§ 214. Community services for the elderly. 1. Definitions. As used in this section, the following words shall have the following meanings:

(a) "Designated agency" shall mean an agency which is designated by the chief executive officer of the county if there be one, or otherwise the governing board of such county, or the chief executive officer of the city of New York, or the governing board of an Indian tribal council; which is either a unit of county government or the city of New York or an Indian tribal organization or a private non-profit agency, and which is the area agency on aging created pursuant to the federal older Americans act of 1965.

(b) "Elderly person" shall mean a person sixty years of age or older.

(c) "County" shall mean a county, as defined in section three of the county law, except that the city of New York shall be considered one county.

(d) "Base year expenditures" and "base year services" shall mean the level of expenditures and services in the year prior to the first year for which a county plan is submitted or in such county's two thousand five fiscal year, whichever is greater.

(e) "Community services" shall mean services for elderly persons which are provided by a public or governmental agency or non-profit agency, and which are provided in the home of an elderly person or in community settings such as senior citizens centers, housing projects, or agency offices. Such services shall not include any services provided pursuant to the public health law other than home care services.

(f) "Community service projects" shall mean community services financed pursuant to paragraph (b) of subdivision four of this section.

(g) "County plan" shall mean a plan for community services prepared by a county pursuant to this section.

(h) "Non-profit agency" shall mean a corporation organized or existing pursuant to the not-for-profit corporation law.

(i) "Program year" shall mean the period from April first through March thirty-first of the following calendar year.

(j) "First program year" for a county shall mean the initial year for which the county has received approval for its county plan.

2. County plans for improving the availability of community services to the elderly. (a) Counties with a designated agency are required to

submit a county plan for a two-, three-, or four-year period determined by the director, with an annual update containing a budget request for the forthcoming program year and such other information as shall be required by the director, for improving the delivery of community services for elderly persons in the format prescribed by the director. The plan for the city of New York shall specifically address the needs of each county within such city. Such plan shall be a comprehensive description of the manner in which the county intends to address the needs of elderly persons living in the county through improved coordination of existing community services and by the development of any new or expanded community service projects which will improve the delivery of services to the elderly. Such plan shall contain:

(1) a statement of goals and objectives for addressing the needs of elderly persons in the county, an assessment of the needs of elderly persons residing in the county, a description of public and private resources that currently provide community services to elderly persons within the county, a description of intended actions to consolidate and coordinate existing community services administered by county government, a description of the intended actions to coordinate congregate services programs for the elderly operated within the county pursuant to section two hundred seventeen of this title with other community services for the elderly, a description of the means to coordinate other community services for elderly persons in the county with those administered by county government, and a statement of the priorities for the provision of community services during the program period covered by such plan;

(2) an identification of community service projects to be developed to improve the delivery of services, a budget request for approval for the forthcoming year which individually identifies each community service project to be funded pursuant to paragraph (b) of subdivision four of this section, letters of comment from the appropriate local agencies on the relationship and expected impact of the proposed community service projects, assurances that community service projects will provide services to those most in need, an indication of fee schedules by which elderly persons participating in community service projects may contribute to the costs of such projects, and an indication of how the effectiveness of such community service projects will be evaluated;

(3) an identification of planning, coordination, and administrative activities necessary to achieve the goals and objectives of the plan, together with a budget request for such activities for approval for the forthcoming year to be funded pursuant to paragraph (a) of subdivision four of this section, and assurances by the county that it will comply with the requirements of state and federal law; and

(4) such other components as may be required pursuant to regulations promulgated by the director.

(b) Such county plan for community services or annual update shall be prepared by the designated agency and approved by the chief executive officer of the county, if there be one, or otherwise the governing board of the county, or the chief executive of the city of New York and submitted to the director no later than ninety days prior to the beginning of the program period covered by such plan or annual update. Prior to a submission of a county plan or annual update to the director for approval, the designated agency shall conduct such public hearings as may be required by regulations of the director, provided that there shall be at least one such hearing, and one in each county contained within the city of New York.

(c) The director shall review such county plan and may approve or disapprove such plan, or any part, program, or project within such plan, and shall propose such modifications and conditions as are deemed appropriate and necessary. Compliance with paragraphs (a) and (b) of this subdivision shall be the basis for approval of a county plan. The director shall establish by regulation the dates for notifying the designated agency of approval or disapproval of a county plan. In the event the director shall disapprove the proposed county plan, the county submitting such application shall be afforded an opportunity for an adjudicatory hearing, as prescribed by article three of the state administrative procedure act.

