

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) The AAA shall only enter into purchase-of-service agreements, unless the requirements of paragraph (C) of this rule are met.~~

~~(2)~~(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)~~(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)~~(3) The AAA ~~shall~~ may obtain authorization from ODA ~~before entering to enter~~ into a time-and-materials agreement ~~if the agreement pertains to for the provision of a service ODA did not list~~ listed in paragraph ~~(C)(1)(C)(2)~~ of this rule.

~~(3)~~(D) ~~If an AAA enters into a time-and-materials agreement, in the agreement, the AAA~~ Any agreement shall place a limit on the dollar amount of the AAA's obligation under

~~the agreement, and the provider shall provide evidence to the AAA to verify its costs before the AAA pays the provider. Only expenses that are reasonable under 45 C.F.R. Part 75 are allowable for payment using Older Americans Act funds. The AAA shall monitor providers with whom it has entered into time and materials agreements to ensure that the providers' expenses do not exceed the limits that the AAA established in the agreements.~~ 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.
- (4) ~~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 upon their actual costs (i.e., time and materials) to the provider and not upon a pre-determined unit rate.~~

~~(D)~~(E) Retroactive: The AAA ~~shall not~~ may pay a provider for ~~any services unless only if~~ there is a valid agreement is 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.

~~(E)~~(F) Ineligible providers: The AAA ~~shall comply with~~ is subject to 2 C.F.R. Part 180, as supplemented by 2 C.F.R. Part 376, which ~~prohibits~~ does not allow the AAA from entering 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.

~~(F)~~(G) Not earning funds: An AAA ~~shall only~~ may make a portion of the funds awarded to a provider available for use by one or more other existing providers ~~without first going through one of the~~ by using a competitive procurement processes process listed under 45 C.F.R. 75.329 if, ~~in the agreement,~~ the AAA stated in the agreement that it may redistribute funds if a provider is not, ~~in a timely manner,~~ earning the funds it that the provider was awarded in a timely manner, and if the AAA determines that the provider is not, ~~in a timely manner~~ earning the funds that it was awarded in an existing agreement in a timely manner. A provider may appeal an AAA's decision to redistribute funds under rule 173-3-09 of the Administrative Code.

Effective: 1/1/2023
Five Year Review (FYR) Dates: 10/14/2022 and 11/30/2027

CERTIFIED ELECTRONICALLY

Certification

12/19/2022

Date

Promulgated Under: 119.03
Statutory Authority: 121.07, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
Rule Amplifies: 173.39, 173.392; 45 C.F.R. Part 75, 1321.11, 1321.53
Prior Effective Dates: 02/19/2009, 06/01/2014, 08/01/2016, 06/01/2018, 05/08/2020, 01/29/2022