



South Carolina
House of Representatives
Legislative Oversight Committee

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April 18, 2023

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Agenda



South Carolina
House of Representatives
Legislative Oversight Committee

HEALTHCARE AND REGULATORY
SUBCOMMITTEE

Chairman Joseph H. "Joe" Jefferson, Jr.

The Honorable April Cromer
The Honorable Roger K. Kirby
The Honorable Thomas Duval "Val" Guest, Jr.
The Honorable Marvin "Mark" Smith

A G E N D A

Tuesday, April 18, 2023
9:00 a.m.
Room 110 - Blatt Building

Pursuant to Committee Rule 4.7, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.

AGENDA

- I. Approval of Minutes
- II. Discussion of the study of the Department on Aging
- III. Adjournment

Meeting Minutes



South Carolina House of Representatives Legislative Oversight Committee

Chair Jeffrey E. “Jeff” Johnson

William H. Bailey
Gary S. Brewer
April Cromer
Kambrell H. Garvin
Leon Douglas “Doug” Gilliam
Thomas Duval “Val” Guest, Jr.

William M. “Bill” Hixon
Joseph H. “Joe” Jefferson, Jr.
Wendell Keith Jones
Roger K. Kirby
Josiah Magnuson
John R. McCravy, III

First Vice-Chair Chris Wooten

Timothy A. “Tim” McGinnis
Adam M. Morgan
Travis A. Moore
Russell L. Ott
Marvin R. Pendarvis
Marvin “Mark” Smith

Charles L. Appleby IV
Legal Counsel

Cathy A. Greer
Administration Coordinator

Lewis Carter
Research Director

Roland Franklin
Counsel/Associate General Counsel for Litigation

Riley E. McCullough
Research Analyst

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Columbia, South Carolina 29211
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Room 228 Blatt Building

Legislative Oversight Committee

Tuesday, April 4, 2023

9:00 a.m. Blatt Room 110

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 4.7, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly’s website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Healthcare and Regulatory Subcommittee meeting was called to order by Chair Joseph H. Jefferson, Jr. on Tuesday, April 4, 2023, in Room 110 of the Blatt Building. Representative April Cromer, Representative Thomas “Val” Guest, Representative Roger Kirby, and Rep. Marvin “Mark” Smith were present for the meeting.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.

Approval of Minutes

- I. Representative Guest makes a motion to approve the meeting minutes from prior meeting. A roll call vote was held, and the motion passed.

Rep. Guest motion to approve meeting minutes.	Yea	Nay	Not Voting
Rep. Cromer	✓		
Rep. Guest	✓		
Rep. Kirby	✓		
Rep. Smth	✓		
Rep. Jefferson	✓		

Discussion of Department on Aging

- I. Chair Jefferson states the purpose of the subcommittee meeting. The meeting begins with public input from Tim Womack, Appalachian Council of Governments, Aging Services Director. His testimony provided information regarding the services offered by his organization, challenges with the provider network, and ways to improve the Department on Aging's relationship with the state's Area Agencies on Aging.
- II. Chair Jefferson explains this is the Subcommittee's second meeting with the Department on Aging and the purpose is to discuss the agency's programs and services. Chair Jefferson reminds agency representatives, who have been previously sworn in, that they remain under oath. Chair Jefferson administers the oath to Brenda Stalzer, Director, SC Vulnerable Adult Guardian ad Litem Program (VAGAL SC) and Dale Watson, State Long Term Care Ombudsman
- III. Agency representatives testified before the subcommittee regarding the following items:
 - a. Executive Organizational Unit;
 - b. Permanent Improvement Projects; and
 - c. Legislative Councils

Adjournment

- I. There being no further business, the meeting is adjourned.

Agency Snapshot

Department on Aging

Agency Mission

Working to meet the present and future needs of seniors and to enhance the quality of life for seniors through advocating, planning, and developing resources in partnership with federal, state, and local governments, nonprofits, the private sector and individuals.

Successes

Identified by the agency

History

- 1965 - Passage of the federal Older Americans Act, which mandates and authorizes programs, services, and structure which the Department on Aging now implements.
- 1965-2018 - The Department on Aging was known as the Commission on Aging, Division on Aging in the Governor's Office, Bureau on Aging in S.C. Health and Human Services, and Lieutenant Governor's Office on Aging.
- 2018 - Passage of legislation establishing the Department on Aging as a cabinet agency.

Organizational Units

- Administration
- Community Resources
- Vulnerable Adult Guardian ad Litem Program
- Ombudsman
- Finance, Grants, and Budgets
- Information Technology/Security/Business Analysis

Resources (FY 19-20)

Employees

43
at end of the fiscal year

Funding

\$52,250,492
appropriated and authorized

- Receiving two grants that will aid the respite, caregiver, and Alzheimer's programs
- Developing "break rooms" in four SC churches
- Receiving an Alzheimer's Disease Program Initiative Grant that focuses on the rural African American population
- Implementing South Carolina Vulnerable Adult Guardian ad Litem Program

Challenges

Identified by the agency

Current:

- Transitioning to a new independent department of government
- Growing aging population in South Carolina
- Funding for aging services

Emerging:

- Senior population will double by 2030 and approximately 11.5% of that population lives in poverty
- At least 10% of state's population has Alzheimer's disease or dementia
- One in 11 of state's seniors are at risk for hunger and state ranks third in the nation for food insecurities

Agency Presentation



South Carolina **DEPARTMENT ON AGING**

House Oversight Committee
Presentation

Legal Services and Assistance Program

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Respond to Subpoenas

SCDOA receives, processes, and responds to subpoenas received by the agency and the Long-Term Care Ombudsman Program.

