



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

45 CFR Part 1324

RIN 0985-AA08

State Long-Term Care Ombudsman Programs

AGENCY: Administration on Aging, Administration for Community Living, HHS.

ACTION: Final rule; correction and correcting amendments.

SUMMARY: In the February 11, 2015 Federal Register, we published a final rule in order to implement provisions of the Older Americans Act (the Act) regarding States' Long-Term Care Ombudsman programs (Ombudsman programs). The effective date was July 1, 2016. This correcting amendment corrects a limited number of technical and typographical errors identified in the February 11, 2015 final rule.

DATES: This correcting document is effective [**Insert date of public inspection**].

FOR FURTHER INFORMATION CONTACT: Becky Kurtz, Director, Office of Long-Term Care Ombudsman Programs, Administration for Community Living, Administration on Aging, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 5M69, Atlanta, Georgia 30303-8909, 404-562-7592.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2015–01914 of February 11, 2015 (80 FR 7704), the final rule entitled “State Long-Term Care Ombudsman Programs,” there were a number of technical and typographical errors that are identified and corrected in this correcting amendment. On July 1, 2016, those provisions of the final rule which had been originally codified as 45 CFR Part 1327 were re-

numbered as 45 CFR Parts 1324 in FR Doc. 2016-13138 (81 FR 35644). The remaining provisions (originally codified as amendments to 45 CFR Part 1321) remain unchanged. All of the provisions below refer to errors found in 45 CFR Part 1324.

II. Summary of Changes

A. Summary of Changes in the Regulations Text

1. On page 7765, in the regulations text for § 1324.19(b)(5), we erroneously used the word “paragraph” instead of “through.” To correct this error, we have removed the word “paragraph” and replaced it with the word “through.”
2. On page 7765, in the regulations text for § 1324.19(b)(7)(i), we erroneously included the term “has no resident representative.” Since this situation (regarding the authority for the Ombudsman program to make a referral when a resident has “no resident representative”) is not needed in this paragraph and already provided for in § 1324.19(b)(6)(ii), the redundancy of this provision was in error. We believe elimination of this language will not change the requirements of this provision and will lessen confusion regarding its implementation.

The corrections to the errors summarized in this section appear in the regulations text of this correcting amendment.

III. Waiver of Notice and Comment Procedure and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the Federal Register before the provisions of a rule take effect. However, under section 553(b)(B) of the APA, an agency may dispense with normal rule-making requirements for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest. We find that there is good cause to waive such requirements. We find that notice and comment is

unnecessary because we are not altering our policies; rather, we are simply implementing correctly the policies that we previously proposed, received comment on, and subsequently finalized.

In addition, section 553(d) of the APA mandates a 30-day delay in the effective date after issuance or publication of a rule. The section, however, creates an exception at section 553(d)(3) that allows the agency to avoid the 30-day delay in effective date when it has good cause and publishes it with the rule. We have found good cause to avoid the 30-day delay. As discussed above, this rule is merely a technical correction and makes no substantive changes to the rule. We believe the public is best served by having the final rule reflect these corrections as soon as possible.

List of Subjects for 45 CFR Part 1324

Administrative practice and procedure, Aged, Long-term care.

Accordingly, 45 CFR chapter XIII, subchapter C, is corrected by making the following correcting amendments to part 1324:

PART 1324— STATE LONG-TERM CARE OMBUDSMAN PROGRAMS

1. The authority citation for part 1324 continues to read as follows:

Authority: 42 U.S.C. 3001 et seq.; the Older Americans Act, as amended.

§ 1324.19 [Amended]

2. Section 1324.19 is amended as follows:

- a. In paragraph (b)(5) by removing the word “paragraph” and adding in its place “through”; and
- b. In paragraph (b)(7)(i) by removing the words “has no resident representative, or”.

Dated: December 13, 2016.

Madhura C. Valverde,
Executive Secretary to the Department,
Department of Health and Human Services.

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