

DRAFT for ONLINE PUBLIC-COMMENT PERIOD

ODA proposes to add "Older Americans Act" to the beginning of every rule in Chapters 173-3 and 173-4 of the Administrative Code.

*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

ODA is simultaneously proposing to replace the rule with a new rule of the same number.

In the new rule that would replace this rule, ODA proposes to no longer refer to the Alzheimer's Respite Program. The chapter would not apply to goods and services funded solely by that program's funds. However, Alzheimer's respite funds used as a match would be considered "Older Americans Act funds" and would be subject to the chapter.

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Introduction and definitions.

(A) Introduction: Chapter 173-3 of the Administrative Code establishes criteria that each AAA shall follow when entering into a provider agreement to procure goods or services that serve consumers through an Older Americans Act program or the Alzheimer's respite program. The chapter establishes general requirements regarding provider agreements, procurement by open and free competition (Older Americans Act only), mandatory clauses for every provider agreement, specific requirements for various goods or services, requirements for consumer contributions, and appeals. (If a provider provides goods or services to consumers through an Older Americans Act program or the Alzheimer's respite program and also provides goods or services to consumers through a medicaid waiver program, the provider shall also comply with the provider-certification requirements of Chapter 173-39 of the Administrative Code.)

In the new rule that would replace this rule, ODA proposes to simplify this paragraph.

In the new rule that would replace this rule, ODA proposes to organize terms by alphabetical order without numeration.

(B) Definitions for Chapters 173-3 and 173-4 of the Administrative Code:

In the proposed new rule, ODA proposes to add "grooming," and to place the terms in alphabetical order.

- (1) "Activities of daily living" ("ADLs") means eating, dressing, bathing, toileting, transferring in and out of bed/chair, and walking.
- (2) "Area agency on aging" ("AAA") means a public or non-profit entity that ODA designates, under Section 305 of the Older Americans Act, to serve as an AAA. Each AAA receives state and federal funds from ODA to administer aging-related programs within a particular planning and service area. ODA lists every AAA in rule 173-2-04 of the Administrative Code.
- (3) "Assessment" means a gathering of information about a person's strengths, problems, and care needs in the following major functional areas: physical health, utilization of medical care, ADLs, IADLs, mental and social functioning, financial resources, physical environment, and utilization of services and supports.
- (4) "Assistance with self-administration of medication" has the same meaning as in as in paragraph (C) of rule 4723-13-02 of the Administrative Code when the assistance is provided by an unlicensed person.
- (5) "Care-coordination program" means a program that an AAA may develop to coordinate and monitor the delivery of services.

In the proposed new rule, ODA proposes shorten this definition.

Definitions define. They don't give authority. In the proposed new rule, ODA proposes only describe care coordination.

Financial resources are not major functional areas. In the proposed new rule, ODA proposes to insert "financial resources," between "problems," and "and care needs,"

In the proposed new rule, ODA proposes to replace "the delivery of services" with "the provision of good and services."

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The term "focal point" only appears once in the chapter. Because the presentation of "focal point" in rule 173-3-06 also references §306 of the Act, ODA proposes to *not* include this definition in the proposed new rule. Additionally, it's not possible for "anyone" to obtain "services for older persons." However, ODA's proposal to *not* include this definition in the proposed new rule, nullifies the need to correct the wording.

(6) "Caregiver" and "family caregiver" have the same meaning as "family caregiver" in Section 302 of the Older Americans Act.

(7) "Consumer's signature" means the signature, mark, or electronic signature of a consumer, or the consumer's family caregiver, who may verify that a service was performed. Examples of means to record an electronic signature are the "SAMS Scan," "MJM Swipe Card," call-in verification, etc.

In the proposed new rule, ODA proposes to add more examples.

(8) "Focal point" means a highly visible facility designated by an AAA as a focal point, under Section 306 of the Older Americans Act, where anyone in the community may obtain information and access to services for older persons and that encourages the maximum collocation and coordination of services.

(9) "Incident" means an event that is inconsistent with the routine care or routine delivery of services to a consumer. An incident may involve a consumer, caregiver (to the extent that it impacts a consumer), provider, provider's staff or facility, another facility, AAA's staff, ODA's staff, or other administrative authorities. Examples of an incident are abuse, neglect, abandonment, an accident, or an unusual situation that results in an injury to a person or damage to the person's property or equipment.

