

GAO

Report to the Chairman, Subcommittee
on Aging, Committee on Health,
Education, Labor, and Pensions, U.S.
Senate

June 2000

TITLE III, OLDER
AMERICANS ACT

Administration on
Aging Funding Method
Underfunds High-
Elderly-Growth States



G A O

Accountability * Integrity * Reliability

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Abbreviations

AOA	Administration on Aging
HHS	Department of Health and Human Services



United States General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

B-285994

June 30, 2000

The Honorable Mike DeWine
Chairman, Subcommittee on Aging
Committee on Health, Education, Labor,
and Pensions
United States Senate

Dear Mr. Chairman:

Title III of the Older Americans Act is intended to assist elderly Americans by removing barriers to independent living and adding to a continuum of care for vulnerable individuals. Administered by the Administration on Aging (AOA) in the Department of Health and Human Services (HHS), title III authorizes support programs such as congregate, or group, and in-home meals; transportation; and housekeeping services. In fiscal year 2000, a total of \$810 million in title III grants was distributed among states and U.S. territories.¹

Previously, we reported that the method used by AOA to distribute title III funding was not consistent with statutory requirements because it failed to provide grants that were proportional to the elderly populations of those states not guaranteed a minimum level of funding.² In commenting on that report, AOA asserted that its distribution procedures were based on a valid interpretation of the statute. Our analysis of the legislative history, however, does not support AOA's interpretation.

In response to your January 10, 2000, request that we update the analysis in our previous report, this report describes (1) the extent to which AOA's distribution of funding differs from the distribution that would take place if funds were allocated according to the statute and (2) the effect of AOA's funding distribution method on states with more rapidly growing elderly populations.

¹To simplify this discussion, we refer to all grant recipients as states.

²*Older Americans Act: Title III Funds Not Distributed According to Statute* (GAO/HEHS-94-37, Jan. 18, 1994).

To estimate the effects of AOA's method on the distribution of funds, we computed title III grant amounts using the allocation method specified by the statute and then compared the resulting distribution of funds with that computed by AOA for fiscal year 2000. We then compared funding for those states with above-average growth in their elderly populations³ under the alternative allocation methods. We conducted our work from January through June 2000 in accordance with generally accepted government auditing standards, with the exception that we did not verify data obtained in electronic format from AOA.

Results in Brief

The AOA procedure for distributing title III funds results in unequal funding per elderly person across states to a much greater degree than would be the result using the statutory formula. For example, using AOA's approach, Arizona's fiscal year 2000 funding per elderly person is 33 percent less than Iowa's, while strict adherence to the statute would result in a 5-percent difference. Moreover, under the AOA procedure, most states with above-average growth in number of elderly residents received less funding than called for by the statute. For example, for fiscal year 2000, Florida received \$6.8 million less; California, \$3.8 million less; Texas, \$3.7 million less; and Arizona, \$3.2 million less. In total, using the statutory rather than the AOA method would redirect \$27 million of Older Americans Act title III fiscal year 2000 state allotment funds (3.3 percent) to states that have experienced above-average growth in their elderly populations. When we first reported on this issue in 1994, the amount that would have been redirected using the statutory method in fiscal year 1993 would have been \$17 million (2.2 percent of that year's title III allotments).

We suggest that if the Congress wants to explicitly ensure that priority be given to current data on states' elderly populations in distributing title III grant funds, it could amend the statute to require that funds be distributed in that way. HHS concurs with this suggestion.

³In this report, states with above-average elderly population growth are those whose percentage change between 1985 and 1998 in the number of people aged 60 and older exceeded the national average of such population growth. In the context of state and national elderly population growth, "states" refers to only the 50 states and the District of Columbia because Puerto Rico, American Samoa, Guam, the Northern Marianas, and the Virgin Islands lack comparable population data for 1985 and 1998. The Bureau of the Census is the source of the population data referred to in this report.

Background

Under section 304 of the Older Americans Act of 1965, as amended (42 U.S.C. 3024), title III funds are to be distributed among states in proportion to the most current data on the population aged 60 and older, which would yield equal funding across states per person aged 60 and older. This requirement, however, is subject to two conditions: first, no state is to receive less than it received in fiscal year 1987 (a “hold-harmless” provision), and second, no state is to receive less than 0.5 percent of funds available for distribution (a small-state minimum provision).⁴ These requirements could be satisfied by

- first, distributing available funding among states on the basis of the current population aged 60 and older;
- next, increasing funding for those states that would otherwise receive less than their fiscal year 1987 amount or whose share would fall below the 0.5-percent minimum; and
- finally, proportionally reducing the funding of all other states to conform with the total amount to be distributed.

Rather than distributing funding on the basis of current population data in the first step, AOA gives priority to the hold-harmless provision. As a consequence, each state first receives its 1987 grant amount, which was determined partly on the basis of 1985 population estimates. This “base” allotment represented 85 percent of AOA’s total fiscal year 2000 grants for title III. The remaining 15 percent of funding is then allocated on the basis of current population statistics (for fiscal year 2000, the 1998 elderly population of states was the most current available). Then, the hold-harmless base allotment and the allotment based on current population are summed for each state. When that sum is less than 0.5 percent of overall title III funding, additional funds are provided to raise the funding level to the small-state minimum.⁵ These additional funds are obtained by proportionally reducing the current population formula amounts allotted to those states whose funding is above the 0.5-percent minimum. (The hold-harmless amounts for each state are not proportionally reduced). Appendix

⁴The hold-harmless and small-state minimums are applied separately for each of the five Older Americans Act title III programs: (1) supportive services and centers, (2) congregate nutrition services, (3) home-delivered nutrition services, (4) in-home services for frail older individuals, and (5) disease prevention and health promotion services.

⁵Instead of 0.5 percent, Guam and the Virgin Islands have a 0.25-percent minimum, and American Samoa and the Northern Marianas have a 0.0625-percent minimum.

I contains a more detailed comparison of AOA's distribution process with that of the statute.

AOA distributed title III funding in accordance with the statute until it changed its method of calculating grant amounts in 1984. The present formula, which subordinates the importance of the states' proportions of the elderly to the hold-harmless amounts, is based solely on a provision in the 1984 amendment to the act that moved the hold-harmless requirement from one paragraph to another. However, this change is designated in the law as a "technical amendment," and we believe the only purpose of the change was to make the allotment provision in section 3024 consistent with a change to another section dealing with administrative expenses.

Moreover, the absence of any discussion of a change to the allotment formula in the history of the 1984 amendment suggests that the amendment was not intended to have the effect that results from AOA's method. Intentionally reversing the practice in use since 1973 to de-emphasize the role of the elderly population in allotting funds among the states would have been an important change from the states' viewpoint—one that would have been expected to be the subject of debate and discussion and would have been documented in the record. However, the 1984 change was made without any debate or discussion.

In commenting on our earlier report, agency officials asserted that AOA's interpretation of section 304 and AOA's revised method of distributing title III funds are consistent with the law. But these officials also acknowledged that first distributing funds on the basis of current population data, as specified in the statute, would in fact yield a distribution of funds more proportional to each state's elderly population. Nevertheless, they stated that AOA would continue its current distribution method unless the Congress directed otherwise.

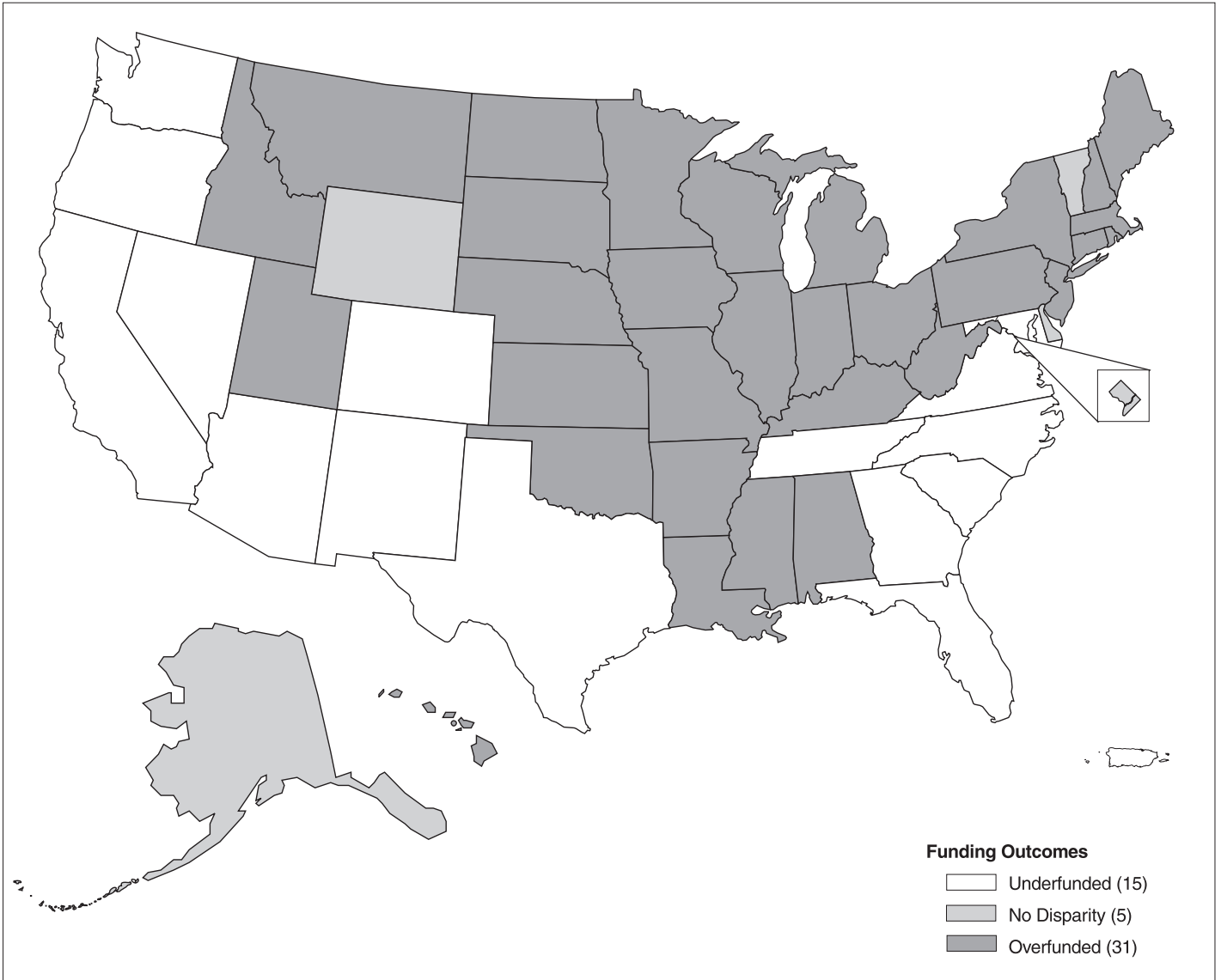
AOA's Method of Distributing Funds Yields Greater Inequalities Among States Than the Statutory Method Would

