

## **Chapter Two**

### **Counselor Skills/Qualifications**

Scope of chapter. This chapter sets forth the qualifications, skills and abilities required for staff and volunteers working as Benefits Counselors. The Benefits Counseling program known as the Health Information, Counseling and Advocacy Program (HICAP) is established as a basic program of the Area Agencies on Aging pursuant to funding by the Texas Department of Aging and Disability Services (DADS) as described in Chapter 1 of this manual. Funding for all HICAP activities, except the HICAP Director's position, is pursuant to a State Health Insurance Assistance Program (SHIP) grant from the Centers for Medicare and Medicaid Services (CMS). Much of this chapter is devoted to areas of knowledge necessary to the carrying out of the duties of providing legal assistance to eligible individuals. The chapter also references program components for legal awareness that satisfy grant requirements and technical guidances.

Chapter questions and answers. There are questions after some of the paragraph sections. An answer key is at the end of the chapter.

#### Overview of paragraphs.

- Paragraph 1 identifies sources of law and provides background information regarding HICAP.
- Paragraph 2 identifies the target population served by HICAP as defined by OAA, and separately in the SHIP grant.
- Paragraph 3 discusses leveraging Benefits Counseling programs and the role of trained volunteers as Benefits Counselors.
- Paragraph 4 explains the certification process and identifies the levels of certification available to Benefits Counselors.
- Paragraph 5 describes the public and private insurance programs that Benefits Counselors receive training for in accord with HICAP funding.
- Paragraph 6 describes other training requirements for Benefits Counselors.

- Paragraph 7 discusses legal awareness as an objective in strengthening the capacity and impact of HICAP at the local AAA level.
- Paragraph 8 references self-attestation requirements as established by the SHIP grant for HICAP.
- Paragraph 9 describes the increasing importance of quality assurance measures in the SHIP program.
- Paragraph 10 references training modules to promote outreach and assistance to beneficiaries with mental health conditions.
- Paragraph 11 addresses mystery shopping.
- Paragraph 12 addresses the requirement to safeguard personal client information.
- Attachments -- Appendices
  - A – Excerpt from Service Definitions for Area Agencies on Aging
  - B – Application for Certification
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1. Sources of Law and Background Information.

a. Section 102(a)(33) of the Older Americans Act (OAA) defines legal assistance. That definition is: The term “legal assistance” (A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; and (B) includes (i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and (ii) counseling or representation by a nonlawyer where permitted by law. That definition encompasses Benefits Counseling. That definition as codified at 42 U.S.C. Section 3002(33). The question of whether a nonlawyer may render a certain service must take into account the definition of the practice of law, which is governed by state law. In Texas, Government Code Sections 81.101 and 81.1011 define what is and what is not the practice of law. Only a lawyer can render the services described at Texas Government Code Section 81.101. The federal rules for Social Security, Supplemental Security Income, Medicare, Medicaid, SNAP (food stamps), Temporary Assistance for Needy Families (TANF), and unemployment compensation all allow the client to request a nonlawyer to provide representation at the administrative level (below the court level).

Question: What one requirement does the OAA set on legal assistance by a nonlawyer? (Circle the correct answer).

- A. The legal assistance by the nonlawyer must be in writing.
- B. The legal assistance by the nonlawyer must be provided in an office.
- C. The legal assistance by the nonlawyer can occur where permitted by law.
- D. The legal assistance by the nonlawyer must be provided in English.

b. The OAA encourages volunteerism. Volunteer Benefits Counselors have long been a part of the Texas HICAP program.

c. The OAA references counseling regarding insurance benefits provided by both private and public insurance programs. Benefits Counselors are required to be familiar with and knowledgeable about specific private and public insurance programs.

d. In accordance with the OAA, the target group to be served includes older individuals that are eligible but not receiving services. It also mandates priority of services for older individuals with the greatest economic need.

