



John Kasich, Governor
Bonnie Kantor-Burman, Director

AGENCY MEMORANDUM OF RESPONSE

To: Mark Hamlin, Director of Regulatory Policy, CSI Office, Lt. Governor's Office
Paula Steele, Regulatory Policy Advocate, CSI Office, Lt. Governor's Office

From: Tom Simmons, Policy Manager

Re: Cost Sharing and Voluntary Contributions

Date: May 30, 2013 (Revised, July 19, 2013)

May 30, 2013

Thank you for reviewing ODA's proposed amendments to rule 173-3-07 of the Administrative Code.

Because your office did not make any recommendations, ODA will now proceed with filing the rule with JCARR.

July 1, 2013

On July 1, 2013, ODA revise-filed the rule.

This revised memorandum of response should alert the CSI Office that the proposed changes to the rule's language would create no difference in the adverse impact stated in the BIA that the CSI Office already reviewed.

The revisions that ODA made on July 1 fall into three categories:

- **VOLUNTARY CONTRIBUTIONS:** ODA proposes to repeat two federal requirements for providers regarding voluntary contributions. The requirements already exist, so mentioning them in the rules would not create an adverse impact.

Additionally, the rule would not require anything in excess of the federal requirements. This would have the effect of unburying the federal requirements.

- **COST SHARING:** ODA would move the examples of services subject to cost sharing from the introductory paragraph to the paragraph under the “cost sharing” subheading.
- **OTHER NON-SUBSTANTIAL:** ODA would make the following revisions to clean up the rule language:
 - Replace the title with “Consumer contributions.”
 - Delete the verbose additions of “consumer” before occurrences of the words “cost-sharing” and “cost sharing.”
 - Make the rule easier to navigate by organizing the paragraphs under the following subheadings: “Introduction,” “Voluntary contributions,” and “Cost sharing.”
 - Insert “of income” after “self-declaration” in paragraph (C)(3)(b) of the rule.
 - Replace “less funds” with “fewer funds” in paragraph (C)(5)(b) of the rule.

Please let us know if you have any questions or recommendations.

July 11, 2013

On July 11, 2013, ODA refiled the rule.

This revised memorandum of response should alert the CSI Office that the proposed refiling of the rule would create no difference in the adverse impact described in #14c of the BIA that the CSI Office already reviewed.

Instead, the amendment (1) regards the relationship between state unit on aging (*i.e.*, ODA) and the area agencies on aging (*i.e.*, ODA’s designees), and (2) the impact would be upon consumers, as follows:

1. The amendment being made to the rule in the refiling brings the rule into compliance with the Older Americans Act. Specifically, it would no longer say that area agencies on aging may substitute ODA’s sliding-fee schedule with one of their own. This is because, Section 315(a)(4) of the Older Americans Act of 1965, as amended in 2006, says, “If a State permits the cost sharing described in paragraph (1), such State [not an AAA] shall establish a sliding scale, based solely on individual income and the cost of delivering services.” Furthermore, Sections

315(a)(5) and 315(a)(5)(G) together say, “If a State permits the cost sharing described in paragraph (1), such State shall require each area agency on aging in the State to ensure that each service provider involved, and the area agency on aging, will...widely distribute State created written materials in languages reflecting the reading abilities of older individuals that describe the criteria for cost sharing, the State’s sliding scale, and the mandate described under subparagraph (E).”

2. Any adverse impact changed by this refiling would be to the consumer who could have potentially been asked to contribute more cost shares if an area agency on aging used a substitute sliding-fee schedule that required higher cost shares than ODA’s sliding-fee schedule. However, because a consumer may opt to not make such a contribution, there is no certain adverse impact upon a consumer.

ODA will offer a 2nd public hearing on the rule after this refiling.

Please let us know if you have any questions.

July 19, 2013

On July 19, 2013, ODA refiled the rule.

Through this revised memorandum of response, ODA intends to alert the CSI Office that the proposed changes to the rule’s language would create no difference in the adverse impact stated in the BIA that the CSI Office already reviewed.

On July 1, ODA revised the rule. Among the revisions was the following: “VOLUNTARY CONTRIBUTIONS: ODA proposes to repeat two federal requirements for providers regarding voluntary contributions. The requirements already exist, so mentioning them in the rules would not create an adverse impact. Additionally, the rule would not require anything in excess of the federal requirements. This would have the effect of unburying the federal requirements.”

When ODA revised the rule on July 1, it made an error in paragraph (B)(1) of the rule. 45 C.F.R. 1321.67(c) (October 1, 2012 edition) says, “Each service provider...*may* develop a suggested contributions schedule...” However, paragraph (B)(1) of the rule said, “*Pursuant to 45 C.F.R. 1321.67(c) (October 1, 2012 edition), each provider shall* develop a suggested contributions schedule for voluntary contributions.”

To correct paragraph (B)(1) of the rule, ODA refiled the rule on July 19. In doing so, ODA replaced “*Pursuant to...each provider shall* develop a suggested contributions schedule for voluntary contributions” with “*In accordance with...a provider may* develop a suggested contributions schedule for voluntary contributions.”

Please let us know if you have any questions.