In the proposed new rule, ODA proposes to insert "get and" before "use available transportation." (cf., OAC5160-3-05)

(10) "Instrumental activities of daily living" ("IADLs") means preparing meals, shopping for personal items, medication management, managing money, using the telephone, doing heavy housework, doing light housework, and the ability to use available transportation without assistance.

(11) "Licensed practical nurse" ("LPN") has the same meaning as in section 4723.01 of the Revised Code.

(12) "ODA" means the Ohio department of aging.

(13) "Older Americans Act" means the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C. 3001, as amended in 2006.

(14) "Older Americans Act funds" means funds appropriated to ODA through Title III of the Older Americans Act and any source used to match those funds. For the purposes of this chapter, "Older Americans Act funds" does not mean funds for an ombudsman program.

In the proposed new rule, ODA proposes to replace "any source used to match those funds" with "any state or local funds used as matching funds for those federal funds."

(15) "Older person" means, for the purposes of services reimbursed with Older Americans Act funds, any person sixty years of age or older, unless a

In the proposed new rule, ODA proposes to consistently use "consumer."

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In another rule project, ODA is proposing to amend the only use of this term in the chapter, which is in rule 173-3-06.1. ODA proposes to delete this term from this rule.

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In the proposed new rule, ODA proposes to simply say, "...means an Ohio region that ODA designated as a planning and services area under rule 173-2-02 of the Administrative Code."

different age is required by a state or federal law.

(16) "Plan of treatment" means the orders of a physician or other healthcare professional with a scope of practice that includes making a plan of treatment.

(17) "Planning and service area" ("PSA") means a geographical region of Ohio that ODA designates as a PSA under Section 305 of the Older Americans Act. ODA lists every PSA in rule 173-2-02 of the Administrative Code.

In the proposed new rule, ODA proposes to simplify the definition of "provider."

(18) "Provider" means a person or entity that enters into a provider agreement with an AAA to provide goods or services to consumers under this chapter or Chapter 173-4 of the Administrative Code. These are the three categories of providers:

(a) "Agency provider" means a legally-organized entity that employs staff.

(b) "Self-employed provider" means a legally-organized entity that is owned and controlled by one person and that does not employ a staff. (Chapter 173-39 of the Administrative Code refers to a self-employed provider as a "non-agency provider.")

(c) "Consumer-directed individual provider" means the consumer's relative, friend, neighbor, or other person who is hired by the consumer to provide a service to the consumer under this chapter or Chapter 173-4 of the Administrative Code.

(19) "Provider agreement" means a written agreement entered into between a provider and an AAA to procure a specific service, product, or program.

In the proposed new rule and in all other proposed new or amended rules of the Chapter, ODA proposes to use "AAA-provider agreements." Some rules may contain "contracts" and "provider agreements" until ODA has the opportunity to review each rule.

(20) "Registered nurse" ("RN") has the same meaning as in section 4723.01 of the Revised Code.

(21) "RFP" means "request for proposal."

(22) "Service plan" means a written outline of services that are provided to a consumer, regardless of the funding source for the services.

In the proposed new rule, ODA proposes to replace "provided to" with "authorized for." Just because a service appears in a service plan does not mean that a consumer receives it. Also, a service plan is drafted before providing services, so it would not list a history of services "provided to" a consumer.

In the proposed new rule and in all other proposed new or amended rules of the Chapter, ODA proposes to consistently use the term "goods and services" instead of "service, product, or program" and when "services" actually could refer to a good or to good and services.

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Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:

119.03

Statutory Authority:

173.01, 173.02, 173.04, 173.392; Section 305(a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.11 (10-1-2013 edition)

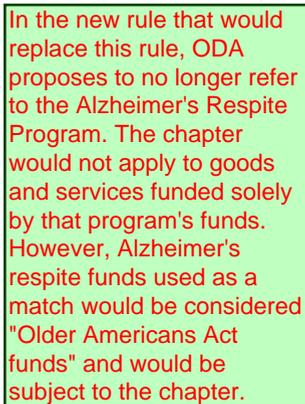
Rule Amplifies:

173.04, 173.392; Section 305(a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006

Prior Effective Dates:

02/15/2009, 06/01/2014

In the new rule that would replace this rule, ODA proposes to no longer refer to the Alzheimer's Respite Program. The chapter would not apply to goods and services funded solely by that program's funds. However, Alzheimer's respite funds used as a match would be considered "Older Americans Act funds" and would be subject to the chapter.