(d) Notwithstanding any provision of this section, nothing contained in this section shall give the director or a designated agency any administrative, fiscal, supervisory, or other authority whatsoever over any plans, programs or expenditures authorized pursuant to titles eighteen, nineteen and twenty of the federal social security act, or over any unit of state or local government.

(e) Counties with a designated agency may submit to the director a

letter of intent, in the form and by the date prescribed by the director with the approval of the director of the budget, evidencing the commitment of the county to develop a county home care plan for functionally impaired elderly.

(f) Within the amounts appropriated therefor, counties submitting an approved letter of intent pursuant to paragraph (e) of this subdivision shall be eligible for reimbursement of one hundred percent of the approved expenditures for preparing a county home care plan for functionally impaired elderly. Such a grant-in-aid shall be available to a county only once and shall be limited to one-half the amount available to such county pursuant to subparagraph one of paragraph (a) of subdivision four of this section; provided however that in either of the two years immediately following its first submission of a home care plan for functionally impaired elderly, a county which does not receive state aid during such year for expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to paragraph (j) of subdivision four of this section, may apply for reimbursement of one hundred percent of the approved expenditures for revising such home care plan, limited to one-quarter the amount available to such county pursuant to subparagraph one of paragraph (a) of subdivision four of this section.

(g) County home care plans for functionally impaired elderly prepared pursuant to this subdivision shall include a comprehensive description of all aspects of home care, non-institutional respite, case management, and ancillary services available to elderly persons in the county; a description of intended actions to coordinate such home care, non-institutional respite, case management, and ancillary services to functionally impaired elderly persons in their county provided under this section with other services to elderly persons; a proposal for expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services for functionally impaired elderly persons with unmet needs to support such persons' continued residence in their homes; and such other components as may be required pursuant to regulations promulgated by the director, including how the proposed expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services will be delivered to unserved or underserved

populations.

(h) Such county home care plan for functionally impaired elderly shall be prepared by the designated agency after consultation with the social services district and the local public health agency, and shall be approved by the chief executive officer of the county, if there be one, or otherwise the governing board of the county, or the chief executive of the city of New York, and submitted to the director for approval by such date as may be specified by regulation. The director shall not approve such county home care plan for functionally impaired elderly unless it complies with the standards and regulations issued pursuant to this section.

3. Community service projects. (a) The director may authorize a county which has an approved county plan pursuant to this section to provide one or more community service projects included in such approved plan which are designed to make community services and entitlement programs more available and accessible to older persons through the improved coordination and delivery of services for the elderly. As necessary to meet project goals and objectives, such projects may provide new services not previously provided within the county, expand services provided during the base year, and establish new mechanisms to coordinate all existing and new services.

(b) Counties having an approved plan which includes one or more community service projects shall be eligible for state aid, as provided in subdivision four of this section, for the provision of such projects identified in such plan.

(c) Each community service project included in a county plan shall clearly specify the intended goals and objectives of such project, shall describe the elderly population the project intends to serve, shall specify a timetable not to exceed three years to achieve and evaluate such goals and objectives, and shall specify proposed methods to evaluate the effectiveness of such project.

(d) The director, with the advice of the advisory committee for the aging, shall promulgate regulations and issue guidelines for evaluating the effectiveness and achievements of such community service projects, shall require periodic evaluations of each project, and shall make available such evaluations to appropriate agencies, the governor and the

legislature.

(e) No project funded pursuant to this section shall continue beyond three years, unless approved by the director after the director is satisfied that the project effectively improves the delivery of services to the elderly based upon periodic evaluations of the project.

4. State aid. (a) County plans for improving the availability of community services to the elderly:

(1) within the amounts appropriated therefor, counties with an approved county plan shall be eligible for reimbursement of one hundred percent of the annual approved expenditures for the preparation and revision of such county plan, evaluation of projects contained within such county plan, execution of interagency agreements necessary to carry out the plan, actions to consolidate, combine or collocate services within the county, and such other costs of the designated agency necessary to implement such county plan, provided that the total annual amount payable to a county pursuant to this subparagraph shall not exceed the sum of one dollar for each elderly person residing in the county, or seventy-five thousand dollars, whichever is less, and further provided that for the city of New York such amount shall not exceed one dollar for each elderly person residing in the city or three hundred seventy-five thousand dollars, whichever is less. Notwithstanding the foregoing limitations, counties with a population of less than twenty thousand elderly persons shall be eligible for reimbursement of one hundred percent of such annual approved expenditures provided that the total annual amount of such reimbursement per county shall not exceed twenty thousand dollars.

