

ELDER AFFAIRS DEPARTMENT[231]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby adopts amendments to Chapter 4, “Department Planning Responsibilities,” Iowa Administrative Code.

The adopted amendments clarify the waiver and contested case procedures for Area Agencies on Aging (AAA) and add a severability clause to the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 26, 2008, as ARC 6672B.

The public comment period on this notice ended April 16, 2008. No comments were received.

The amendments are identical to those published under Notice.

The Commission adopted these amendments during their regularly scheduled meeting on June 9, 2008.

The amendments will become effective August 6, 2008 and are intended to implement Iowa Code chapter 231.

The following amendments are adopted.

ITEM 1. Amend rule 321—4.3(231) by adopting the following **new** subrule:

4.3(8) Appeal.

a. Any applicant for designation as an AAA whose application is denied may appeal the decision pursuant to 321 IAC 13.

b. At the conclusion of the appeal under 321 IAC 13, if the AAA wishes to continue the appeal process, the final decision may be appealed in writing to the assistant secretary of the AOA within 30 calendar days of receipt of the decision.

ITEM 2. Amend subrule 4.6(1) as follows:

4.6(1) A multipurpose entity shall delegate all its authority and responsibility under the Act to a single organizational unit within the entity unless it applies for and receives a waiver of this requirement from the department under the authority and applicable procedures of 321 IAC 11 as a part of the application approval process.

ITEM 3. Amend rule 321—4.7(231) as follows:

321—4.7(231) Request for waiver.

4.7(1) A ~~waiver~~ request ~~seeks~~ seeking waiver of the requirement to delegate all authority and responsibilities under the Act to a single organizational unit shall be submitted pursuant to the requirements of 321 IAC 11.6(17A,231, ExecOrd11) and shall:

~~**4.7(1)** An area agency shall submit a request on forms supplied by the department, and shall:~~

a. Describe methods for carrying out the AAA's functions and responsibilities under the Act;
and

b. Designate a component unit of the AAA to:

(1) Plan and develop policies and programs for elders in the multiyear area plan;

(2) Administer the area plan; and

(3) Provide a visible focal point for advocacy and coordination for the PSA.

4.7(2) The commission may approve a request for waiver if it is determined that the AAA can effectively carry out its functions and responsibilities under the Act without being a single organizational unit.

ITEM 4. Amend subrule **4.9(3)** by striking paragraph “**h**” as follows:

~~h. An applicant that is a multipurpose agency must include in its application a proposal for the delegation of all its authority and responsibility to a single organizational unit within its structure. An applicant that does not propose delegation must submit a waiver request as required by this chapter.~~

ITEM 5. Amend rule **321—4.11(231)** by rescinding subrule 4.11(2) and adopting the following **new** subrule in lieu thereof:

4.11(2) The department shall give written notice to the AAA of the right to appeal the designation withdrawal pursuant to 321 IAC 13.

ITEM 6. Amend 321—Chapter 4 by adopting the following **new** rule:

321—4.14(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

John McCalley, Director

Date