Service unit: Production of the subpoenaed documents to the requesting party, or providing testimonial evidence at the date/time specified in the subpoena

	Units provided	Cost per unit	Customers served
'21-22	1		1
'20-21	5		5
'19-20	4	\$480.00	4

Cost to provide

EE means employee equivalents required (37.5 hour per week units)

	EE	Total Cost	% of total agency costs
'21-22			
'20-21			
'19-20	0.05	\$1,920.00	Less than 0.01%

Respond to Freedom of Information Act Requests

SCDOA manages, processes, and responds to all FOIA Act requests within the time periods prescribed by the FOIA.

The agency has not, to date, charged fees to those parties requesting information under FOIA primarily for the following reasons:

- certain FOIAs were submitted by staff members and requested information that they already had access to as an agency employee (e.g., the information sought was contained in a policy manual);
- most of the requests have sought information that is readily accessible and therefore it has not taken a long time to locate and produce the documents; and
- the agency's published fee schedule permits the Director to waive costs at their discretion, and the two previous directors for the years in which information has been sought using FOIA have exercised their ability to waive the associated fees.

Legal Assistance Program

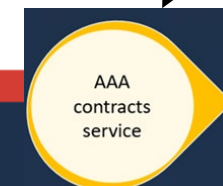
Required in every state by OAA

Enables seniors to access legal representation at no cost in non-criminal priority areas, as enumerated under the Older Americans Act (OAA), including:

- income
- long-term care
- protective services
- nutrition
- housing
- utilities
- defense of guardianship
- abuse and neglect
- age discrimination

NOTE: Category service falls within is at bottom of each slide

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Who provides the legal assistance?

Required in every state by OAA

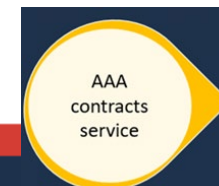
Provided through a contract or partnership each AAA has with S.C. Legal Services, Access to Justice Commission, S.C. Bar Pro Bono Program, and the S.C. Bar.

Those who provide legal services must:

- Have specific experience and expertise in those matters affecting seniors with the greatest economic or social need
- Provide legal services to those seniors who may be institutionalized, isolated, or homebound
- Provide legal assistance in the principal language spoken by clients who are non-native English speakers

Federal regulations prohibit those who provide legal services under Title IIIB from:

- Using those funds in a fee generating case, unless certain criteria are met
- Using those funds for political campaigns, lobbying, among others



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Means Testing

Required in every state by OAA

- The Older Americans Act prohibits means-testing for this program.
- Cost sharing is also prohibited for this program.¹
- Attorneys may not require an older person to disclose information about income or resources as a condition for providing legal assistance.²
- Attorneys may ask about a senior's financial circumstances as a part of the process of providing legal advice, counseling and representation, or for the purpose of identifying additional resources and benefits for which a senior may be eligible.³

¹ 42 U.S.C. § 3030c-2(a)(2)(B)

² 45 C.F.R. § 1321.71(d)

³ 45 C.F.R. § 1321.71(e)

SC Vulnerable Adult Guardian ad Litem Organizational Unit

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SC Vulnerable Adult Guardian ad Litem Organizational Unit

Under the supervision of: Program Director

Consists of: 10 full time state employees

Programs and Services include: Vulnerable Adult Guardian ad Litem Program

Represent Vulnerable Adults

Provides volunteer Guardians ad Litem to advocate on behalf of a vulnerable adult, in abuse, neglect, and exploitation proceedings in South Carolina Family Courts.

Program Goals:

- Provide every vulnerable adult a powerful voice in court
- Provide an environment for South Carolina citizens to realize an exceptional volunteer experience
- Increase public awareness around the issues of abuse, neglect, and exploitation of vulnerable adults and the adult guardian ad litem services provided by the VAGAL SC program

Manage Volunteers

Court-appointed guardians ad litem for vulnerable adults in abuse, neglect, and exploitation proceedings within the family court

The Vulnerable Adult Guardian ad Litem program came into existence in 2011 and went statewide in 2015.

SCDOA is responsible for:

- Managing a statewide system of volunteers
- Recruiting volunteers
- Training volunteers
- Supervising volunteers



