

NEW YORK STATE OFFICE FOR THE AGING

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Andrew M. Cuomo, Governor

Greg Olsen, Acting Director

An Equal Opportunity Employer

PROGRAM INSTRUCTION

Number 11-PI-06

Supersedes

Expiration Date

DATE: May 20, 2011

TO: Area Agencies on Aging

SUBJECT: The Role of Public Hearings in Developing the Area Plan

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PURPOSE:

Suggestions for Holding a More Effective Public Hearing for Area Plan and Annual Update

BACKGROUND:

IMPORTANCE OF THE PUBLIC HEARING

Increasing awareness in the community among older adults, caregivers, and service providers, as well as local decision makers and organizations is important to sustain local support for Area Agency on Aging (AAA) programs and services. **For purposes of this Program Instruction, “area plan” refers to the Four Year Plan or the Annual Implementation Plan (AIP).**

NYSOFA has recently expanded sections in the area plan and in the Consolidated Guide for the Completion of the area plan on the topic of public hearings local area plans. The public hearing is a required part of area plan development. It provides an opportunity to obtain information and opinions from older adults to assess the unique characteristics of your community to better serve it.

In reviewing area plans in recent years, we have noticed that many AAAs have indicated very low attendance at public hearings on area plans with little or no input from the public in attendance. A well attended public hearing shows interest in your programs and services and provides an opportunity to inform and educate the public and your constituents.

BASIC LEGAL REQUIREMENTS FOR A PUBLIC HEARING HELD IN CONJUNCTION WITH THE AREA PLAN DEVELOPMENT PROCESS

HIGHLIGHTS

- A public hearing must be held at least once in each county before submission of an area plan or annual update to the State Office.
- A public hearing shall be held no later than 30 days prior to area plan or annual update submission to the State Office.
- Notice must be published in local newspapers of general circulation at least 21 days before the hearing.
- The proposed area plan, or abstract with budgetary information, shall be available to the public and single copies of the proposed area plan or abstract (an overview of the contents/highlights of the Plan) shall be made available without charge on request as soon as it is prepared before submission to the State Office.
- The AAA must submit the area plan to its Advisory Council for review and comment before submission to the State Office and ideally the Advisory Council should provide input into the plan before it is made final.

LEGAL AUTHORITY

- The Older Americans Act (OAA) section 307(a)(1) requires that each area agency on aging develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan (four year plan or annual implementation plan) meeting the requirements of section 306 of the OAA.
- The Federal Regulations for the OAA, in section 1321.59 of Part 45 of the Code of Federal Regulations (CFR), require the area agency to submit the area plan to the State agency for approval following procedures specified by the State agency. The State of New York provides for these procedures in the Elder Law and the State regulations under the Elder Law.
- The Elder Law, in paragraph (b) of section 214, provides that an area plan require that a public hearing be held at least once before submission to the State Office. Further, in the case of the City of New York's plan or annual update, a public hearing must be held at least once in each borough of the City of New York before submission to the State Office. Such hearing must further be held as required by regulations of the Director of the State Office.

- The State regulations in section 6653.2 of Title 9, Subtitle Y, provide that a public hearing shall be held no later than 30 days prior to area plan submission to the State Office. The public hearing must be scheduled, publicized, and held in such a way as to provide older adults, public officials and other interested parties with adequate notice and reasonable opportunity to participate. Notice must be published in local newspapers of general circulation at least 21 days before the hearing. (Please note that section 214 (b) of the Elder Law also requires that an area plan be submitted to the Director of the State Office no later than 90 days prior to the beginning of the program period covered, so the public hearing must be held before this date to allow for timely submission of the area plan).
- Section 6653.2 of the State regulations also requires that within a reasonable time before a hearing, a proposed area plan or abstract with budgetary information shall be available to the public and that single copies of the proposed plan or abstract (an overview of the contents/highlights of the area plan) shall be made available without charge on request as soon as it is prepared before submission to the State Office.
- Additionally, section 6653.2 (f) of the State regulations requires the area agency to submit the area plan to its advisory council for review and comment before submission to the State Office. The area plan is not specifically required to be submitted to the advisory council before the public hearing but advisory council members are certainly interested parties. However, any amendment to an approved area plan must be submitted to the advisory committee for review and comment.