(2) within the amounts appropriated therefor, a county may receive a grant-in-aid of up to twenty-five per centum of the total annual amount that such county is eligible to receive pursuant to subparagraph one of this paragraph for the cost of preparing an initial county plan in accordance with this section. Such a grant-in-aid shall be available to a county only once and shall be in addition to the reimbursement received by the county pursuant to subparagraph one of this paragraph for the first program year. A request for such a grant-in-aid shall be accompanied by a letter of intent in the form prescribed by the director evidencing the commitment of the county to develop a county plan for

community services and shall be submitted to the director at least six months prior to the beginning of the first program year.

(b) Community service projects:

(1) within the amounts appropriated therefor, counties having an approved county plan shall be eligible for reimbursement by the state for expenditures for approved community service projects pursuant to this section. Such state reimbursement shall not exceed thirty-three thousand six hundred dollars or four dollars twenty cents for each elderly person residing in the county, whichever is greater. The annual state reimbursement eligibility shall be at a rate of seventy-five percent of the total annual expenditures for such approved programs.

(2) the director shall provide by regulation that certain non-county moneys and in-kind equivalents may be used to comprise the county share of such total annual approved expenditures, provided that such county share shall not include cost-sharing received from elderly persons receiving expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to paragraph (k) of this subdivision or moneys received from the federal government for services for the elderly allocated to the states or local governments according to population or other such non-competitive basis.

(3) the director shall provide by regulation the requirements for any participant contributions and fee schedules used for community service projects and the manner for the accounting and use of any such revenue.

(c) Reimbursement pursuant to this section shall not be available for expenditures for base year services otherwise provided without cost, or to replace base year expenditures made by the county or any other service provider irrespective of the source of funds for such services.

(d) Reimbursement shall not be available to community services projects funded pursuant to paragraph (b) of this subdivision or to expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services funded pursuant to paragraph (j) of this subdivision for services provided to elderly persons who are eligible for or are receiving services to meet their needs pursuant to titles eighteen, nineteen or twenty of the federal social security act or any other governmental programs or for services provided to residents in adult residential care facilities

which had previously been provided by the facility or which are required by law to be provided by such facility.

(e) For the purpose of determining the amount of state reimbursement for which a county is eligible pursuant to this section, the last preceding federal census or other census data approved by the comptroller shall be used. Funds appropriated by the state for the purpose of reimbursement for community services pursuant to this section shall be apportioned among the counties pursuant to the formula set forth in paragraph (b) of this subdivision by the director. Funds appropriated by the state for the purpose of reimbursement for expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to this section shall be apportioned among the counties by the director pursuant to the formula set forth in paragraph (j) of this subdivision.

(f) The comptroller may withhold the payment of state aid to any county in the event that such county alters or discontinues the operations approved by the director pursuant to this section or otherwise fails to comply with the regulations or requirements of the director.

(g) Counties shall submit claims for reimbursement after the end of each month or each quarter as required by and in accordance with procedures prescribed by the director. Reimbursement shall be available for approved expenditures incurred in accordance with an approved county plan for community services.

(h) Reimbursement pursuant to subparagraph one of paragraph (b) or paragraph (j) of this subdivision shall not be available for expenditures for community or expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services to elderly persons in the city of New York unless expenditures for such services are apportioned for services in each of the counties contained within such city in a manner which the director has determined by regulation substantially reflects the proportion that the number of elderly persons in that county bears to the total number of elderly persons in the city as a whole. In determining whether reimbursement shall be available under paragraph (g) of this subdivision, the director shall ensure that expenditures were apportioned in accordance with the provisions of this paragraph.

(i) The director, within the amounts appropriated therefor and with the approval of the director of the budget, may authorize a county which has an approved home care plan for functionally impaired elderly to provide expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to such plan. Such services shall be limited to those services necessary to meet otherwise unmet needs and which support such elderly persons' continued residence in their homes. Needs will be determined pursuant to a standardized evaluation of functional impairment, available resources and such other relevant factors specified pursuant to regulations promulgated by the director. No expanded non-medical in-home services, non-institutional respite services, or ancillary services shall be provided to any individual pursuant to this section unless such expanded non-medical in-home services, non-institutional respite services, or ancillary services are accompanied by ongoing case management services in accordance with regulations promulgated by the director.