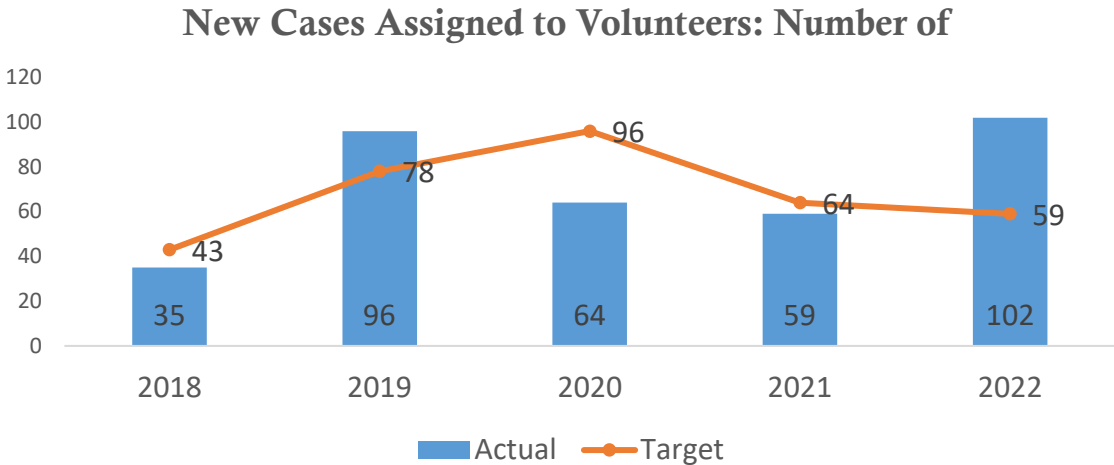
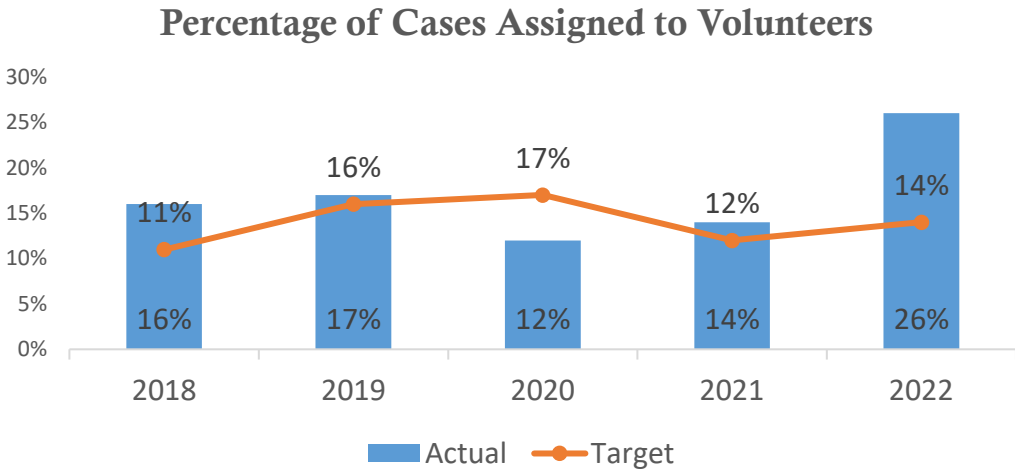
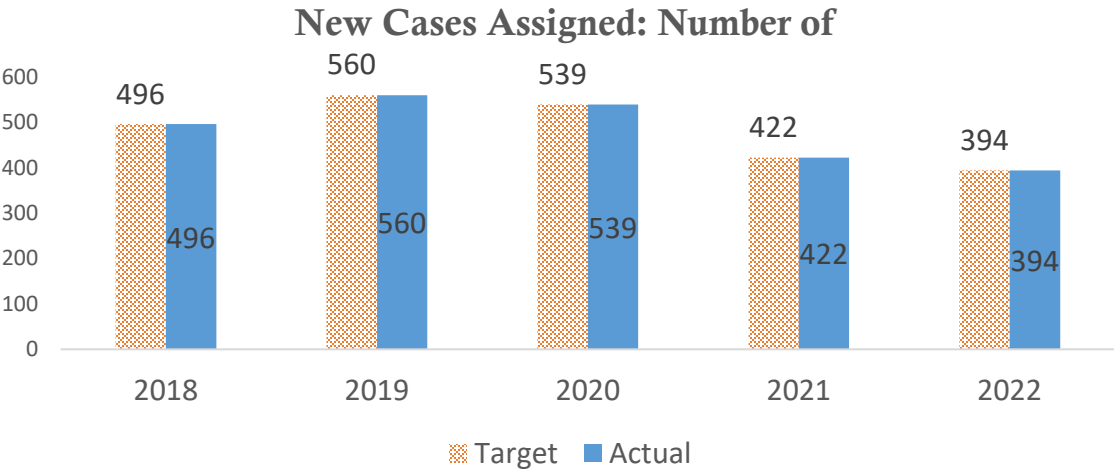
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By the Numbers

	Total Number of Staff	Total Number of Volunteers	Number of New Cases Assigned to Volunteers	Number of Hearings (new or existing cases)	Total Number of New Cases	Total Costs (costs of Representing and Managing Volunteers)
2019-20	10	20	64	1,129	539	\$1,246,835
2020-21	10	28	59	752	422	\$1,183,420
2021-22	10	34	102	650	394	\$1,290,277



Results Tracked for Vulnerable Adult Guardian ad Litem



Result agency seeks:
Provide a Guardian ad Litem
for every vulnerable adult taken
into the custody of
S.C. Department of Social
Services

Highlights

- Conducted survey of VAGAL SC volunteers, contract attorneys, and Adult Protective Services case managers and supervisors
 - Enhanced the VAGAL SC program based on the survey results
- Established SC Vulnerable Adult Fund
 - Supported through tax-deductible donations
 - Managed by a committee of staff and volunteers
- Made recommendations for agency COVID spending based on the needs of vulnerable adults
- Successful advocacy



Ombudsman Organizational Unit

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Ombudsman Organizational Unit

Under the supervision of:

Program Director

Consists of:

6 full time state employees

Programs and Services include:
(LTCOP)

Long Term Care Ombudsman Program

Long Term Care Ombudsman Program (LTCOP)

Required in every state by OAA

Applies to the following types of facilities:

- Nursing Homes
- Community Residential Care / Assisted Living Facilities
- Intermediate Care Facilities
- Community Training Homes
- Supervised Living Programs
- Homeshare

Each state has a full-time State Long-Term Care Ombudsman who directs the statewide program.

