

ODA is systematically adding "Older Americans Act" to the beginning of each rule title in Chapters 173-3 and 173-4. This will be reflected in the proposed new rule.

*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

173-3-07

Consumer contributions.

Throughout the proposed new rule, ODA proposes to make consistent use of "goods and services," not just "services." For example, most consumer contributions are voluntary contributions for meals (i.e., goods).

(A) Introduction: All **services** funded in whole or in part through Older Americans Act funds are subject to voluntary contributions. All **services** funded in whole or in part through Older Americans Act funds or senior community services funds are subject to cost sharing, except for **services** excluded by paragraph (C)(2) of this rule.

(B) Voluntary contributions:

Throughout the proposed new rule, ODA proposes to make consistent use of "consumer," not "consumer" and "older person."

- (1) In accordance with 45 C.F.R. 1321.67(c) (October 1, 2012 edition), a provider may develop a suggested contributions schedule for voluntary contributions.
- (2) Pursuant to section 315(b)(1) of the Older Americans Act and 45 C.F.R. 1321.67(a)(1) (October 1, 2012 edition), each provider shall allow **consumers** to contribute towards any service that the provider furnishes. The provider may solicit consumers to contribute to services and shall encourage consumers to contribute if the consumer's self-declared income is at or above one hundred **eighty-five** per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code.

ODA proposes to correct this in the new rule.

(C) Cost sharing:

The word "services" after "personal care" and other services is unnecessary.

(1) All services are subject to cost sharing, except for the services listed in paragraph (C)(2) of this rule. Examples of services subject to cost sharing include adult day services; chore services; home maintenance, modification, or repair **services**; homemaker services; personal care **services**; personal emergency response systems; and home medical equipment.

(2) The following services are not subject to cost sharing, although, under Section 315(b) of the Older Americans Act, providers may solicit and accept voluntary contributions for all services reimbursed with Older Americans Act funds:

ODA proposes, in the proposed new rule, ODA proposes to replace the multi-paragraph, run-on sentence with multiple paragraphs--each containing separate sentences.

(a) Information and assistance, outreach, benefits counseling, case management, disease prevention, health promotion, or volunteer placement;

Unnecessary word

(b) Education, training, or a support-group **service** provided through the Alzheimer's respite care program or the national family caregiver

support program;

(c) A meal service;

ODA proposes, in the new rule, to replace "meal service" with "congregate and home-delivered meals" to better match the Act.

(d) Ombudsman, elder abuse prevention, legal assistance, or another consumer-protection service; and,

(e) A transportation service, although the AAA may apply to ODA for a waiver of this exemption if the transportation service is coordinated with other services and is funded in whole or in part through Older Americans Act funds.

Unnecessary word

(3) Each AAA shall implement and administer a consumer cost-sharing policy that includes:

(a) The sliding-fee schedule below which determines the percentage of the actual (or partial) contracted cost of a unit of service or a good received that the AAA shall suggest that a consumer pay based upon the consumer's individual income as a percentage of the federal poverty level found in the federal poverty guidelines, as defined in section 5101.46 of the Revised Code;

ODA proposes, in the new rule, to define "federal poverty level." In doing so, ODA proposes to reference the Omnibus Reconciliation Act of 1981 instead of ORC§5101.46.

Sliding-fee Schedule

INCOME LEVEL	SUGGESTED COST SHARE
149% and below	0%
150-174%	10%
175-199%	20%
200-224%	30%
225-249%	40%
250-274%	50%
275-299%	60%
300-324%	70%
325-349%	80%
350-374%	90%

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375% and above	100%
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- (b) A requirement to determine the consumer's individual income solely by the consumer's self-declaration of income with no requirement for verification;
 - (c) A procedure for collecting consumer cost-sharing payments from consumers, including from consumers receiving consumer-directed services;
 - (d) A requirement to distribute written materials to consumers that explain:
 - (i) The services subject to consumer cost sharing;
 - (ii) The procedure for sharing costs;
 - (iii) The sliding-fee schedule; and,
 - (iv) That a provider may not decline to provide a service because a consumer fails or refuses to share costs.
 - (e) A requirement to provide a receipt to a consumer or family caregiver who makes a payment;
 - (f) A procedure for safeguarding and accounting for all cost-sharing funds collected;
 - (g) A requirement to retain records of all cost-sharing funds collected; and,
 - (h) A requirement to keep the consumer's declaration of income (or non-declaration of income) and cost-sharing payment history confidential.
 - (i) A requirement to use the funds collected from cost sharing to expand the capacity to provide the service for which the funds were given, unless the funds are used to expand the pool of funds from which the care-coordinated services are paid.
- (4) The AAA may delegate the administration of its cost-sharing policy to providers with whom it enters into a provider agreement under rule 173-3-06

of the Administrative Code.

(5) The AAA may request a waiver from paragraph (C)(3) of this rule to implement and administer a cost-sharing policy. ODA shall approve the request if the AAA demonstrates to ODA by a preponderance of the evidence that:

- (a) At least eighty per cent of the consumers in the PSA have incomes below one hundred fifty per cent of the federal poverty guidelines;
- (b) Cost sharing generates fewer funds in the PSA than the funds required to cover its annual, ongoing administrative expenses; or,
- (c) A waiver is necessary in order for the services that would normally be subject to this rule to be coordinated with other service systems.

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Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 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 (October, 2015)
Rule Amplifies: 173.392; Section 315 of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.67 (October, 2015); 209.30 of H.B.64 (131st G.A.)
Prior Effective Dates: 173-3-01: 05/15/2000, 09/30/2001, 05/16/2005.
173-3-07: 02/15/2009, 10/01/2013.

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Older Americans Act: consumer contributions.

(A) Introduction: All goods or services paid, in whole or in part, with Older Americans Act funds are subject to voluntary contributions. All services paid, in whole or in part, with Older Americans Act funds are subject to cost sharing, except for goods or services excluded by paragraph (C)(1) of this rule.

(B) Voluntary contributions:

(1) Each provider shall allow consumers to contribute towards the provision of goods or services paid, in whole or in part, with Older Americans Act funds, pursuant to section 315(b)(1) of the Older Americans Act and 45 C.F.R. 1321.67(a)(1) (October 1, 2015 edition). The provider may solicit consumers to contribute toward the cost of the goods and services they receive and shall encourage any consumer to contribute if the consumer's self-declared income is at, or above, one hundred eighty-five per cent of the federal poverty level.

(2) The provider shall clearly inform each consumer that contributions are purely voluntary.

(3) The provider shall protect the privacy of each consumer with respect to his or her contribution.

(4) The provider shall safeguard and account for all voluntary contributions.

(5) The provider may develop a suggested contributions schedule for voluntary contributions according to 45 C.F.R. 1321.67(c) (October 1, 2015 edition).

(6) The provider shall use collected voluntary contributions to expand the goods or services for which consumers contributed and supplement (not supplant) Older Americans Act funds for those goods or services.

ODA proposes to add these four requirements. They're found in the Older Americans Act.

(C) Cost sharing:

(1) All good and services paid, in whole or in part, with Older Americans Act funds are subject to cost sharing, except for the following goods and services:

(a) Information and assistance, outreach, benefits counseling, case management, disease prevention, health promotion, or volunteer placement.

(b) Education, training, or a support group provided through the national family caregiver support program.

(c) Congregate and home-delivered meals.

(d) Ombudsman, elder abuse prevention, legal assistance, or another consumer-protection service.

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(e) Transportation, although the AAA may apply to ODA for a waiver of this exemption if the transportation is coordinated with other services and is paid, in whole or in part, with Older Americans Act funds.

(2) Each AAA shall implement and administer a cost-sharing policy that includes all of the following:

(a) The policy shall include the sliding-fee schedule below, which determines the percentage of the actual (or partial) contracted cost of a unit of a good or a service provided that the AAA shall suggest that a consumer pay based upon the consumer's individual income as a percentage of the federal poverty level. Under no circumstances shall an AAA permit or require a consumer to participate in cost sharing when the consumer's income level is below one hundred fifty per cent of the federal poverty level.

New, but corresponds to the 0% suggested cost share in current rule.

Sliding-fee Schedule

<u>INCOME LEVEL</u>	<u>SUGGESTED COST SHARE</u>
<u>149% and below</u>	<u>0%</u>
<u>150-174%</u>	<u>10%</u>
<u>175-199%</u>	<u>20%</u>
<u>200-224%</u>	<u>30%</u>
<u>225-249%</u>	<u>40%</u>
<u>250-274%</u>	<u>50%</u>
<u>275-299%</u>	<u>60%</u>
<u>300-324%</u>	<u>70%</u>
<u>325-349%</u>	<u>80%</u>
<u>350-374%</u>	<u>90%</u>
<u>375% and above</u>	<u>100%</u>

(b) The policy shall include a requirement to determine the consumer's income solely by the consumer's self-declaration of income with no requirement for verification, and no consideration of the consumer's assets, savings, or other property.

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(c) The policy shall include a procedure for collecting cost-sharing payments from consumers, including from consumers receiving consumer-directed services.

(d) The policy shall include a requirement to widely distribute written materials to consumers that describe the requirements for cost sharing, the services subject to cost sharing, the procedure for cost sharing, and the sliding-fee schedule published in this rule. The written materials shall also state that a provider shall not deny any goods or services paid, in whole or in part, by Older Americans Act funds if the consumer fails to make a cost sharing payment towards those goods or services.

Revised
language



(e) The policy shall include a requirement to provide a receipt to a consumer or caregiver who makes a payment.

(f) The policy shall include a procedure for safeguarding and accounting for all cost-sharing funds collected.

(g) The policy shall include a requirement to retain records of all cost-sharing funds collected.

(h) The policy shall include a requirement to keep the consumer's declaration of income (or non-declaration of income) and cost-sharing payment history confidential.

(i) The policy shall include a requirement to use the funds collected from cost sharing to expand the capacity to provide the service for which the funds were given, unless the funds are used to expand the pool of funds from which the care-coordinated services are paid.

(3) The AAA may delegate the administration of its cost-sharing policy to providers with whom it enters into an AAA-provider agreement under rule 173-3-06 of the Administrative Code.

(4) The AAA may request a waiver from paragraph (C)(3) of this rule to implement and administer a cost-sharing policy. ODA shall approve the request if the AAA demonstrates to ODA, by a preponderance of the evidence, one or more of the following:

(a) At least eighty per cent of the consumers in the PSA have incomes below one hundred fifty per cent of the federal poverty level.

(b) Cost sharing generates fewer funds in the PSA than the funds required to cover its annual, ongoing administrative expenses.

(c) A waiver is necessary in order for the services normally subject to this

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rule to be coordinated with other service systems.

(D) Definition for this rule: "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as was in effect on January 25, 2016, for a family size equal to the size of the consumer's family whose income is being determined.