

# EL DORADO COUNTY



**2005 – 2006 GRAND JURY**

**GJ05-027 MID-TERM REPORT**

May 9, 2006

**EL DORADO COUNTY BROWN BAG PROGRAM**  
GJ05-027

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2005-2006 Grand Jury Members

STATE OF CALIFORNIA  
EL DORADO COUNTY  
POST OFFICE BOX 472  
PLACERVILLE, CA 95667



## GRAND JURY

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May 9, 2006

Rusty Dupray, Supervisor, District I  
Helen K. Baumann, Supervisor, District II  
James R. "Jack" Sweeney, Supervisor District III  
Charlie Paine, Supervisor, District IV  
Norma Santiago, Supervisor, District V  
330 Fail Lane, Building "A"  
Placerville, CA 95667

Dear Members of the Board of Supervisors;

The 2005 - 2006 El-Dorado County Grand Jury is releasing a second mid-term report. This report details a finding of significant information given to the Board of Supervisors, May 24, 2005, in reference to the Brown Bag Program, which is funded by the State of California. The information presented to the Board of Supervisors was incorrect, inaccurate, and may have been biased and prejudicial. The Board of Supervisors may have acted on incorrect information presented. Your decision to un-fund the Brown Bag Program by redirecting the State Funds to other programs has caused undo-hardship on the low income citizens of El Dorado County, who rely on this food program.

The Grand Jury did a thorough investigation, as well as interviewing witnesses, and has approved the attached information, conclusions and recommendations. We would strongly entrust the Board of Supervisors to study and digest this report. Then proceed accordingly.

The Grand Jury stands by to assist the Board of Supervisors at your request.

Respectfully,

A handwritten signature in blue ink, appearing to read "Douglas Clough".

Douglas Clough, Foreman  
2005-2006 County Grand Jury

STATE OF CALIFORNIA  
EL DORADO COUNTY  
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## GRAND JURY

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April 19, 2006

Honorable Douglas C. Phimister  
Superior Court Judge  
2850 Fairlane Court  
Placerville, CA 95667

Judge Phimister,

The members of the 2005-2006 County Grand Jury would like to release a second mid-term report detailing an investigation into the shift of funds from the Brown Bag Program. This investigation was originated by a formal complaint received mid year of the Grand Jury term. Upon conclusion of the investigation, the grand jury has made the attached findings and recommendations. The grand jury has completed its investigation and has made specific findings and recommendations in accordance with the California Penal Code.

Your approval is required before the final report is to be released to the Board of Supervisors and the public which we would like to release on May 9, 2006.

The grand jury takes its responsibility seriously and we look forward to completing the term in a professional manner, and wish to thank you for your advice and guidance.

Respectfully,

A handwritten signature in blue ink that reads "Douglas Clough".

Douglas Clough, Foreman  
2005-2006 County Grand Jury

# **EL DORADO COUNTY BROWN BAG PROGRAM**

## **GJ05-027**

### **Executive Summary**

The Grand Jury received a citizen's complaint about El Dorado County actions involving the removal of funding for the Brown Bag Program. The Grand Jury took the matter under consideration. After a thorough search of public documents, minutes of board meetings and testimony from many witnesses, we found that the complaint needed to be a Grand Jury Report.

The Brown Bag Program is a State funded assistance program for seniors who are at or below the poverty level. It is up to each participating county to find a non-profit organization to provide the required services and administer the program. No county funds are involved; the county merely passes on the State Brown Bag monies through the Department of Human Services.

The State requires the administering organization of the Brown Bag Program to "leverage the State funds by a factor of at least three (3) times." This means that the value of the food supplied to the program participants must be worth three (3), or more, times the dollar amount of the funding. The Food Bank of El Dorado (Food Bank) has been very close to ten (10) times the return. The Food Bank does this by accepting donations and aggressively collecting food donations from various grocery businesses. Also, they sort and store in a safe manner and parcel the available food into packages. The packages are then delivered to the Brown Bag Program participants at distribution points throughout the county.

The Food Bank has been the provider of the Brown Bag Program services in this county since 2001. The Food Bank satisfied the State in the performance of their responsibilities and had met all State requirements. The Food Bank has continued to provide limited Brown Bag Program services to eligible El Dorado County residents even without a renewed service contract with the Department of Human Services.

In December of 2003, the Department of Community Services (now Department of Human Services) approached the Food Bank Board regarding the County assuming the Food Bank's operation. This proposal was met with strong opposition from the Food Bank's Board of Directors. After the resignation of the Food Bank's Board of Directors Chairperson, at that time, the County's plan was refused by the remaining Board.

In the State's proposed annual budget of 2004, the Brown Bag Program was suspended. The Department of Human Services, using this as justification, chose not to renew the Food Bank's contract to administer the Brown Bag Program. The final State budget was signed in August 2004. The Brown Bag Program was subsequently fully funded by the State. The Department of Human Services did not contract with the Food Bank for the Brown Bag Program.

In January of 2005, at the urging of Supervisor Rusty Dupray, a contract was signed for the last five (5) months of the fiscal year 2004-2005. This gave the Food Bank \$9,700, of the \$23,277 that the county had previously allocated for the specific purpose of funding the Brown Bag

Program. The Human Services Department diverted the remaining \$13,578 to non-specified uses and did not inform the Board of Supervisors of this action.

Should a county choose to divert funds from the Brown Bag program and use them for other acceptable purposes, there is a detailed protocol. PM 98-37 (P) from the State Department of Aging states the protocol a county must follow to legally divert Brown Bag Program funds. Two (2) public hearings are part of the requirements for redirection of Brown Bag Program funds. The Area Plan 2005-2009 terminated the Brown Bag Program. This action was taken a week before the second public hearing. The decision was made before the hearings were concluded. The Brown Bag participants attending the hearings strenuously objected to the termination of their Brown Bag Program; these concerns and needs have been ignored.

Our investigation concluded that Human Services managers overseeing the program did not follow the required protocol, omitting basic requirements and misrepresenting facts to the County Board of Supervisors to divert the Brown Bag funds.

The Grand Jury's conclusions are supported by public records and documents.

# **EL DORADO COUNTY BROWN BAG PROGRAM**

## **GJ05-027**

### **Reason for the Report**

The Grand Jury received a formal complaint regarding the redirection of the Brown Bag Program funds and an investigation was subsequently initiated. The redirection of funds was done twice by Human Services, once during the 2004-2005 fiscal year and then again in the 2005-2009 Area Plan as approved by the El Dorado County by the Board of Supervisors. All information was verified and the documentation resulted in this report.

### **Scope of the Investigation**

#### **People Interviewed:**

- Executive Director El Dorado County Food Bank
- El Dorado County Food Bank Administrative Assistant
- Former employee El Dorado County Food Bank
- Chairman, Board of Directors, El Dorado County Food Bank
- Vice Chairman, Board of Directors, El Dorado County Food Bank
- Former Chairman of El Dorado County Food Bank and  
Member, El Dorado County Advisory Council to the Area Agency on  
Aging
- Consultant to the El Dorado County Food Bank
- Assistant Director Department of Human Services
- California State Director and Policy Manager of Area Agency on Aging based  
teams.