LTCOP: Investigate and Resolve

Required in every state by OAA

- Identifies, investigates, and resolves complaints made by or on behalf of residents / consumers
- Advocates for changes to improve residents' quality of life and care
- Provides information to the public regarding long-term care facilities and services, residents' rights, and legislative and policy issues
- Represents resident interests before governmental agencies
- Seeks legal, administrative, and other remedies to protect residents

LTCOP – Quarterly Visits

- ‘Quarterly visits’ are not defined by federal statute, state statute, or regulation,
- BUT, the federal statute requires 'regular, timely, private and unimpeded access to the services provided through the Office (Office of the State Long Term Care Ombudsman).
- The Administration on Community Living in its instructions OMB NO.: 095-005 has defined this as Facility Coverage and requires the documentation of the number of facilities covered on a "regular basis" not in response to a complaint. "Regular basis" is defined as "no less than quarterly."

NOTE: In 2020-21, there was a significant decline in the number of visits due to COVID. Ombudsmen were deemed as “Essential” and conducted weekly calls to and virtual visits with the residents, however the database system does not capture visits that are not in person at the facility.

LTCOP – Investigations and Visits By the Numbers

Made
3,836 visits
to nursing homes and
assisted living facilities
(annual)

Provided
2,657 instances of
information and
assistance
to individuals

Provided
2,126 instances of
information and
assistance
to LTC facility
managers and staff

Conducted
145 training sessions
in facilities to include
topics as resident
rights, reporting abuse,
neglect and
expectation

LTCOP – Investigations and Visits By the Numbers

Most Frequent Nursing Home and Assisted Living Complaints

- Quality of Care
- Abuse, Neglect, and Exploitation
- Autonomy, Choice, Rights, and Privacy
- Environmental
- Facility Policies, Procedures, and Practices

Worked to resolve
2,644 complaints
initiated by residents, their
families, and other
concerned individuals

Resolved or partially
resolved
99% of all complaints
to the satisfaction of the
resident or complainant

LTCOP: Volunteer Ombudsmen

- Volunteer Ombudsmen are recruited, trained, and assigned to facilities.
- Volunteers provide access to the Long Term Care Ombudsman Program.
- Volunteers visit residents in long-term care facilities.
- Currently, 55 Volunteer Ombudsmen are assigned to a long- term care facility.
- Approximately 60% of the residents in long-term care facilities do not have visitors. The Volunteer Ombudsmen visit the residents weekly, and in 2022, they donated over 1,200 hours.

Results Tracked for Long Term Care Ombudsman Volunteers

Goal: Meet the target



LTCOP: Advocating Through COVID-19

- Initially unable to provide in-person visits to residents in facilities
- >50% decrease in number of complaints reported
- Virtual visits and investigations
 - Google Duo, ZOOM, Teams, FaceTime, Facebook Live
- Developed and distributed activity books, puzzles, and gift bags to residents to help combat isolation and depression
- Window visits and/or porch visits
- Advocacy for residents




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Long Term Care Ombudsman An Advocacy Story

The Long Term Care Ombudsman Program (LTCOP) made multiple referrals to the state licensing agency (DHEC) regarding medications, bed bugs, misuse of stimulus money and personal needs money at a facility. The LTCOP also made referrals to the SC Attorney General's Office Medicaid Fraud Unit regarding the stimulus checks. As a result of the LTCOP advocacy and reporting both DHEC and the SC Attorney General's Office opened investigations. DHEC issued an order for emergency suspension of the facility's license. The State Long Term Care Ombudsman activated the Adult Protection Coordinating Council Relocation Committee.



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Long Term Care Ombudsman: Advocacy Efforts

- Contacted local facilities to look for open beds
- Interviewed/provided counseling to each individual resident
- Contacted resident families/responsible parties
- Residents could not take any items with them due to bedbug infestation
- LTCOP collected clothing, shoes, and toiletries for each resident

Healthy Connections Prime Ombudsman: Investigate and Resolve

- Healthy Connections Prime is a program within DHHS for South Carolina seniors 65+ who have both Medicare and Medicaid (dual beneficiaries).
- Prime Ombudsmen advocate for the dual beneficiaries by investigating and resolving complaints pertaining to their healthcare services or access to healthcare.
- Healthy Connections Prime Ombudsman
 - SC is one of 14 states selected to design new coordinated care approaches for individuals who are dually eligible for Medicare and Medicaid (dual beneficiaries).

Note: This is a competitive demonstration grant from the Centers for Medicare and Medicaid Services. The grant was operational in 2016. The grant activities are not in every county due to lack of health care providers.

Healthy Connections Prime Ombudsman

Partner with stakeholder groups to develop and implement program awareness activities to help others to learn about the beneficiary's rights to Medicare and/or Medicaid services

Help members to file healthcare appeals and grievances

Support the beneficiary to better coordinate, understand and navigate the plan coverage



Healthy Connections Prime Ombudsman: An Advocacy Story

Eight residents in a long term care facility were in danger of being discharged for non-payment. The administrator of the facility contacted the Prime Ombudsman program, and the Prime Ombudsman worked with the residents, the health plans, and the facility to resolve the issue. The health plans paid the facility \$125,000, and the residents were not discharged. The resolution uncovered a glitch in the plan's billing process, and this discovery helped to ensure timely payment to the facility.