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Older Americans Act: introduction and definitions.

(A) Introduction to Chapter 173-3 of the Administrative Code: This chapter regulates AAA provider agreements for goods and services paid, in whole or in part, with Older Americans Act funds.

(B) Definitions for Chapters 173-3 and 173-4 of the Administrative Code:

"AAA-provider agreement" ("agreement") means a contract between an AAA and a provider for the provision of goods or services to consumers

"Activities of daily living" ("ADLs") means bathing; dressing; eating; grooming; toileting; transferring in and out of a bed or chair; and walking.

"Area agency on aging" ("AAA") means an entity ODA designates to be an AAA under rule 173-2-04 of the Administrative Code.

"Assessment" means a gathering of information about a person's strengths, problems, financial resources, and care needs in the following major functional areas: physical health, utilization of medical care, ADLs, IADLs, mental and social functioning, physical environment, and utilization of services and supports.

"Assistance with self-administration of medication" has the same meaning as in as in paragraph (C) of rule 4723-13-02 of the Administrative Code when the assistance is provided by an unlicensed person.

"Care-coordination program" means a program coordinating and monitoring the provision of goods and services.

"Caregiver" and "family caregiver" have the same meaning as "family caregiver" in Section 302 of the Older Americans Act.

"Consumer" means, for the purposes of goods or services paid for, in whole or in part, with Older Americans Act funds, any person sixty years of age or older, unless a different age is required by a state or federal law.

"Consumer's signature" means the signature, mark, or electronic signature of a consumer, or the consumer's caregiver verifying the provision of goods and services. Examples of technologies used to record electronic signatures are "Co-Pilot," "MealService," "MJM," "MySenior Center," "SAMS Scan," "Santrax," "SeniorDine," "SERVtracker," "SSAID," and call-in verification.

"Contract" has the same meaning as "AAA-provider agreement," unless the context clearly indicates otherwise.

"Day" means a twenty-four-hour period beginning and ending at midnight.

"Incident" means an event that is inconsistent with the routine care or routine

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provision of goods and services to a consumer. An incident may involve a consumer, caregiver (to the extent it impacts a consumer), provider, provider's staff or facility, another facility, an AAA's staff, ODA's staff, or other administrative authorities. Examples of an incident are abuse, neglect, abandonment, an accident, or an unusual situation resulting in an injury to a person or damage to the person's property or equipment.

"Instrumental activities of daily living" ("IADLs") means preparing meals, shopping for personal items, medication management, managing money, using the telephone, doing heavy housework, doing light housework, and the ability to get and use available transportation without assistance.

"Licensed practical nurse" ("LPN") has the same meaning as in section 4723.01 of the Revised Code.

"ODA" means the Ohio department of aging.

"Older Americans Act" means the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C. 3001, as amended in 2006.

"Older Americans Act funds" means the federal funds awarded to ODA through Title III of the Older Americans Act and any state or local funds used to match those federal funds, regardless of whether the local funds are public or private funds. For the purposes of this chapter and Chapter 173-4 of the Administrative Code, "Older Americans Act funds" does not mean funds for an ombudsman program.

"Planning and service area" ("PSA") means a geographic region of Ohio that ODA designated as a planning and service area under rule 173-2-02 of the Administrative Code.

"Provider" means a person or entity entering into an AAA-provider agreement with an AAA to provide goods or services to consumers. The three categories of providers are agency providers, self-employed providers, and consumer-directed providers. "Agency provider" means a provider hiring persons to provide goods and services to consumers. "Self-employed provider" means a provider who provides goods and services to consumers and who does not hire, or contract with, other person to provide those goods or services. "Consumer-directed individual provider" means a provider (e.g., relative, friend, neighbor, or other person) a consumer hired and directs to provide goods and services to the consumer.

"Registered nurse" ("RN") has the same meaning as in section 4723.01 of the Revised Code.

"RFP" means "request for proposal."

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"Service plan" means a written outline of goods and services authorized for a consumer regardless of the funding source for the goods or services.