#### **Documents reviewed:**

- Agreements for services between El Dorado County and Food Bank of El Dorado  
County for Brown Bag services:
  - #015-S0211, June, 2001
  - #015-SO211, Amendment #1, April, 2002
  - #688-SO311, April, 2003
  - #459-SO510, March, 2005
- Food Bank of El Dorado County Board of Directors minutes, December 11, 2003,  
and January 8, 2004
- Video tape and transcription of El Dorado County Board of Supervisors Meeting,  
May 24, 2005 (see Addendum for text)
- Senior Brown Bag Program participant application
- Correspondence:
  - Food Bank Director
  - Director of Department of Human Services
  - El Dorado County Board of Supervisors
  - Director of El Dorado County Area Agency on Aging
  - El Dorado County Department of Human Services

Correspondence between the Food Bank Board of Directors Chairperson  
and the El Dorado County Human Services  
Food Bank of El Dorado County Board of Directors:  
Standing rules  
Board Member Agreement  
Organization Chart  
Standing committees  
Federal Return of Organization Exempt from Income Tax Form 990  
years 2000 through 2004  
Federal Register Vol. 70, No 115  
California Registry of Charitable Trusts, Nonprofit Integrity Act of 2004  
Summary of Key Provisions  
California Attorney General's Guide for Charities  
California Codes §12585 - 12586; 9530 – 9538, 9540 – 9547, 9200-9203  
State of California – Health and Human Services Agency  
Department of Aging Program Memos:  
PM 98-37 (P) January 10, 1999  
PM 02-26(P) November 19, 2002, Until Superseded  
Agenda, April 21, 2005, of El Dorado County Commission on Aging  
Minutes, April 21, 2005, Advisory Council to the Area Agency  
Bylaws of the Food Bank of El Dorado County, November 30, 2005  
El Dorado County Area Agency on Aging, 2005-2009 Area Plan for Senior  
Citizens Summary  
El Dorado County Area Agency on Aging Area Plan 2005-2009  
Area Agency on Aging Advisory Council member roster, 2006  
El Dorado County Board of Supervisors Agenda Item Transmittal, 2004  
Agenda, Board of Supervisors Meeting, 05-24-05  
Fax Transmittal Sheet, May 25, 2005, from State of California Department of  
Justice  
Appendix II – PSA #29

## **Background**

The Brown Bag Program is a state funded program that distributes acquired edible fruits, vegetables and other food products to citizens, age 60 or above, who are at or below poverty level. State funds are made available to all counties. In 1998, El Dorado County contracted its first Brown Bag Program by using the Community Resources Council in Placer County to administer the program. When the Community Resources Council's contract ended in June 2001, there were 3 distribution sites and 150 participants.

In June, 2001, the Food Bank of El Dorado County (Food Bank), a non-profit organization (501 C3), contracted with El Dorado County to administer the Brown Bag Program and developed an increase in the number of sites and participants. When the contract ended in June 2005, there were 6 county wide distribution sites and 400 plus participants.

During the budget sessions of 2004, the State of California suspended the Brown Bag Program. Funding was subsequently restored when the budget was signed in August, 2004. At that time, the County chose not to renew the contract with the Food Bank for fiscal year 2004/2005. During a meeting of the District I Supervisor, the Assistant Director of the Department of Human Services and the Executive Director of the Food Bank of El Dorado County, the contract was renewed for only a five month period, February, 2005 through June 30, 2005. For fiscal year 2005/2006, the contract was not renewed, even though State funding continued to be received by the County.

Twice the Food Bank of El Dorado County has operated the Brown Bag Program without an applicable contract. From July 2004 through January of 2005 and since July 2005, the Food Bank of El Dorado County has continued to supply the Brown Bag Program with reduced funds and on a limited basis without a service contract from the Department of Human Services and no Brown Bag funding. Since 1998, the State has continuously supplied the County with funds to support the Brown Bag Program.

**Fact #1:**

**Community Based Services Programs Redirection Policy dated November 29, 2002**

(which was not followed)

**California State Department of Aging Program Memo- PM 02-26(P).** (see Addendum for text)

AAAs (Area Agency on Aging) shall follow all requirements specified in Section 9535 of the Older Californian's Act, if they propose to redirect programs in Chapter 7.5 [see PM 98-37(P)]. One specific requirement is the development of an Administrative Action Plan, which shall receive approval of the governing board after considering the input received from the local advisory council. In addition, the California Department on Aging (CDA) is requiring the AAA to describe in its Plan how clients participating in programs targeted for redirection will be transitioned into other community services.

Specific minimum standards must be met.

1. Develop Administrative Action Plan.
2. Governing Board Approves the Administrative Action Plan.
  - a. Local Advisory Council (11 members) makes recommendations to Governing Board. [sic]

If any funds are proposed for redirection, the AAA shall submit the following with the original Community-Based Services Programs (CBSP) budget:

- An Administrative Action Plan (AAP) containing justification for each program selected by the AAA for redirection, and
- A transmittal letter signed by the Chairs of the Advisory Council and Governing Board.

Once California Department on Aging approves the Plan and the budget, AAA shall incorporate approved changes, along with goals and objectives, into their Area Plan update due to the CDA on May 1 of each fiscal year.

**Fact #2:**

**CHRONOLOGICAL LIST OF EVENTS**

(Taken from documents provided)

<b>DATE</b>	<b>DESCRIPTION</b>
<b>December 11, 2003</b>	Food Bank of El Dorado County Board of Directors met. During this meeting the Director of the Community Services (now Department of Human Services) presented a draft of a recommendation (non agenda item) regarding the integration of the Food Bank of El Dorado County into the county service system.
<b>January 8, 2004</b>	At the Food Bank Board of Directors meeting there was unanimous agreement that negotiations with the County should be the Food Bank Executive Director's responsibility.
<b>February 11, 2004</b>	A letter from the Director of Human Services to the County Board of Supervisors recommended the integration of the Food Bank of El Dorado County into the county service system.
<b>February 24, 2004</b>	Board of Supervisors Agenda Item Transmittal sheet. Dept. summary and requested Board action: "Human Services recommends approval of measures reflecting County cooperation with and support of the Food Bank of El Dorado County in its efforts to address hunger and nutrition needs." Signed by John Litwinovitch.
<b>July 2004</b>	No contract was signed with the Food Bank due to State budget constraints. (Brown Bag Program was suspended by the State in the proposed budget.)
<b>August 2004</b>	State reinstated Brown Bag Funding in the signed budget.
<b>July 2004 through January 2005</b>	For 6 months, the Food Bank struggled to provide food to the elderly of El Dorado County, but in a reduced capacity.
<b>January 11, 2005</b>	A letter to the El Dorado County Board of Supervisors from the Executive Director of the Food Bank requested reinstatement of the Brown Bag Program contract and full funding retroactive to July 1, 2004.
<b>Between January and March, 2005</b>	The county was in receipt of full funding from the State for senior services. \$23,277.00 was designated for the Brown Bag Program retroactive from July 2004
<b>January 31, 2005</b>	Assistant Director Department of Human Services requested an audit from the Food Bank.
<b>February 2005</b>	A contract with the Food Bank was signed to provide the Brown Bag Program from February, 2005 through June, 2005 in the amount of \$9,700 from the total \$23,277 leaving a balance of \$13, 577.

