

**VIRGINIA DEPARTMENT OF SOCIAL SERVICES
AUXILIARY GRANT PROGRAM OVERVIEW – Updated July 2007**

What Is an Auxiliary Grant?

An Auxiliary Grant (AG) is a supplement to income for recipients of Supplemental Security Income (SSI) and certain other aged, blind, or disabled individuals residing in an assisted living facility (ALF) licensed by the Virginia Department of Social Services (VDSS) or in an adult foster care (AFC) home approved by a local department of social services. This assistance is available through local departments of social services to ensure that AG recipients are able to maintain a standard of living that meets a basic level of need. VDSS administers Virginia's AG program.

An individual must be assessed by the local department of social services to determine 1) financial eligibility for an AG and 2) level of care needed. Local departments of social services make payments to eligible ALF residents in an amount equal to the approved rate for the ALF plus a personal needs allowance per month, minus any income available to the individual from such sources as SSI and Social Security. Not all ALFs accept the AG.

Caseload

The average monthly caseload has been as high as 6,700 persons with an annual total expenditure of \$24 million. Current information regarding caseloads can be found in **Appendix A**.

Auxiliary Grant Rate

The AG program is a state (80%) and locally (20%) funded financial assistance program administered by the Department. The AG rate is determined by the Virginia General Assembly and is adjusted periodically.

The current AG rates can be found in **Appendix A**.

AG payments are comprised of two parts: a payment to the adult for reimbursing the facility for care and a personal needs allowance. The adult uses his or her SSI check and/or other income in addition to the AG payment to pay the facility. The SSI payment plus the AG payment together make up the approved ALF monthly rate. *The grant is provided as full payment to an ALF for residential care and supervision.* The AG rates for ALFs are approved by the General Assembly and included in the budget language. The rate established for the ALF cannot exceed the maximum amount allowed by law and published in the Commonwealth's Appropriations Act.

Personal Needs Allowance

Individuals receiving an AG receive a personal needs allowance. The personal needs allowance is used by the resident for such things as over-the-counter and non-prescription medications, prescriptions not covered by Medicaid, dental care, eyeglasses, medical co-payments, clothing, personal toiletries, tobacco products, sodas, snacks, dental care, eyeglasses, provision of a personal telephone and long-distance service, personal transportation, and activities outside of what is offered by the ALF or AFC provider. Regulations do not allow the personal needs allowance to be used for required recreational activities, administration of accounts, debts owed the ALF or AFC home for basic services, or charges for laundry which exceed \$10 per month.

Current information regarding AG rates can be found in **Appendix A**.

Levels of Care in an ALF

There are two levels of care in ALFs: residential or assisted living. ALFs are licensed by the Department for either residential care or residential care plus assisted living, as described below. An assessment must be performed prior to placement in an ALF to determine the level of care required (22 VAC 40-745-10 et seq.).

Current information regarding payments to eligible individuals can be found in **Appendix A**.

Criteria for Residential Living

Individuals meet the criteria for residential living as documented on the Virginia Uniform Assessment Instrument (UAI) when *at least one* of the following describes their functional capacity:

- Rated dependent in only one of seven activities of daily living, or ADLs (i.e., bathing, dressing, toileting, transferring, bowel function, bladder function, and eating/feeding) (page 4 of UAI).
- Rated dependent in one or more of four selected instrumental ADLs, or IADLs (i.e., meal preparation, housekeeping, laundry, and money management) (page 4 of UAI).
- Rated dependent in medication administration (page 5 of UAI).

Criteria for Assisted Living

Individuals meet the criteria for assisted living as documented on the UAI when *at least one* of the following describes their capacity:

- Rated dependent in two or more of seven ADLs (page 4 of UAI).
- Rated dependent in behavior pattern (i.e., abusive, aggressive, or disruptive) (page 8 of UAI).