Healthy Connections Prime Ombudsman: An Advocacy Story

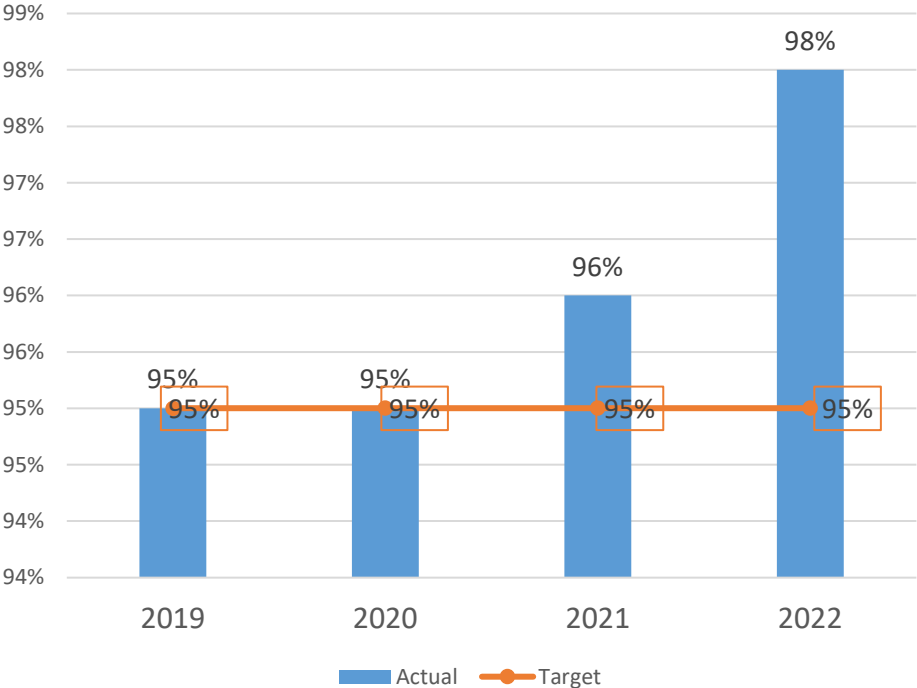
Beneficiaries called to complain about the bills they were receiving. The Prime Ombudsman investigated and found the providers were billing the beneficiaries for the balance of the bill. Since the customers were enrolled in a Prime healthcare plan, they should have no out of pocket cost. The Prime Ombudsmen advocated for the consumers and Healthy Connections notified the providers that they could not ‘balance bill’ the beneficiaries. The beneficiaries no longer receive a bill when they visit their health care provider.



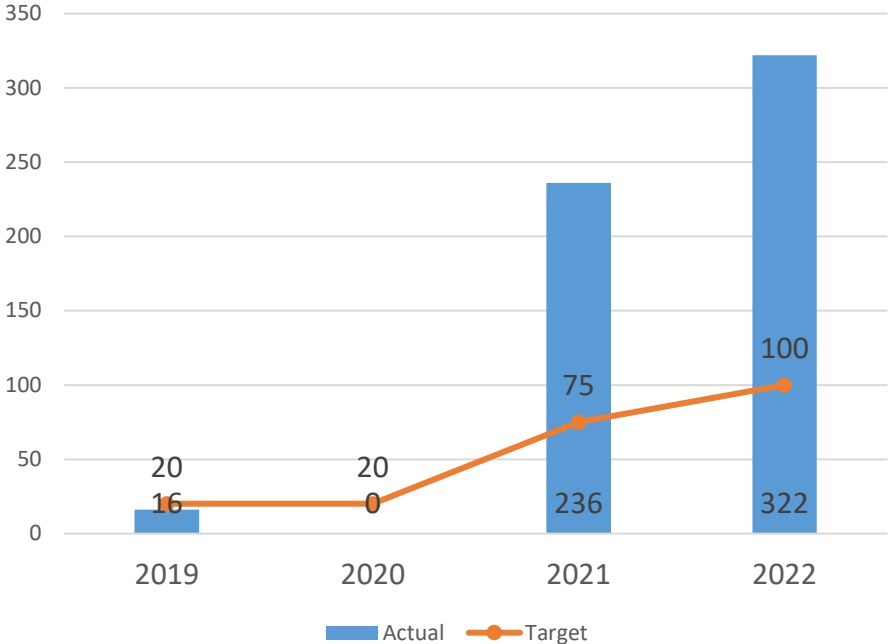
Results Tracked for Healthy Connections Prime

Goal: Meet the target

Cases Resolved: Percentage of regarding billing, access to care and beneficiary rights (State Fiscal Year)



Number of Outreach Events: Number of to educate the beneficiaries of Medicare/Medicaid rights (Calendar Year)



Adult Protection Coordinating Council

- State Long Term Care Ombudsman serves as a member of the Council
- Council meets quarterly and is:
 - responsible for coordinating, planning, and implementing the efforts of entities involved in the adult protection system (but has no authority to direct or require implementing action from any member or entity.
 - collaborative entity that through its committees, has provided training on abuse, neglect and exploitation (ANE) to the public and state agency employees
- Council is a collaborative entity that through its committees, has provided training on abuse, neglect and exploitation (ANE) to the public and state agency employees; produced PSAs, video training for law enforcement and brochures regarding ANE and how to report these issues.
- Data is provided to the Council regarding the number of Long Term Ombudsman cases handled each quarter, including those involving abuse, neglect or exploitation.
- State Long Term Care Ombudsman serves as a member of Fatality Review committee to review SLED facility death investigations.

