

# Older Americans Act and Home and Community-Based Services

Fay Gordon, Project Manager,  
National Center on Law and Elder Rights

Amy Gotwals, Chief, Public Policy and External Affairs,  
National Association of Area Agencies on Aging

# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

# About n4a



# Poll #1

- Do you work for an agency or organization that is:
  - A part of the Aging and Disability Networks
  - Receives funding through the Older Americans Act
  - Administers Older Americans Act funding or programs
  - Partners with organizations in the Aging and Disability Network
  - These terms are new to me; I'm here to learn about the Older Americans Act

# Key Lessons

- 1) The Older Americans Act (OAA) makes up the foundation of the nation's home and community-based services networks.
- 2) The OAA is a federal law. OAA programs are administered through federal-state-and local partnerships from the federal Administration for Community Living, to the State Units on Aging, and through to the local Area Agencies on Aging (AAA).
- 3) OAA legal services are funded under Title III, and are often referred to as "III-B Legal Services."
- 4) The OAA provides funding for legal services programs representing adults who are 60 years and older. The law and its enacting regulations include requirements and guidance on priority issues and targeting.
- 5) Legal services programs can help their older adult clients access the full array of home and community-based services by partnering with the many agencies and organizations supported by the OAA.

# The OAA is the Foundation of the Home and Community-Based Services Network



# POLL #2

- What's the fastest-growing demographic population in the U.S.?
  - Millennials (20s, 30s)
  - Generation X (40s, 50s)
  - Boomers (roughly ages 55 through 73)
  - 74-84
  - 85+