e. The Centers for Medicaid and Medicare Services (CMS) administer the Benefits Counseling programs pursuant to 42 U.S.C. Section 1395 b-4. This section of law is Appendix A to Chapter One. The CMS program was created under Section 4360 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Public Law 101-508). This section of law authorized use of funds drawn from the Medicare trust fund to make grants to States to establish service programs for Medicare beneficiaries.

f. This section of law – 42 U.S.C. Section 1395 b-4, includes persons on Medicare regardless of age. Certain individuals, such as those who have received 24 months of Social Security Disability Benefits (“DIB”), those who have end-stage renal disease, and those who have Amyotrophic Laterals Sclerosis (Lou Gehrig’s disease) and are receiving disability benefits from Social Security or the Railroad Retirement Board, can receive Medicare, even though they may be many years younger than age 65. Such individuals can be served by the Benefits Counseling program.

g. The CMS legislation authorized appropriations for three fiscal years and the first grants were issued on September 28, 1992. The Centers for Medicare & Medicaid Services (CMS) assumed responsibility for funding the Benefits Counseling programs and established the State Health Insurance Assistance Program (SHIP) annual grant program.

h. Both the HICAP grant application as a legal contract and CMS guidance to SHIPs require that counselors be able to assist persons with timely information about the Medicare program, and other public and private programs. A key role is that they also assist with problems a person may have with benefits, services and coverage related to Medicare.

i. Benefits Counseling is a required component of an area agency on aging system of access and assistance. This requirement is set forth in 40 Texas Administrative Code Section 83.3(c). This section of the Texas Administrative Code and all others can be directly accessed through the website of the Secretary of State of Texas, at [www.sos.state.tx.us](http://www.sos.state.tx.us). Once there, hover over “State Rules & Open Meetings.” In the drop-down box, click on “Texas Administrative Code.” In the box in the upper right, click on “View the Current *Texas Administrative Code*.”

Question: Which office of the State of Texas provides direct access to all sections of the Texas Administrative Code? (Circle the correct answer).

- A. The Office for the Inspector of Hides.
- B. The Office of Treasurer of Texas.
- C. The Secretary of State of Texas.
- D. The Boll Weevil Commission.

j. Benefits Counseling is identified as a “Legal Assistance Service” at page 17 of the *Service Definitions for Area Agencies on Aging for Fiscal Year 2012*. These Service Definitions, issued by the Texas Department of Aging and Disability Services, 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). Pages 17 – 19 of the Service Definitions define Legal Assistance and Legal Awareness. Those pages are Appendix A.

2. Target populations eligible for Benefits Counseling Services. In accordance with the criteria contained in the Older Americans Act, Benefits Counseling as a program within the Area Agencies on Aging is to give preference to:

- Older individuals (defined in aging programs as persons 60 and older), with greatest economic need; and,
- Individuals eligible for, but not receiving benefits.

CMS expanded those populations with the addition of anyone with Medicare coverage, or eligible therefor. CMS, as the federal agency that administers the Medicare program, has defined eligible individuals to include persons that are reasonably certain to be eligible for Medicare coverage in the foreseeable future. Each AAA needs to assure that the Benefits Counseling program is accessible to Medicare eligible persons that may not otherwise qualify for services of the AAA. Caregivers can also access services when acting on behalf of an otherwise eligible individual. *The Service Definitions for Area Agencies on Aging for Fiscal Year 2012* allow area agencies to provide legal assistance (which includes Benefits Counseling) to “Medicare pre-enrollees who are under age 60.” See Appendix A, page 2. The SHIP grant identifies annual outreach initiatives to target groups.

Question: Under the Texas Department of Aging and Disability Services’ *Service Definitions for Area Agencies on Aging for Fiscal Year 2012*, which one statement is true regarding area agencies on aging and Medicare pre-enrollees? (Circle the correct answer).

- A. Area agencies on aging can charge Medicare pre-enrollees any extra fee for Benefits Counseling services.
- B. Area agencies on aging are allowed to provide legal assistance to Medicare pre-enrollees.
- C. Area agencies on aging are required to give Medicare pre-enrollees a pre-test before providing legal assistance to them.
- D. Area Agencies on Aging are required to place Medicare pre-enrollees on an interest list, before providing legal assistance to them.