An Area Agency may elect to modify their approved area plan mid cycle, for either budgetary or programmatic reasons. While a budget/program modification does not require a separate public hearing, it may require an amended Attachment C document which must be submitted to the State Office for approval. Details on the requirements for when an Attachment C must be submitted are found in the annual Guide for Completion and are also found in the directions for Attachment C as set forth in the area plan.

SUGGESTIONS FOR BETTER ADVERTISING AND LEADING A GOOD PUBLIC HEARING

A successful public hearing will include a well-represented audience of sufficient size that will provide suggestions and feedback on your area plans. Over the years, NYSOFA has received suggestions and has observed practices that have successfully encouraged better attendance and participation at annual public hearings. Several examples are featured below:

Involve the Advisory Committee

- Engage the Advisory Committee prior to the hearing in planning and/or conducting the hearing. In some AAAs, the Chair of the Advisory Committee conducts/moderates the public hearing.
- In Allegany County, the hearing is opened by the Chairperson of the AAA's Advisory Council; he/she then introduces the AAA Director, and together they review the abstract. Allegany County also includes the championship round of the county-wide Senior Spelling Bee among the day's events.

More than just a Public Hearing

- There is structure and formality in a public hearing. There must be a designated location and time for the hearing. Other events may occur before or after the hearing. However, there can still be a lot of flexibility in conducting the hearing. Comments can be invited, "open microphones" can be offered. Questions can be asked of the audience that may not be directly related to the current plan for services at all: the query could be very general, such as: "What one thing would you like to see changed?" That could result in comments about several topics, from transportation to prescription co-pays, but it invites a response which is likely to spawn some dialogue. Avoid statements like "we are having this hearing because we are required to hold one." Instead, simply say that you are holding the public hearing to elicit input from the community consistent with the Older Americans Act to assure that senior services are designed by each community based on unique local needs and resources.
- The AAA may consider co-chairing a hearing with another agency or agencies, to help focus county interest or resources on a particular topic. For example, an AAA could have its annual hearing and note that this year, the Public Health Department (or other agency(ies), will also be present to get public input and ideas about preventive health, the home care worker shortage, disaster preparedness for older adults, or better reaching un-served or underserved populations. This approach can also draw more media attention and more attendees and input, especially in less populated counties. The AAA should still circulate information about their area plans and budgets and provide time for comments on other topics.
- In Allegany County and Cattaraugus County, the AAAs conduct their public hearings with an annual Senior Forum, which serves as an important educational event. They include workshops with speakers on various topics of interest to older adults. Older adults are encouraged to "rotate" among the concurrent speaker sessions as they wish. The public hearing is part of the Senior Forum and it is presented as a special opportunity for participants to affect services in

their community. An overview of the area plan is presented during lunch, and then the audience is invited to testify or comment on the plan. Sometimes, focus questions are asked to elicit and focus comments or stimulate discussion.

- Consider as part of your public hearing having a speaker address current topics such as: prescription drugs, changes in Medicare, legal documents everyone should have, or caregiver services. Include an overview or abstract of the area plan as a hand-out. Yates County does very well with their Lunch and Learn Series using this approach.

Attracting an Audience

- Conduct a public hearing at one or more congregate meal sites during regular meal time. One AAA included breakfast as part of the public hearings. Another AAA scheduled morning and afternoon hearings at several locations throughout the county, on different days. Consider an evening hearing to allow people who work during the day an opportunity to participate.
- Location, location, location...schedule public hearings where people congregate – make it easy for people to participate and to provide comments on your proposed area plan.

