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Senior Citizens

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MOST PEOPLE TODAY agree that government has at least some responsibility for the care and support of senior citizens.¹¹ Over the past seventy years, the federal government has assumed most of this responsibility by creating government programs, such as Social Security (Old Age, Survivors, and Dependents Insurance), Supplemental Security Income (SSI), Medicare, Medicaid, and the Older Americans Act, to address the economic, health, and social needs of senior citizens. But state governments—and in North Carolina, local governments—also have some responsibility for the care and support of senior citizens.

Under North Carolina law, the legal authority and responsibility of cities and counties for senior citizens is determined by state statutes that either require or allow them to provide and pay for assistance and services for senior citizens. State law, for example, requires North Carolina counties to administer or pay part of the cost of state or federal-state programs for senior citizens (such as Medicaid and State-County Special Assistance). And state law authorizes cities and counties to establish, administer, and fund a wide variety of local programs and services for senior citizens that supplement the care and support provided under federal, state, and federal-state programs for the elderly.

1. There is no general definition of “senior citizen.” The federal Older Americans Act and some state laws relating to senior citizens define an “older” adult as someone who is at least sixty years old. Under the SSI, Medicare, Medicaid, and State-County Special Assistance programs, an individual is considered to be “elderly” if he or she is at least sixty-five years old. Under current law, an individual is old enough to receive a reduced Social Security benefit based on “old age” or “retirement” if he or she is at least sixty-two years old, but the minimum age for “full” Social Security benefits is currently sixty-five years and six months and will increase to sixty-seven years by 2027.

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G.S. 160A-497

State law gives local governments broad, discretionary authority to provide and fund services for senior citizens. G.S. 160A-497 authorizes North Carolina cities and counties to “undertake programs for the assistance and care of senior citizens [aged sixty years or older], including but not limited to programs for in-home services, food service, counseling, recreation, and transportation, and [to] appropriate funds for such programs.” The law, however, does not *require* any city or county to provide or fund services targeted to senior citizens.

Under G.S. 160A-497, cities and counties may establish city or county departments of aging, provide programs and services for senior citizens directly through a city or county department on aging or another city or county department (such as the department of parks and recreation), and contract with or appropriate funds to other government agencies or private organizations that provide services to senior citizens.

Exercising their authority under this statute, at least fifty North Carolina counties and municipalities operate senior citizens centers through county or city departments of aging or parks and recreation. A 2001 survey of senior centers conducted for the state Division of Aging found that slightly more than half of North Carolina’s senior centers were operated by local governments (slightly less than half of the centers were operated by private, nonprofit agencies) and that local government funding was a primary source of support for more than three-fifths of North Carolina’s 130 senior centers (as of 2005, there were 161 senior centers in 97 of North Carolina’s 100 counties) and a secondary source of funding for over a third of the state’s senior centers.²

Anecdotal evidence also suggests that a number of North Carolina cities and counties administer or provide funding for other senior citizen programs pursuant to G.S. 160A-497, but state agencies do not collect data regarding the amount that North Carolina cities or counties spend for senior citizen programs under G.S. 160A-497.

The Older Americans Act

The federal Older Americans Act (OAA), enacted in 1965, provides funding to states for a wide range of services for older Americans (aged sixty years or older), including information and referral, case management, transportation, in-home services, home-delivered meals, congregate meals, senior centers, adult day care, nursing home ombudsman and elder abuse programs, legal services, and other home and community-based supportive services.

In order to receive federal funding, a state must designate one or more aging planning and service areas. Under the OAA, a state may designate as a planning and service area (1) any city, county, or other general purpose unit of local government that has a population of at least 100,000 persons (and any adjacent area that the state determines is necessary and desirable for the effective administration of federally funded aging programs), or (2) any multicounty or multicounty region within the state that is recognized for purposes of areawide planning (and any adjacent area that the state determines is necessary and desirable for the effective administration of federally funded aging programs). North Carolina has established eighteen OAA aging planning and service areas that are coextensive with the state’s eighteen, multicounty planning and development regions.

The OAA also requires the state aging agency to designate an area agency on aging (AAA) for each aging planning and service area. An AAA may be

1. an established office on aging (including a city or county office on aging) that is operating within a planning and service area;
2. a city or county office or agency that is designated to function solely as an area agency on aging;
3. an office or agency that is designated by a combination of cities or counties to function solely as an area agency on aging; or
4. any public or nonprofit private agency that is designated by the state aging agency as the area agency on aging for a planning and service area.

North Carolina has designated aging offices within the state’s regional councils of government, regional economic development commissions, and lead regional organizations as the state’s AAAs. No city or county agency or office currently functions as, or has ever been designated as, an AAA in North Carolina.

2. Mary Anne P. Salmon, “The Senior Center Capacity Survey” (available online at www.dhhs.state.nc.us/aging/scnters/websurvey.pdf).