<b>February 2005</b>	The Food Bank was not reimbursed for services provided from July 1, 2004 to January 31, 2005. The county redirected the Brown Bag funds of \$13,577 to other senior programs.
<b>April 18, 2005</b>	Public hearing at Placerville concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.
<b>April 21, 2005</b>	Commission on Aging passes new 2005-2009 Area Plan that redirects Brown Bag funds to other senior programs.
<b>April 22, 2005</b>	The Food Bank Board of Directors Chairperson's letter to the County Board of Supervisors requested a delay of final approval of the Area Plan for 2005-2009.
<b>April 28, 2005</b>	Public hearing at South Lake Tahoe concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.
<b>May 19, 2005</b>	A letter from the Director of the Department of Human Services stated that the County had requested the Food Bank to provide copies of external audit reports for fiscal years 2002/03 and 2003/04. It also indicated that review of these reports would be necessary to enter into a new contract for services. The letter did not indicate who would pay for the audits.
<b>May 24, 2005</b>	Assistant Director of the Department of Human Services made a presentation before the County Board of Supervisors regarding the new 2005-2009 Area Plan for senior services. The Brown Bag Program was not included in this 4 year plan.

**Fact #3:**

**County Board of Supervisor's Meeting on May 24, 2005**

The following information was provided to the County Board of Supervisors on May 24, 2005. The Assistant Director of Human Services presented the new Area Plan 2005-2009 for seniors and commented about the Food Bank and its administration of the Brown Bag Program. Public input at this meeting is also included below. (See Addendum for complete text of statements as transcribed from videotape of the Board of Supervisors meeting on May 24, 2005.)

<b>As stated before the BOS on 5-24-05</b>	<b>Grand Jury Investigation Reveals</b>
Food Bank external audit requirement not received.	No audit requirement in County contract.
The Food Bank had revenues of over \$2 million in tax year 2003.	The Food Bank revenues amounted to \$316,477 in cash, 2003 IRS tax return #990

Audit required to the State Attorney General – revenue over \$2 million	Not required. State Attorney General requires audits for non-profits (the Food Bank) only if gross revenues are over \$2 million, exclusive of grants
The Food Bank had a responsibility to submit an audit and had not done so.	Fax Transmission Cover Sheet from State of California Department of Justice from Staff Services Analyst, Registry of Charitable Trusts, dated May 25, 2005, states “This email is to confirm that Food Bank of El Dorado County is in good standing with the Registry of Charitable Trusts.”
Money from the Brown Bag Program was cancelled by the State of California.	The Brown Bag Program was never cancelled. It had been suspended in a proposed budget but was fully funded in the signed budget.
El Dorado County has funded the Brown Bag Program	The State funds the Brown Bag Program. The county disperses the funds.
We have a huge waiting list with our day care program.	The waiting list for day care is fluid and therefore openings at the Day Care frequently occur. (see Fact #4)

***To date there is no contract by the County with any entity to provide services for the Brown Bag Program.***

**Fact #4:**

The Adult Day Care Center/Senior Day Care Center in Placerville can serve a maximum of seventy-two clients per week. From this total of seventy-two, only twenty clients currently come from the Cameron Park/El Dorado Hills area. Only three or four clients are waiting for the El Dorado Hills Day Care Center to open. (Information obtained from the Adult Day Care/Senior Care Center in Placerville.)

**Fact #5:**

The Department of Human Services stated in writing and also before the Board of Supervisors presentation of May 24, 2005 that the Food Bank of El Dorado County was not cooperative in allowing the county to monitor the Food Bank’s operations. The requested monitoring dates conflicted with on-site monitoring of the Food Bank that the State of California had previously scheduled.

**Fact #6:**

Two public hearings are required before any action can be taken. Action was taken by the Area Agency on Aging a week before the second public hearing.

<b>April 18, 2005</b>	Public hearing at Placerville concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.
<b>April 21, 2005</b>	Commission on Aging passes area plan that redirects Brown Bag Program funds. An out of sequence action.
<b>April 28, 2005</b>	Public hearing at South Lake Tahoe concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.

**Fact #7:**

There is no evidence that the requirements for “redirection” of Community Based Service Programs (CBSP, Brown Bag Program in this case) funds as defined in paragraphs (c), (d) and (e) of Section 9535 as quoted in Program Memo PM98-37 (P) from the State Department of Aging have been followed. Investigation has indicated that there has been an express lack of adherence to said requirements.

**Fact #8:**

There is no evidence of a redirection process having been followed to authorize the diversion of \$13,577 of Brown Bag Program funds for the period of July 2004 through February 2005.

**Fact #9:**

The redirection process required for the diversion of Brown Bag funds under the 2005-2009 Area Plan was flawed because there is no evidence of the processes and personnel required to effect the redirection process as covered in Department of Aging Program Memos PM 98-37 (P) January 10, 1999 and PM 02-26(P) November 19, 2002.

**Findings/Recommendations**

**1F. Finding:** Audits of the Food Bank were requested by senior department heads of the Human Services Department but had not been included in their service contracts.

**1R. Recommendation:** If the county requires audits of its contractors this requirement must be in all contracts, along with funds to cover the cost of the audit and defining who is to perform the audit.

**2F. Finding:** At the May 24, 2005 meeting of the Board of Supervisors a comment was made by Joe Harn, County Auditor/Controller, that Human Services staff may be “**wrong**” in reporting the Food Bank was not fully complying with the requirements of the state for non-profits of their size.

**2R. Recommendation:** The Board of Supervisors should require further investigation when an issue is raised by the County Auditor/Controller regarding actions taken by county departments.

**3F. Finding:** During testimony before the Grand Jury, the Assistant Director of Human Services stated that redirection of funds was not needed for a new area plan.

**3R. Recommendation:** State policy for the redirection of funds is required and proper procedure must be followed in all cases. (See addendum, PM 98-27(P).)

**4F. Finding:** The El Dorado County Department of Human Services did not follow California State mandated procedures and protocol when funds were redirected from the Brown Bag Program in their 2005-2009 Area Plan. Brown Bag Program monies provided by the State have been incorrectly redirected to other county senior programs.

**4R. Recommendation:** States funds allocated for the Brown Bag Program should be returned to the program.

**5F. Finding:** In the 2004/2005 budget, the County dispersed \$9,700 to the Food Bank of El Dorado County for February through June of that year. The County redirected \$13,577 to other senior programs without implementing the redirection process. Redirection policy as specified by the State of California was not followed.

