

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 (~~December 26, 2014~~).

(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) 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 goods or services it actually provides in accordance with the agreement.

(C) Time-and-materials agreements:

- (1) The AAA is not required to obtain written permission 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: a chore service; client finding; home maintenance, modification, or repair; information and assistance (referrals); mass outreach; socialization; telephoning; visiting; or goods or services provided through the national family caregiver support program.
- (2) The AAA shall obtain written permission (hard copy or electronic) from ODA before entering into a time-and-materials agreement if the agreement pertains to the provision of a good or service ODA did not list in paragraph (C)(1) of this rule.
- (3) If an AAA enters into a time-and-materials agreement, in the agreement, the AAA shall place a limit on the dollar amount of the AAA's obligation under the agreement, and the provider shall submit evidence to verify its costs before the AAA pays the provider. Only expenses that are reasonable under 45 C.F.R. Part 75 (~~December 26, 2014~~) 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.

- (4) As used in this rule, "time-and-materials agreement" means a agreement through which a provider is paid, in whole or in part, with Older Americans Act funds for the goods and 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) Retroactive: The AAA shall not pay a provider for any goods or services unless a valid agreement is in place before the provider begins to provide the goods or services. No agreement is valid unless, and until, it is signed by authorized representatives from both the AAA and the provider.
- (E) Ineligible providers: The AAA shall comply with 2 C.F.R. Part 180 ~~(December 26, 2014)~~, as supplemented by 2 C.F.R. Part 376 ~~(December 26, 2014)~~, which prohibits the AAA from entering into an agreement with any provider 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](http://www.sam.gov).
- (F) Not earning funds: An AAA shall only 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 competitive procurement processes under 45 C.F.R. 75.329 ~~(December 26, 2014)~~ if, in the agreement, the AAA stated that it may redistribute funds if a provider is not, in a timely manner, earning the funds it was awarded and if the AAA determines that the provider is not, in a timely manner earning the funds it was awarded in an existing agreement. A provider may appeal an AAA's decision to redistribute funds under rule 173-3-09 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 3/2/2018

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 173.01, 173.02, 173.392; 42 U.S.C. 3025(a)(1)(C); 45 C.F.R. 1321.11(a).  
Rule Amplifies: 173.39, 173.392; 45 C.F.R. Part 75; 45 C.F.R. 1321.11(b), 1321.53.  
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