—TECHNICAL ASSISTANCE MEMORANDUM—

Texas Department of Aging and Disability Services (DADS) – Access and Intake Division

TITLE:	Establishment of Private Pay Programs in Coordination with Title III Funded Services	**NUMBER:**	AAA-TA 601
SECTION:	Area Agencies on Aging	**APPROVAL:**	Sue Fielder
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RELEVANT CITATIONS:	Older Americans Act, Sections 306, 311 & 315		
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The Department is issuing this technical assistance memorandum (TA) to provide guidance to area agencies on aging (AAA) and to issue a statement of the Department of Aging and Disability Services (DADS) as the State Unit on Aging (SUA) on its position for the provision of private pay services, where Older Americans Act (OAA) and other public funds have traditionally funded a portion of services. This guidance is being provided for the provision of nutrition and transportation services. Portions of this TA may be applicable only to nutrition or transportation or both.

INTRODUCTION

Since its inception, the Older Americans Act (OAA) and its programs have continually evolved to address the challenges faced by an aging America. Texas' service delivery structure is certainly no exception.

The Administration on Aging’s (AoA) “Frequently Asked Questions” states the following in response to whether the aging network can implement private pay services:

> “Private pay services can create opportunities to reach a segment of the population not traditionally served by the network, however; such activities are optional for States, Area Agencies and service providers. In general, private payment for services occurs when individuals pay the full cost of the services they receive. Because there is no public funding involved, private pay services are not subject to the ‘cost sharing’ provisions under the Older Americans Act (OAA, Sec. 315(a)).”

AAAs in Texas may implement private pay congregate, home delivered meal and transportation programs when, at the provider level, effective accounting methods are maintained for the appropriate segregation of resources and costs. It is DADS expectation the private pay program will begin only after a detailed plan, including policies and processes, has been developed to ensure adherence to regulations governing DADS-funded services. **It is important to note that the establishment of private pay programs are optional and are at the sole discretion of each AAA**.

Establishment of New Program

When a provider proposes establishing two distinct programs, one program will provide service through federal and state funding streams allocated by DADS including Title III of the OAA, Nutrition Services Incentive Program (NSIP), client contributions and, as applicable, local cash matching funds. Each of these funding sources is governed in the same manner under which such funds are leveraged. The second program will provide service through non-voluntary consumer fees established by the service provider and other local funds. Private pay resources are not considered program income. The full cost of the service (unit rate) must be collected for private pay services. For example, if rate setting documents establish a $6.25 per meal cost, an individual paying privately for the meal must pay $6.25.

It is critical that specific mechanisms are established by the provider to fully account for all expenditures and funding resources in a manner that clearly and appropriately allocates costs and revenue to each program separately. Under no circumstance may the federal and state funding sources be used to develop or support a program that requires consumers to pay for their services. Additionally, the provision of publicly funded services cannot be compromised to make private pay services available.

For nutrition services being provided through private pay resources, meals are not required to meet dietary requirements, including Dietary Reference Intakes (DRI). However, a provider offering different meals to private pay individuals must ensure full accountability for the difference in cost to prepare the meal including labor, raw food and other costs. Determining the full cost of the private pay meal may be difficult if these meals are not included in the rate setting process.

Transitioning Existing Clients to Private Pay Programs

In developing the plan for implementing a private pay program, DADS recommends the focus of the new program be directed only to new consumers. New consumers would be placed on an interest list and would have the option of participating in the private pay program until DADS-funded services become available.

If this option is not feasible, it is important for the AAA and the provider to understand DADS requirement for termination of service. Termination of service under Title III may not occur for any individual based solely on self-declared income. Termination of service must be well-documented, leaving no question as to why the consumer will no longer be served through public funds.

The AAA and the provider must jointly formulate criteria to identify consumers that meet the targets under the OAA. Both must jointly review and agree upon the manner in which consumers would be selected to remain on the DADS-funded service. The criteria could also be applied to a future interest list for the private pay program.

In the event a AAA and provider determine there is a need to transition consumers currently served through public funds, the contract between the AAA and the service provider must specifically address all agreements reflecting these major changes in program scope, and the AAA must amend its current Area Plan.

Nutrition Services Incentive Program (NSIP) Considerations

The AAA and its providers are cautioned that when a project is considering the option of a private pay program for nutrition services, it must consider:

- NSIP eligibility criteria to be met in order for a provider to report a meal as detailed in Section 311 of the Older Americans Act of 1965, as amended in 2006.
- NSIP requires meal participants be afforded the opportunity to make a voluntary, confidential contribution to the cost of the meal and services, but will not be denied if an eligible participant is unable or chooses not to make a contribution.
- Private pay programs require a client to reimburse a provider for the full cost of the meal so those meals are ineligible for NSIP cash.
- No fee may be charged to the consumer for any meals reported for NSIP cash.

Program Income Consideration

The AAA and its providers are cautioned that when a project is considering the option of a private pay program for nutrition or transportation services, it must consider:

Section 315 of the Older Americans Act, stating:

> "Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under this Act if the method of solicitation is non-coercive. Such contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the poverty line, at contribution levels based on the actual cost of services. The AAA and service providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute to the cost of the service"

All collected contributions must be used to expand the service for which the contributions were given and to supplement (not supplant) funds received under the OAA. Because client contributions may only be expended to expand services, a provider must ensure these contributions are clearly tracked and accounted for to provide evidence of this requirement.

Conclusion

When establishing a private pay program offering service for which a consumer must pay a fee, the AAA and provider must develop a detailed plan to address the policy and processes that each will adhere to in implementing the private pay program. Careful thought and consideration should be given to the plan by both to ensure all state and federal requirements are fully met, both programmatically and fiscally.

Please forward all questions or comments to AAA.HELP@dads.state.tx.us.