

173-3-04

**Provider agreements in general.**

(A) Authority: Each entity that ODA designates in rule 173-2-04 of the Administrative Code to be an AAA shall enter into provider agreements to develop and implement a comprehensive and coordinated system of services for consumers and their family 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 state and federal laws.

(B) Federal uniform financial and program management requirements: When entering into a provider agreement, whether a grant or contract, the AAA that is a non-profit agency shall comply with the procurement requirements under 45 C.F.R., Part 74 (October 1, 2013 edition) and the AAA that is a local government agency shall comply with the procurement requirements under in 45 C.F.R., Part 92 (October 1, 2013 edition).

(C) Purchase-of-service provider agreements:

(1) The AAA shall only enter into a provider agreement that is a purchase-of-service provider agreement, unless the AAA chooses the alternative under paragraph (D) of this rule.

(2) As used in this rule, "purchase-of-service provider agreement" means a contract or grant through which a provider is paid for only the services the provider actually delivers based upon a pre-determined price per unit of service delivered. The price paid per unit of service encompasses all elements associated with the production of the unit of service.

(D) Cost-reimbursement provider agreements:

(1) The AAA may use a cost-reimbursement provider agreement as an alternative to a purchase-of-service provider agreement for a chore service; client finding; home maintenance, modification, or repair service; information and assistance (referrals); mass outreach; socialization; telephoning; visiting; a service provided through the national family caregiver support program; or any other service if ODA gives the AAA written or electronic permission to enter into a cost-reimbursement provider agreement for the other service.

(2) If an AAA enters into a cost-reimbursement provider agreement, the agreement shall place a limit on the dollar amount of the AAA's obligation under the agreement, and the provider shall submit evidence to supports its costs before the AAA pays the provider.

(3) As used in this rule, "cost-reimbursement provider agreement" means a contract or grant through which a provider is paid for services based upon allowable costs related to actual expenditures incurred by the provider to deliver a service, regardless of the number of units of services provided.

(E) No retroactive provider agreements: The AAA shall not reimburse a provider for any service unless a valid provider agreement is in place at the time the service is provided. No provider agreement is valid unless and until the agreement is signed by authorized representatives from both the AAA and the provider.

(F) Debarred providers: The AAA shall not enter into a provider agreement with any provider that is listed on the non-procurement portion of the general services administration's "System for Award Management" ("SAM") database. Before entering into any provider agreement, the AAA shall check the SAM database to see if the provider is debarred or suspended by the federal government. Access to the SAM database is readily available on [www.sam.gov](http://www.sam.gov).

(G) Not earning funds: If an AAA determines that a provider is not, in a timely manner, earning the funds that it was awarded in an existing provider agreement, given the amount of the award and the length of the contract period, the AAA may make a portion of those funds available for use by one or more other existing providers, without first going through a sealed-bidding process.

(H) Multi-year provider agreement limitations:

(1) Except as otherwise provided for in the RFP upon which the provider agreement is based, the AAA shall not increase the amount of reimbursement it pays to a provider for each unit of goods or services provided under an existing multi-year provider agreement.

(2) The AAA shall not award a multi-year provider agreement that is in effect for longer than the AAA's approved area plan.

Replaces: 173-3-04  
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**CERTIFIED ELECTRONICALLY**

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Certification

05/05/2014

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Date

Promulgated Under: 119.03  
Statutory Authority: 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 (10-01-2013 edition).  
Rule Amplifies: 173.04; 173.392; Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. Parts 74 and 92 (10-01-2013 edition).  
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