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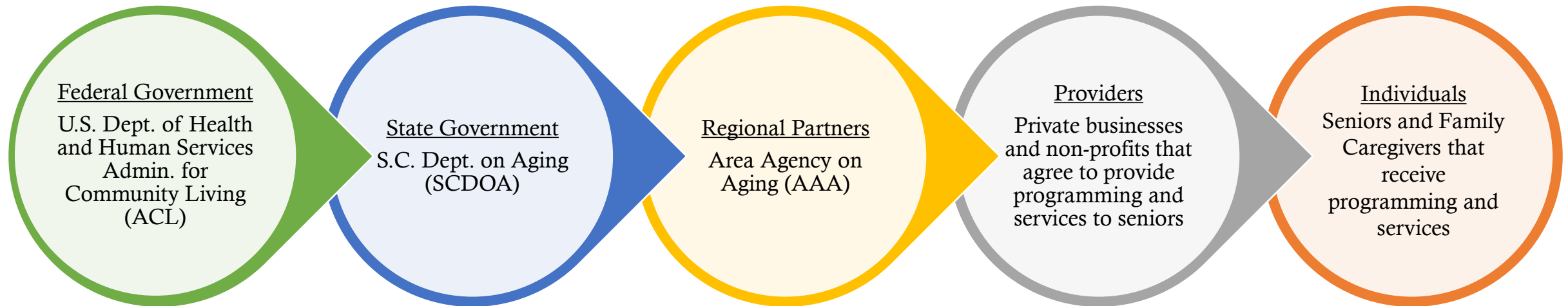
2021-2022 Highlights

- LTCOP resumed In- Person Visitation to Residents
- Assisted in the relocation of residents during four facility closures
- Provided emergency relocation bags to the residents
- To help combat isolation and depression, Ombudsmen provided activity packets to approximately 9,000 residents
- Recruited and trained 55 Volunteer Ombudsmen
- Partnership with the SC Department of Corrections – *Operation Spread the Joy (more than 3000 gifts made and distributed to NH residents)*

Refresher: Older Americans Act Funding and Services Flow

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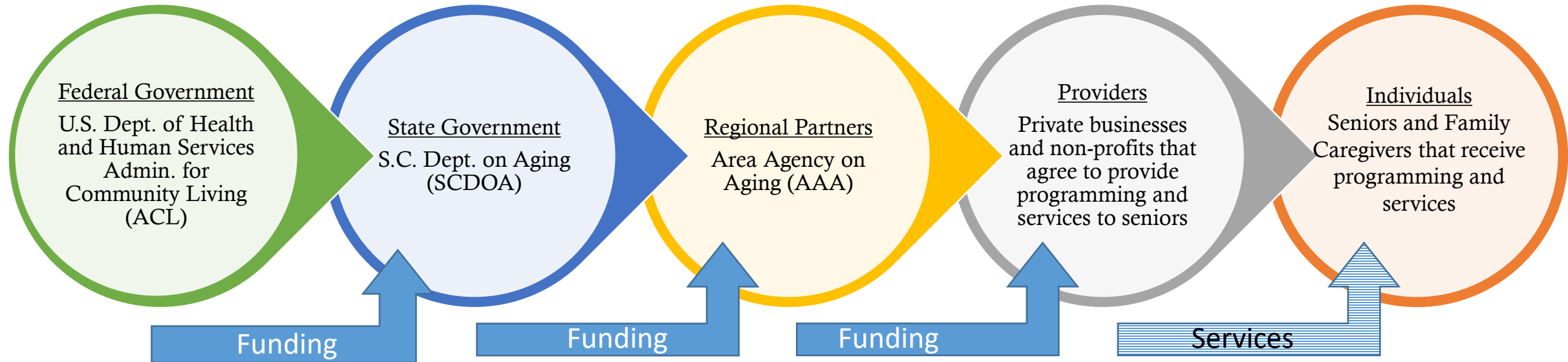
Parties involved in Providing Funding and Services for Older Americans and Caregivers



Other agencies that also serve seniors in S.C.

- DDSN – Disabilities and Special Needs
- DHHS - Medicaid
- DSS – Vulnerable adults

Category 1A: Area Agencies on Aging (AAAs) have responsibility for implementation



- SCDOA provides funding to AAA
- AAA contracts with a provider for services
- Provider provides services to individuals in the community