**5R. Recommendation:** Redirection of funds provided by the State for specific programs must follow State protocol.

**6F. Finding:** The Food Bank of El Dorado County lost its support from the county through a presentation of incorrect information by the Assistant Director of Human Services at a Board of Supervisors meeting May 24, 2005.

**6Ra. Recommendation:** Reinstate the Brown Bag Program to provide aid to the county elderly in need.

**6Rb. Recommendation:** Reinstate the Food Bank of El Dorado County as administrator of the Brown Bag Program. This will allow the most expeditious re-implementation of the Brown Bag Program.

**7F. Finding:** According to California Codes, Welfare and Institutions Code Section 9535 cites in subdivision (c) "Where the area on aging proposes to redirect funding under this chapter, the area agency shall ensure that it has submitted its recommendations to a locally formed advisory committee that shall include

- consumers of long-term care services
- representatives of local organizations of seniors
- functionally impaired adults
- representatives of employees who deliver direct long-term care services, and representatives of organizations that provide long-term services

- at least one-half of the members of the advisory committee shall be consumers of services provided under this chapter or their representatives. “

and in subdivision (d) “In addition, where the Area Agency on Aging proposes to redirect funding under this chapter, an administrative action plan shall be developed and shall receive the approval of the area agency’s governing board, which shall consider the input received pursuant to subdivision (c). The administrative action plan shall receive the governing board’s approval prior to submission to the department for final state approval. The administrative action plan shall be an update to the area plan.”

Records do not show that “at least one-half” of the members of the **advisory committee** are consumers of services provided under this program.

**7Ra. Recommendation:** There must be oversight of all commissions within the county to ensure compliance with California State policies, and are followed to the letter and spirit of the programs.

**7Rb. Recommendation:** Provide verification that current members of the Advisory Council comprise all entities listed in Section 9535 and publicize it.

## COMMENDATION

The State supported Brown Bag Program requires that any agency administering the Brown Bag Program to “Leverage the State Funds by a factor of at least 3 (three).” The Food Bank of El Dorado County leverages their total cash contributions, including the state monies, by a factor of almost 10 (ten). The Food Bank of El Dorado County is to be praised for their outstanding public service and should be recognized for their effectiveness.

## ADDENDUM

- Transcript from video tape of 05-24-05 Board of Supervisors meeting
- State of California, Health and Human Services Agency, Department of Aging, Program Memo PM 02-26 (P), and PM 98-37 (P)
- Appendix II – PSA #29
- California Welfare & Institution Code §9535 (2006)

Copies available upon request of:

California Government Codes §12585 – 12586

California Welfare and Institution Code §9530 - 9538

A response is required by the Board of Supervisors within ninety (90) days. See Table of Contents, “*Notice to Respondents.*”

**COUNTY OF EL DORADO**

**BOARD OF SUPERVISORS REGULAR MEETING OF 5-24-05**

**Presentation - Item No. 60 - Brown Bag Matter:**

Approval of 2005-2009 El Dorado County Planning Service Area Plan for Senior Services

**Doug Nowka:** Good morning. I am Doug Nowka, Assistant Department Director of Human Services and Director of Area on Aging. I am pleased to be here today to present the 2005-2009 area plan for senior services. This is essentially the plan that gives us our marching orders for the next 4 years. It determines how we will provide service. What services will be provided on the senior side of the aisle and we put a lot of work into it. Probably the highlights of the plan are we were able to maintain most of the services that we currently provide with one notable exception. We also are able to expand senior services and open a second senior day care site which we have been trying to do for a number of years. The planning process basically included input from 1,400 individual seniors and about 70 provider agencies throughout the county. It is important to note that one of our responsibilities is to use our limited resources in a way that we can most affect seniors that are at risk. Those who have the greater risk of institutionalization is a high priority for us. We have a huge wait list with our senior day care program, and that is why one of our new areas is expansion of senior day care. The plan does cover a 4 year period. Each year we develop an individual module so this plan includes funding and the plan for spending for the first year of that process, but it does include goal objectives for the entire 4 year period. Finally, the plan before you is not without some controversy. We have received numerous complaints and comments regarding senior food needs and the unfunded Brown Bag Program. To clear up some mis-perceptions, the vast majority of senior food resources, including government commodities and other donated foods, should remain available for distribution and based on public comments, the Commission on Aging will be revisiting the Brown Bag issue in the near future. However, less there be any misunderstanding, funding availability alone is not the only stumbling blocks. The current Brown Bag provider, the Food Bank of El Dorado County, is either unwilling or unable to meet basic program and accounting standards for us to continue to contract with them. In the absence of those performance standards, we are unable to contract regardless of funding availability. With that, I will be happy to answer any questions.

**Supervisor Jack Sweeney:** Doug, the near future, when would the agency consider revisiting that issue?

**Doug Nowka:** The next commission meeting is in July.

**Supervisor Jack Sweeney:** So this is going to be an ongoing issue for them. Have you received by letter dated May 19th - you advised the Food Bank that they were remiss in not providing certain audit reports, and you suggested that, this is in the last paragraph, "This is the county's final formal request for an independent audit report." Have you received that yet?

**Doug Nowka:** No, in fact we have received a letter from them indicating that they are unable to meet our most recent request for a monitoring visit. But we have given them 5 separate dates and all 5 dates have been unacceptable to the Food Bank. And, no we have not received the audit. We have also checked with the County Counsel's Assistant, and we checked with the Attorney General's Office and there is a requirement with the State Attorney General that with a non-profit such as a Food Bank who has revenues of over 2 million dollars last year that they have a responsibility to submit an audit to the State Attorney General's Office and have not yet done so.

**Mike Sproull. Food Bank of El Dorado County:** In my opinion, we have gotten off the item we are talking about here. We are not talking about how the provider is providing service. We are talking about cutting a program. If the County is in the feeling that we are not meeting their needs, that is one thing and we will address that when we respond to that letter, but today here we are talking about cutting a program. We don't need to be the provider if the County doesn't feel that the Food Bank hasn't done a good job; then find another provider that will provide this program. I think we are off base. I think we are cutting a program and blaming a provider for the reason. These seniors here today are here to represent themselves and the issue at hand is not what kind of job the Food Bank has done, but is this program a good program and could we find another provider if needed to run it. So, I don't agree with the idea of attacking the Food Bank and saying they haven't done what they needed to do. My idea today is to listen to the seniors and to keep this good program in the County based on the program not the differences between the County and the providers.

#### **VARIOUS PUBLIC SPEAKERS**

**Moni Gilmore of El Dorado Hills and a member of the Commission on Aging:**

I think some of the good people in this room today don't really realize that the money from the Brown Bag Program was cancelled by the State of California. For a short period of time, the El Dorado County has funded the Brown Bag Program and I think it was somewhere about \$23,000.00 here. Based on the priorities resulting from the assessment survey, it appears to me that as a member of the Commission on Aging, as an individual and as a senior citizen that we need to re-allocate our proprieties. As a former member of the Board of Directors of the Food Bank, they do have many other resources for funding besides the Brown Bag Program, including very generous donations from various agencies like, a most recent example, is the El Dorado Hill Chamber of Commerce is directing all proceeds from their big golf tournament this year to the Food Bank.