Because the AOA method applies the hold-harmless provision first, rather than distributing funding in proportion to current elderly population as a first step, some states receive more funding and others receive less than if the method in the statute was used. The gap in funding per elderly person can be large. For example, Arizona's funding per elderly person is 33 percent less than Iowa's under the AOA method. Under this method, no two states receive the same funding per elderly person, as would be expected if grant funding were simply proportional to elderly population. Under the statutory method, which calls for the use of current population data as the first step in allocating title III funds, Arizona's grant would be just 5 percent less than Iowa's.⁶ Appendix II compares funding per elderly person under the two methods for all states.

Figure 1 shows the funding effects on the states using AOA's allocation method. AOA's distribution method underfunded 10 states by more than \$1 million each in fiscal year 2000 (Arizona, California, Colorado, Florida, Georgia, North Carolina, Puerto Rico, South Carolina, Texas, and Virginia) and overfunded 7 others by more than \$1 million (Illinois, Massachusetts, Missouri, New Jersey, New York, Ohio, and Pennsylvania). States underfunded by AOA's method tend to be in the southern part of the country. (App. III shows amounts by which individual states were under- and overfunded in fiscal year 2000.)

⁶Iowa's grant would be slightly more than Arizona's because Iowa would benefit from the hold-harmless provision (in step 2), while Arizona would not.

Figure 1: States Under- and Overfunded by AOA's Method



AOA's Method of Distributing Funds Has Particularly Adverse Effects on States With Above-Average Growth in Their Elderly Populations

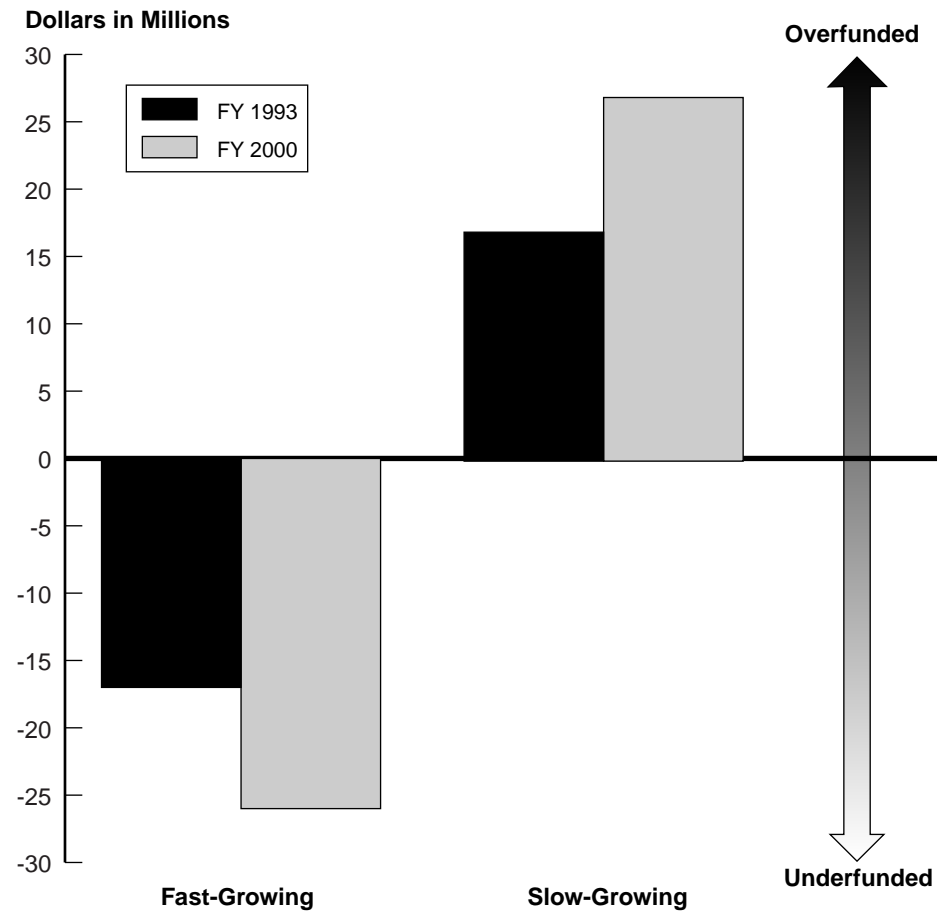
AOA's method for distributing funding has the additional effect of making states' allotments less sensitive to recent changes in the elderly population. Among the 23 states whose elderly populations grew faster than average from 1985 to 1998,⁷ 15 received less funding under the AOA method in fiscal year 2000 than they would have received under the statutory method. Nationwide, the population aged 60 and older grew 14 percent between 1985 and 1998. These changes ranged from an increase of 100 percent (that is, a doubling in size) in Nevada to a decline of 11 percent in the District of Columbia. AOA's method, which applies the hold-harmless provision first, lessens the effect of changes in states' elderly populations on fund distribution. The result is that the AOA method underfunds most states with above-average growth in their elderly populations, as compared with those states with below-average growth.⁸ (See app. III.)

