

## Chapter One

### What is HICAP and the Importance of its Volunteer Network?

**Scope of chapter.** This chapter covers the history of the Texas Benefits Counseling program known as the Health Information, Counseling and Advocacy Program, or HICAP. It discusses the legal authorization of the program and relevant rules regarding services provided and reporting requirements. It also identifies the partner agencies. The resource section of this chapter includes the section of the Medicare law which currently is the main source of funding for the Benefits Counseling program. There is also a list of acronyms common to this program and to partner groups.

Question: What words does the acronym HICAP stand for?

Answer: \_\_\_\_\_

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### Overview of paragraphs

- Paragraphs 1 - 7 identify federal and state provisions related to the Benefits Counseling program known as HICAP.
- Paragraph 8 describes the role of volunteers.
- Paragraph 9 discusses the role of the Older Americans Act, the Medicare law, and the Service Definitions for Area Agencies on Aging, Fiscal Year 2012, in the HICAP Program.
- Paragraphs 10 – 15 provide further background on the history and organization of the Benefits Counseling Program known as HICAP.
- Paragraph 16 describes the two service components of the Benefits Counseling program.
- Paragraph 17 discusses the role of the Council of Government as the umbrella agency for many area agencies on aging.
- Paragraphs 18 – 19 discuss the current grant funding source for HICAP.
- Paragraphs 20 – 24 review the role of the three support HICAP agencies. Paragraph 25 describes the training and certification of the Benefits Counseling program.
- Paragraphs 26 - 28 describe the role of the AAA Benefits Counseling Program.
- Paragraphs 29 – 32 further discuss volunteers and recruiting volunteers.
- Paragraph 33 describes key HICAP resources and other SHIP partners.

- Paragraph 34 discusses national resources.
- Paragraph 35 discusses the Listserv maintained by Texas Legal Services Center.
- Paragraph 36 discusses building local partnerships.
- Paragraph 37 identifies the reporting requirements for HICAP and Benefits Counselors.
- Attachments.
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**Back-up and support.** The HICAP manual is authored by the Texas Legal Services Center and the other two state-level HICAP partners. Input is received from a representative of the 28 Texas Area Agencies on Aging. The state-level HICAP partners are the Texas Department of Aging and Disability Services and the Texas Department of Insurance. Any Benefits Counselor who has questions about the information in this chapter can call the Legal Hotline for Texans at the Benefits Counselor support number. In certain paragraphs, websites are identified. This online manual can be found on the Texas Legal Services Center website at [www.tlsc.org](http://www.tlsc.org). The site also provides links to Research Tools and to Federal and State Resource sites.

Question: Which agency is not a HICAP partner agency? (Circle correct answer.)

- A. Texas Department of Aging and Disability Services
- B. Texas Department of State Health Services
- C. Texas Department of Insurance
- D. Texas Legal Services Center

**Chapter questions and answers.** As you have already seen, after some of the paragraphs there are questions relating to the materials covered in the paragraphs. An answer key is at the end of the chapter.

1. **Sources of Law.** The federal legislation which originally authorized the Benefits Counseling program was 42 United States Code (U.S.C.) §3058k, a portion of the Older Americans Act (the “Act”). Provisions of that section of the Act still exist, in sections of the Act which will be discussed in this chapter. The Act was first adopted in 1965 and has been amended several times to define priority target groups, services provided, persons authorized to provide assistance and funding streams. In 2006, the Older Americans Act was reauthorized to continue operations under Public Law 100-36. In recent years, funding for the Benefits Counseling program has been distributed by the federal Centers for Medicare & Medicaid Services (CMS), under provisions of the Medicare law, at 42 U.S.C. §1395b-4. That section of the Medicare law authorizes national funding for a program of health insurance information, counseling and advocacy grants. Appendix A has 42 U.S.C. §1395b-4. Highest oversight of the SHIP program, as of November of 2011, is at the Administration on Aging (AoA). But this transition to AoA has not materially changed the SHIP. The AoA administers the Older Americans Act. Pertinent sections of the Older Americans Act are set forth verbatim within certain of the following paragraphs.