**Doug Nowka:** This has been really difficult because the Brown Bag Program does provide a valuable service. There are many seniors that need the service. They have done a pretty good job over the years. Recently that has changed. The thing that probably concerns me most about this is the fact that funding issues have come up. The resources are limited. We can't provide services to everyone and everything they need. We can triple the budget frankly and still not meet the needs. We are faced with having to prioritize things based on what has funding,

what has available outside funding. The Brown Bag Program, the Food Bank of EI Dorado, while they have been unwilling to share any financial information with us, I was able to go to the Attorney General's web site and download their 2003 tax return and they do have revenues or income 2.3 million for 2003. \$316,000.00 of that was in cash. This is a \$23,000.00 grant. The Brown Bag was able to maintain services for about an 8 month period I believe without funding from us. They have other resources. There are other community agencies. There are other community resources available to the Food Bank. The funding that comes from our program makes up about \$7.00 of the \$22.00 worth of Brown Bag commodities that are placed in the bag. The Food Bank can continue to provide brown bag services. We are taking away all of the funding we provide but (unintelligible ??) provoked in taking away a portion of the funding. This has been difficult in that I think a lot of scare tactics and misinformation has been passed around; I think people are afraid and I think that they think they are losing all of their services. I have had numerous people call me and tell me that they thought the Food Bank was closing, that commodities were going away, that the senior nutrition home delivered meals program was going away. It is real easy to stir people up; it's real easy to scare people; it's real easy to intimidate folks, and I have seen all those things occur in the past year.

**Supervisor Charlie Paine:** Doug, you mentioned what was the total in, was that just for EI Dorado County?

**Doug Nowka:** Yes, that's according to their tax records they had \$316,000.00 in cash revenue for 2000. This is per the 2002-2003 tax year, I believe.

**Supervisor Charlie Paine:** What was the total revenue?

**Doug Nowka:** That was \$ 2,322,029.00.

**Supervisor Dave Solarno:** Doug, on the audit, how many requests have been made to share information from the Food Bank that they refused to do?

**Doug Nowka:** Well, probably 6 or 7 requests by phone until they stopped hanging up on us and told us that we should send them things in writing only, but, we have sent them at least 6 letters asking for information.

**Supervisor Dave Solarno:** Do they have paid staffing or all they all volunteers?

**Doug Nowka:** Well, that is one of the things we would like to know frankly. It appears that they do have pre-paid staff. They have the Executive Director, and two other paid staff workers.

**Supervisor Dave Solarno:** Does their income tax return indicate percentage of staffing versus income or what the paid staffing was?

**Doug Nowka:** It looks like their paid staffing costs are about \$150,000.00 a year.

**Supervisor Dave Solarno:** For just 3 people?

**Doug Nowka:** Yes.

**Supervisor Dave Solarno:** No wonder they don't want to answer you. I think maybe it is one of the reasons we are not getting the results walking out the door.

**Doug Nowka:** There is \$60,000.00 in compensation for the director of the Food Bank; \$36,000.00 in other salaries; \$21,000.00 nearly in employee benefits; and \$8,500.00 in employee taxes according to their tax return.

**Supervisor Jack Sweeney:** What date did this plan have to be submitted?

**Doug Nowka:** Around May 1st is the ideal time, but we have to have it submitted by June 1st.

**Supervisor Jack Sweeney:** How many meetings did the area agency on aging hold trying to figure this out and what kind of participation did you have?

**Doug Nowka:** Well, we had numerous meetings. We had over a dozen individual meetings with certain care providers and folks trying to get the needs assessment done. We had commission meetings. We had 2 public hearings, one in Placerville and one in South Lake Tahoe, and then we had the actual commission meeting in Mt. Aukum where we discussed it as well.

**Supervisor Jack Sweeney:** But, I believe the area agency on aging commission meets once a month.

**Doug Nowka:** Yes.

**Supervisor Jack Sweeney:** And those are always open to the public?

**Doug Nowka:** Yes

**Supervisor Jack Sweeney:** Probably these kinds of things have been discussed at those meetings.

**DOUG Nowka:** For months. This issue of the brown bag has been an issue for well over a year now.

**Supervisor Jack Sweeney:** Now, I am cautious but what is the net county cost contribution to the area agency on aging? How much money is the general fund putting in?

**DOUG Nowka:** To the entire senior program, roughly \$400,000.00. The area on aging, it varies about from year to year - \$30,000.00 to \$40,000.00.

**Supervisor Jack Sweeney:** Where was this Brown Bag Program? It appears that the Food Bank has had it for 3 years or something. Where was it before then?

**DOUG Nowka:** One year prior to that we actually contracted with an outfit in Placer

County who was providing brown bag services statewide. It was a new program for us, so the first year we went forward we needed to find a provider and there wasn't a provider in El Dorado County so we contracted with (unintelligible ???) in Placer County.

**Supervisor Charlie Paine:** Could you expand? There was a comment made that originally when the Commission on Aging was looking at re-adjusting their area plan is that there was some concern, and the commission went back and revisited and I just was wondering if you could give us a little background or a little more explanation on what the commission did when they revisited that issue.

**Doug Nowka:** Actually, they are in the process of revisiting it. We do have an agenda for the July meeting of the commission and I guess the best way to describe is the commission is struggling with the issue of whether to stop funding one program and fund this other great need and it's real difficult when you have a roomful of people telling you that they are going to starve to death if you take this \$23,000.00 away. So that is something the commission grappled with and I think they are still grappling with that issue. I think the notion that we are starving people to death is not accurate. I think the notion that we are killing the Food Bank Program is not accurate, so that's the basic issue. We have actually discussed at length the concept of finding another provider and that is a challenge because the Food Bank is the only Food Bank in the county; and to make the program work as it is now there's \$7.00 of the \$22.000 bag comes from us so they have other resources so it's very important for any provider to be able to access all those other resources and the Food Bank has all those resources locked up.

**Joe Harn, County Auditor:** Doug Nowka has reported to you that the state has an audit requirement for a non-profit of this size. I don't believe Mr. Nowka reached the conclusion on his own. I believe he reached it in consultation with the County Counsel's Office. I don't know that for a fact. To the best of my knowledge, no one has disputed that fact this morning. At this point, regarding the Brown Bag Program, your Board has no choice - your staff, now, maybe your staff is wrong. I don't have any reason to believe that, but maybe they are wrong, but your staff has reported that this organization is not fully complying with the requirements of the state for non-profits of this size.

**Board member (unknown who made this comment):** Even though it wasn't the state, its in our contract record.

**Joe Harn, County Auditor:** Again, your Board has the right to waive that requirement should you choose to, but you have no choice if your staff is reporting to you that they are not complying with the requirements of the Attorney General's Office. So, it is not an option you have. Hopefully, the Food Bank can be in 100% compliance with the state's rules and at the point you might have a difficult decision but at this point you don't.