# Older Americans Act of 1965

P.L. 89-73, July 14, 1965

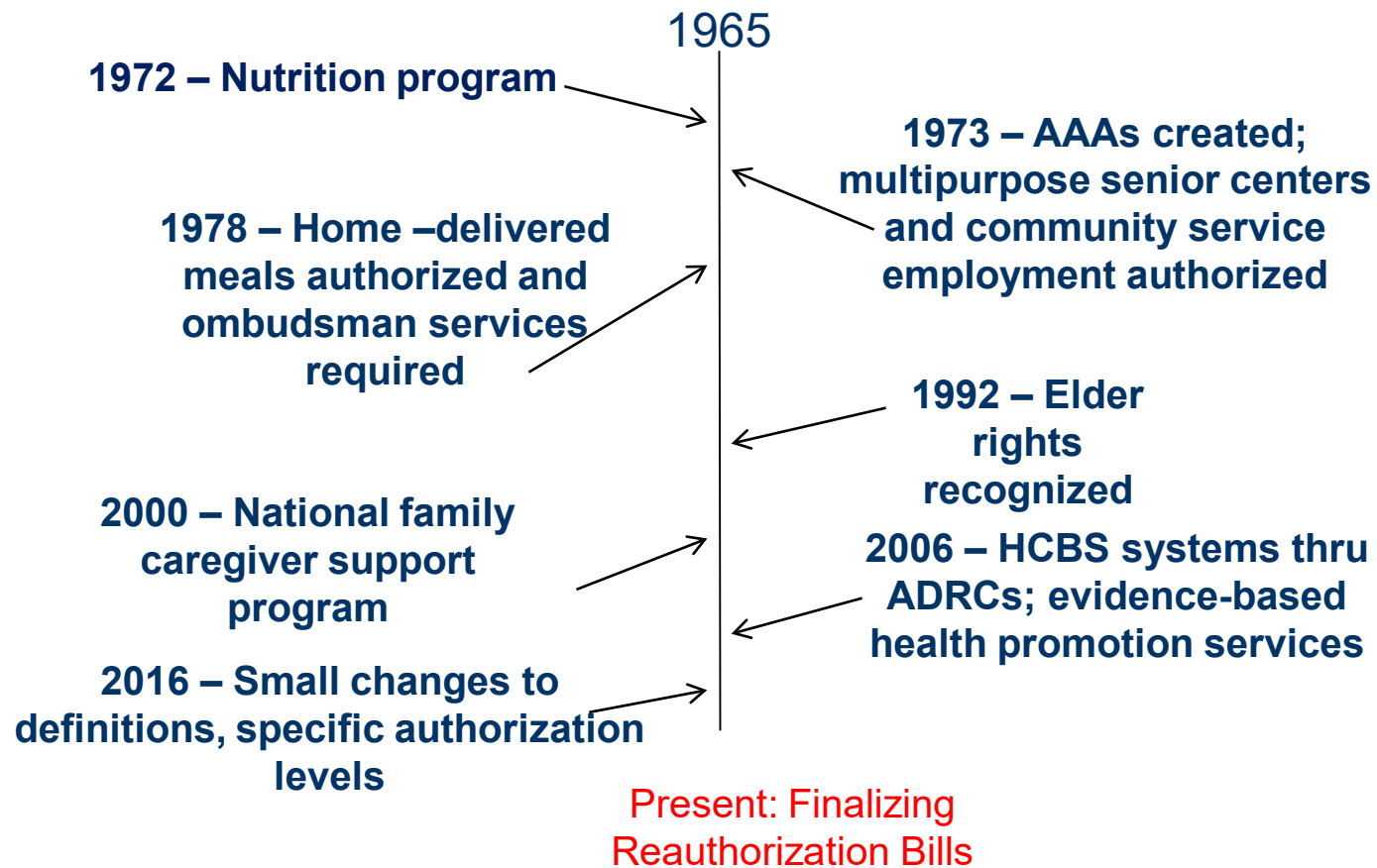


Lyndon Johnson signing the OAA, July 14, 1965.

# Older Americans Act (OAA)

- Signed in the summer of 1965, alongside Medicare and Medicaid
- Created the National Aging Network
- Remains the foundational core of the home and community-based services network today
- Most of OAA applies to adults age 60 and older

# Timeline of Major Amendments



# OAA Annual Impact

- Over 221 million meals through Congregate Nutrition, Home-Delivered Nutrition and the Nutrition Services Incentives Program
- 5.7 million meals and 840,000 rides for Native American seniors
- 21.7 million rides to support older adults access to medical and other activities
- 42.3 million hours personal care, homemaker and chore assistance, and much, much more.

The OAA is a federal law,  
administered through federal,  
state, and local partnerships