2. The Centers for Medicare & Medicaid Services (CMS) is now the key funding source for HICAP under the federal State Health Insurance Assistance Program (SHIP). The above-referenced Medicare aspect of the program, 42 U.S.C. §1395b-4, was created under Section 4360 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Public Law 101-508). This section of law authorized CMS to use funds drawn from the Medicare trust fund to make grants to States to continue Benefits Counseling services and it expanded the definition of eligible individuals to include persons on Medicare or potentially eligible for Medicare. CMS named the Benefits Counseling program as the State Health Insurance Assistance Program (SHIP). There is a SHIP program in every state and in select U.S. territories.

Question: What do the letters CMS stand for?

Answer: \_\_\_\_\_

Question: What do the letters SHIP stand for?

Answer: \_\_\_\_\_

3. The Benefits Counseling program in Texas is authorized under the Texas Department of Aging and Disability Services (formerly the Texas Department on Aging), which is the State Unit on Aging for Texas. Benefits Counseling is a required component of an Area Agency on Aging System of Access and Assistance. This is provided for by 40 Texas Administrative Code (TAC) §83.3(c)(2). There are 28 Area Agencies on Aging in Texas; together they serve all 254 counties in the State. The Area Agencies on Aging have contracts with the Department of Aging and Disability Services. While the Department of Aging and Disability Services is the State Unit on Aging under the Older Americans Act, it is also a part of the Texas “health and human services enterprise.” The

Texas Health and Human Services Commission (HHSC) heads up the health and human services agencies in Texas.

Question: How many Area Agencies on Aging are there in Texas?

Answer: \_\_\_\_\_

Question: What do the letters HHSC stand for?

Answer: \_\_\_\_\_

4. The Benefits Counselors of the Area Agencies on Aging assist individuals to access a wide range of services. For example, they can assist a person to show that the criteria for Community Care for Aged and Disabled (CCAD) programs are met. The Benefits Counselors can assist an individual to prove eligibility for the Supplemental Security Income (SSI) program, while the matter is at the administrative (non-court) level. The Benefits Counselors, staff and volunteer, are a fundamental part of the SHIP in Texas. The Benefits Counselors have back-up and support on legal issues from the Legal Hotline for Texans (LHT) and those at Texas Legal Services Center who work in collaboration with LHT.

Questions:

What does CCAD stand for?

Answer: \_\_\_\_\_

What does SSI stand for?

Answer: \_\_\_\_\_

What does LHT stand for?

Answer: \_\_\_\_\_

5. A further administrative rule, 40 TAC §83.4, allows specially certified benefits counselors to prepare advance directives. At the request of the legislative author of the bill, Texas Legal Services Center staff assisted in the enactment of the law that is the foundation for 40 TAC §83.4. That law is Texas Government Code §81.1011. This is an example of TLSC's role as a legal resource for beneficiaries under the HICAP program.

Which agency is a *legal* resource for the Texas HICAP Program? (Circle correct answer.)

- A. HHSC      B. TDI      C. DADS      D. TLSC

6. DADS provides guidance on the operations of HICAP in the publication, *Service Definitions for Area Agencies on Aging, Fiscal Year 2012*. These definitions are at [http://www.dads.state.tx.us/providers/AAA/Procedures/DevelopingBudgets/Service\\_Definitions.pdf](http://www.dads.state.tx.us/providers/AAA/Procedures/DevelopingBudgets/Service_Definitions.pdf)

7. In Texas, the HICAP program includes the Department of Aging and Disability Services (DADS) that receives the SHIP funding and serves as the grant administrator. Given the concepts of the delivery of services as legal assistance and legal awareness set forth in the *Service Definitions for Area Agencies on Aging, Fiscal Year 2012*, and the insurance assistance aspect of the SHIP funding, DADS contracts with the Texas Department of Insurance and Texas Legal Services Center to provide training, support and technical assistance to local benefits counselors. The 28 Area Agencies on Aging are the local subcontractors responsible for assuring services to eligible individuals throughout the state. The Texas Department of Insurance maintains the HICAP certification records for Benefits Counselors I, the basic level of certification. The Texas Legal Services Centers maintains the certification records for the Benefits Counselors who are certified as Advance Directives preparers.

Question: Which HICAP partner maintains the certification records for Benefits Counselors I?