Moreover, the adverse effect of AOA's allocation method on states with above-average growth in their elderly populations has increased over time. Using the statutory method would have redirected \$17 million in fiscal year 1993 (2.2 percent of the Older Americans Act's title III allotments for states that year); that figure would have risen to \$27 million in fiscal year 2000 (3.3 percent of title III allotments that year). Similarly, the states with less rapidly growing elderly populations have become increasingly overfunded, as shown in figure 2. The state-by-state differences in funding under the two methods in 1993 and 2000 are shown in appendix IV.

⁷This period was chosen because 1985 population data were used (in part) to calculate each state's fiscal year 1987 grant amount and, hence, its hold-harmless amount, and because 1998 population data were used to calculate fiscal year 2000 grant amounts.

⁸The above-average-growth states that were not underfunded in fiscal year 2000 benefited from the 0.5-percent minimum-funding guarantee (Alaska, Delaware, Hawaii, Idaho, Montana, New Hampshire, Utah, and Wyoming).

Figure 2: Over- and Underfunding Under AOA's Method in States With Fast- and Slow-Growing Elderly Populations, Fiscal Years 1993 and 2000



Note: Fast-growing states are those with above-average growth from 1985 to 1998 in their populations aged 60 and older; slow-growing states are those with below-average growth in that population over the same period.

Conclusions

AOA's method for distributing title III funds adversely affects states with more rapidly growing elderly populations. Because it does not give priority to current population data, these states receive smaller allotments than they would receive if the agency used the statutory method for allocating funds. The underfunding of states with above-average growth in their

elderly population has worsened since we first reported on the problem in 1994.

Matters for Congressional Consideration

If the Congress wants to ensure that current population data on elderly populations are the primary factor used in determining how grant funds under title III of the Older Americans Act are to be distributed among states, it should consider stipulating this by amending the statute. Such an amendment could specify that title III allotments be computed first on the basis of states' current shares of the elderly population. Then, any state allotments that do not meet the hold-harmless or small-state minimum percentage share would be increased, while allotments of all other states would be proportionally reduced as necessary to fund the statutory minimums.

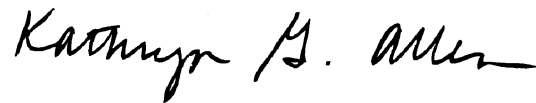
Agency Comments

HHS officials agreed with our matters for congressional consideration. They said that, if the Congress seeks to ensure that current population data on the distribution of the elderly population are the primary factor used in determining how grant funds under title III of the Older Americans Act are to be distributed among states, it should consider stipulating this by amending the statute. HHS officials also restated their view that AOA's method of allocating funds is a valid interpretation of the statute and should be given deference. Further, because AOA views its interpretation of the provision at issue to be just as consistent with the statute as ours, HHS officials objected to our application of the term "statutory method" to our interpretation. We continue to believe that AOA's current practice of applying the hold-harmless provision first is inconsistent with the statute. As discussed in the report, we believe that first applying current elderly-population data when allocating funds would be in accord with the law. The full text of the agency comments appears in appendix V.

As agreed with your office, unless you publicly announce its content earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Honorable Donna E. Shalala, Secretary of Health and Human Services; the Honorable Jeanette C. Takamura, Assistant Secretary of the Administration on Aging; appropriate congressional committees and subcommittees; and other interested parties. We will also make copies available to others on request.

