WEST VIRGINIA CODE CHAPTER 16 ARTICLE 5S

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§16-5S-1. Short title.

This article may be cited as the "Older West Virginians Act of 2000."

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§16-5S-2. Purpose and objectives.

(a) The purpose of this article is to provide guidance and assistance in the development of new or improved activities and programs to help older West Virginians maintain independence, honor and dignity, within available federal and state funds.

(b) This article establishes an array of services which are to be provided at a no cost or at a reasonable cost for senior citizens: Provided, That nothing in this article may be construed to require the provision of any service by the bureau. The service packages shall be prioritized first to in-home, community based clients to enable them to remain independent for as long as possible in local settings. Second level priority services shall be those which are preventive and supportive in nature.

(c) Management practice shall integrate programs with service providers and service options through a statewide delivery system.

(d) Programs shall recognize the strengths of the older population, especially in the areas of volunteerism and leadership, to improve the status of all older individuals in West Virginia.

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§16-5S-3. Definitions.

For the purpose of this article:

(a) "Aging network" means the network of the Bureau of Senior Services, area agencies on aging, and local providers of direct services to older individuals;

(b) "Bureau" refers to the Bureau of Senior Services;

(c) "Commissioner" refers to the commissioner of the Bureau of Senior Services;

(d) "Focal point" means a facility established to encourage the maximum collocation and coordination of services for older individuals;

(e) "Older individual" or "older West Virginian" or "senior" or "senior citizen" means an individual who is sixty years of age or older;

(f) "State agency" refers to the Bureau of Senior Services.

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§16-5S-4. Powers and duties of the commissioner.

For purposes of this article, the commissioner shall have the powers and duties set forth in section six, article five-p of this chapter. In addition, the commissioner shall ensure the bureau fulfills the requirements of section twelve, article five-p of this chapter, relating to federal government programs.

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§16-5S-5. Powers and duties of the Bureau of Senior Services.

The bureau shall be the designated state agency to:

(a) Develop and administer the state plan as required by the federal administration on aging;

(b) Be the primary agency responsible for the planning, policy development, administration, coordination, priority setting and evaluation of activities related to this article;

(c) Serve as an effective and visible advocate for older West Virginians;

(d) Divide the state into distinct planning and service areas and designate for each area a public or private nonprofit agency or organization as the area agency on aging as required by the federal administration on aging;

(e) Provide technical assistance and information to area agencies on aging and local service providers as appropriate and conduct monitoring of area agencies on aging to ensure compliance with applicable rules, regulations and standards;

(f) Maintain client and service data using a standardized computer client tracking system through which all providers shall report required information;

(g) Maintain letters of agreement with the Department of Human Services to provide program operations of the personal care and aged and disabled waiver programs; and

(h) Maintain a registry of companies and organizations that provide free medications or provide assistance to persons in securing medications, and make this information available to consumers through all local senior programs.

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§16-5S-6. Area agencies on aging.

The area agencies on aging designated by the bureau shall be charged with the following:

(a) Prepare and develop an area plan in a format provided by the bureau and as required by the federal administration on aging;

(b) Enter into agreements and contracts with local service providers for the provision of supportive services and nutrition services funded through the federal administration on aging;

(c) Designate, where feasible, a focal point for service delivery in each community;

(d) Establish an advisory council in accordance with the requirements of the federal administration on aging;

(e) Serve as an effective and visible advocate for older West Virginians; and

(f) Provide appropriate technical assistance and information to local service providers and conduct monitoring of local service providers to ensure compliance with applicable rules, regulations and standards.

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§16-5S-7. Local service providers.

(a) Service providers who offer "Older West Virginians Act" and related services funded through the federal administration on aging shall:

(1) Determine the needs of seniors in the particular geographic area covered by gaining input from the seniors themselves, their families and care givers;

(2) Develop a plan of service based on the needs of the seniors in a format provided by the area agency;

(3) Provide supportive services, nutrition services and senior centers which shall, within available funding, meet the identified needs of seniors;

(4) Serve as an effective and visible advocate for older West Virginians; and

(5) Participate in the bureau's client tracking system.