Answer: \_\_\_\_\_

8. Role of Volunteers: HICAP is made successful through volunteer counselors who use specific information or assistance to counsel individuals. Volunteers are an essential component of HICAP. Only through a statewide network of hundreds of dedicated and trained volunteers will HICAP be able to provide the services seniors require. The training sessions for staff and volunteers provide an objective approach to specific problems with claims and insurance policy review. The program combines federal, state and local resources to serve clients.

9. Older Americans Act provisions provided the foundation for how Texas established the HICAP, although the Medicare law is now the main source of funding for the HICAP program. Following are key Older Americans Act provisions relating to Benefits Counseling. It should be noted that each state had the final decision on how to organize their SHIP. More details about the Older Americans Act can be found at [http://www.aoa.gov/AoARoot/AoA\\_Programs/OAA/index.aspx](http://www.aoa.gov/AoARoot/AoA_Programs/OAA/index.aspx). The Older Americans Act has several provisions which encourage benefits counseling.

a. Under Section 202(a)(20)(A) of the Older Americans Act, the U.S. Administration on Aging, through the Assistant Secretary on Aging, is required to:

[E]ncourage, and provide technical assistance to, States, area agencies on aging, and service providers to carry out outreach and benefits enrollment assistance to inform and enroll older individuals with greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs providing benefits for which the individuals are eligible, including –

- (i) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or assistance under a State plan program under such title;
- (ii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.);
- (iii) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or
- (iv) benefits under any other applicable program...

b. Under Section 306(a)(2) of the Older Americans Act, each area plan on aging must assure that an adequate proportion of the area agency on aging's allotment of Older Americans Act funding will be expended to deliver:

(A) services associated with access to services (transportation, health services (including mental health services) outreach, information and assistance, (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible) and case management services);

(B) in-home services, including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(C) legal assistance; and assurances that the area agency on aging will report annually to the State agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded.

c. Under Section 705(a)(3) of the Older Americans Act, in order for a state to receive an Allotment for Vulnerable Elder Rights Protection Activities, the state must assure in its state plan on aging that:

the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights...

d. The Older Americans Act promotes the concept that services of legal assistance and legal awareness be delivered by non-lawyers and volunteers, including volunteers from the aging and disabled community. Since its creation HICAP required training and certification of Benefits Counselors, an aspect that other states have since initiated. The *Service Definitions for Area Agencies on Aging, Fiscal Year 2012* further delineate the meaning of "legal assistance" and "legal awareness."

Under the *Service Definitions for Area Agencies on Aging, Fiscal Year 2012*, legal assistance is defined at page 17 as:

Advice or representation by an attorney, including assistance by a paralegal or law student under the supervision of an attorney, or counseling or representation by a non-lawyer **such as a certified Benefits Counselor**, where permitted by law, to older individuals with economic and social needs. Legal assistance activities include the following:

- Advice/Counseling - a recommendation made to an older individual regarding a course of conduct, or how to proceed in a matter, given either on a brief or one-time basis, or on an ongoing basis. May be given by telephone or in person.

- Document Preparation - personal assistance given to an older individual which helps the preparation of necessary documents relating to public entitlements, health care/long-term care, individual rights, planning/protection options, and housing and consumer needs.
- Representation - advocacy on behalf of an older individual in protesting or complaining about a procedure, or seeking special considerations by appealing an administrative decision, or representation by an attorney of an older individual or class of older individuals in either the state or federal court systems.
- Services identified as “Legal Assistance Services” are: Benefits Counseling, Money Management, Representative Payee, and Guardianship.

*Note:* The *Service Definitions for Area Agencies on Aging, Fiscal Year 2012* have a caveat regarding legal assistance to individuals who are younger than 60. At page 18 of the *Service Definitions for Area Agencies on Aging, Fiscal Year 2012*, it is stated:

Legal Assistance provided to Medicare enrollees and eligible disabled (as determined by the Social Security Administration) Medicare pre-enrollees who are under age 60. This service may be provided by the AAA only if it receives funding through the Centers for Medicare & Medicaid Services (CMS).