One of the AAA's functions under the OAA is to develop, with the advice of an advisory council (comprised of senior citizens, service providers, local elected officials, and others) and input from the public and senior citizens within the area, an area aging plan that

1. determines the extent of need for aging programs and services within the area;
2. evaluates the availability and effectiveness of other resources for meeting the need for aging programs and services;
3. designates a focal point for comprehensive delivery of aging services in each community;
4. determines, within the limits of federal and state rules, the supportive services that will be provided to older Americans within the planning and service area and the amount of funding allocated for each service; and
5. provides for the delivery of aging programs and services to older Americans through contracts with public or private agencies and organizations that provide services to senior citizens.

The OAA, therefore, does not give cities or counties the authority to administer federal OAA funds (that is, to plan how federal OAA funds will be used, to allocate federal OAA funds, to decide what agencies will receive OAA funds, or to contract with community aging services providers to provide aging services under the OAA) unless the state designates a city or county agency or office as an AAA.

But North Carolina cities and counties may, and do, receive federal OAA funding to provide congregate or home-delivered meals, in-home services, transportation, or other social or supportive services to senior citizens.

The Home and Community Care Block Grant

North Carolina puts most of its federal OAA funding into the state's Home and Community Care Block Grant (HCCBG). In addition to federal OAA funds for congregate meals, home-delivered meals, and other social and supportive services, the HCCBG includes federal funding under the Social Services Block Grant for the state's respite care program, state funds for home and community care services administered by the state Division of Aging and Adult Services, state funds for in-home services and adult day care for older adults formerly administered by the state Division of Social Services, and other appropriated state funds.

Dozens of North Carolina counties and a handful of North Carolina municipalities receive federal and state funding under the HCCBG to provide services to senior citizens.

DHHS rules implementing the HCCBG provide that HCCBG funds will be allocated to each of North Carolina's 100 counties and expended pursuant to a county funding plan for home and community care services for senior citizens.

Under these rules, the board of county commissioners is responsible for designating a public or private agency as the county's "lead agency for planning and coordination" of aging programs and services. The county's "lead agency," in turn, is responsible for developing, with input from a county block grant advisory committee appointed by the board of county commissioners, a county HCCBG funding plan that identifies (1) the HCCBG-funded services that will be provided to senior citizens within the county, (2) the portion of the county's HCCBG funding that will be expended for nutrition, social, and supportive services, and (3) the agencies or organizations that will receive HCCBG funds to provide these services to senior citizens in the county.

After the lead agency holds a public hearing on the county HCCBG funding plan, the plan must be submitted to the chair of the board of county commissioners and the appropriate AAA for approval. Upon approval of a county's HCCBG funding plan, the AAA must enter into a grant agreement with the county incorporating the county's funding plan. Payments to counties for HCCBG services may not exceed 90 percent of the net allowable cost (allowable cost minus program income from fees or other sources) of services actually provided to eligible senior citizens. Counties therefore must provide local funding (from county revenues or matching funds provided by aging services providers) equal to at least 10 percent of the county's HCCBG allocation.

The state's HCCBG rules, therefore, transfer from AAAs to boards of county commissioners and county-designated lead agencies much, if not all, of the authority and responsibility for determining how most federal OAA funding will be used and what agencies will receive federal OAA funds. But, as noted above, the role of counties under the federal OAA is quite limited. The OAA expressly provides that AAAs, *not* counties or the state aging agency, are responsible for administering federal funds that are provided to states under Title III of the OAA. And federal regulations implementing the OAA expressly prohibit AAAs from delegating to another public or private agency (such as a board of county commissioners or a county-designated lead agency) their "authority to award or administer" federal OAA funds. A county that has not been designated as an AAA, therefore, has *no* explicit authority or responsibility under the OAA with respect to planning for the needs of senior citizens, allocating OAA funds and other resources to

meet those needs (except to the extent that elected county officials are represented on the AAA's aging advisory council), selecting the public or private agencies that will receive OAA funds or provide OAA services to senior citizens in the county (except to the extent that a county agency may be selected by the AAA as an aging services provider), or administering or distributing OAA funds to aging services providers. So the state HCCBG rules appear to be inconsistent with the federal OAA law and regulations governing the administration of federal OAA funding for senior citizens programs and services.

Medicaid

Medicaid is a joint federal-state health insurance program that pays hospitals, doctors, nursing homes, and other health care providers for medical services provided to elderly persons (and others) with limited incomes. In state fiscal year 2003–4, North Carolina's Medicaid program paid almost \$2 billion for medical care for more than 200,000 senior citizens.

In North Carolina, the federal government, the state, and counties share responsibility for providing health care to the elderly poor through the Medicaid program.

The federal government pays most of the cost of North Carolina's Medicaid program (about 65 percent of the cost of providing health care to eligible Medicaid recipients and half of the cost of administering the program), and establishes many of the policies and rules governing eligibility for Medicaid and determining what services will be covered by Medicaid.