Reaching Diverse Populations

- Distribute informational materials translated as needed to reach diverse populations according to needs of specific counties in advance of your public hearing.
- Use culturally competent presenters in your public hearings.
- Reach out to diverse populations and invite their participation (e.g.; different racial, ethnic and religious groups, the Lesbian Gay Bi-sexual Transgender (LGBT) community, grandparent caregivers, etc.)
- Use culturally-relevant communication methods including radio, fliers in community stores, churches and other local media.
- Use space that is accessible to people with disabilities. Make available as needed a sign language interpreter. Provide accommodations as required by law.
- As with any population group, public hearings should be held in accessible locations near public transportation during times convenient to the people you want to attract.

- Ideally, hold several public hearings using respected community organizations, particularly in locations within traditionally underserved communities, as co-sponsors and invite them to assist in publicizing hearings.
- Provide interpreter services where necessary to reach Limited English Proficiency (LEP) populations and sign language appropriate to older adult's native language for persons who are deaf.

For Those Unable To Attend

- Solicit information from those who cannot participate in a public hearing by providing home delivered meal recipients and other home-bound or residential care residents with proposed area plan or abstract and budget information and allow for comments that could be collected on subsequent visits or via subsequent telephone calls; use public access TV with call-in options for questions; use web-sites to gather comments; use Survey Monkey to collect information on your plan; and/or use a local "shopper" paper, AAAs newsletter or other local newspaper to collect plan comments.

Involve Community Partners

- Combine the scheduled public hearing with one or more presentations by knowledgeable community partners on topics of great interest to older adults. Examples of topics of interest are: the changes to Medicare because of the implementation of the Affordable Health Care Reform Act; advance directives in the form of health care proxy and/or living will; the implications of the recently enacted Family Health Care Decisions Act; a discussion of the recently amended law applicable to power of attorney and laws pertaining to the preservation of independence and avoidance of guardianship. A presentation about the programs and services made available through the AAAs is another option. Such a presentation could describe the programs, identify the providers and explain the process that an older adult would use to access them, including a description of NY Connects: Choice for Long Term Care.
- In Cattaraugus County, merchants in the community donate goods and services, for example, a certificate from a market for groceries. All attendees are given a ticket upon admission to the event in the morning, and the drawing occurs at the end of the day, immediately following the public hearing. This is one example of an incentive for people to participate in a public hearing.

Public hearings can affect future area plans and programs as well. For example, one North Country county re-established a meal site location at the county seat based on comments received at a public hearing.

Engage Community Participation

Public hearings provide an opportunity to learn more about the community needs and how to best meet them in relation to what the local AAA is proposing: while providing a venue for community members to learn about the programs and services provided by the AAA. Encourage attendance by advertising the hearing as an opportunity for the public to influence the kinds of services available to support older adults to live independently in their community. You can help frame the discussion by asking specific questions or listing issue areas such as: housing, income and finances, employment, transportation, public benefits, health care reform, foreclosure, eviction, discriminatory employment practices, loss or reduction of public benefits, and long term care services in the community. For example, if people are asked what needs do you have for legal services they may not be aware that the issues they are experiencing are legal in nature, so asking some guiding questions may help individuals realize they have concerns or interest in legal services. Consider recording the discussion and discussion points at the meeting to help keep people’s interest.

PROGRAMS AFFECTED:

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| <input type="checkbox"/> Title III-D | <input type="checkbox"/> Title III-E | <input type="checkbox"/> CSE | <input type="checkbox"/> SNAP | <input type="checkbox"/> Energy |
| <input type="checkbox"/> EISEP | <input type="checkbox"/> NSIP | <input type="checkbox"/> Title V | <input type="checkbox"/> HIICAP | <input type="checkbox"/> LTCOP |

Title III-B

Title III-C-1

Title III-C-2

Other:

All State and Federal programs affected by the area plan and annual updates.

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