3. Leveraging Benefits Counseling Programs

- a. As noted, the OAA specifically references the use of non-lawyers that are trained to provide legal assistance to individuals. Among the nonlawyers who can provide legal assistance where permitted by law, volunteers can be significant providers of Benefits Counseling.

b. While volunteers are used in various programs that operate under the AAAs, both the Administration on Aging and DADS recognize that it is up to the local AAA to determine the placement and selection of volunteers. Information on how volunteer Benefits Counselors can collaborate with regional Benefits Counselors is at the DADS webpage at [http://www.dads.state.tx.us/news\\_info/benefits/index.html](http://www.dads.state.tx.us/news_info/benefits/index.html).

Question: Under the OAA, what one statement is true of volunteers as providers of legal assistance? (Circle the correct answer).

- A. Volunteers can be among the nonlawyers who can provide legal assistance where permitted by law.
- B. The only role that volunteers can have is the role of providing legal assistance.
- C. Volunteers are prohibited under all circumstances from providing legal assistance.
- D. Only volunteers who are Medicare pre-enrollees are allowed to provide legal assistance.

c. CMS monitors the ratio of volunteer Benefits Counselors to staff Benefits Counselors. At the national level there has been discussion on using the number of volunteers as a performance measure. More discussion on volunteers is included in Paragraph 4, in this chapter.

d. Minimum requirements for Benefits Counseling at an AAA. Each AAA system of access and assistance must provide Benefits Counseling. See 40 Texas Administrative Code Section 83.3(c), at the website of the Secretary of State of Texas. The counselor should register with TDI by submitting the Verification of Certification form as Uncertified. The counselor must become certified as a Benefits Counselor Level I within one year of employment with the AAA.

4. Benefits Counseling Certification.

a. The Texas HICAP program from its inception required the certification of Benefits Counselors. To gain certification, individuals are required to participate in training, work under supervision, and to pass a test. Currently there are four forms of certification for Benefits Counseling in the areas of health insurance and public benefits programs. The certification period is for two years and also requires yearly participation in state HICAP training. The three levels of certification and requirements for each are as follows:

- 1) Benefits Counselor Level I requires 25 hours of training, client counseling services under supervision, and passing a 100 question written test with a score of 70% or better.
- 2) Benefits Counselor Level II is based on a day of training on legal research, the appeals process and document preparation, in conjunction with a day during which the Benefits Counselor represents a client in a mock hearing, and also plays the role of the client in another hearing.
- 3) Long-Term Care Certification requires that a Benefits Counselor be certified as a Level II counselor, and then participate in a minimum of a day and one-half of training ending with a written examination.
- 4) Advance Directive Preparer certification requires that a Benefits Counselor be certified as either a Level I or Level II Benefits Counselor, participate in a day of training, and pass a written test with a score of 70% or better.

Question: What one statement is true regarding Advance Directive Preparer Certification?

(Circle the correct answer).

- A. Advance Directives Preparers must be certified as a Level II counselor.
- B. Advance Directives Preparers must first acquire a Long-Term Care Certification.
- C. Advance Directives Preparer Certification requires passing a written examination.
- D. Advance Directives Preparer Certification requires conducting a mock hearing.

b. Prior to embarking on certification of a Benefits Counselor, whether staff or volunteer, the AAA is required to have the individual complete an Application for Certification. See Appendix B – Application for Certification. The application alludes to other applicant screening requirements of the AAA and to policies and procedures of the AAA. CMS requires assurance with regards to conflict of interest in becoming a certified Benefits Counselor. The Application for Certification is maintained by the AAA and may be part of DADS auditing for the Benefits Counseling program.

c. Following are examples of what might constitute conflict of interest for HICAP.

i. The applicant is an insurance agent and sells health insurance products, including private Medicare plans. The applicant is interested in working directly with Medicare beneficiaries. It would not be a conflict of interest if the volunteer limits their work to training and support of other Benefits Counselors.