(j) Within the amounts appropriated therefor, counties authorized to provide expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to paragraph (i) of this subdivision shall be eligible for reimbursement by the state of up to seventy-five percent of allowable expenditures for approved services pursuant to this section up to the level authorized by the director. The director shall not authorize a level of state reimbursement pursuant to this paragraph which exceeds the sum of ninety-one thousand two hundred fifty dollars or seven dollars thirty cents for each elderly person residing in the county, whichever is greater, and shall proportionately reduce such sum for each county in any years for which appropriations are not sufficient to fully fund approved expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services for functionally impaired elderly in all counties with approved home care plans; provided however that in state fiscal years beginning on or after the first day of April, two thousand five, the director, with the approval of the director of the budget, may authorize state reimbursement in excess of these levels to the extent appropriations are available therefor.

(k) The director, with the approval of the director of the budget,

shall provide by regulation the extent of cost-sharing to be required of elderly persons receiving expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to this section, which shall reflect such recipients' means to pay for such services and which will not affect their ability to remain in their homes; provided however that the director shall not authorize or direct the withholding of state aid pursuant to paragraph (f) of this subdivision prior to the first day of April, two thousand five, based on any county's failure or inability to comply with regulations promulgated pursuant to this paragraph. The full amount of cost-sharing actually received by any county from elderly persons receiving expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services shall be used by such county to expand either such county's program of community services or such county's program of expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to this section.

(l) Reimbursement pursuant to paragraph (j) of this subdivision shall not be available for expenditures for base year services otherwise provided without cost, or to replace base year expenditures made by the county or any other service provider irrespective of the source of funds, or to replace community services expenditures pursuant to paragraph (b) of this subdivision.

(m) Counties shall submit claims for reimbursement for expanded in-home services, non-institutional respite services, case management services, and ancillary services to functionally impaired elderly as required by and in accordance with procedures prescribed by the director. Reimbursement shall be available for approved expenditures incurred in accordance with an approved county home care plan for functionally impaired elderly to the extent the director has authorized state aid for such services pursuant to paragraph (i) of this subdivision.

(n) The director shall provide by regulation that certain non-county moneys and in-kind equivalents may be used in part to compose the county share of total allowable expenditures pursuant to paragraph (j) of this subdivision, provided that such county share shall not include

cost-sharing received from elderly persons receiving expanded non-medical in-home services, non-institutional respite services, case management services, and ancillary services pursuant to paragraph (k) of this subdivision or moneys received from the federal government for services for the elderly allocated to the states or local governments according to population or other such non-competitive basis.

5. Contracts for services. (a) For the purposes of this section, counties are authorized to contract with public agencies, municipalities, non-profit agencies, or such other entities as the director may authorize. Contracts for nursing services, home health aide services, nutritional services (other than the delivery of meals), physical, speech, and occupational therapy, and medical social services provided pursuant to this section shall only be with certified home health agencies as defined in article thirty-six of the public health law.

(b) Community services provided pursuant to this section shall not be provided directly by the designated agency unless approval is granted by the director. Such approval may not be given by the director unless the designated agency directly provided the service prior to approval of the annual county plan by the director, or unless it can be shown that the direct provision of a community service by the designated agency is necessary due to the absence of an existing suitable provider to assure an adequate supply of such service, or to ensure the quality of the service provided.

(c) Pursuant to an agreement, two or more counties may join together for the purposes of this section. Such agreements shall make provision for the proportionate cost to be borne by each county, the employment of personnel, the receipt and disbursement of funds, and any other matters deemed necessary by the director. Claims for reimbursement pursuant to subdivision four of this section shall be paid to each county and shall be limited to the amount to which each county would be entitled pursuant to such subdivision.

6. Implementation of home care plans. Within the amounts appropriated therefor, counties authorized to provide expanded non-medical in-home services, non-institutional respite services, case management services,

and ancillary services pursuant to paragraph (i) of subdivision four of this section shall be eligible for reimbursement by the state of one hundred percent of allowable expenditures for implementing the approved county home care plan for functionally impaired elderly, limited to a sum equivalent to the amount available to such county pursuant to subparagraph one of paragraph (a) of subdivision four of this section.

7. For the purposes of obtaining state aid within the amounts appropriated therefor under this section, a designated agency of an Indian tribal organization shall qualify as though it were a designated agency for a county.