Thus, for individuals younger than age 60, funding under the provisions of 42 U.S.C. §1395b-4 likely will be the sole non-local source of funding for Benefits Counseling. (An area agency on aging could, of course, seek local funding to supplement the federal Benefits Counseling funds.) In order for an individual younger than age 60 to receive Medicare, the individual must have a disability.

Under the *Service Definitions for Area Agencies on Aging, Fiscal Year 2012*, legal awareness is defined at page 18 as:

The dissemination of accurate, timely, and relevant information, eligibility criteria, requirements, and procedures to older individuals about public entitlements, health/long-term care services, individual rights, planning/protection options, and housing and consumer needs. While education and outreach initiatives that include the dissemination of information through mass media may be budgeted as associated costs under legal awareness, the activities may not be reported as units of service for Older Americans Act reporting. When an AAA receives CMS funding, units generated under these activities may be reported using the Public and Media Events (PAM) form.

e. The impact of benefits counseling efforts to gain benefits and services for eligible individuals requires HICAP to report and document services provided and to make assurances that HICAP has the capability and capacity to provide services throughout the state with the grant allocations.

Question: Provisions relating to the Benefits Counseling program in Texas are found in? (Circle correct answer.)

- A. The Older Americans Act alone.
- B. The federal Medicare law alone.
- C. 40 TAC §83.3(c)(2) alone.
- D. The Older Americans Act, the federal Medicare law, 40 TAC §83.3(c)(2), and the *Service Definitions for Area Agencies on Aging, Fiscal Year 2012*.

Note. Although the definition of legal assistance in the *Service Definitions for Area Agencies on Aging, Fiscal Year 2012* includes the term “advice” as part of counseling services, it should be noted that the intent of the Older Americans Act has always been to empower individuals to make informed choices. Further in the framework of insurance and legal services “advice” may be in direct conflict with licensing requirements of insurance agents and attorneys.

10. **History of Benefits Counseling and the HICAP Program.** Between 1978 and 1990, several state governments began programs to provide free information about health insurance options to their older citizens. These pioneer health insurance counseling programs have assisted thousands of senior citizens in making better informed decisions about their health insurance coverage. Modeled after these successful programs, HICAP began in early 1993 to provide these services throughout Texas. HICAP stands for **Health Information, Counseling and Advocacy Program**. Its mission is to provide accurate and objective health counseling, assistance, and advocacy in relation to Medicare, private health insurance, and public benefits such as Medicaid, and Food Stamps (now known as SNAP (Supplemental Nutrition Assistance Program)). The program targets seniors aged 60 or older and individuals of any age on Medicare or eligible for Medicare. Most of these other individuals likely have one or more disabilities or have certain chronic illnesses. In Texas, the HICAP program is sustained in the Benefits Counseling program of the twenty-eight Area Agencies on Aging (AAA) across the state. DADS also subcontracts funds to the Texas Department of Insurance and to the Texas Legal Services Center for training and technical assistance to the 28 AAAs.

11. **HICAP Funding History.** The main HICAP funding at present is an annual grant from the Centers for Medicare & Medicaid Services. CMS funds a State Health Insurance Assistance Program or SHIP in each state. The SHIP programs in each state are structured differently but in most other states the SHIP resides in only one state agency, either the state department on aging or the insurance department. HICAP is the Texas SHIP. Medicare publications and the Medicare national hotline will frequently refer beneficiaries to the SHIP in their state. Prior to the CMS grant funding, the Benefits Counseling program was funded by grants from the Administration on Aging. Since the HICAP Benefits Counselors serve in the AAAs, DADS requires the program to meet the requirements of applicable OAA provisions and reporting requirements.

12. **HICAP Authorization and Services.** As noted above, Benefits Counseling is addressed in the Older Americans Act (OAA). Insurance benefits and public benefits are important areas of involvement, with the requirement to give priority to older individuals with greatest economic need.

In addition to providing counseling services, outreach activities are conducted to inform eligible individuals of available benefits.

13. Benefits counseling services should assist older individuals in understanding their rights, exercising choice, benefiting from services and opportunities authorized by law and maintaining the rights of older persons, especially those with reduced capacity, and solving disputes. In amendments to the OAA in 2006, targeting groups were revised to include “older individuals with limited English proficiency”, and added a new group, “older individuals at risk for institutional placement.” Assistance in applying for benefits and appropriate referrals are also a part of the counseling process.