ii. The applicant has a business and charges clients to resolve their insurance claims. The applicant wants to learn about Medicare and to make contacts in the community. The possibility for financial gain, presents a conflict of interest.

d. The Department of Aging and Disability Services also requires that Benefits Counselors receive training to comply with confidentiality and privacy rules under the federal Health Insurance Portability and Affordability Act of 1996. This Act is abbreviated HIPAA. Information about compliance with HIPAA is available from the Texas Legal Services Center. Understanding how to receive protected health information under HIPAA can be very important for effective Benefits Counseling. Guidance related to HIPAA can also be found at the DADS website for contractors at

<http://www.dads.state.tx.us/providers/hipaa/index.html>. Counselors can find more guidance from DADS on working with volunteers at their web page available at <http://www.dads.state.tx.us/volunteer/ltss/index.html#application>.

Question: HIPAA deals with what subject? (Circle the one correct answer).

- A. The manner in which all medical instruments must be sterilized.
  - B. The deduction of medical expenses under the SNAP (food stamp) program.
  - C. The period of ineligibility for giving away property to qualify for Supplemental Security Income.
  - D. The confidentiality and privacy of protected health information.
- e. The Verification of Certification form is the HICAP form used to verify certification and recertification of counselors as Level I, Level II and Long-Term Care Certification. See Appendix C – Verification for Certification.
- f. For Level I certification, the applicant, after completing training is required to take a 100 question test. Texas Legal Services Center maintains the test. It changes from time to time. The test and answer key are made available to the AAA Director upon request so that the test can be administered locally. When the Director has a volunteer or staff member who wishes to take the test for Benefits Counselor I, the Director can contact Texas Legal Services Center to obtain the most recent version of the test. The test is based on information in the HICAP manual. The test is “open book” and must be completed within a two-week time period. The passing score is 70. The AAA Director or their designee (in some cases the lead counselor) grades the test. The test should be kept as part of the counselor’s file. The Verification for Certification form is completed and signed by the AAA Director. The completed form is sent by fax or mail to the HICAP Coordinator at the Texas Department of Insurance. TDI processes applications on a monthly or semi-monthly schedule. A certificate and identification badge is prepared and the name of the counselor is entered into a data base. The certificate and badge is returned to the AAA. It is the responsibility of the AAA to notify TDI and DADS about the termination of any counselors.

g. The same forms are used to process Level II and LTC Planning certifications. The Verification of Certification form is completed by the Director or the lead counselor after the applicant has attended the specified training and participated in a mock hearing or passed a written test with regard to Long-Term Care certification.

Type of Certification	Type of Test Note: All of these must be preceded by the required amount and type of “classroom” training.	Who maintains (updates) the Test?	Who administers the Test?  Who scores the Test?	Who certifies the Benefits Counselor?
Benefits Counselor I	Multiple choice and true-false test. 100 questions. Taken in one eight-hour day. Open book. Individual effort. Minimum passing score: 70 answers correct. Test is taken when the individual is ready to take it.	Texas Legal Services Center.  At each periodic updating of the test, an email is sent over the Texasadvocates listserv. The email states that the Benefits Counselor I test has been revised and that Directors of the Texas Area Agencies on Aging can request the updated test.	The Director of the Texas Area Agency on Aging for which the Benefits Counselor is a staff member or a volunteer administers and scores the test.	The Texas Department of Insurance. The Director sends the necessary documentation, including that the test has been passed, and the Department then issues the certificate to the individual as a Benefits Counselor I on behalf of the HICAP program.

