



UNWINDING GUIDANCE TO STATE UNITS ON AGING

Older Americans Act Formula Grants – PHE for COVID-19 & MDD for COVID-19

March 14, 2023

The Aging network has met the needs of older individuals and their family caregivers in local communities during the COVID-19 pandemic by providing critical Older Americans Act (OAA) services throughout this unprecedented time. Some of these services the network has been able to provide were due to the flexibilities allowed through congressional action during the Public Health Emergency for COVID-19 as declared by the Secretary of U.S Department of Health and Human Services and during the incident period of the Major Disaster Declaration for COVID-19 as approved by the President under the Stafford Act.

The Secretary of Health and Human Services recently [announced](#) that the Public Health Emergency (PHE) for COVID-19 will conclude on May 11, 2023. Additionally, the Federal Emergency Management Agency (FEMA) announced the closure of the incident period for Major Disaster Declarations (MDD) under the Stafford Act for COVID-19 through publication of a notice in the [Federal Register](#), closing the incident period to coincide with the end of the PHE for COVID-19 with an effective date of May 11, 2023.

This FAQ addresses the unwinding of flexibilities for OAA formula grants to State Units on Aging (SUA) associated with the conclusion of the PHE for COVID-19 and the MDD for COVID-19.

Public Health Emergency for COVID-19 Expiring

During the PHE for COVID-19, the Senior Nutrition Programs (SNP) under the OAA Title III Congregate Meal Program (C1) and Home Delivered Meal Program (C2) allowed SUAs to exercise the following flexibilities: 1) nutrition requirements and 2) 100% transfer of nutrition funds. With the announcement of the expiration of the PHE for COVID-19, effective May 11, 2023, also ends the specific legislative OAA Title III C SNP enhanced flexibilities.

Nutrition Requirements DRIs/DGAs:

The OAA requires all Title III C funded meals to meet [Dietary Reference Intakes](#) (DRIs) & [Dietary Guidelines for Americans](#) (DGAs) nutrition requirements. With the expiration of the PHE for COVID-19, all OAA Title III C1 and C2 meals must meet the DRI/DGA requirements, OAA Section 339(2)(A).

ACL will be using Nutrition Supplemental Incentive Program (NSIP) reported meals for the FFY2024 NSIP grant award allocations and will be using FFY2023 data reported to determine the award allocations. Meals that do not meet DRI/DGA requirements may not be reported as a NSIP counted meal, and State NSIP award allocations may be impacted if they are not meeting DRI/DGA requirements.

Transfers

SUAs must submit transfers that exceed maximum amounts specified in the OAA between the Congregate Meal Program (C1) and the Home Delivered Meal Program (C2), prior to the expiration of the PHE for COVID-19, May 11, 2023. With the expiration of the PHE for COVID-19, the OAA limitation returns to the allowance of transferring up to

40% of allocations between C1 and C2, OAA Section 308(b)(4)(A). SUAs may request a waiver from the Assistant Secretary for Aging (ASA) to transfer an additional 10% of funds between C1 and C2, OAA Section 308(b)(4)(B). Transfer requests should be submitted to your [ACL fiscal contact](#). Please contact your Regional Administrator for instructions on requesting a waiver.

Related Questions:

1. Must all meals paid for with Title III C grant funds meet DRI/DGA requirements after May 11th?
 - Yes, the ending of the PHE for COVID-19 ends the authority for waiver of nutrition requirements for DRI/DGAs.
2. If an SUA needs to make a B/C transfer can they submit the request with a C1/C2 transfer request?
 - Yes, B/C transfer requests may be submitted along with C1/C2 transfer requests. ACL asks that the number of transfer requests per SUA be minimized and consolidated as much as possible since a new Notice of Award (NOA) is issued for every transfer request received.
3. What is the maximum B/C transfer?
 - B/C transfers may be requested, without need for waiver up to 30% of the awarded Parts. Waivers may be requested to exceed the 30% transfer amount. Please contact your Regional Administrator for instructions on requesting a waiver.
4. We are currently providing “Grab and Go” and “To-Go” meals. Must that activity cease on May 11, 2023?
 - No, the Older Americans Act is inherently flexible for “Grab and Go” and “To-Go” meals. Please see the [Title III C1 and C2 Service Delivery Decision Tree](#) for more information on allocation and reporting of service delivery methods.