14. Role of Benefits Counselors to Provide Legal Services. The Older Americans Act defines legal assistance to include the work of non-lawyers, which means people who are trained to help the elderly with basic legal problems, but who are not under the direction of lawyers. The services Benefits Counselors provide are of immense benefit to the elderly and are services that lawyers generally do not offer. In 1978, the section of the Older Americans Act relating to legal services was amended by Congress to encourage the use of non-lawyers for delivery of legal help to older people. This section of the Act is now Section 102(a)(33), and it defines "legal assistance" as:

- a. ". . . legal assistance and representation by an attorney
- b. (including, to the extent feasible, counseling or appropriate assistance by a paralegal or law student under the supervision of an attorney) and includes counseling or representation by a non-lawyer where permitted by law, to older individuals with economic or social needs."

15. The 1978 amendments indicated congressional approval of the OAA’s support of the use of non-lawyers as a component of legal services. Non-lawyers or Benefits Counselors are persons who are knowledgeable and experienced in handling specific legal problems on behalf of an elderly individual. Federal and state laws authorize non-lawyers or Benefits Counselors to counsel and represent people in dealing with eligibility for, or termination, of an array of public benefit programs. These include assistance with government benefits such as Social Security, Supplemental Security Income, Medicaid, Medicare, Food Stamps (now known as the Supplemental Nutrition Assistance Program, or SNAP), and Veterans benefits. Benefits Counselors in Texas who are certified as advance directives preparers can also provide advice and document preparation regarding advance directives if that is a service offered by the Benefits Counselor’s AAA. These benefits programs and advance directives happen to be matters where there has been a vast unmet need for assistance. CMS will indicate their grant outreach priorities for specific programs, most recently, the Low-Income Subsidy/Extra Help that assists with out-of-pocket costs for the Medicare Prescription Drug Program and the Medicare Savings Programs.

- a. Expansion of Benefits Counseling. The U.S. Department of Health and Human Services (DHHS) houses both the Administration on Aging (AoA) and the Centers for Medicare & Medicaid Services (CMS). DHHS receives appropriations of Congress to provide a variety of health and human services including those established by the Older Americans Act. The Act created a system whereby every state would have a central statewide agency for elderly services (a “state unit on aging”), and would create sub-state agencies to distribute and monitor funding to service agencies at the community level. The services to be pro-

vided include health, transportation, counseling, in-home services, recreation, and nutrition. **Services under the OAA are to be provided without demand for payment although donations are allowed per the DADS guidelines to AAA.** Under the grant for Benefits Counseling, the target population includes elderly persons as established by the OAA (60 years of age or older), Medicare beneficiaries which include persons under the age of 65, and potentially eligible individuals.

b. CMS expanded outreach and service delivery based on grant funding received under the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) to include individual assistance in applying for the Low- Income Subsidy for Medicare Part D and/or the Medicare Savings Programs. Enactment and funding under MIPPA continue in 2011.

c. As noted in sub-paragraph a., the services of Benefits Counselors are to be rendered without demand for payment. A section of the Texas Human Resources Code, which those who currently serve as Benefits Counselors and those who have left the ranks of Benefits Counselors must obey, is Section 12.001. That Section of the Texas Human Resources Code provides, “PROHIBITED ACTIVITIES. (a) A person who is not licensed to practice law in Texas commits an offense if the person charges a fee for representing or aiding an applicant or recipient in procuring assistance from the department. (b) A person commits an offense if the person advertises, holds himself or herself out for, or solicits the procurement of assistance from the department. (c) An offense under this section is a Class A misdemeanor.” Under Section 12.21 of the Texas Penal Code, the penalties for a Class A misdemeanor conviction are a fine not to exceed \$4000, confinement in jail for not more than one year, or both such fine and confinement.

16. **The Benefits Counseling Program consists of two components.** As noted above, Benefits Counseling includes legal assistance and legal awareness. These definitions are also found in the DADS publication, *Service Definitions for Area Agencies on Aging, Fiscal Year 2012*. As noted above, a distinction is made between legal assistance to persons 60 years and older and legal assistance to persons not yet 60 years of age. For the latter group of individuals, the area agency on aging can only provide legal assistance if it receives funding through the Centers for Medicare & Medicaid Services (CMS), that is, under the HICAP grant.