Benefits Counselor II	The test is the handling of a mock administrative law hearing (unless the individual has handled an actual Medicare, Medicaid, Social Security, SSL, food stamp, <u>or</u> TANF administrative law hearing that involved an opening statement, examination of one or more witnesses under oath, introduction of documentary evidence, and a closing statement).	Texas Legal Services Center updates the mock hearing case file for each Benefits Counselor II training. Texas Legal Services Center recruits the presiders. The presider for each mock hearing is either a Benefits Counselor II with <i>actual</i> administrative law hearing experience, or an attorney with administrative law hearing or trial experience.	The presider oversees the mock hearing and determines if the mock hearing has been handled appropriately. The individual is informed and then informs the Director of the Area Agency on Aging.	The Texas Department of Insurance. The Director sends the necessary documentation, including that the mock hearing has been handled appropriately, and the Department then issues the certificate to the individual as a Benefits Counselor II on behalf of the HICAP program.
Advance Directives Preparer	Multiple choice and true-false test. 70 questions. Taken in one eight-hour day. Open book. Individual effort. Minimum passing score: 49 answers correct. Test is taken when the individual is ready to take it. The test can be taken by either a Benefits Counselor I or II.	Texas Legal Services Center.  At each periodic updating of the test, an email is sent over the Texasadvocates listserv. The email states that the Advance Directives test has been revised and that Directors of the Texas Area Agencies on Aging can request the updated test.	The Director of the Texas Area Agency on Aging for which the Benefits Counselor is a staff member or a volunteer administers the test.  The test is faxed to Texas Legal Services Center for scoring.	Texas Legal Services Center prepares the certificate for the successful individual, and the Texas Department of Aging and Disability Services issues the certificate, which is sent to the Benefits Counselor.

<p>Long-Term Care.</p>	<p>Multiple choice and true-false test. 100 questions. Taken in one eight-hour day. Open book. Individual effort. Minimum passing score: 70 answers correct. Test is taken when the individual has completed training.</p>	<p>Texas Department of Insurance. At each periodic updating of the test, an email is sent over the Texasadvocates listserv. The email states that the Benefits Counselor LTC Planning test has been revised and that Directors of the Texas Area Agencies on Aging can request the updated test.</p>	<p>The Director of the Texas Area Agency on Aging for which the Benefits Counselor is a staff member or a volunteer administers the test. Directors may assign the administration of the test, scoring and application preparation to the lead Benefits Counselor. The verification of Application form must be signed by the Director.</p>	<p>The Texas Department of Insurance. The Director sends the necessary documentation, including that the test has been passed, and the Department processes certificates monthly (after the 15<sup>th</sup> of each month) and then issues the certificate to the individual as a Benefits Counselor certified for Long-term Care Planning.</p>
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Question: For which one certification is the test the handling of a mock administrative law hearing? (Circle the correct answer).

- A. Benefits Counselor I certification.
- B. Benefits Counselor II certification.
- C. Long-Term Care certification.
- D. Advance Directives Preparer Certification.

h. Benefits Counselors are required to maintain certification. Benefits Counselors must attend at minimum yearly training and are required to support CMS outreach initiatives. CMS produces a Medicare calendar and expects SHIP programs to assist them in outreach. AAAs should encourage both staff and volunteer Benefits Counselors to improve their skills by seeking certification beyond Level I. Recertification for Level I does not require taking another test (does not require retesting). For Level II the Benefits Counselor does not need to do another mock hearing. Also, another test (retesting) is not required for Long-Term Care recertification. Retesting is not required to maintain certification as an Advance Directives Preparer. All of these certifications are maintained only so long as the Benefits Counselor is providing Benefits Counseling (whether as a volunteer or as paid staff) through an Area Agency on Aging System of Access and Assistance. For none of these services can cost-sharing be required by the AAA, at present. A non-lawyer is prohibited by Texas Human Resources Code §12.001 from charging a fee for assisting a person to apply for Medicaid, SNAP (food stamps), TANF (Temporary Assistance for Needy Families) or other benefits administered by the Texas Health and Human Services Commission. An individual who is not a licensed attorney and who prepares advance directives for others without being certified to do so and without being part of an Area Agency on Aging System of Access and Assistance, does not have the protection of Texas Government Code Section 81.1011.