Major Disaster Declaration for COVID-19 Incident Periods Ending

Many SUA grantees have been using authorities under Section 310(c) of the Act, which permits states to use any portion of the funds made available under sections of the Act for disaster relief for older individuals once the state requests and receives a MDD by the President under the Stafford Act. In this regard, flexibility was provided for States – without the need for a separate application, transfer request, or request for a waiver – to use existing allocations already made to them under the Act for disaster relief. With the publication of notice by FEMA in the Federal Register announcing the closure of the incident periods for MDDs under the Stafford Act for COVID-19, SUAs must start unwinding disaster relief flexibilities used under the Act.

Once a MDD for COVID-19 incident period ends, the flexibilities available for “bucketing” for disaster relief for older individuals also end. ACL strongly encourages SUAs to unwind all flexibilities by September 30, 2023 for disaster relief for older individuals, meeting all requirements of the OAA when not under an MDD for COVID-19. ACL has heard from SUAs that the unwinding of the disaster relief flexibilities will minimize administrative burden of tracking and accounting for multiple service lines and will streamline data collection and reporting efforts. If the SUA needs to retain certain program and fiscal flexibilities it exercised under the MDD, the SUA should review and consider all transfer, waiver, and other inherent flexibility options available under the Act. However, after consultation and review with your ACL Regional Administrator and Fiscal Operations Specialist, if the SUA determines it is still unable to unwind to meet the disaster relief for older individuals, obligations made during the MDD for COVID-19 incident period, where the flexibilities were obligated, may continue until the obligation is liquidated or the obligation period ends. SUAs must adhere to the project period end dates, and no-cost extensions will not extend the obligation period for MDD flexibilities. SUAs are encouraged to contact your ACL Regional Administrator and Fiscal Operations Specialist for technical assistance on how to best unwind the disaster relief flexibilities within your SUA by September 30, 2023.

Related Questions:

1. May obligations made prior to the end of the MDD for COVID-19 continue with the “bucketing” flexibilities?
 - ACL strongly encourages SUAs to unwind and conclude the “bucketing” flexibilities allowed for during the MDD for COVID-19 for disaster relief for older individuals by September 30, 2023. Contact your ACL Regional Administrator and/or Fiscal Operations Specialist for technical assistance on how best to conclude any flexibilities extended with disaster relief authorities under the MDD including “bucketing” of any obligations.
2. What is the definition of obligation?
 - Per 45CFR75.2: *Obligations*, when used in connection with a non-Federal entity's utilization of funds under a Federal award, *obligations* means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

Reporting Requirements

Fiscal Reporting

For purposes of reporting on the SF-425, States should continue to report timely:

- SUAs must continue to report per the terms and conditions on their notices of awards and attach the Title III Supplemental form to the SF-425 for OAA Title III and ARPA Title III grants.
- SUAs must separately track and report all sources of funding, including COVID supplemental funding.

Programmatic Reporting

States are required to report on all grants and MDD “bucketing” flexibilities utilized in their annual State Program Report to ACL. States must report amounts by service type to ACL; see additional guidance: [Guidance for Reporting Services Provided to Older Adults](#) for the State Performance Report (SPR) in the Older Americans Act Performance System (OAAPS) in Response to the COVID Pandemic – Updated June 2022.

NSIP meal counts must be reported to ACL in FFY2023. FFY2024 NSIP grant awards to SUAs will be calculated from the total reported meals in FFY2023. DRI/DGA requirements must be met to count as an NSIP reported meal.