17. The AAAs recognize HICAP as an important enhancement to their client services. Many of these AAAs are under the umbrella of Councils of Government (COGs). Some exist in the framework of a nonprofit group such as the United Way program or under local county or city government agencies.

#### 18. **HICAP Grant Current Funding**

The Centers for Medicare & Medicaid Services (CMS) provides federal grants for HICAP and similar state programs. CMS is the agency that administers Medicare. At the state level, the Texas Department of Aging and Disability Services (DADS) is the designated State Health Information Assistance Program (SHIP). Although the SHIP program was managed by CMS for most of its history, during 2011 the AoA assumed management. The grant cycle begins April 1 and ends March 30 of the following year.

What agency administers the Medicare program at the federal level?

Answer: \_\_\_\_\_

19. Grant funds are made available to support information, counseling and assistance activities relating to Social Security, Medicare, Medicaid, and related health coverage or other benefits. The current HICAP grant establishes four objectives summarizing Benefits Counseling services as one-on-one counseling; targeted outreach that supports CMS initiatives and partnerships; proficiency and capacity to assist beneficiaries to understand health plan options and enrollment assistance; and participation in CMS education and communication activities to update individuals about Medicare changes. Additionally the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) provided SHIPs funds to conduct outreach related to the Low-Income Subsidy/Extra Help (LIS) that works with Medicare Part D and for application assistance for LIS and the Medicare Savings Programs.

20. **HICAP is a partnership of four entities.** The Texas Department of Aging and Disability Services (DADS) is the designated State Health Insurance Assistance Program (SHIP) grantee. DADS is responsible for the administration, subcontracting and reporting for the SHIP grant.

21. The Texas Department of Insurance (TDI) is a support agency of HICAP. TDI has two staff in the Consumer Protection division of TDI that provide training and technical assistance for AAA and other partners. TDI training topics include understanding Medicare benefits, options to receive Medicare benefits and information about other insurance, including group, Medicare supplement policies, Medicare Advantage plans and long-term care insurance funding options. TDI is the HICAP partner that supports Benefits Counselors on insurance-related issues on behalf of Medicare beneficiaries and individuals with disabilities.

Question: Which HICAP partner supports Benefits Counselors with insurance issues?

Answer: \_\_\_\_\_

22. TDI also produces rate guides for Medicare Supplement Insurance and an online Long-Term Care Rate guide and other publications aimed at supporting the education efforts of HICAP. The Help Line 1-800-252-3439 is a resource for consumers and Benefits Counselors and to learn about the license status of agents and companies, how to report insurance fraud, and what complaint resolution services are available. The TDI website maintains a Seniors Issues webpage with information for benefits counselors and consumers at <http://www.tdi.texas.gov/consumer/hicap/index.html>.

TDI is also responsible for issuing certificates and maintaining the counselor and volunteer certification records for Level I, II and Long-Term Care certification. TDI provides individual agency certified counselor rosters asking each AAA to review and delete the names of Benefits Counselors that have separated from the AAA.

23. Finally, as the regulatory agency for insurance, TDI has a Memorandum of Understanding with CMS to address complaints against agents in the sale of Medicare products and specifically with regard to Medicare Advantage plans and the Medicare Prescription Drug program.

24. Texas Legal Services Center (TLSC) is a state support center for the Legal Aid programs of Texas. Texas Legal Services Center (TLSC) is also a support part of HICAP. TLSC staff is responsible for training and support to Benefits Counselors in the area of public benefits and the diverse legal appeal process. Through a dedicated phone number at TLSC's Legal Hotline for Texans (LHT), Benefits Counselors in area agency on aging systems of access and assistance have access to a designated attorney to provide daily support and technical assistance to Benefits Counselors. The LHT also assists in the preparation and submission of appeals, legal research and identifying state-level contacts with public benefits state agencies and programs.

25. There may be some matters which a Benefits Counselor cannot handle. Low-income clients can seek the services of the Legal Aid office that serves the area. The eligibility criteria for Legal Aid may vary. Legal Aid offices cannot accept criminal cases, or fee-generating cases. Most Legal Aid offices do accept cases in the core areas of domestic violence, landlord-tenant, mortgage foreclosure, and public benefit cases. If a Legal Aid office is not the answer for the client, the Legal Hotline for Texans may be able to offer a referral to a reduced-fee attorney.