If you have any questions regarding this report, or if we can be of further assistance, please call Jerry Fastrup at (202) 512-7211 or me at (202) 512-7114. Robert Dinkelmeyer and Richard Horte made major contributions to this report.

Sincerely yours,

A handwritten signature in black ink that reads "Kathryn G. Allen". The signature is written in a cursive style with a long horizontal flourish at the end.

Kathryn G. Allen
Associate Director, Health Financing
and Public Health Issues

Comparison of the Funding Allotment Steps Described in the Statute With Those of AOA's Method

Statute	AOA method	Remarks
	(1) Each state receives an amount equal to its 1987 allotment, called the "hold-harmless" amount.	The fiscal year 1987 allotments were calculated on the basis of the 1985 population aged 60 and older. Title III funding for 1987 represents 85 percent of the amount available in fiscal year 2000.
	(2) The remaining funds are distributed among states in proportion to the number of individuals aged 60 or older in each state, as derived from current population data.	Only 15 percent of current title III funding is allotted on the basis of current (1998) population data.
(1) Each state's initial allotment is the result of distributing the amount available for state programs in proportion to the number of individuals aged 60 or older in each state, as derived from current population data.	(3) Each state's initial allotment is the sum of the 1987 allotment (step 1) plus the amount derived using a population-based formula (step 2).	In contrast to AOA's method, the statute calls for all available funds to be distributed on the basis of current population data.
(2) If a state's initial allotment is below its 1987 funding level (the hold-harmless provision) or if its share of funding is below 0.5 percent of the title III total (the small-state minimum), the state's allotment is increased to reflect the larger of these two amounts.	(4) If a state's initial allotment is below 0.5 percent of the title III total, the state's allotment is increased to 0.5 percent of the total.	Under the statute, states receive the largest of the following: their 1987 funding amount, 0.5 percent of available funds, or the amount calculated using the formula.
(3) Allotments for states not affected by the hold-harmless provision or the 0.5-percent minimum are proportionally reduced to pay the increased funding for states that benefit from these provisions.	(5) For states not affected by the 0.5-percent minimum, the amount allotted on the basis of current population is proportionally reduced to pay for the increased funding for states that benefit from the 0.5-percent minimum.	Both methods ensure that a state's funding is not proportionally reduced below either the 0.5-percent minimum or the hold-harmless level.

Title III Funding per Elderly Person Using Statutory and AOA Methods of Allocation, Fiscal Year 2000

State	Statutory method	AOA method
Alabama	\$17.10	\$17.40
Alaska	78.20 ^a	78.20 ^a
Arizona	17.23	13.25
Arkansas	17.43 ^b	18.77
California	17.10	16.29
Colorado	17.10	14.74
Connecticut	17.58 ^b	18.98
Delaware	32.55 ^a	32.55 ^a
District of Columbia	43.10 ^a	43.10 ^a
Florida	17.10	15.11
Georgia	17.10	15.88
Hawaii	19.92 ^a	20.44 ^c
Idaho	21.63 ^a	22.09 ^c
Illinois	17.60 ^b	18.99
Indiana	17.10	17.98
Iowa	18.18 ^b	19.65
Kansas	17.89 ^b	19.32
Kentucky	17.15 ^b	18.20
Louisiana	17.10	17.95
Maine	18.10 ^a	19.12 ^c
Maryland	17.10	16.56
Massachusetts	17.89 ^b	19.33
Michigan	17.10	17.54
Minnesota	17.16 ^b	18.24
Mississippi	17.39 ^b	18.69
Missouri	17.46 ^b	18.82
Montana	25.87 ^a	26.12 ^c
Nebraska	18.39 ^b	19.88
Nevada	17.10	15.77
New Hampshire	22.36 ^a	22.85 ^c
New Jersey	17.25 ^b	18.41
New Mexico	16.79	16.02
New York	18.22 ^b	19.69
North Carolina	17.10	15.42
North Dakota	34.19 ^a	34.20 ^c
Ohio	17.10	18.10

Appendix II
Title III Funding per Elderly Person Using
Statutory and AOA Methods of Allocation,
Fiscal Year 2000

(Continued From Previous Page)

State	Statutory method	AOA method
Oklahoma	17.22 ^b	18.35
Oregon	17.10	16.62
Pennsylvania	17.60 ^b	19.00
Rhode Island	21.45 ^a	22.09 ^c
South Carolina	17.10	15.32
South Dakota	30.02 ^a	30.15 ^c
Tennessee	17.10	17.06
Texas	17.10	15.75
Utah	17.04	17.27
Vermont	42.97 ^a	42.97 ^a
Virginia	17.10	15.97
Washington	17.10	15.94
West Virginia	18.03 ^b	19.48
Wisconsin	17.18 ^b	18.28
Wyoming	53.80 ^a	53.80 ^a
American Samoa	469.78 ^{b,c}	471.79 ^c
Guam	231.16 ^a	231.16 ^a
Northern Marianas	414.34 ^{b,c}	414.91 ^c
Puerto Rico	17.10	14.75
Virgin Islands	209.58 ^a	209.58 ^a
National average	17.90	17.90

^aThis state is subject to a small-state minimum for all component programs.