A Note on Intensive Assisted Living

Prior to March 17, 2000, there were two levels of assisted living care, for payment purposes in ALFs (regular assisted living and intensive assisted living (IAL)). The Centers for Medicare and Medicaid did not renew Virginia's IAL Waiver. On and after March 17, 2000, the IAL Waiver is no longer available as a Medicaid-funded alternative to nursing facility placement for new applicants. There are now only two levels of care: residential care and assisted living. Only those residents who were assessed at the intensive assisted living level of care on or before March 17, 2000, are eligible for the IAL reimbursement add-on.

Individuals who previously would have been assessed at the IAL level of care may still reside in an ALF if all three of the following conditions are met:

- The individual does not have a prohibited condition;
- The ALF is licensed at the assisted living level; and
- The ALF is willing and able to meet all of the individual's care needs, including personal care and any mental health and/or mental retardation needs that may exist.

Individuals meet the criteria for intensive assisted living as documented on the UAI when *at least one* of the following describes their capacity:

- Rated dependent in four or more of seven ADLs (page 4 of UAI).
- Rated dependent in two or more ADLs and rated as semi-dependent or dependent in a combination of behavior pattern (i.e., abusive, aggressive, or disruptive) and orientation (page 8 of UAI).
- Rated semi-dependent in two or more ADLs and dependent in the combination behavior and orientation.

Current information regarding Intensive Assisted Living rates can be found in **Appendix A**.

Assisted Living Facility Assessments

In 1996, the Department promulgated regulations requiring all individuals who apply to or are residents of an ALF to be assessed using the UAI prior to admission, at least annually, and whenever there is a significant change in the resident's condition. (22 VAC 40-745-10 et seq.). This regulation sets forth criteria that an individual must meet, based on the UAI, in order to receive ALF services.

The following entities can perform an initial ALF assessment:

- Local departments of social services;
- Area agencies on aging;
- Centers for independent living;
- Community services boards;
- Local departments of health;
- State facilities operated by DMHMRSAS;
- Acute care hospitals;
- An independent physician contracting with DMAS to complete the UAI for ALF residents; or
- Designated Department of Corrections staff.

What Is Covered under the Auxiliary Grant?

Room and Board

- Provision of a furnished room in a facility that meets applicable zoning, building, and fire safety codes.
- Housekeeping services based on the needs of the resident.
- Meals and snacks, including extra portions and special diets.
- Clean bed linens and towels as needed by the resident and at least once a week.

Maintenance and Care

- Assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, care of needs associated with menstruation or occasional bladder or bowel incontinence.
- Medication administration as required by licensing regulations including insulin injections.
- Provision of generic personal toiletries including soap and toilet paper.
- Assistance with the following: care of personal possessions; care of personal funds if requested by the recipient and ALF or AFC policy permits it; use of telephone; arranging transportation; obtaining necessary personal items and clothing; making and keeping appointments; and correspondence.
- Securing health care and transportation when needed for medical treatment.
- Providing social and recreational activities as required by licensing regulations.
- General supervision for safety.

The ALF or the AFC home may not request or require the receipt of any money, gift, donation, or other consideration from or on behalf of an AG recipient as a condition of admission or continued stay. AG checks must be given directly to the resident or his or her responsible party who then pays the facility. An ALF is required to provide each resident a monthly statement or itemized receipt of the account. Unless a guardian or conservator has been appointed by the court, the resident is free to manage his or her personal finances and funds.

How Is Eligibility for an AG Determined?

Before an individual can receive assistance from the AG Program, eligibility for the program must be determined by the local department of social services in the locality where the individual last resided outside of an institution or adult foster care home. Any records or statements may be used to determine residency. If residency cannot be determined, or if the individual is from out-of-state, residency is determined to be the city or county where the individual lived at the time of application.

To be eligible for an AG in Virginia, an individual must meet all of the following:

- Be 65 or over, or be blind, or be disabled.
- Reside in a licensed ALF or approved AFC home.
- Be a citizen of the United States or an alien who meets specified criteria.
- Have a non-exempted (countable) income less than the total of the AG rate approved for the ALF plus the personal needs allowance.
- Have non-exempted resources less than \$2,000 for one person or \$3,000 for a couple.*
- Have been assessed and determined to need ALF or AFC placement.