26. The Legal Hotline for Texans also provides free legal advice and consultation. In larger cities of Texas, the local bar association often operates a lawyer referral program. The LHT and TLSC have an Internet webpage: [www.tlsc.org](http://www.tlsc.org).

27. TLSC also supports other aspects of the Older Americans Act by supporting the component of the legal assistance process for clients and Benefits Counselors in the area of advance directives, guardianship and other legal issues. TLSC also operates two other programs under the aegis of the Older Americans Act: The Texas Elder Exploitation Project and the South Central Pension Rights Project.

28. HICAP Training. There are two levels of certification for HICAP tied to the funding from CMS. These include Benefits Counselor Level I and Benefits Counselor Level II. Benefits Counselors II have completed training on how to handle a benefit appeal (such as a Medicare appeal). Benefits Counselors I or II can be either staff or volunteer. In addition, a Benefits Counselor I or II (staff or volunteer) can achieve Long-Term Care certification. As referenced above, under services provided by the Texas Legal Services Center, there is also Advance Directives certification. Advance Directives certification can be achieved by either a Benefits Counselor I or II, staff or volunteer. Chapter Two goes into more detail on the certification process. The training is a 25-hour course to help staff and volunteers hone their counseling skills and outreach techniques. These skills address specific problem solving, support of individual decision-making and referrals to appropriate agencies, including legal services for seniors. Proficiency will include Medicare, insurance in the areas of supplemental policies, HMOs, Medicare Advantage Plans, Medicare Prescription Drug program known as Medicare Part D, long-term care planning options, Medicaid, Low-Income Subsidy/Extra Help, Social Security and other related issues. Staff counselors and volunteers will be familiar with the various applications needed to access benefits for qualified seniors.

29. Role of the Area Agency on Aging. Each AAA is responsible for maintaining a benefits counseling component with the AAA. For purposes of the HICAP grant, a lead counselor should be designated to work in partnership with DADS, TDI and TLSC. The AAA is responsible for recruiting, screening, training, and placing volunteers throughout their assigned service area. Certified staff counselors and volunteers complete the same training course. Benefits Counselor training and oversight of volunteers can be completed in-house, at the sponsoring agency. Volunteers may take calls and practice resolving problems with the guidance of staff counselor oversight. Benefits Counselors can supervise the volunteer's quality of work, record-keeping practices, ability to identify specific "profiles of need" issues and observe communication skills and interaction with clients.

30. The AAA is responsible for maintaining training files for staff and volunteers and filing certification and re-certification documents. This is a requirement of DADS. This subject is covered in more detail in the certification program requirements in chapter two of this manual. Benefits Counseling services are reported in compliance with OAA program guidelines and also in compliance with CMS-required reporting guidelines.

31. Building Capability and Capacity in Benefits Counseling. The AAA is responsible for assurance that the Benefits Counseling program is available to individuals residing in all of their service area.

32. The volunteer base is essential to secure potentially eligible individuals appropriate free services. The task of recruiting, screening, training and placement of volunteers is a major component of HICAP for staff counselors. Staff and trained volunteers generate units of legal awareness and legal assistance using a specific reporting system.

33. The HICAP program is designed to function through staff benefits counselors and volunteer benefits counselors to provide older individuals and Medicare enrollees and pre-enrollees of any age with free, competent and confidential counseling. Chapter Three of this manual discusses SHIP reporting and the filing of monthly reports with DADS. Again, these numbers become part of the national summary of how this state serves its seniors and persons on Medicare.

34. Increasingly, the key HICAP funding source, CMS, requires that beyond legal assistance to individuals, SHIPs act as an integral partner with CMS on education and outreach campaigns. Performance guidelines expect not only promotion/outreach but measurable assistance to individuals. An example of this is the campaign on the Low Income Subsidy to Medicare Part D, wherein not only are AAAs to demonstrate enrollment centers in service areas but also actual application assistance. AAAs are encouraged to plan their service delivery around the CMS calendar. Contact the Texas Department of Insurance for annual planning related to Medicare.