End of presentation

## DEPARTMENT OF AGING

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# PROGRAM MEMO

TO: <b>AREA AGENCIES ON AGING DIRECTORS</b>	NO.: <b>PM 02-26(P)</b>
SUBJECT: <b>Community-Based Services Programs (CBSP) Redirection Policy</b>	DATE ISSUED: <b>November 19, 2002</b>
REVISED	EXPIRES: <b>Until Superseded</b>
REFERENCES: <b>Older Californian's Act, CBSP Standard Agreement, CBSP Program Manuals and Regulations, PM 98-37(P)</b>	SUPERSEDES:
PROGRAMS AFFECTED: <input type="checkbox"/> All <input type="checkbox"/> Title III-B <input type="checkbox"/> Title III-C1/C2 <input type="checkbox"/> Title III-D <input type="checkbox"/> Title V <input checked="" type="checkbox"/> CBSP <input type="checkbox"/> MSSP <input type="checkbox"/> Title VII <input type="checkbox"/> ADHC <input type="checkbox"/> Other: _____	
REASON FOR PROGRAM MEMO: <input type="checkbox"/> Change in Law or Regulation <input type="checkbox"/> Response to Inquiry <input checked="" type="checkbox"/> Other Specify: <b>Transmit policy on redirection</b>	
INQUIRIES SHOULD BE DIRECTED TO: <b>Your assigned AAA-Based Team</b>	

The purpose of this Program Memorandum (PM) is to transmit policies regarding redirection of community-based programs specified in Chapter 7.5 of the Older Californian's Act. CBSPs eligible for redirection in Fiscal Year (FY) 2003/04 are: Alzheimer's Day Care Resource Center (ADCRC), Brown Bag, Foster Grandparent, Respite (which includes Respite Purchase of Service and Respite Registry), and Senior Companion. The Health Insurance Counseling and Advocacy Program (HICAP) is exempt from redirection. Funds allocated to the Linkages Program are not eligible for redirection until FY 2004/05; however, policies regarding redirection of this Program are included to ensure consistent application across all programs. Guidance in this PM addresses only the specific policy changes that will affect the administration of these programs.

## OVERARCHING POLICY

In all circumstances, program providers are required to meet all provisions specified in either or all of the following: regulations, contract language, program manuals, or any other program standards imposed by the California Department of Aging (CDA). In no case does this PM authorize a different set of program standards for any of the CBSPs affected. That is, if a AAA provides a CBSP, compliance with the specific minimum standards must be met.



### **ALZHEIMER'S DAY CARE RESOURCE CENTER PROGRAM**

The \$80,000 baseline is no longer a requirement. Multiple contractors are allowable, and satellite sites are no longer tied to the allocation. However, use of any funds in support of an ADCRC requires **each** contracted entity to comply with all ADCRC program requirements. In addition, the budget information submitted will require the AAA to show the total amount of funds from all sources that will be used to operate the ADCRC and, must at a minimum, total \$80,000. Individual exceptions to this policy will be considered on a case-by-case basis and require prior approval from CDA.

### **BROWN BAG PROGRAM**

No minimum dollar amount or specific number of contractors will be required for this program. All other policies, procedures, and guidelines governing the program as specified in the Brown Bag Program Manual and contract language shall remain in effect.

### **FOSTER GRANDPARENT PROGRAM (FGP)/SENIOR COMPANION PROGRAM (SCP)**

The Corporation for National and Community Service (CNCS) has revised the rate of reimbursement for each Volunteer Service Year (VSY). The cost per VSY has changed from \$4,000 to \$4,370 effective July 1, 2003. This change will provide additional resources per VSY and may also result in a reduction of total required VSYS to be funded and contracted by a AAA.

In addition, the policy that placed restrictions on the percentage of total funds that can be used for program administration (20%) has been revised to allow for increased flexibility in budgeting costs associated with the administration of these programs. State-funded only programs will **not** be required to budget/spend 80 percent of the State allocation in the Volunteer Expense category. However, an amount **equal to** 80 percent of the State allocation **must be** budgeted and spent in this category. The additional resources a AAA may need to raise to meet this requirement may be obtained through the use of alternative funding streams, which may include but are not limited to fund raising activities or in-kind contributions (i.e., meals, physicals, etc).

Specific program and budgetary guidelines to assist AAAs in implementing these revised policies will be provided in a separate PM.

All other policies, procedures, and guidelines governing the program as specified in the FGP and SCP Operations Handbook, federal regulations, and contract language shall remain in effect.

### **RESPIRE PROGRAM**

No baseline **Respite Registry** amount will be established.

The requirement that **Respite Purchase of Service (RPOS)** is tied to the Linkages Program has been removed. However, because of the small amount of funding available, the large demand for services, and in order to ensure that the maximum numbers of families are served, the \$450 maximum per family for RPOS is retained. In addition, the policy remains in effect that allows for an increase that may be spent in excess of the \$450 limit with the written approval of a supervisor.

## **LINKAGES PROGRAM**

The requirement of a minimum 100 slots per site is removed. Based on existing reported costs and levels of service, a new per client slot cost range of \$2,000 to \$2,200 has been established. The range was established to recognize local variances in the cost of conducting business. For example, the salary of a care manager varies between Los Angeles and Inyo/Mono Counties. AAAs will contract for clients served based on this average. If some but not all funds are redirected, the cost per client slot provides a guideline for the AAA to use to adjust program performance levels.

## **FISCAL/BUDGET REQUIREMENTS**

AAA Administration is allocated in the following five categories: General Fund, HICAP Reimbursement, HICAP Fund, Federal M + C Supplemental, and Federal Funds – Other. The Department will continue to allocate AAA Administration in these five categories. However, beginning with FY 2003/04, General Fund Administration will not be identified by program. AAAs have the option of retaining up to 10 percent of all General Fund CBS program dollars for administration as long as service levels are not reduced and there is no negative impact on direct program services [PM 00-22 (P)].

In the Community-Based Services Program Budget (CDA 263), AAAs must include all costs and all funding available to pay the costs of services as defined in the CBSP Standard Agreement and by each separate set of program standards. These should include State and federal funds from CDA, matching contributions (required and over match), Program Income generated from services provided, and Other funds. As an example, Other funds could include in-kind from HICAP volunteers, Targeted Case Management funds, donations, funding from Handicap Parking fines, and any other funds used to cover the costs of CBSP services.

**Note:** Although HICAP is not subject to redirection, costs associated with this program shall also be documented in the same manner required for all other CBSPs.

## **ADMINISTRATIVE ACTION PLAN**

AAAs shall follow all requirements specified in Section 9535 of the Older Californian's Act, if they propose to redirect programs in Chapter 7.5 [see PM 98-37 (P)]. One specific requirement is the development of an Administrative Action Plan, which shall receive the approval of the governing board after considering the input received from the local advisory council. In addition, CDA is requiring the AAA to describe in its Plan how clients participating in programs targeted for redirection will be transitioned into other community services.