In most states, Medicaid is administered by a state social services, health, or welfare agency and state tax revenues pay the nonfederal share of Medicaid costs. North Carolina, however, is one of a handful of states that require county social services agencies to administer some aspects of the state Medicaid program and to pay part of the cost of providing Medicaid benefits to county residents. North Carolina towns and cities do not have any legal authority or responsibility for administering or paying for the state's Medicaid program.

North Carolina's Medicaid program is administered jointly by the DHHS Division of Medical Assistance (which contracts with a private company to issue payments to hospitals, doctors, nursing homes, and other health care providers who provide medical services to elderly, disabled, or poor persons who are eligible for Medicaid) and county departments of social services (which are responsible for processing applications and determining eligibility for Medicaid). State law also requires counties to pay half of the cost of administering the Medicaid program at the local level and 15 percent of the nonfederal share (approximately 5 percent of the total cost) of Medicaid services provided to county residents. In state fiscal year 2003–4, North Carolina counties paid almost \$100 million for health care for elderly Medicaid recipients.

State-County Special Assistance

State-County Special Assistance is a state public assistance program that provides financial assistance to elderly or disabled persons who need to live in an adult care home but cannot afford the cost of this care.

Policies with respect to eligibility and the amount of benefits payable under the State-County Special Assistance program are established by state law and rules adopted by the state Social Services Commission. State law, however, requires each county to administer the State-County Special Assistance program through the county's department of social services. State appropriations pay half of the cost of providing Special Assistance benefits to elderly or disabled residents of adult care homes. Counties must pay, from county tax revenues, half of the cost of Special Assistance payments to county residents (over \$65 million per year) as well as the entire cost of administering the program at the local level. North Carolina towns and cities do not have any legal authority or responsibility for the State-County Special Assistance program.

Adult Protective Services

State law requires county departments of social services to investigate reports involving the abuse, neglect, or exploitation of disabled adults and to provide protective services to disabled adults who have been abused, neglected, or exploited (G.S. 108A-99 through 108A-111). State law also requires counties to pay for essential medical or social services to protect a disabled adult from abuse, neglect, or exploitation if the disabled adult is not financially capable of paying for the services (G.S. 108A-108).

In state fiscal year 2000–1, county departments of social services investigated almost 6,500 reports of alleged abuse, neglect, or exploitation of elderly, disabled adults. Funding for adult protective services is provided primarily from county tax revenues and supplemented by federal or state social services funding (such as the Social Services Block Grant) received by counties.

Nursing and Adult Care Homes

There are approximately 1,675 nursing and adult care homes in North Carolina. These facilities provide long-term care for more than 45,000 elderly North Carolinians.

Although the licensing and regulation of nursing homes and adult care homes is primarily a state responsibility, counties exercise two specific responsibilities with respect to the monitoring and regulation of nursing and adult care homes within the county.

First, state law [G.S. 131D-2(b)(1a)] requires county departments of social services to conduct regular inspections of adult care homes to ensure their compliance with state licensing requirements and other state laws and regulations concerning the care and treatment of elderly or disabled residents. If a county department of social services finds that an adult care home has violated state laws or rules, it must report the alleged violation to the state DHHS, which is responsible for determining whether the facility violated state requirements and taking action to punish or remedy violations of the state's licensing requirements or other applicable laws and regulations.

Second, state law requires the establishment of a nursing home advisory committee in each county in which a licensed nursing home is located, and an adult home advisory committee in each county in which a licensed adult care home is located or, with state approval, a joint nursing and adult home advisory committee (G.S. 131D-31, 131E-128). Members of the county's nursing and adult home advisory committees are appointed by the board of county commissioners. County nursing and adult home advisory committees are required to visit on a quarterly basis each nursing home and each adult care home that has more than nine beds; monitor the care and treatment of nursing home patients and adult care home residents; work to protect the legal rights of elderly or disabled residents of nursing or adult care homes under G.S. 131D-21 and 131E-117; advise the board of county commissioners, the county department of social services, and the state Division of Aging and Adult Services with respect to problems in adult care homes and issues with respect to long-term care; assist elderly or disabled nursing and adult care home residents who have grievances against nursing or adult care homes; and facilitate the resolution of these grievances at the local level.

The “Homestead” Property Tax Exemption

State law does not completely exempt elderly home owners from city or county property taxes. But G.S. 105-277.1 provides that the greater of \$20,000 or 50 percent of the appraised value of a permanent residence owned and occupied by an elderly person is excluded from city and county property taxes if the elderly home owner

1. is a North Carolina resident;
2. is at least sixty-five years old (or totally and permanently disabled) on January 1 of the preceding tax year;
3. has an income for the preceding tax year of not more than \$19,200 (this amount is adjusted each year based on the Social Security cost-of-living allowance); and
4. files an application with the county tax assessor for exemption from property tax by June 1 of the preceding tax year.

The cost of providing property tax relief for elderly and disabled home owners (approximately \$40 million annually) is borne entirely by North Carolina's cities and counties.

Additional Resources

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