding



## Missouri Revised Statutes

### Chapter 660 - Department of Social Services Section 660.050

#### **Division of aging created--duties--inspectors of nursing homes, training and continuing education requirements--promulgation of rules, procedure--dementia-specific training requirements established.**

660.050. 1. The "Division of Aging" is hereby transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974. The division shall aid and assist the elderly and low-income handicapped adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The division shall regulate adult long-term care facilities pursuant to the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these facilities.

2. In addition to its duties and responsibilities enumerated pursuant to other provisions of law, the division shall:

- (1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73, (42 U.S.C. 3001, et seq.), as amended;
- (2) Assure that information and referral system is developed and operated for the elderly, including information on the Missouri care options program;
- (3) Provide technical assistance, planning and training to local area agencies on aging;
- (4) Contract with the federal government to conduct surveys of long-term care facilities certified for participation in the Title XVIII program;
- (5) Serve as liaison between the department of health and senior services and the Federal Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the United States Department of Health and Human Services;
- (6) Conduct medical review (inspections of care) activities such as utilization reviews, independent professional reviews, and periodic medical reviews to determine medical and social needs for the purpose of eligibility for Title XIX, and for level of care determination;
- (7) Certify long-term care facilities for participation in the Title XIX program;
- (8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for Supplemental Security Income recipients in long-term care facilities and serve as the liaison between the Social Security Administration and the department of health and senior services concerning Supplemental Security Income beneficiaries;
- (9) Review plans of proposed long-term care facilities before they are constructed to determine if they meet applicable state and federal construction standards;
- (10) Provide consultation to long-term care facilities in all areas governed by state and federal regulations;
- (11) Serve as the central state agency with primary responsibility for the planning, coordination, development, and evaluation of policy, programs, and services for elderly persons in Missouri consistent with the provisions of subsection 1 of this section and serve as the designated state unit on aging, as defined in the Older Americans Act of 1965;
- (12) With the advice of the governor's advisory council on aging, develop long-range state plans for programs, services, and activities for elderly and handicapped persons. State plans should be revised annually and should be based on area agency on aging plans, statewide priorities, and state and federal requirements;
- (13) Receive and disburse all federal and state funds allocated to the division and solicit, accept, and administer grants, including federal grants, or gifts made to the division or to the state for the benefit of elderly persons in this state;
- (14) Serve, within government and in the state at large, as an advocate for elderly persons by holding hearings and conducting studies or investigations concerning matters affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to assure their rights to apply for and receive services and to be given fair hearings when such services are denied;
- (15) Provide information and technical assistance to the governor's advisory council on aging and keep the council continually informed of the activities of the division;
- (16) After consultation with the governor's advisory council on aging, make recommendations for legislative action to the governor and to the general assembly;
- (17) Conduct research and other appropriate activities to determine the needs of elderly persons in this state, including, but not limited to, their needs for social and health services, and to determine what existing services and facilities, private and public, are available to elderly persons to meet those needs;
- (18) Maintain and serve as a clearinghouse for up-to-date information and technical assistance related to the needs and interests of elderly persons and persons with Alzheimer's disease or related dementias, including information on the Missouri care options program, dementia-specific training materials and dementia-specific trainers. Such dementia-specific information and technical assistance shall be maintained and provided in consultation with agencies, organizations and/or institutions of higher learning with expertise in dementia care;
- (19) Provide area agencies on aging with assistance in applying for federal, state, and private grants and identifying new funding sources;
- (20) Determine area agencies on aging annual allocations for Title XX and Title III of the Older Americans Act expenditures;
- (21) Provide transportation services, home-delivered and congregate meals, in-home services, counseling and other services to the elderly and low-income handicapped adults as designated in the Social Services Block Grant Report, through contract with other agencies, and shall monitor such agencies to ensure that services contracted for are delivered and meet standards of quality set by the division;
- (22) Monitor the process pursuant to the federal Patient Self-determination Act, 42 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients concerning durable powers of attorney and living wills.