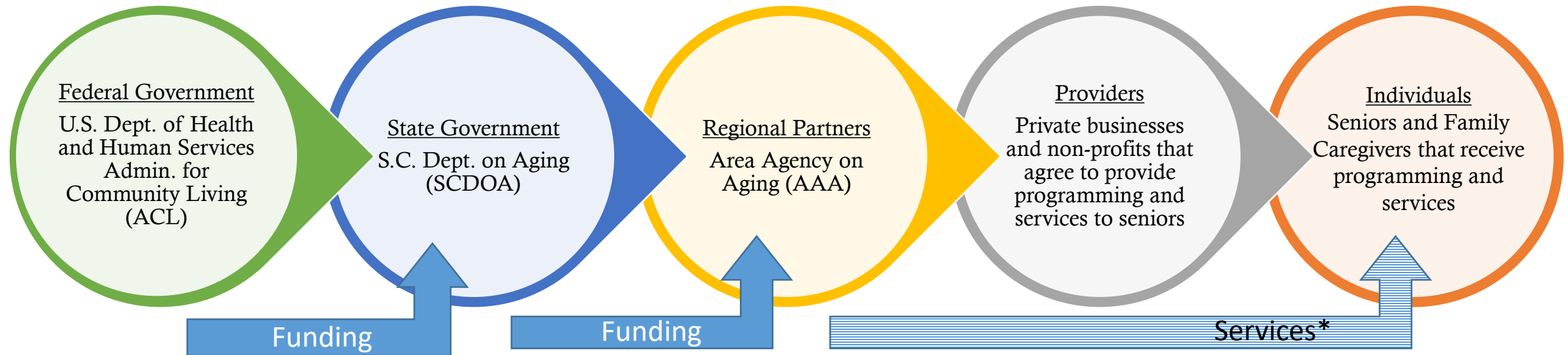
Examples Contracted Services:

Homecare, Transportation, Meals, etc.

NOTE: The symbol with the bubble and “AAA contracts services” wording will appear in slides with services that fall within this category

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Category 1B: Area Agencies on Aging (AAAs) have responsibility for implementation

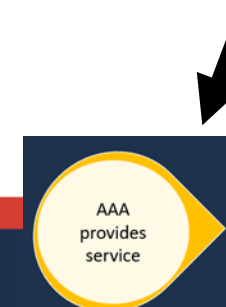


- SCDOA provides funding to AAA
- AAA provides services to individuals in the community

Examples include:

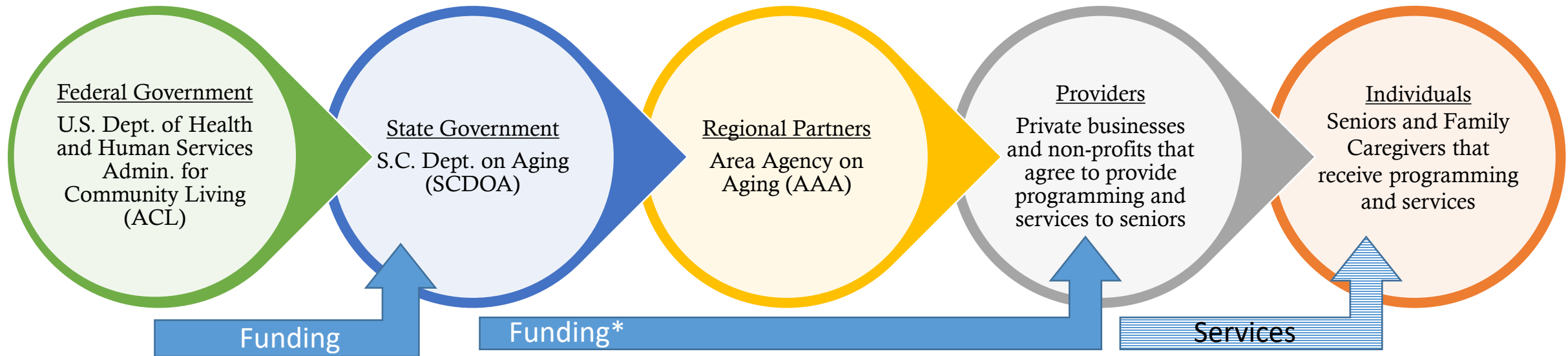
Information & Referral / Assistance, Ombudsmen, caregiving resources, etc.

NOTE: The symbol below with the bubble and “AAA provides services” wording will appear in slides with services that fall within this category



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Category 2A: Department on Aging (SCDOA) has responsibility for implementation



- SCDOA contracts with a provider for services
- Provider provides services to individuals in the community

Examples:

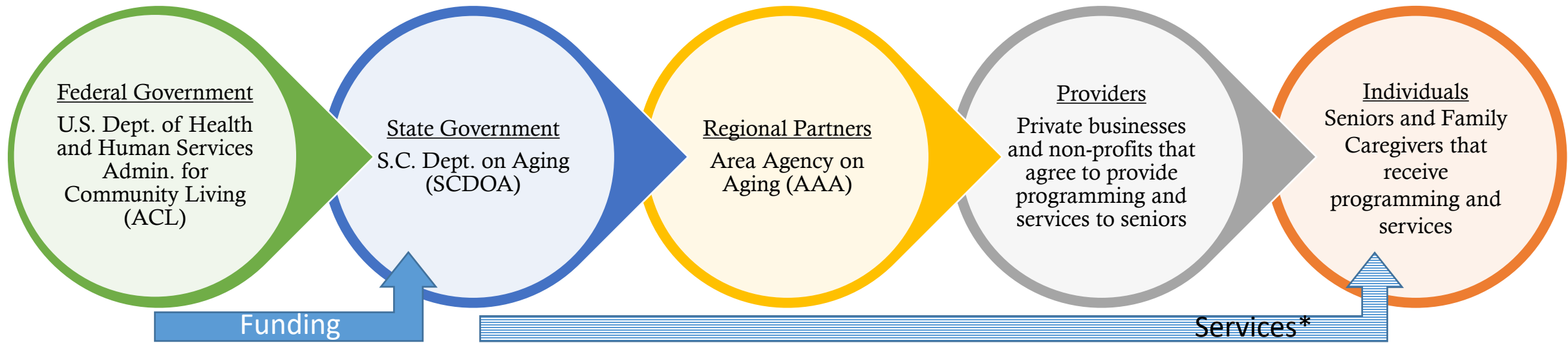
Eldercare Trust Fund; Geriatric Physician Loan Forgiveness; Senior Center PIP Grants