# Funding and Coordination of the Aging Network

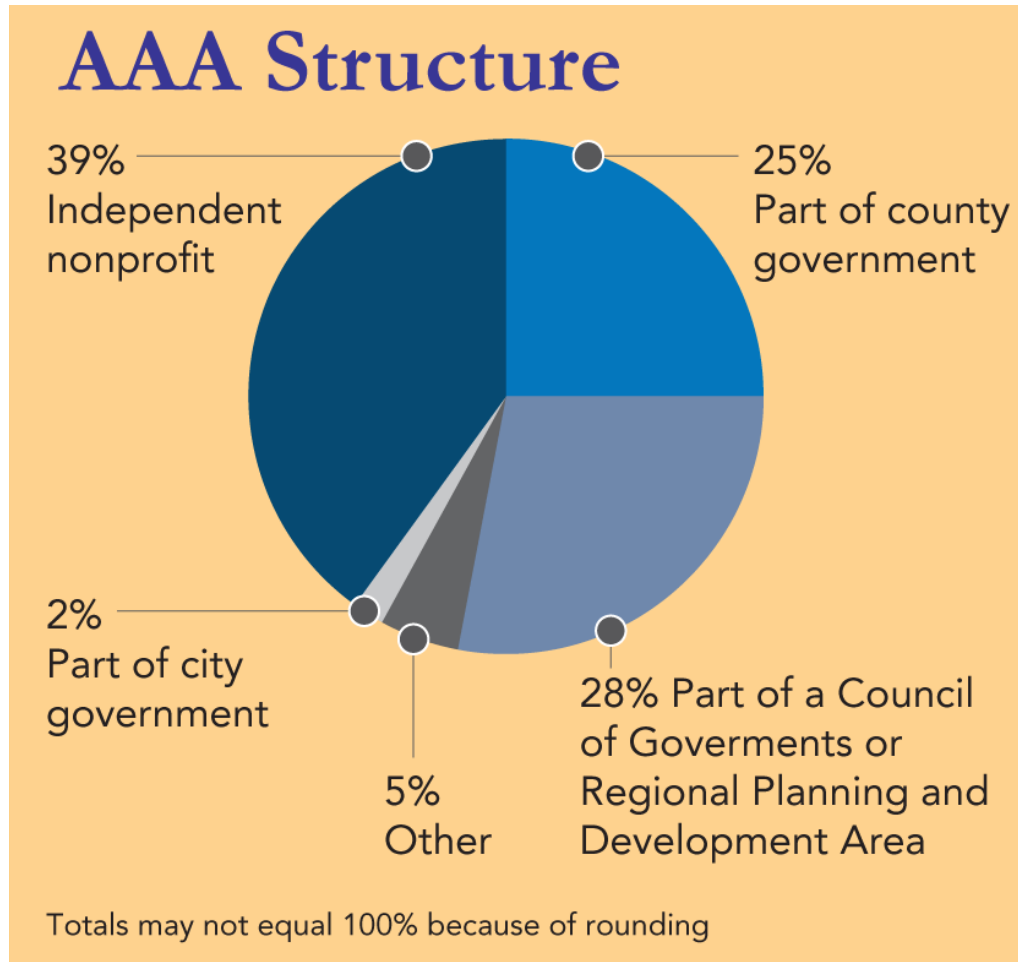


# All AAAs play a role in:





# AAA Structure



# All AAAs offer five OAA services

All AAAs offer five core services under the OAA:



The average AAA offers more than a dozen additional services.

The most common non-core services offered by AAAs are:

- Insurance Counseling (85%)
- Case Management (82%)
- Senior Medicare Patrol (44%)

# Legal Assistance Connects Older Adults to Home and Community-Based Services

# The Aging Network

The Aging Network



Source: National Center for Medical Legal Partnership, "Socially Vulnerable Older Adults & Medical-Legal Partnership," March 2019, available at: <https://medical-legalpartnership.org/wp-content/uploads/2019/03/Socially-Vulnerable-Older-Adults-and-MLP.pdf>, chart adapted from Congressional Research Service, Older Americans Act: Overview and Funding, November 2018, available at: <https://fas.org/sgp/crs/misc/R43414.pdf>.

## THE OLDER AMERICANS ACT: LEGAL SERVICES FOR THE ELDERLY

The Older Americans Act (OAA) recognized legal services as an "essential service." OAA requires funding by every state and contracting with Area Agencies on Aging to support the provision of legal assistance to adults over age 60 with "economic or social needs" without cost.<sup>39</sup> There are roughly 1000 OAA funded legal services programs. These programs assist older adults with a variety of legal issues including access to public benefits, housing, prevention of and protection from abuse and advance care planning.<sup>40</sup> While the legal services provided under the OAA are critically important in expanding access to justice to older Americans, there are still significant unmet needs and access barriers for this population.

# Title III is the Fabric of the Aging Network

- Title III authorizes grants to State Units and AAAs to coordinate programs for older adults.
- Grants fund:
  - Home delivered meals, congregate meals, rides to medical appointments, personal care, homemaker and chore services, adult day services, legal assistance, and much more.

# OAA on Selecting III-B Legal Assistance Providers

- Legal assistance providers receiving III-B funds:
  - Staff expertise in public benefits and alternatives to institutionalization;
  - Capacity to provide effective representation;
  - Capacity to provide support to other advocacy programs, like the long-term care ombudsman program;
  - Capacity to provide legal services to older adults who are institutionalized or isolated; and
  - Capacity to provide legal assistance in the primary language spoken by clients in areas where a significant number of clients do not speak English as their principle language.