If any funds are proposed for redirection, the AAA shall submit the following with the original CBSP budget required for FY 2003/04 and any subsequent amendments:

- an Administrative Action Plan containing justification for each program selected by the AAA for redirection, and
- a transmittal letter signed by the Chairs of the Advisory Council and Governing Board.

Once CDA approves the Plan and the budget, AAAs shall incorporate approved changes, along with goals and objectives, into their Area Plan update due to CDA on May 1 of each fiscal year.

As resources permit, all changes included in this PM will be made to each applicable program manual and issued as updates to these manuals.

**Original Signed by Joyce Fukui for Lynda Terry**

Lynda Terry  
Director

STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF AGING

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**PROGRAM MEMO**

TO: Area Agencies on Aging	NO.: PM 98-37 (P)
SUBJECT: Community-Based Services Programs—Redirection of Program Dollars	DATE ISSUED: January 10, 1999
	EXPIRES:
REFERENCES: PM 98-25; 98-31 (P)	SUPERSEDES:
PROGRAMS AFFECTED: <input type="checkbox"/> All <input type="checkbox"/> Title III-B <input type="checkbox"/> Title III-C1/C2 <input type="checkbox"/> Title III-D <input type="checkbox"/> Title III-F <input type="checkbox"/> Title V <input checked="" type="checkbox"/> CBSP <input type="checkbox"/> MSSP <input type="checkbox"/> Title VII <input type="checkbox"/> ADHC <input type="checkbox"/> Other: _____	
REASON FOR PROGRAM MEMO: <input type="checkbox"/> Change in Law or Regulation <input checked="" type="checkbox"/> Response to Inquiry <input type="checkbox"/> Other Specify:	
INQUIRIES SHOULD BE DIRECTED TO: Assigned Community-Based Services Team	

This Program Memo (PM) responds to two (2) questions raised by Area Agencies on Aging (AAA):

1. Some Area Agencies have indicated their desire to redirect funds from existing Community-Based Services Programs (CBSP). (Existing programs are considered those which were in existence when AB 2800 was signed.) This PM clarifies existing law with regard to redirection of program dollars for existing CBS's.
2. Several Area Agencies have experienced some difficulty in making necessary local arrangements to establish new Foster Grandparent Programs (FGP) and/or Senior Companion Programs (SCP) for Fiscal Year (FY) 1998-99. New FGPs and SCPs are those established as new programs in the 1998-99 budget Act. Area Agencies have asked, "what are the local options for delivering this service if attempts to secure a local provider have failed?"

**BACKGROUND: Statutory Provisions and Other Policy Requirements**

1. Welfare and Institutions (W & I) Code, Proposals to Redirect Community-Based Services dollars; Section 9535

With the exception of funding of HICAP, the Older Californians Act (OCA) establishes a process to redirect Community-Based Services Program dollars. This process, described below, must be followed prior to any attempt to redirect funds.

Requirements for "redirection" of CBSP funds as defined in paragraphs (c), (d) and (e) of the Section 9535, include:

- (c) An Advisory Committee must be formed locally that includes:
- Consumers of long-term care services,
  - Representatives of local organizations of seniors,
  - Functionally impaired adults,
  - Representatives of employees who deliver direct long-term care services, and
  - Representatives of organizations that provide long-term care services.

At least one-half of the members must be consumers of Community-Based Services (provided in Chapter 7.5).

- (d) An Administrative Action Plan shall be developed and shall receive the approval of the area agency's governing board. The Board must consider the input received from the Advisory Committee.
- The Governing Board's approved Administrative Action Plan must be submitted to California Department of Aging for final State approval,
  - This Administrative Action Plan will be an update to the area plan.
- (e) Effective in the 1999-2000 fiscal year, and except for the health insurance counseling and advocacy program, determining which of the community-based services programs specified in Chapter 7.5 (commencing with Section 9540) and contracted under the authority in this chapter will continue to be funded and the amount of funding to be allocated for that purpose.

The Administrative Action Plan must include the reason(s) for redirection, a detailed justification on cost effectiveness, scope of services, quality, and manner of delivery. A record of the review, input and approval by the local advisory community and governing board must be submitted to CDA for final approval of the proposed redirection. Budget revisions supporting this redirection must be kept on file locally and are subject to departmental review.

## 2. PM 98-25: Model FGP and SCP Request for Proposals

PM 98-25 established the policy that the Corporation for National Service (CNS) has the right of first refusal for additional FGP/SC programs. Prior to going to RFP, an existing FGP/SCP provider must be given the opportunity to accept the additional general fund dollars to expand their existing program through a sole source contract with the AAA.

## POLICY

### 1. Redirection of Community-Based Services Program Funds: Existing CBSP's Only

The redirection of funds applies to CBSP services existing before the FY 1998-99 expansion, except for HICAP. These include: ADCRC (at \$80,000 per center), Brown Bag, Foster Grandparents, Linkages which includes Respite Purchase of Services, Respite Registry and Senior Companion. Expansion of CBSP services from the 1998-99 Budget Act are required t

be maintained for four years (through FY 2001-2002), and do not qualify for redirection until that time. (See also PM 98-31 (P) for additional information about ADCRCs).

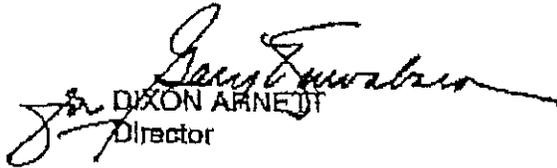
2. Redirection Specific for FGP and SCP Funds: New and Existing Programs

The process identified in Section 9535 may be used for existing and new FGP or SCP dollars, if and only if all local attempts to establish an existing provider have failed. These local attempts must include:

- (a) Following the process outlined in PM-98-25 to offer existing providers a first right of refusal. Note: these local attempts include the option of combining the FGP dollars with the SCP dollars and establishing only one, instead of two, programs;
- (b) Working with an existing local RSVP program to provide one or both programs; and
- (c) Attempting a competitive RFP for both of the programs, and finding no local provider.

Due to statutory goals to keep new Community-Based Services Programs in place for four years, Area Agencies who obtain permission to redirect new FG/SC monies under this program memo, shall annually, during this four-year period, continue to seek to establish Foster Grandparent and/or Senior Companion programs.

3. The redirection of CBSP dollars is limited to redirection within the specified programs in Chapter 7.5 of the Older Californians Act.