^bThis state is subject to a hold-harmless minimum for one or more component programs.

^cThis state is subject to a small-state minimum for some component programs.

In Fiscal Year 2000, AOA Method Underfunded Most States With Above-Average Elderly Population Growth

State	Change in population aged 60 and older, 1985 to 1998 (percentage)	Allotment using statutory method	Allotment using AOA method	Overfunding/underfunding	
				Amount	Percentage
States with above-average elderly population growth					
Nevada	100.1	\$4,663,791	\$4,300,150	-\$363,641	-7.8
Alaska ^a	75.8	4,048,585	4,048,585	0	0
Arizona	48.5	13,757,194	10,577,987	-3,179,207	-23.1
Hawaii ^a	39.6	4,048,585	4,154,953	106,368	2.6
Colorado	35.5	9,466,691	8,155,465	-1,311,226	-13.9
Utah ^b	35.3	4,192,590	4,248,979	56,389	1.3
New Mexico	34.9	4,455,159	4,250,466	-204,693	-4.6
South Carolina	28.0	10,647,870	9,535,061	-1,112,809	-10.5
Florida	27.4	58,109,935	51,334,691	-6,775,244	-11.7
North Carolina	26.7	21,400,865	19,295,387	-2,105,478	-9.8
Delaware ^a	25.6	4,048,585	4,048,585	0	0
Idaho ^a	25.5	4,048,585	4,134,706	86,121	2.1
Texas	24.9	46,298,862	42,627,208	-3,671,654	-7.9
Georgia	24.4	17,440,732	16,191,749	-1,248,983	-7.2
Washington	22.7	14,566,063	13,576,287	-989,776	-6.8
Virginia	22.1	17,356,015	16,200,305	-1,155,710	-6.7
Wyoming ^a	20.6	4,048,585	4,048,585	0	0
California	19.6	79,517,589	75,749,046	-3,768,543	-4.7
Oregon	19.0	9,586,987	9,314,214	-272,773	-2.8
Montana ^a	17.8	4,048,585	4,087,033	38,448	0.9
Maryland	17.3	13,181,102	12,765,236	-415,866	-3.2
Tennessee	15.4	15,497,517	15,453,478	-44,039	-0.3
New Hampshire ^a	15.2	4,048,585	4,136,901	88,316	2.2
States with below-average elderly population growth					
Alabama	13.5	12,865,115	13,084,901	219,786	1.7
Vermont ^a	11.9	4,048,585	4,048,585	0	0
Michigan	11.1	27,153,675	27,852,605	698,930	2.6
Louisiana	10.5	11,565,880	12,140,815	574,935	5.0
Minnesota	9.0	12,931,265	13,740,777	809,512	6.3
Kentucky	8.8	11,268,665	11,964,039	695,374	6.2
Indiana	8.6	16,580,363	17,428,748	848,385	5.1
Maine ^a	8.6	4,048,585	4,275,885	227,300	5.6
Wisconsin	8.2	15,314,422	16,290,204	975,782	6.4

**Appendix III
In Fiscal Year 2000, AOA Method
Underfunded Most States With Above-
Average Elderly Population Growth**

(Continued From Previous Page)

State	Change in population aged 60 and older, 1985 to 1998 (percentage)	Allotment using statutory method	Allotment using AOA method	Overfunding/underfunding	
				Amount	Percentage
Mississippi	8.0	7,758,023	8,338,888	580,865	7.5
Oklahoma	7.9	10,232,430	10,904,983	672,553	6.6
Ohio	7.5	33,284,956	35,228,933	1,943,977	5.8
Arkansas	6.8	8,283,533	8,920,040	636,507	7.7
New Jersey	5.5	24,507,207	26,159,402	1,652,195	6.7
Missouri	4.9	16,820,575	18,136,246	1,315,671	7.8
South Dakota ^a	4.7	4,048,585	4,065,136	16,551	0.4
Kansas	3.8	8,093,456	8,741,836	648,380	8.0
Illinois	3.7	34,276,664	37,000,570	2,723,906	7.9
Nebraska	3.1	5,402,193	5,840,857	438,664	8.1
Connecticut	3.1	10,394,132	11,219,859	825,727	7.9
North Dakota ^a	2.9	4,048,585	4,050,034	1,449	0
West Virginia	2.5	6,536,037	7,061,681	525,644	8.0
Pennsylvania	2.4	42,193,866	45,547,641	3,353,775	7.9
Massachusetts	1.7	19,353,657	20,905,177	1,551,520	8.0
Iowa	1.7	10,036,189	10,846,991	810,802	8.1
New York	0.3	57,191,446	61,818,656	4,627,210	8.1
Rhode Island ^a	-1.1	4,048,585	4,169,230	120,645	3.0
District of Columbia ^a	-11.3	4,048,585	4,048,585	0	0
Recipients without comparable population data for 1985 and 1998					
American Samoa ^a	^c	1,190,885	1,195,975	5,090	0.4
Guam ^a	^c	2,024,294	2,024,294	0	0
Northern Marianas ^a	^c	511,292	511,999	707	0.1
Puerto Rico	^c	9,151,919	7,894,077	-1,257,842	-13.7
Virgin Islands ^a	^c	2,024,294	2,024,294	0	0
National average/total	13.6^c	\$809,717,000	\$809,717,000		