*[*These figures are current as of 7/07, and are subject to change. Contact the eligibility section of your local department of social services for current information.]*

AG benefits are paid by the local department of social services where recipient residency has been established. Checks are mailed directly to the recipient or a payee, who in turn pays the ALF or AFC home for services provided. ALFs or AFC homes may not charge the resident or the resident's responsible party any amount over that which has been approved by the local department of social services for that individual. Any such payments would be considered income to the resident and may affect his or her eligibility for the program.

AG Payment Procedures

If the AG rate is below the private pay rate for the facility, the facility may not charge the resident, the resident's family, or a responsible party for the difference. For example, the resident receives an AG amount of \$1,061 but the private pay rate is \$2,000. The family/responsible party is not responsible for paying an additional \$939 per month to the facility. ALFs cannot require a deposit or other fees to be paid at the time of admission of an AG recipient.

An ALF may not collect any money over and above the AG amount that has been approved by the local department of social services for that individual. Per state regulation 22 VAC 40-25-60, *Auxiliary Grants Program*, "Any moneys in excess of the provider's established rate contributed toward the cost of care pending public pay eligibility determination shall be reimbursed to the recipient or contributing party by the assisted living facility or adult foster care provider once eligibility for public pay is established and that payment received."

22 VAC 40-25-30 states that, "The rate established under the Auxiliary Grants Program shall cover the following services. . ." A list of services is included (and stated above) indicating that the AG payment must cover all of the basic services that the assisted living facility must offer to an AG recipient.

In 22 VAC 40-25-40 A., it is stated that, "The provider shall not require an Auxiliary Grants recipient or his personal representative to request any item or service as a condition of admission or continued stay." This includes payment of money over and above the AG. If any additional money is paid for the AG resident's care, it must be counted as income in the AG eligibility determination and could affect an individual's eligibility for the AG program.

According to SSI policy (and therefore AG policy), a third-party vendor payment for food, clothing, or shelter is countable income to the AG recipient (POMS Manual SI 00835.360). If the income is not reported, it could constitute fraud.

In addition, for ALFs that provide assisted living services and are reimbursed by DMAS, the ALF also falls under DMAS (i.e., Medicaid) requirements, which require that payment constitutes full payment except for patient-pay amounts determined by DMAS. The provider must agree not to submit additional charges to the recipient for services covered under Medicaid. The collection or receipt of any money, gift, donation, or other consideration from or on behalf of a medical assistance recipient for any service provided under medical assistance is expressly prohibited and may subject the provider to federal or state prosecution (Medicaid provider agreement).

It should also be noted that AG checks must go to the resident or his or her responsible party and not the ALF. The resident or his or her responsible party then pays the ALF. An assisted living facility may not open a resident's mail and endorse the AG check. An attorney for the Virginia Bankers Association notes that an endorsement by the payee (the name on the payee line) or his or her Power of Attorney is required for a check to be negotiated. The ALF that deposits or a bank that cashes a check with an unauthorized endorsement may be held liable for the check, as this is a violation of the Uniform Commercial Code.

ALFs may not require additional payments for room and board from a public-pay recipient above the AG rate. As a public assistance program, program eligibility and administration must be fair and equitable for all recipients. If some recipients have the benefit of outside assistance and not others, these criteria would not be met. Any ALF that has collected payments for a resident's care following the establishment of the resident's eligibility for AG must reimburse the appropriate party.

Maintenance of Effort (MOE)

Maintaining the MOE for AG has been a federal requirement for the state's receipt of Medicaid funds since approximately 1983. The state is required to maintain the level of supplementation (MOE) each year, and each year's expenditures must equal or exceed expenditures during the prior 12-month (calendar year) period.