# Title II and Title IV Elder Rights Programs

- Elder Rights Support Activities:
  - [National Center on Elder Abuse](#)
  - [National Ombudsman Resource Center](#)
  - [Adult Protective Services Technical Assistance Resource Center](#)
  - [Pension Help America](#)
  - [National Center on Law and Elder Rights](#)

# OAA Provides Guidance on Priority Legal Issues, Targeting, and Cost-Sharing



# Growing Number of Older Adults with Complex Legal Needs

- OAA guides III-B programs to address growing number and complexity of legal issues:
  - Identifies priority case types
  - Instructs providers to target older adults with greatest social and economic need
  - Prohibits means-testing and cost-sharing for legal services

# Priority Case Type

- Income
- Health Care
- Long-term Care
- Nutrition
- Housing
- Utilities
- Protective Services
- Defense of Guardianship
- Abuse and Neglect
- Age Discrimination

# Targeting

- Programs should target older individuals of the greatest social and economic need. Specifically:
  - Residing in rural areas;
  - With greatest economic need (paying particular attention to low-income minority individuals and older individuals residing in rural areas);
  - With greatest social need (paying particular attention to low-income minority individuals and older individuals residing in rural areas)
  - With severe disabilities;
  - With limited English proficiency;
  - With Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and caretakers of such individuals); and
  - At risk for institutional displacement.

Source: 42 U.S.C. § 3026 (a)(4)(B)(2016). Similar language about State Plans is in 42 U.S.C. § 301(a)(16)(2016), with the exception that older individuals at risk of institutional placement are not mentioned.

# Prohibition Against Means-Testing and Cost-Sharing for Legal Services

- The OAA requires targeting, but it prohibits “means testing.”
- The OAA specifically prohibits cost-sharing for certain Title III services, which includes legal assistance.
- The OAA *does* allow voluntary contributions for these services, **provided there is no coercion or means test used.**

45 C.F.R. §1321.71(d)(2012), stating: “a legal assistance provider pay not require an older person to disclose information about income or resources as a condition for providing legal assistance under this part.”; 42 U.S.C. §3030c-2(b)(1)(2016).

# Partnership is Key to Helping Clients Access the Full Array of OAAA Home and Community-Based Services

# Case Example: Sandra (1 of 2)

- Sandra is a grandmother. She is 64 years old and she works part-time.
- Your colleague, a family law attorney, refers Sandra to you.
- Sandra is seeking assistance understanding her rights as a grandparent. She is the primary parent to her grandson, but she does not have legal custody.

# Case Example: Sandra (2 of 2)

- While meeting with Sandra, you learn that she's worried about how she'll take care of herself and her grandson.
- She's worried she doesn't have enough money for food.
- She's worried about health care costs, both for herself and her grandson.
- She's worried about her husband, a Veteran, and his declining physical abilities.
- She's worried about how she'll stay engaged in her community if she stops driving.

Sandra is worried.



# Poll #3

- What partners or other organizations, do you contact to seek help with Sandra's concerns?
  - Please answer in the chat box, located on your GotoWebinar control panel.

# Case Example: Sandra

- Access to Local Services (e.g., Transportation, Nutrition, Caregiving): [Eldercare Locator](#)
- Health Insurance: [State Health Insurance Program \(SHIP\)](#)
- Public and Private Benefits: [NCOA Benefits Check-Up](#)
- Veterans Assistance: [VA Geriatrics and Extended Care](#)
- Grandparents Raising Grandchildren Resources: [Generations United](#)

# Partnerships Help Extend the Reach of Individual Programs

- Community-based organizations can provide legal services clients with the critical nutrition, home assistance, and transportation services that they need to age at home and in their community.
- Many of these local aging services providers can be found by using the [Eldercare Locator](#) or by contacting the local Area Agency on Aging.

# Develop Relationships with Network Organizations:

- State Legal Assistance Developer
- Area Agency on Aging
- Nutrition Services (i.e. Meals on Wheels and meal sites)
- Long-Term Care Ombudsman
- Adult Protective Services
- Aging & Disability Resource Centers
- Pension Resource Centers
- State Health Insurance Assistance Program (SHIP)
- Veteran's services
- HUD Housing Counseling Providers
- Consumer credit counseling service providers
- Local PRIDE centers
- Utility services community liaisons
- United State Postal Inspection Service
- Domestic violence and shelter services

# Visit Our Website: [ncler.acl.gov](http://ncler.acl.gov)

NATIONAL  
CENTER ON  
**LAW &  
ELDER  
RIGHTS**

Search for resources

**Read practice tips**

Sign up for the email list

**Request a case consultation**

Learn about upcoming trainings

[ncler.acl.gov](http://ncler.acl.gov)



# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).