35. See both the DADS website and the CMS SHIPTalk websites for volunteer development resources.

36. Key HICAP Resources - SHIPs are viewed as primary partners in CMS's effort to assist beneficiaries. Following are SHIP information and training resources from CMS.

- A. The National Medicare Training Program hosts monthly audio conference calls and produces multimedia training aids, tool kits and partner publications. Their website is on the CMS versus public Medicare website. Outreach and Education information is located at <https://www.cms.gov/home/outreacheducation.asp>. The National Medicare Training Program website is at <http://www.cms.hhs.gov/NationalMedicareTrainingProgram/>.
- B. The SHIP Resource Center is a contracted entity that supports the state SHIPs, serving as a depository for SHIP-related communications from CMS. The Resource Center also issues a regular newsletter and offers a secure website at [www.SHIPTalk.org](http://www.SHIPTalk.org). Since this is also the website for entering legal awareness and legal assistance into the National Performance Reporting system, AAAs are encouraged to register each benefits counselor via the DADS HICAP Director.
- C. The annual SHIP Directors Conference is intended to train and support state SHIP directors and state-level partners.
- D. The CMS Mailbox is at [SHIP@cms.hhs.gov](mailto:SHIP@cms.hhs.gov). Before contacting CMS (unless responding to a specific request) AAAs are encouraged to request assistance from DADS, TLSC or TDI.
- E. The CMS Regional SHIP Liaisons regularly communicate with SHIP Directors in their region. Texas is served by the Region VI CMS office in Dallas. The regional office hosts annual Train-the-Trainer seminars each summer. This office also handles Medicare Advantage and Medicare Prescription Drug complaints after the client and/or their representative has exhausted the complaint process through the plans.
- F. Other resources available to SHIP partners for use with beneficiaries include the following:
  - The *Medicare & You* handbook which is issued yearly.
  - The Medicare website [www.medicare.gov](http://www.medicare.gov), which includes plan comparison information for both Medicare Advantage plans and Medicare Prescription Drug plans.
  - The toll-free, 1-800-MEDICARE (1-800-633-4227) call center.

37. Other SHIP Resource Partners: At the national level there are other partners that work in conjunction with CMS. Among them are the National Council on Aging via My Medicare Community at the Web site <http://www.mymedicarecommunity.org/>, the Medicare Rights Center at <http://www.medicarerights.org/>, and until recently, the Health Assistance Partnership, whose materials can be accessed through the Web site <http://www.hapnetwork.org/>. Contact TDI or TLSC to identify groups that your benefits counseling program should be aware of.

38. Texas Advocates – TLSC maintains a ListServ that allows HICAP partners including any AAA to post questions or information of interest to the HICAP network. To register a Benefits Counselor to receive Texas Advocates notices, the AAA Director needs to send an e-mail to [bbower@tlsc.org](mailto:bbower@tlsc.org) or [aneves@tlsc.org](mailto:aneves@tlsc.org), requesting that the referenced counselor be allowed to join Texas Advocates. Both TLSC and TDI use Texas Advocates to issue timely information and notices to benefits counselors.

39. Building Local Partnerships. The state level partners are resources for building partnerships with federal, state and community groups and organizations. Your partnerships can build capacity for services. The certification process for Benefits Counseling encourages the certification of provider staff as HICAP volunteer counselors. This can expand the scope of services of staff of

other programs related to the Older Americans Act, such as nutrition center and senior center staff. Another way to build capacity is to reach potentially eligible individuals through organizations such as low-income housing facilities or health providers as they are likely serving the target population HICAP needs to reach.

40. Reporting is a significant program requirement for counselors. Interest has grown relative to how all parts of the information infrastructure perform in the effort to serve the population targeted by HICAP. As a result, there is new government-wide emphasis on results and outcomes in all areas. This has brought about increased focus on accountability, including reporting of activity and performance assessments to determine the impact of these service programs. CMS has begun using its National Performance Report (NPR) as a tool to measure outcomes of the grant partnerships with all states. DADS is implementing the Social Assistance Management Software (SAMS) and other approved systems to satisfy CMS and the Texas Legislative Budget Board (LBB) in this accountability effort.