  
DIXON ARNETT  
Director

## APPENDIX II - PSA #29

Check each applicable planning cycle:

FY 2005-06     FY 2006-07     FY 2007-08     FY 2008-09

PUBLIC HEARINGS  
Conducted for the 2005-2009 Planning Period  
CCR Article 3, Section 7302(a)(10) and Section 7308

Date	Location	Number Attending	Area Plan presented with Translator:28 Yes/No	Hearing Held at Long-Term Care Facility:29 Yes/No
4/18/05	Placerville Senior Center	50	No	No
4/25/05	South Lake Tahoe Senior Center	19	No	No

All of the items below must be discussed at each planning cycle's Public Hearings

1. Discuss outreach *efforts* used in seeking input into the Area Plan from institutionalized, homebound, and/or disabled older individuals. The public hearing was noticed in each of the local newspapers. Flyers were distributed to home delivered meal participants, long-term care facilities, residential care facilities, the eight congregate nutrition sites, senior apartment complexes, the Brown Bag Program, senior service providers, and several organizations serving the Latino community.

2. Proposed expenditures for Program Development (PO) and Coordination (C) must be discussed at a public hearing.

Did the AAA discuss PO and C activities at a public hearing?

Yes

No

Not Applicable (check only if PO and C funding is not being used)

If No, Explain:

3. Summarize the comments received concerning proposed expenditures for PO and C, if applicable.

4. Were all interested parties in the PSA notified of the public hearing and provided the opportunity to testify regarding setting of minimum percentages of Title I B program funds to meet the adequate proportion funding for Priority Services? (See Appendix V)

Yes

No

If No, Explain:

5. Summarize the comments received concerning minimum percentages of Title III B funds to meet the adequate proportion funding for priority services. (See Appendix V)

No comments

6. Summarize other major issues discussed or raised at the public hearings.

Translator is not required unless the AAA determines that a significant number of attendees require translation services.

AAAs are encouraged to include individuals in LTC facilities in the planning process, but hearings are not required to be held in facilities

In summary, the major issues raised included:

- Approximately twenty people commented on the Brown Bag Program. Primarily, concern was expressed about the impacts of discontinuance of funding and the importance of food services. Some expressed the opinion that Brown Bag activities were more important than services to persons with Alzheimer's. Concern was expressed on the amount of food being distributed. There appeared to be some confusion over the difference between Brown Bag and other food assistance programs, as well as the source of Brown Bag funding. However, for the most part comments emphasized the importance of food assistance and an interest in having Brown Bag continue.

7. List major changes in the Area Plan resulting from input by attendees at the hearings.

No changes are proposed to the Area Plan. However, the Commission on Aging, in adopting the Area Plan, voted to revisit the Brown Bag funding issue. Should any changes develop out of those discussions, they would be proposed in the form of a future plan amendment.

- Concern was expressed that senior services be countywide and not focused on or limited to one location.
- Individual comments were received on Medicare drug benefits, public notice of the Area Plan and county employee salaries.

*Cal Wel & Inst Code §*  
9535

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LEGISLATION ENACTED \*\*\*  
\*\*\* THROUGH 2006 CH. 21, APPROVED 4/24/06 \*\*\*

WELFARE AND INSTITUTIONS CODE DIVISION 8.5.  
Mello-Grandlund Older Californians Act  
CHAPTER 7. Community-Based Services Network

**GO TO CALIFORNIA CODES ARCHIVE**

**DIRECTORY** Cal Wel & Inst Code § 9535 (2006)

§ 9535. Area agencies responsibility

Area agencies on aging shall be responsible for, but not limited to, all of the following:

(a) Contracting with the department to locally manage the community-based programs specified in and in accordance with the requirements of this chapter and Chapter 7.5 (commencing with Section 9540).

(b) Integrating the community-based services programs contracted under this chapter into the local area plan development process.

(c) Where the area agency on aging proposes to redirect funding under this chapter, the area agency shall ensure that it has submitted its recommendations to a locally formed advisory committee, that shall include consumers of long-term care services, representatives of local organizations of seniors, functionally impaired adults, representatives of employees who deliver direct long-term care services, and representatives of organizations that provide long-term care services. At least one-half of the members of the advisory committee shall be consumers of services provided under this chapter or their representatives.

(d) In addition, where the area agency on aging proposes to redirect funding under this chapter, an administrative action plan shall be developed and shall receive the approval of the area agency's governing board, which shall consider the input received pursuant to subdivision (c). The administrative action plan shall receive the governing board's approval prior to submission to the department for final state approval. The administrative action plan shall be an update to the area plan.

(e) Effective in the 1999-2000 fiscal year, and except for the health insurance counseling and advocacy program, determining which of the community-based services programs specified in Chapter 7.5 (commencing with Section 9540) and contracted under the authority in this chapter will continue to be funded and the amount of funding to be allocated for that

purpose.

(f) Subject to Section 9534, providing directly, through contracts with other local governmental entities, or through competitively procured contracts, the community-based services programs.

(g) When required pursuant to Chapter 875 of the Statutes of 1995, and subject to the annual Budget Act, relinquishing funding originally contracted under this chapter and the associated local management of the community-based services programs, and except for the health insurance counseling and advocacy program, to the long-term care integration pilot program.

(h) Monitoring direct services contract performance and ensuring compliance with the requirements of this chapter and any other relevant state or federal laws or regulations and the nondiscrimination requirements set forth under Article 9.5 (commencing with Section 4135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(i) Appropriately expending and accounting for all funds associated with this chapter and providing access to all program books of account and other records to state auditors.

(j) Maintaining a systematic means of capturing and reporting to the department all required community-based services program data, specified in paragraph (5) of subdivision (a) of Section 9102.

(k) The governing body of each participating area agency shall establish a process within its area plan for requesting and providing a hearing for the programs specified under this chapter and Chapter 7.5 (commencing with Section 9540). A hearing shall be provided upon the request of either provider whose existing direct services contract is either terminated prior to its expiration date or reduced in scope outside of the state or federal budget process, or any applicant that is not selected in a direct service contract procurement process due to the alleged presence of a conflict of interest, procedural error or omission in solicitation request, or the lack of substantial evidence to support the award.

## NOTICE TO RESPONDENTS

For the assistance of all Respondents, Penal Code Section 933.05 is summarized as follows:

### How to Respond to Findings

The responding person or entity must respond in one of two ways:

1. That you agree with the finding.
2. That you disagree wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons for the disagreement.

### How to Respond to Recommendations

Recommendations by the Grand Jury require action. The responding person or entity must report action on all recommendations in one of four ways:

1. The recommendation has been implemented, with a summary of the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis. If the person or entity reports in this manner, the law requires a detailed explanation of the analysis or study and timeframe not to exceed six months. In this event, the analysis or study must be submitted to the officer, director or governing body of the agency being investigated.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

### Time to Respond, Where and to Whom to Respond

Depending on the type of Respondent, Penal Code Section 933.05 provides for two different response times and to whom you must respond:

1. **Public Agency:** The governing body of any public agency must respond within ninety (90) days. The response must be addressed to the Presiding Judge of the Superior Court.
2. **Elective Officer or Agency Head:** All elected officers or heads of agencies who are required to respond must do so within sixty (60) days to the Presiding Judge of the Superior Court, with an information copy provided to the Board of Supervisors.

## **2005-2006 GRAND JURY MEMBERS**

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Donald R. Brooks, Foreman Pro-tempore  
Collen Young, Recording Secretary  
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