5. HICAP Training Topics

a. The areas of knowledge determined basic to the work of Benefits Counselors are covered in Chapters Four through Chapter Fourteen of the HICAP manual. Because adults learn differently, and individuals have varying experience, it is important to note that the HICAP manual is but one source for training. The Level I classroom training dedicates an hour to each of the topic areas in the chapters referenced above. CMS through the National Medicare Education Program hosts monthly training seminars and develops multimedia training toolkits. Each AAA has access to training suites which include modules with Power Point presentations, exercises, games, tutorials and DVDs to use in training and presenting to beneficiaries. As referenced in Chapter One, Texas Legal Services Center and the Texas Department of Insurance are available for on-site training and technical assistance.

b. There are various volunteer training resources available to AAA on the DADS' "Get Involved" web page at [www.dads.org](#). Some of the resources cover topics meant to hone skills necessary for interviewing and conducting casework. Some AAAs depend on similar training from community colleges, universities, and other agencies. HICAP staff at TDI can assist an AAA in the orientation and training development for new counseling staff.

Question: In regard to orientation and training for new counseling staff, which one Texas state agency can assist an AAA? (Circle the correct answer).

- A. The Centers for Medicare & Medicaid Services.
- B. The Office of Treasurer of Texas.
- C. TDI.
- D. The Boll Weevil Commission.

c. Following is a description of chapters Three through Fourteen of the HICAP Benefits Counselor Manual. Description of private insurance and public health programs are covered in Chapters Five, Six, Seven, Ten, Eleven, and Twelve of the Manual. These chapters are aimed at building a counselor's skills and subject knowledge in insurance and government health programs.

1) Chapter Three provides a Benefits Counselor tools to gather the information that will be essential to helping a client obtain services they need. Intake forms and sample narratives help counselors who may not have experience in interviewing. This chapter also sets expectations for how to report the activities performed.

2) Chapter Four provides an understanding of the legal system as an advocacy resource. This section assumes that a Benefits Counselor may need to assist persons in obtaining services they were denied.

3) Chapter Five provides information on Medicare as a federal health program. It covers the health benefits available under Medicare Part A, Part B, and Part D known as the Medicare Prescription Drug Program. It also explains receiving benefits from the Traditional Medicare health plan versus Medicare Advantage, Part C, private health plan options. It includes information on eligibility and enrollment.

4) Chapter Six introduces the fact that there are out of pocket costs associated with Medicare and identifies other insurance options to supplement Medicare. The chapter covers group insurance and Medicare Supplement policies. Also covered are rights and protections when someone loses health coverage through no fault of their own.

5) Chapter Seven presents information about the public government health programs available to help pay Medicare costs for persons with limited income and resources. This chapter explains Medicaid, the Medicare Savings Programs and the Low Income Subsidy for Medicare Part D.

6) Chapter Eight covers the basics on long term care insurance, explains long term care services and explains Medicare's relation to paying for these costs.

- 7) Chapter Nine explains fraud and abuse in the Medicare program and other insurance fraud that falls under the authority of the Texas Department of Insurance.
- 8) Chapter Ten explains the Medicaid program in relation to Supplemental Security Income determined by the Social Security Administration.
- 9) Chapter Eleven covers Nursing Facility Medicaid as a program that pays for long term care services. Also covered are Medicaid programs that provide these benefits outside of a nursing facility setting.
- 10) Chapter Twelve identifies Veterans Benefits as another health care option available to certain individuals.
- 11) Chapter Thirteen covers rights of the individual to make informed health decisions and advance directives as a component of long-term care planning. It also extends to privacy issues that can at times become barriers to assisting a client without proper authorization and consent. The Texas Legal Services Center offers advance directives certification to Benefits Counselors.
- 12) Chapter Fourteen addresses the appeal process and the role of a Benefits Counselor to assist a person denied services. The information in this chapter is covered in depth during the HICAP Benefits Counselor Level II certification training provided by the Texas Legal Services Center.

