Dr. George E. Davis
Executive Director
State Commission on Aging and Aged
1015 State Office Building
Indianapolis, Indiana 46204

Dear Dr. Davis:

This is in response to your request for my Official Opinion on the following question:

"Whether the Governor by Executive Order can authorize the State Commission on the Aging and Aged to develop and administer a program under the Older Americans Act of 1965, as amended, 42 USCA §§ 3001-3055 (1970)."

ANALYSIS

The Federal Older Americans Act of 1965, as amended, supra, provides for grants to States to develop programs in connection with the aging and the aged as described therein. A requirement of Title III of the Act is that a State plan be submitted by a State agency having authority to do so. The agency must have responsibility for the administration of the State plan, coordination of State programs and activities relating to the purposes of said Act, and have authority to accept and expend federal funds in order to carry out the State plan.

The Governor, by Executive Order No. 33, 1970, dated April 7, 1970, has designated the Indiana State Commission on the Aging and the Aged as the State agency having such authority. The Act creating the Indiana State Commission on the Aging and the Aged [Acts of 1955, Ch. 300, Sections 1 to 5, as found in Burns’ (1961 Repl.), Sections 63-2501 to 63-2505, defines its authority but does not expressly authorize the Commission to accept and expend federal funds. It is evident, however, that the Governor of the State of Indiana has the authority to issue said Executive Order pursuant to
statute and the Constitution of the State of Indiana. Article 5, Section 1, of the Indiana Constitution, reads in part:

"The executive power of the State shall be vested in a Governor * * *"

The Legislature has expressly enabled the Governor to designate a State agency to administer and effectuate the purposes of Federal law where it has not expressly conferred such authority upon a State agency. Thus, Acts of 1947, Ch. 178, Sec. 2, as found in Burns' (1961 Repl.), Section 61-1302, reads in part:

"* * * If there is no officer, board, bureau, commission, department or division having authority by law to do the acts to cooperate with the federal government or to effectuate the purposes of such federal law, and it is a matter which the state has power or authority to do, then the governor may designate or appoint an officer or agency to administer, cooperate with, and effectuate the purposes of such federal law, and such officers or agency so designated or appointed with the approval of the governor shall administer the same."

CONCLUSION

It is my opinion that the Governor of the State of Indiana may by Executive Order authorize the Indiana State Commission on Aging and the Aged to develop and administer a State plan under the Older Americans Act of 1965, as amended, and coordinate State programs and activities relating to the Act.