NOTE: The symbol below with the bubble and “SCDOA contracts services” wording will appear in slides with services that fall within this category



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Category 2B: Department on Aging (SCDOA) has responsibility for implementation



- SCDOA provides services to individuals in the community

NOTE: The symbol below with the bubble and “SCDOA provides service” wording will appear in slides with services that fall within this category



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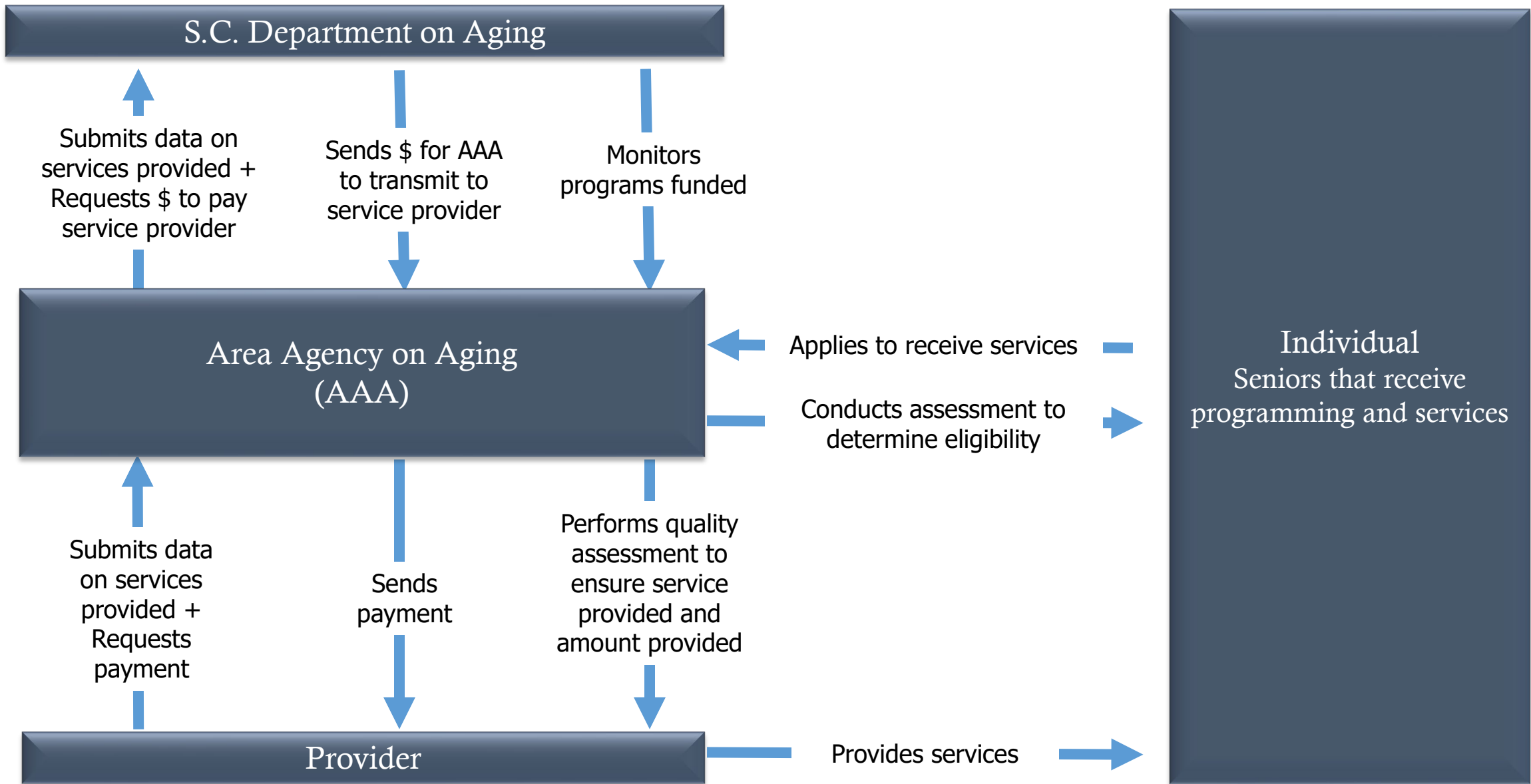


Yellow AAA symbol in a slide indicates:

- AAAs have responsibility for implementation
- SCDOA has responsibility for:
 - Providing funds and technical assistance to AAA
 - Communicating directives from the federal level to the AAA
 - Monitoring implementation by the AAA

Blue SCDOA symbol in a slide indicates:

- SCDOA has responsibility for:
 - Implementation
 - Providing funds and technical assistance
 - Communicating directives
 - Monitoring implementation



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