

173-3-04

Older Americans Act: general requirements for AAA-provider agreements.

(A) Authority: Each AAA shall enter into AAA-provider agreements ("agreements") to develop and implement a comprehensive and coordinated system of services for consumers and their caregivers. Each AAA is ultimately responsible to ODA for ensuring that all state and federal funds received from ODA are used in a manner that complies with this chapter and the uniform administrative requirements, cost principles, and audit requirements for federal awards under 45 C.F.R. Part 75.

(B) Purchase-of-service agreements:

- (1) As used in this rule, "purchase-of-service agreements" means an agreement through which a provider is paid, wholly or in part, with Older Americans Act funds a pre-determined unit rate for only the services it actually provides in accordance with the agreement.
- (2) The AAA shall only enter into purchase-of-service agreements, unless the requirements of paragraph (C) of this rule are met.

(C) Time-and-materials agreements:

- (1) As used in this rule, "time-and-materials agreement" means an agreement through which a provider is paid, in whole or in part, with Older Americans Act funds for the services it provides to consumers based on the provider's actual costs (i.e., time and materials) and not on a pre-determined unit rate.
- (2) The AAA is not required to obtain authorization from ODA before entering into a time-and-materials agreement if the agreement only pertains to the provision of one or more of the following services: home maintenance and chores; client finding; home modification; information and assistance (referrals); mass outreach; socialization; telephoning; visiting; or services provided through the national family caregiver support program.
- (3) The AAA may obtain authorization from ODA to enter into a time-and-materials agreement for the provision of a service not listed in paragraph (C)(2) of this rule.

(D) Any agreement shall contain the following provisions:

- (1) A dollar amount of the AAA's obligation under the agreement.
- (2) A requirement for the provider to provide evidence to the AAA to verify its costs before the AAA pays the provider.

- (3) The AAA monitors the agreement to ensure that provider expenses do not exceed the limits established in the agreement.
- (E) Retroactive: The AAA may pay a provider for services only if there is a valid agreement in place before the provider begins to provide the services. No agreement is valid unless, and until, it is signed by authorized representatives from both the AAA and the provider.
- (F) Ineligible providers: The AAA is subject to 2 C.F.R. Part 180, as supplemented by 2 C.F.R. Part 376, which does not allow the AAA to enter into an agreement with any provider that the SAM database lists as excluded or disqualified from agreements involving federal funds. As used in this paragraph, "SAM database" means the general service administration's "System for Award Management," which is available to the general public for free on www.sam.gov.
- (G) Not earning funds: An AAA may make a portion of the funds awarded to a provider available for use by one or more other existing providers by using a competitive procurement process listed under 45 C.F.R. 75.329 if the AAA stated in the agreement that it may redistribute funds if a provider is not earning the funds that the provider was awarded in a timely manner, and if the AAA determines that the provider is not earning the funds that it was awarded in a timely manner. A provider may appeal an AAA's decision to redistribute funds under rule 173-3-09 of the Administrative Code.
- (H) Direct service provision: If an AAA directly provides a service, then the AAA is responsible to comply with any requirement for a provider of that service in this chapter or Chapter 173-4 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 9/12/2024

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 121.07, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.9
Rule Amplifies: 173.39, 173.392; 45 C.F.R. Part 75, 1321.9, 1321.55
Prior Effective Dates: 02/19/2009, 06/01/2014, 08/01/2016, 06/01/2018, 05/08/2020, 01/29/2022, 01/01/2023