^aAllotments of states subject to the 0.5-percent minimum are not determined by their population aged 60 years and older. Hence, the use of the AOA method instead of the statutory method generally does not change their funding.

^bAlthough Utah is a high-growth state, it is currently overfunded because it benefited from the 0.5-percent minimum in 1987, which resulted in a high hold-harmless amount.

^c1985 data for the population aged 60 and older are unavailable for the outlying areas and therefore are not included in the national average.

Over- and Underfunding Resulting From Use of the AOA Method, Fiscal Years 1993 and 2000

State	Population change (percentage) ^b	Amount over- or underfunded ^a	
		Fiscal year 1993	Fiscal year 2000
Not affected by the 0.5-percent minimum in fiscal year 2000			
Nevada	100.1	\$91,785	-\$363,641
Arizona	48.5	-1,708,750	-3,179,207
Colorado	35.5	-494,843	-1,311,226
Utah	35.3	151,567	56,389
New Mexico	34.9	87,399	-204,693
South Carolina	28.0	-646,067	-1,112,809
Florida	27.4	-5,936,778	-6,775,244
North Carolina	26.7	-1,316,535	-2,105,478
Texas	24.9	-1,454,608	-3,671,654
Georgia	24.4	-596,290	-1,248,983
Washington	22.7	-748,581	-989,776
Virginia	22.1	-866,452	-1,155,710
California	19.6	-2,771,562	-3,768,543
Oregon	19.0	-227,875	-272,773
Maryland	17.3	-503,563	-415,866
Tennessee	15.4	-12,274	-44,039
Alabama	13.5	113,389	219,786
Michigan	11.1	3,626	698,930
Louisiana	10.5	397,567	574,935
Minnesota	9.0	491,592	809,512
Kentucky	8.8	450,115	695,374
Indiana	8.6	149,612	848,385
Wisconsin	8.2	449,589	975,782
Mississippi	8.0	515,945	580,865
Oklahoma	7.9	577,481	672,553
Ohio	7.5	270,740	1,943,977
Arkansas	6.8	549,550	636,507
New Jersey	5.5	709,603	1,652,195
Missouri	4.9	835,502	1,315,671
Kansas	3.8	573,691	648,380
Illinois	3.7	1,892,426	2,723,906
Nebraska	3.1	528,245	438,664

**Appendix IV
Over- and Underfunding Resulting From Use
of the AOA Method, Fiscal Years 1993 and
2000**

(Continued From Previous Page)

State	Population change (percentage) ^b	Amount over- or underfunded ^a	
		Fiscal year 1993	Fiscal year 2000
Connecticut	3.1	398,186	825,727
West Virginia	2.5	509,975	525,644
Pennsylvania	2.4	1,218,074	3,353,775
Massachusetts	1.7	1,325,937	1,551,520
Iowa	1.7	773,505	810,802
New York	0.3	4,374,177	4,627,210
Puerto Rico	^c	-727,245	-1,257,842
Affected by the 0.5-percent minimum in fiscal year 2000^d			
Alaska	75.8	0	0
Hawaii	39.6	73,919	106,368
Delaware	25.6	0	0
Idaho	25.5	45,650	86,121
Wyoming	20.6	0	0
Montana	17.8	0	38,448
New Hampshire	15.2	69,496	88,316
Vermont	11.9	0	0
Maine	8.6	234,988	227,300
South Dakota	4.7	0	16,551
North Dakota	2.9	0	1,449
Rhode Island	-1.1	143,495	120,645
District of Columbia	-11.3	0	0
American Samoa	^c	4,595	5,090
Guam	^c	0	0
Northern Marianas	^c	0	0
Virgin Islands	^c	0	0
National average	13.6^c		

^aPositive numbers signify that the AOA method yields a larger grant amount than the statutory method. Conversely, negative numbers signify that the AOA method yields a smaller grant amount than the statutory method.

^bPercentage change in the population aged 60 and older between 1985 and 1998.

^c1985 data for the population aged 60 and older are unavailable for the outlying areas and therefore are not included in the national average.

^dAllotments of states subject to the 0.5-percent minimum are not determined by their population aged 60 and older. Hence, the use of the AOA method instead of the statutory method generally changes their funding relatively little.

Comments From the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

JUN - 7 2000

Ms. Kathryn G. Allen
Associate Director, Health Financing and
Public Health Issues
United States General
Accounting Office
Washington, D.C. 20548

Dear Ms. Allen:

Enclosed are the Department's comments on your draft report, "Older Americans Act: Title III Funding Distribution Adversely Affects High-Growth States." The comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

The Department appreciates the opportunity to comment on this draft report before its publication.

Sincerely,

Michael Mangano
for June Gibbs Brown
Inspector General

Enclosure

The Office of Inspector General (OIG) is transmitting the Department's response to this draft report in our capacity as the Department's designated focal point and coordinator for General Accounting Office reports. The OIG has not conducted an independent assessment of these comments and therefore expresses no opinion on them.

COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
ON THE U.S. GENERAL ACCOUNTING OFFICE'S DRAFT REPORT
"OLDER AMERICANS ACT: TITLE III FUNDING DISTRIBUTION
ADVERSELY AFFECTS HIGH-GROWTH STATES"
GAO/HEHS-00-107

The General Accounting Office (GAO) was asked to update the analysis in their previous report, Older Americans Act: Title III Funds Not Distributed According to Statute (GAO/HEHS-94-37, January 18, 1994), related to the manner in which the Department's Administration on Aging (AoA) distributes funds to States and its effect on States with more rapidly growing elderly populations. The GAO concludes that the AoA procedure for distributing title III funds results in unequal funding per elderly person across States to a much greater degree than would be the result using a method based upon GAO's reading of the statute. The GAO draft report does not contain recommendations, but does contain Matters for Congressional Consideration which pertains to amending the Older Americans Act (OAA) to specify in statute the method for distributing funds. The Department reasserts its belief that the method currently in use by AoA is not inconsistent with the law, and that absent a definitive determination of congressional intent, a unilateral modification is not appropriate. The Department does not agree with the contention throughout the draft that the two readings of the statute are the "AoA method" and the "statutory method." We believe GAO should acknowledge that the current statute is not clear and is thus subject to multiple interpretations. The Department agrees with GAO that if Congress seeks a distribution based on a different statutory interpretation than the one currently used by AoA it should consider amending the statute.

Computations of State grants under the OAA are made by considering three factors, including: a "hold harmless" provision that assures that each State receives no less than it received in Fiscal Year 1987; a "proportionality" provision that requires funds to be allotted in proportion to each State's population of older individuals; and a "minimum percentage" requirement that each State receive no less than 0.5 percent of the total appropriation.

The hold harmless provision was first made a part of the allocation formula under the OAA amendments of 1973 (Pub. L. 93-29). Following 1973, subsequent reauthorizations of the OAA periodically updated the year upon which the hold harmless was based. From 1973 until 1984, State allocations were computed by first applying the proportionality requirement, then making adjustments to assure the hold harmless requirement had been met, and finally assuring that each State received the minimum percentage.

The 1984 Congress amended the OAA (Pub. L. 98-459) to say that "subject to" the hold harmless requirement, each State should receive proportional funding, except that each State must receive at least 0.5 percent of the total appropriation. Based on this statutory change, the Department began computing State allocations by first determining the hold harmless amounts, then applying the proportionality requirement to the remainder of the appropriation, and then determining whether the minimum percentage requirement was

**Appendix V
Comments From the Department of Health
and Human Services**

met and making adjustments as necessary. This is the method still in use today. The GAO contends that the 1984 statutory change was a “technical amendment” with no intent to alter the method of computing the allotment.

The Department recognizes that the computation method which applies the proportionality provision first tends to produce a more consistent per capita distribution of funds among States. However, absent clear congressional guidance, it is not possible to conclude definitively that Congress intended per capita proportionality to take precedence over other statutory provisions, such as the hold harmless provision. The Department believes its interpretation of the statute is equally valid as the interpretation advocated by GAO and that in the absence of statutory language, or at least, clear guidance to the contrary in the legislative history, the Department’s interpretation and application of the allocation provision should be given deference.

Executive Branch agencies are generally given broad administrative discretion in implementing the laws they administer. Moreover, where there are two equally reasonable interpretations of a statute available, deference must be given to the interpretive choice of the agency entrusted to administer the law. Accordingly, we believe the Department’s interpretation of the OAA interstate funding formula, which is consistent with the current statutory framework and which has been applied consistently since 1984, should continue in effect until such time as Congress clearly indicates its intent that the statute be interpreted in a different manner.

We will continue to implement the present computation method absent a definitive determination of congressional intent. As such, we agree with GAO’s Matters for Congressional Consideration. If Congress seeks to ensure that current population data on the distribution of the elderly population are the *primary* factor used in determining how grant funds under title III of the OAA are to be distributed among States, it should consider stipulating this by amending the statute.

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