There are two methods of determining compliance with the federal MOE requirements:

- One is total expenditure and one is rate payment. From 1983-2001, the Department used the total expenditure method because of its generally simpler administrative requirements. Under the total expenditure method, a state must spend more on supplemental payments (i.e., AG) in a given calendar year than was spent in the previous twelve months. This method is preferable when AG caseloads are increasing.
- Under the rate payment method of compliance, a state must maintain its AG rates at or above the 1983 payment level. For any Standard Living Arrangement established since 1983, a state must maintain the rate at or above the original rate at the time of inception. This method is advantageous to states in which the caseload is falling or fluctuating. In 2001, the Department changed the method of compliance to the rate payment method in order to maintain compliance with federal requirements.

How Often Are Audit Reports Required?

ALF approved rates are valid unless an ALF is required to submit a new audit report because of significant operational changes, a change in ownership, a change in location, or the AFC provider is no longer approved by the LDSS.

ALFs that have been in licensed operation more than 12 months shall submit an annual audited financial report by June 30th for the preceding calendar year. In lieu of an audited financial report, facilities that are licensed for 19 or fewer beds may submit an audited report that includes only the following: validation

that residents funds are held separately from any other funds of the facility; number of residents beds occupied during the reporting period; operating revenue and expenses; and average monthly cost per resident.

The Role of the Department of Social Services

The Department sponsors the ALF Advisory Committee that includes ALF owners and operators and provider trade organizations including the Virginia Health Care Association, Virginia Adult Home Association, Virginia Assisted Living Association, and the Virginia Association for Non-profit Homes for the Aging as well as state agency staff. ALF owners and operators, as well as other interested parties, are free to attend these meetings.

Administering the AG Program is a cooperative effort by several units within the Department. The Adult Services Program of the Division of Family Services administers AG policy in cooperation with the Division of Benefit Programs. The Division of Licensing Programs licenses and monitors ALFs. The Division of Finance receives ALF audit reports and assigns the AG rate that the ALF will receive. The Budget Office ensures that maintenance of effort (MOE) is met. Local department of social services Adult Services staff assesses and reassesses ALF residents and applicants who are eligible for an AG. Local department of social services Eligibility Services staff determine, upon admission and at least annually, that an individual is eligible for AG.

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APPENDIX A

Caseload

To date, the average monthly caseload is 6,700 persons with an annual total expenditure of \$24 million. As of June 2007, there were _____ licensed capacity ALF beds in Virginia, located in ____ facilities. Approximately 20 percent of all ALF residents are public pay (AG recipients), and the remaining 80 percent are private pay. This is compared to over 30,000 nursing facility beds with over 68 percent of nursing facility beds for public pay residents (*Joint Commission on Health Care, 7/27/99 presentation*).

Auxiliary Grant Rate

The AG program is a state (80%) and locally (20%) funded financial assistance program administered by the Department. The AG rate is determined by the Virginia General Assembly and is adjusted periodically. The current monthly AG rate is \$1,061 with a 15 percent differential in Planning District 8 to \$1,220. This rate was effective on July 1, 2007.

Personal Needs Allowance

Currently, individuals receiving an AG receive a personal needs allowance of \$75 per month.

Levels of Care in an ALF

For individuals who meet the assisted living level of care, the ALF receives an additional \$3 per day (up to \$90 per month) as an add-on payment from DMAS, to date.

Currently, State funds are being used to supplement the federal share of the IAL payment for residents assessed at the IAL level of care on or before March 17, 2000. There can be no IAL payment for individuals assessed at this level after March 17, 2000. Documentation on the Virginia UAI should continue to clearly and accurately describe the care needs of the individual. DMAS is continuing to conduct reviews of IAL recipients, and, as long as the ALF accepts the additional \$180 per month for “grandfathered” IAL residents, will expect to see the care provided in the IAL Waiver before it was not renewed. DMAS will reimburse \$6 per day, up to \$180 per month for intensive assisted living.