6. Other training requirements. Benefits Counselors are required to be proficient in problem solving beyond having a basic understanding of private and public programs. The expansion of Medicare health plans and the prescription drug plans, require specialized training to understand rules unique to each type of plan. Additionally, some problems presented by clients, may require special case work. An example of this includes using online Medicare plan comparison tools and reviewing a client's complaint to determine if there is a marketing violation or a right to a special enrollment. Some of this training is offered by CMS and other government and advocate organizations. Both TLSC and TDI regularly promote other training opportunities relevant to Benefits Counseling. To verify if participation at other events meets certification criteria set out in HICAP, please send an inquiry to any of the HICAP partners at TLSC, DADS, or TDI.

7. Legal Awareness and Outreach Activities

a. Local Benefits Counseling programs are encouraged to maintain an overall awareness of, and work with, other existing service agencies. These include agencies such as health departments, clinics, and organizations seeking to help beneficiaries access Medicare, Medicaid, and other federal and state health access programs. Benefits Counseling programs should maintain a referral process to appropriate programs and offices. Partnering with mental health and disability services providers can be especially useful to many beneficiaries. Legal awareness can include presentations to groups.

b. There are some specifics relating to how legal awareness activities should be reported, set forth in the *Service Definitions for Area Agencies on Aging for Fiscal Year 2012*. These specifics are found toward the foot of page 2 of Appendix A.

Question. In regard to legal awareness, which one statement below is correct? (Circle the correct answer).

A. The local Benefits Counseling program should never conduct legal awareness

B. The AAA has carte blanche (a free hand) in deciding how to report legal awareness activities.

C. The AAA should design its own legal awareness programs and not spend time collaborating with existing services agencies.

D. The Service Definitions for Area Agencies on Aging include specifics on how legal awareness activities should be reported.

c. Counseling programs need to work with legal providers such as the Texas Legal Services Center (a state level HICAP partner) to obtain training and assistance with appeals, to advocate through legal rule making processes aimed at improving client access to programs, and to identify *pro bono* services for efforts beyond those that counselors can provide. An example is Texas Legal Services Center sponsoring state-certified continuing legal education programs that bring together Benefits Counselors and local Legal Aid staff. Another

example is Texas Legal Services Center working with Area Agencies on Aging to conduct continuing legal education programs for members of the private bar who are interested in accepting referrals from the AAA for *pro bono* legal service for clients of the AAA. In support of these ongoing activities in conjunction with Benefits Counselors, Texas Legal Services Center has operated the Legal Hotline for Texans since 1989. The Legal Hotline for Texans provides legal advice, consultation, and information to persons eligible for Medicare, as well as any person sixty (60) years of age or older. Texas Legal Services Center operates the Texas Elder Exploitation Hotline for individuals of any age who have been or are at risk of being financially exploited. Texas Legal Services Center operates the Health Law Program for low-income persons of any age, the Facility Victims Program for low-income consumers of long-term care of any age, the Crime Victim Civil Legal Services Program for low-income victims of violent crime, the Parenting Order Legal Line for low-income non-custodial parents of minor children, the South Central Pension Rights Project, the Self-Represented Litigants Project, and the anti-ID theft project, the Victims' Initiative for Counseling, Advocacy and Restoration in the Southwest (VICARS). Texas Legal Services Center also coordinates the Texas Kincare Taskforce and the Texas Elder Exploitation Taskforce. In addition to providing free legal advice, consultation and information, all of these projects can offer referrals. If the client's income is low enough for Legal Aid (not more than 125% of the federal poverty income limit) and if the client's case is of a type that the local Legal Aid program accepts, Texas Legal Services Center can refer the client to the local Legal Aid program for on-going legal services. For clients who need on-going legal services but do not fit the Legal Aid income guidelines of the local Legal Aid acceptance criteria, Texas Legal Services Center can offer referrals to Lawyer Referral services. In sum, working with legal providers such as local Legal Aid, *pro bono* attorneys, continuing legal education, long-distance legal advice, consultation and information, and appropriate referrals, can significantly contribute to a strong program of legal awareness and outreach to beneficiaries.

