

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-3-04

Rule Type: Amendment

Rule Title/Tagline: Older Americans Act: general requirements for AAA-provider agreements.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 9/12/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 121.07, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.9
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.392; 45 C.F.R. Part 75, 1321.9, 1321.55
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule exists to comply with 45 CFR 1321.9 and RC§§ 121.93 and 173.392. 45 CFR 1321.9 requires ODA to "develop policies governing all aspects of [Older Americans

Act] programs." RC§121.93 require state agencies to establish principles of law or policy in rule and not in a policy. RC§173.392 requires ODA to adopt rules governing contract and grant agreements between ODA's designees {e.g., area agencies on aging (AAAs)} and providers (AAA-provider agreements).

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule establishes the general standards for AAA-provider agreements.

42 USC 3027(a)(8) prohibits an area agency on aging (AAA) from directly providing a service with exceptions. One exception is if the service is case management. In light of this, ODA proposes to amend this rule to indicate that if an AAA directly provides a service instead of procuring for a provider to provide the service, then the AAA becomes responsible for complying with the provider's requirements in Chapters 173-3 and 173-4 of the Administrative Code for providing that service. 42 USC 3030d lists case management, information and assistance, and outreach as supportive services, not administrative activities of an AAA. Therefore, if an AAA directly provides these services under 42 USC 3027(a)(8), then the AAA is the provider, not administrator, of those services. By contrast, ODA's Assisted Living and PASSPORT Programs consider case management to be an administrative function instead of a service provided by a provider.

9. Does the rule incorporate material by reference? Yes

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

The rule refers to the SAM database, which is readily available to the general public. ODA provided the URL for the database in the rule.

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

\$0.00

Amending this rule will not impact the biennial budget that the Ohio General Assembly established for ODA in Am. Sub. H.B. 44 (135th G.A.).

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

ODA estimates that that the proposed amendment to this rule will not create a cost of compliance to any person or organization. The proposed amendment merely highlights what is already established under 42 USC 3027(a)(8).

Aside from the proposed amendment, this rule establishes general requirements for AAA-provider agreements, many of which are references to federal requirements in 2 CFR Part 180 and 45 CFR Part 75.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes

18. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

This rule establishes general requirements for AAA-provider agreements, many of which are references to federal requirements in 2 CFR Part 180 and 45 CFR Part 75. These affect only providers that voluntarily bid on AAA-provider agreements to provide services paid with Older Americans Act funds, then enter into those agreements. The proposed amendment will not create an adverse impact on providers.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

- A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

- B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Not Applicable

- D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable