

173-3-07

Older Americans Act: consumer contributions.

(A) Introduction: All 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 services excluded by paragraph (C)(1) of this rule. All consumer contributions for services paid, in whole or in part, with Older Americans Act funds are subject to the requirements contained in 42 U.S.C. 3030c-2 and 45 C.F.R. 1321.67.

(B) Voluntary contributions: Each AAA is subject to the federal mandate under 42 U.S.C. 3030c-2 to consult with relevant service providers and older individuals in the AAA's planning and service area (PSA) to determine the best method for accepting voluntary contributions.

(1) A provider may do the following:

~~(1)(a) Each provider shall allow consumers to contribute towards the provision of services paid, in whole or in part, with Older Americans Act funds, pursuant to 42 U.S.C. 3030c-2 and 45 C.F.R. 1321.67. The provider may solicit~~ Solicit consumers to contribute toward the cost of the services ~~they receive~~ received 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 guidelines, which the United States department of health and human services establishes annually according to 42 U.S.C. 9902 and publishes on <https://aspe.hhs.gov/poverty-guidelines>.

(b) Develop a suggested contributions schedule for voluntary contributions according to 45 C.F.R. 1321.67, but not use the schedule or any other means test to determine if a consumer is eligible to receive a service.

(2) ~~The A provider shall clearly inform each consumer that contributions are purely voluntary.~~ do the following:

(a) Clearly inform each consumer that contributions are purely voluntary. 42 U.S.C. 3030c-2 and 45 C.F.R. 1321.67 do not allow means testing or denial of a service to a consumer who does not contribute of the cost of the service.

~~(3)(b) The provider shall protect~~ Protect the privacy and confidentiality of each consumer with respect to ~~his or her~~ the consumer's contribution or lack of contribution.

- ~~(4)(c) The provider shall safeguard~~ 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.~~
- ~~(6)(d) The provider shall use~~ Use collected voluntary contributions to expand the services for which consumers contributed, and supplement ~~(not supplant)~~ Older Americans Act funds for those services.

(C) Cost sharing:

- (1) All services paid, in whole or in part, with Older Americans Act funds are subject to cost sharing, except for the following 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.
- (2) Each AAA shall implement and administer a cost-sharing policy that includes all of the following:
 - (a) ~~The policy shall include the~~ following sliding-fee schedule, which determines the consumer's suggested cost-share percentage of the actual (or partial) contracted cost of a unit of 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 guideline. Under no circumstances ~~shall~~ may an AAA permit or ~~require~~ obligate a consumer to participate in cost sharing when the consumer's income is below one hundred fifty per cent of the federal poverty guideline.

Sliding-fee Schedule

| INCOME | 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% |
| 375% and above | 100% |

- (b) ~~The policy shall include a~~ 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.
- (c) ~~The policy shall include a~~ A procedure for collecting cost-sharing payments from consumers, including from consumers receiving participant-directed services.
- (d) A prohibition against denying services paid, in whole or in part, by Older Americans Act funds due to the income of the consumer or the consumer's failure to make a cost sharing payment.
- (d)(e) ~~The policy shall include a~~ 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, and a statement that a provider shall not deny any is prohibited from denying services paid, in whole or in part, by Older Americans Act funds if due to the income of the consumer or the consumer's fails failure to make a cost sharing payment towards those services.~~
- (e)(f) ~~The policy shall include a~~ A requirement to provide a receipt to a consumer or caregiver who makes a payment.

- ~~(f)(g)~~ The policy shall include a A procedure for safeguarding and accounting for all cost-sharing funds collected.
 - ~~(g)(h)~~ The policy shall include a A requirement to retain records of all cost-sharing funds collected.
 - ~~(h)(i)~~ The policy shall include a A requirement to keep the consumer's declaration or non-declaration of income ~~(or non-declaration of income)~~ and cost-sharing payment history confidential.
 - ~~(i)(j)~~ The policy shall include a 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 request a waiver of the requirement in paragraph (C)(2) 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 guidelines.
 - (b) Cost sharing would be an unreasonable administrative or financial burden ~~upon~~ on the AAA.

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CERTIFIED ELECTRONICALLY

Certification

12/19/2022

Date

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