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3. The division director, subject to the supervision of the director of the department of health and senior services, shall be the chief administrative officer of the division and shall exercise for the division the powers and duties of an appointing authority pursuant to chapter 36, RSMo, to employ such administrative, technical and other personnel as may be necessary for the performance of the duties and responsibilities of the division.

4. The division may withdraw designation of an area agency on aging only when it can be shown the federal or state laws or rules have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or the elderly are not receiving appropriate services within available resources, and after consultation with the director of the area agency on aging and the area agency board. Withdrawal of any particular program of services may be appealed to the director of the department of health and senior services and the governor. In the event that the division withdraws the area agency on aging designation in accordance with the Older Americans Act, the division shall administer the services to clients previously performed by the area agency on aging until a new area agency on aging is designated.

5. Any person hired by the department of health and senior services after August 13, 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198, RSMo, shall complete at least one hundred hours of basic orientation regarding the inspection process and applicable rules and statutes during the first six months of employment. Any such person shall annually, on the anniversary date of employment, present to the department evidence of having completed at least twenty hours of continuing education in at least two of the following categories: communication techniques, skills development, resident care, or policy update. The department of health and senior services shall by rule describe the curriculum and structure of such continuing education.

6. The division may issue and promulgate rules to enforce, implement and effectuate the powers and duties established in this section and sections 198.070 and 198.090, RSMo, and sections 660.250 and 660.300 to 660.320. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

7. Missouri care options is a program, operated and coordinated by the division of aging, which informs individuals of the variety of care options available to them when they may need long-term care.

8. The division shall, by January 1, 2002, establish minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by skilled nursing facilities, intermediate care facilities, residential care facilities\*, agencies providing in-home care services authorized by the division of aging, adult day-care programs, independent contractors providing direct care to persons with Alzheimer's disease or related dementias and the division of aging. Such training shall be incorporated into new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The department of health and senior services shall, by January 1, 2002, establish minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by home health and hospice agencies licensed by chapter 197, RSMo. Such training shall be incorporated into the home health and hospice agency's new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The dementia training need not require additional hours of orientation or ongoing in-service. Training shall include at a minimum, the following:

(1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues;

(2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia.

As used in this subsection, the term "employee" includes persons hired as independent contractors. The training requirements of this subsection shall not be construed as superceding any other laws or rules regarding dementia-specific training.

(L. 1984 H.B. 1131 § 2, A.L. 1988 S.B. 602, A.L. 1992 S.B. 573 & 634, A.L. 1993 S.B. 52, A.L. 1994 H.B. 1335 & 1381, A.L. 1995 H.B. 409 merged with S.B. 445 merged with S.B. 3, A.L. 2001 H.B. 603)

\*Revisor's note: The term "residential care facilities" may include "assisted living facilities", see section 198.005 regarding changes to name reference.

(1997) Amendments to this section contained in 1995 CCS HB 409 declared unconstitutional pursuant to sections 21 and 23 of article III of the Missouri Constitution. *Missouri Health Care Association v. Attorney General of the State of Missouri*, 953 S.W.2d 617 (Mo.banc).

### Section 660.057

#### **Area agencies for aging duties--advisory council, duties--agency records audited, when.**

660.057. 1. On and after August 13, 1984, an area agency on aging shall operate with local administrative responsibility for Title III of the Older Americans Act, and other funds allocated to it by the division. The area agency board shall be responsible for all actions of an area agency on aging in its jurisdiction, including, but not limited to, the accountability for funds and compliance with federal and state laws and rules. Such responsibility shall include all geographic areas in which the area agency on aging is designated to operate. The respective area agency board shall appoint a director of the area agency on aging in its jurisdiction. Beginning January 1, 1995, the director of the area agency on aging shall submit an annual performance report to the division director, the speaker of the house of representatives, the president pro tempore of the senate and the governor. Such performance report shall give a detailed accounting of all funds which were available to and expended by the area agency on aging from state, federal and private sources.