(b) Service providers who offer Medicaid reimbursed services shall:

(1)Comply with appropriate Medicaid regulations and policies including provider agreements, program manuals and program instructions;

(2) Maintain client files, provider information and report as required for the determination of compliance with established program standards as determined by the bureau for medical services; and

(3) Participate in the bureau's client tracking system.

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§16-5S-8. Supportive services.

Supportive services funded through the federal administration on aging for older West Virginians may include, but are not limited to: Adult day care, assessment, assisted transportation, care training, chore, counseling, discount, home repair, housing assistance, information and assistance, instruction/training, legal assistance, letter/writing, reading, material aid, nutrition education, outreach, telephoning, transportation and visiting, all as defined by the bureau and the federal administration on aging.

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§16-5S-9. Nutrition services.

All congregate meals and home delivered meals shall contain one third of the recommended daily allowance for vitamins and minerals. Congregate meal sites may include senior centers, community buildings, schools, churches and elderly housing complexes. Home delivered meals are to be delivered to eligible individuals, in accordance with guidelines and standards established by the bureau and the federal administration on aging.

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§16-5S-9a. Shared table initiative for senior citizens.

(a) The Legislature finds and determines that:

(1) The enactment of §18-5D-5 of this code, creating the shared table initiative in West Virginia Schools has been a major success;

(2) Shared table initiatives can be successful in other settings;

(3) Senior citizens are often some of our most vulnerable citizens; and

(4) There is no reason for food already produced by senior centers and other services aiding seniors to be wasted when that could help improve the living conditions of senior citizens in need.

(b) Therefore, the purpose of this section is to establish a statewide initiative to facilitate shared tables at senior centers and similar facilities where congregate meals are provided to seniors in need. The Bureau for Senior Services shall promulgate a rule in accordance with §29A-3B-1, *et seq.* of this code that provides guidelines to senior centers and other locations where congregate meals are provided to senior citizens on the management and distribution of excess food consistent with state and county health department and United States Food and Drug Administration requirements and guidelines for the distribution of excess food. The guidance policy at a minimum shall provide a list of food products and methodologies for distribution that include, but are not limited to:

(1) The types of foods that may be distributed;

(2) Methods of distribution to make excess food available;

(3) Methods of distributing excess food to persons or organizations providing food to seniors suffering from food insecurity; and

(4) Methods to otherwise donate excess food to persons or organizations providing food to persons or families suffering from food insecurity.

(c) The preparation, safety, and donation of food made available to senior citizens during a congregate meal and donated to a food bank or any other nonprofit charitable organization for distribution shall comply with and be thereby covered by the Good Samaritan Food Donation Act, §55-7D-1 *et seq.* of this code.

(d) The methods of distributing excess food to senior citizens may include a sharing table where food service staff, senior citizens, and volunteers may return appropriate food items consistent with the promulgated rule to make those food items available to senior citizens during the day.

(e) The Bureau for Senior Services may coordinate with the State Department of Education

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to obtain best practices advice on implementation and the rules promulgated by the Bureau for Senior Services may require some or all locations where congregate meals are served to senior citizens to participate in the shared table initiative.

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§16-5S-10. Other services.

The bureau shall also coordinate and provide older West Virginians the following:

(a) In-home services for those who are frail or at risk of becoming institutionalized; and

(b) Disease prevention and health screening services.

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§16-5S-11. Programs and special activities for older West Virginians.

(a) The bureau shall continue and maintain its long-term care ombudsman program codified in article five-l, chapter sixteen of this code. The bureau shall also design and implement programs for the benefit of older West Virginians relating to: Elder abuse, neglect and exploitation; elder rights and legal assistance; in-home personal care for Medicaid and nonMedicaid eligible senior citizens; direct services established by the legislative initiatives for the elderly (LIFE), senior health insurance network as established by the United States health care financing administration and a foster grandparent program as established by the corporation for national and community service.

(b) The bureau may sponsor the following special activities for older West Virginians: Governor's golden mountaineer program, a discount program for goods and services at participating merchants, an annual senior citizens conference providing educational and entertainment opportunities, a Governor's summit on aging, a silver haired Legislature and an annual senior day at the Legislature. The bureau may sponsor additional special activities as necessary.

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