d. In a screening process, a variety of individuals and agencies may assist individuals in exploring eligibility for benefits. Client intake information and assessments should always be screened for the appropriateness of other benefit programs, such as SNAP (food stamps),

Medicare Savings Programs, the Low-Income Subsidy/Extra Help program, and other programs offered by the AAA. This screening can be assisted by visiting [www.yourtexasbenefits.com](http://www.yourtexasbenefits.com) and [www.benefitscheckup.org](http://www.benefitscheckup.org).

e. Counseling programs are encouraged to assure that adequate services are available to clients in the entire AAA service area. Providing training to other aging and health providers, including certifying counselors at partner organizations, helps to maximize the resources of local programs.

f. Local Benefits Counseling programs should take advantage of resource materials and consumer publications aimed to inform and educate individuals about the benefits to which they are entitled. Benefits Counseling programs have access to ordering bulk brochures from CMS and the Texas Legal Services Center and the Texas Department of Insurance.

g. Home visits to beneficiaries who are not able to leave their homes are an important outreach tool in some instances. A list of considerations regarding home visit issues is at Appendix D.

8. Benefits Counseling Attestation to SHIP grant program compliance. CMS requires State SHIPs to certify that the Benefits Counseling program is compliant to the terms of the SHIP grant assurances. The Benefits Counseling program as a program of the AAA is also subject to monitoring by DADS. It is subject to CMS review, and performance reporting through the electronic National Performance Reporting (NPR) as well as quality assurance activities meant to evaluate the program. To this end CMS requires SHIPs to confirm the compliance of their program. See Appendix E - Attestation of SHIP Minimum Requirements.

9. Quality Assurance for SHIPs. Quality assurance activities are becoming of increasing importance in the SHIP program. Although states' Benefits Counseling programs are structured differently throughout the country and in U.S. territories, there are core SHIP services. For instance, all SHIP programs provide timely and accurate information. Additionally, programs must demonstrate a capacity to provide services to the areas they serve.

10. CMS provides training modules to promote outreach and assistance to beneficiaries with mental health conditions. The toolkit for these modules is available in the archives at [www.shiptalk.org](http://www.shiptalk.org).

11. SHIPs have been requested to conduct mystery shopping to test Benefits Counselors' familiarity with terms such as "SHIP" and "Benefits Counseling". The survey also captured the willingness of counselors to serve individuals under the age of 65. Several states, including Texas, piloted a new Quality Assurance Toolkit for mystery shopping. The aim is to capture the accuracy of information given, measure customer service, monitor response time, and compliance with regards to privacy.

Question: What one answer describes a purpose of "mystery" shopping in the State Health Insurance Assistance Program (SHIP)? Circle the correct answer).

- A. Mystery shopping is meant to test Benefits Counselors' awareness of the most recent trends in mystery novels.
- B. Mystery shopping is meant to test Benefits Counselors' familiarity with terms such as "SHIP" and "Benefits Counseling."
- C. Mystery shopping is meant to test Benefits Counselors' familiarity with the role of the Inspector of Hides and the Boll Weevil Commission.
- D. Mystery shopping is meant to allow an individual to buy land belonging to applicants for Medicaid for one-half fair market value, as long as the purchaser's name is not shown on the deed recorded in the county clerk's office following consummation of the transaction.

12. DADS and CMS mandate that Benefits Counseling programs safeguard personal client information and disclose per federal and state rules privacy measures to their clients. The following forms are samples of documents aimed at documenting compliance.

- i. Client Agreement forms used during intake and aimed at explaining Benefits Counseling services and use of personal information. See Appendix F – Client Rights and Responsibilities Form.

- ii. Client intake form used to gather personal information needed to screen the applicant for services requested and other programs. See Appendix G - Client Intake and Request Form.
  
- iii. HIPAA compliant release form necessary to obtain information from Medicare contractors and Medicare health and prescription plans. See Appendix H – Area Agency on Aging Client Information Release form.