2. Each area agency on aging shall have an area agency on aging advisory council, which shall:

(1) Recommend basic policy guidelines for the administration of the activities of the area agencies on aging on behalf of elderly persons and advise the area agency on aging on questions of policy;

(2) Advise the area agency on aging with respect to the development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the division;

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(3) Review and evaluate the effectiveness of the area agency on aging in meeting the needs of elderly persons in the planning and service area;

(4) Meet at least quarterly, with all meetings being subject to sections 610.010 to 610.030, RSMo.

3. Each area agency board shall:

(1) Conduct local planning functions for Title III and Title XX, and such other funds as may be available;

(2) Develop a local plan for service delivery, subject to review and approval by the division, that complies with federal and state requirements and in accord with locally determined objectives consistent with the state policy on aging;

(3) Assess the needs of elderly persons within the planning and service delivery area for service for social and health services, and determine what resources are currently available to meet those needs;

(4) Assume the responsibility of determining services required to meet the needs of elderly persons, assure that such services are provided within the resources available, and determine when such services are no longer needed;

(5) Endeavor to coordinate and expand existing resources in order to develop within its planning and service area a comprehensive and coordinated system for the delivery of social and health services to elderly persons;

(6) Serve as an advocate within government and within the community at large for the interests of elderly persons within its planning and service area;

(7) Make grants to or enter into contracts with any public or private agency for the provision of social or health services not otherwise sufficiently available to elderly persons within the planning and service area;

(8) Monitor and evaluate the activities of its service providers to ensure that the services being provided comply with the terms of the grant or contract. Where a provider is found to be in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant or contract;

(9) Conduct research, evaluation, demonstration or training activities appropriate to the achievement of the goal of improving the quality of life for elderly persons within its planning and service area;

(10) Comply with division requirements that have been developed in consultation with the area agencies for client and fiscal information, and provide to the division information necessary for federal and state reporting, program evaluation, program management, fiscal control and research needs.

4. Beginning January 1, 1995, the records of each area agency on aging shall be audited at least every other year. All audits required by the Older Americans Act of 1965, as amended, shall satisfy this requirement.

(L. 1984 H.B. 1131 § 3, A.L. 1994 H.B. 1335 & 1381)

### **Section 660.058**

#### **Budget allotment tables provided to each area agency on aging, when --area plan submitted, when-- on-site monitoring by division.**

660.058. 1. The division of aging shall provide budget allotment tables to each area agency on aging by January first of each year. Each area agency on aging shall submit its area plan, area budget and service contracts to the division of aging by March first of each year. Each April, the area agencies on aging shall present their plans to the division of aging in a public hearing scheduled by the division and held in the area served by the area agency on aging. Within thirty days of such hearing, the division shall report findings and recommendations to the board of directors for the area agency on aging, the area agency on aging advisory council, the members of the senate budget committee and the members of the house appropriations committee for social services and corrections.

2. Each area agency on aging shall include in its area plan performance measures and outcomes to be achieved for each year covered by the plan. Such measures and outcomes shall also be presented to the division during the public hearing.

3. The division of aging shall conduct on-site monitoring of each area agency on aging at least once a year. The division of aging shall send all monitoring reports to the area agency on aging advisory council and the board of directors for the area agency which is the subject of the reports.

(L. 1999 S.B. 326 § 10)

### **Section 660.099**

#### **General assembly may make additional appropriations, purposes.**

660.099. 1. The general assembly may appropriate funds in addition to the amount currently being provided per annum for nutrition services for the elderly. Funds so designated to provide nutrition services for the elderly shall be allocated to the Missouri division of aging to be placed on the formula basis and distributed to each area agency on aging throughout the state of Missouri.

2. The general assembly may appropriate funds in addition to the amount currently being provided per annum through the Missouri elderly and handicapped transportation program. Funds so designated to provide transportation for the elderly and developmentally disabled shall be allocated to the Missouri division of aging to be placed on the formula basis and distributed to each area agency on aging throughout the state of Missouri.

3. The general assembly may appropriate funds in addition to the amount currently being provided per annum for home-delivered meals for the elderly. Such additional funds shall be allocated to the Missouri division of aging to be placed on the formula basis and distributed to each area agency on aging throughout the state of Missouri.

(L. 1988 S.B. 555 §§ 1, 2, 3)