

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-3-06.3

Rule Type: New

Rule Title/Tagline: Older Americans Act: home modification.

Agency Name: Department of Aging

Division:

Address: 246 N. High St. 1st floor Columbus OH 43215-2046

Contact: Tom Simmons **Phone:** 614-728-2548

Email: tsimmons@age.ohio.gov

I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date?
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. What statute(s) does the rule implement or amplify? 173.39, 173.392; 42 U.S.C. 3002, 3030d; 45 C.F.R. 1321.65
6. What are the reasons for proposing the rule?

ODA proposes to adopt this new rule after reviewing 173-3-06.2 and 173-3-06.3 for their 5-year reviews.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This proposed new rule will regulate AAA-provider agreements for home modification when paid with Older Americans Act funds.

Compared to the current rule, in the new rule, ODA proposes to do the following:

1. An analysis of ODA's website traffic revealed that most views of ODA's rules are the result of internet searches. Therefore, ODA proposes to add "Older Americans Act" to the beginning this rule's title. This will help the public to more easily find this rule when performing an internet search.
2. ODA proposes for this rule to regulate the AAA-providers agreements instead of directly regulating providers, which will allow this rule to more closely comply with R.C. Â§173.392. This will involve minor changes and will neither increase nor decrease the number of requirements upon AAAs or providers.
3. ODA proposes to reclassify which services are regulated by this rule vs. 173-3-06.2. Originally, ODA's service taxonomy for the Older Americans Act Program classified two services as "chore maintenance" and "home modification." When ODA adopted rules for ODA-certified providers in 2006, the service taxonomy classified services as "chore services" and "minor home maintenance, modification, and repair services." Because many providers operate in both the Older Americans Act Program (which doesn't require ODA-certification) and the PASSPORT Program (which requires ODA-certification), ODA wanted the taxonomy to be the same. Therefore, when ODA adopted rules for the Older Americans Act Program in 2009, the service taxonomy of which classified services as "chore services" and "home maintenance, modification, and repair."

Now, ODA proposes to adopt new rules to reclassify these services for both the Older Americans Act Program and for ODA-provider certification, resulting in "home maintenance and chores" in 173-3-06.2 and "home modification" in 173-3-06.3. For the Older Americans Act Program, this reclassification will align with the taxonomy the U.S. Dept. of Health and Human Services (HHS) uses in the National Aging Program Information System (NAPIS).

5. This rule requires AAA-provider agreements to require providers to obtain the AAA's approval before beginning a home-modification job regardless of the following scenarios: (A) Whether the AAA enrolls, or does not enroll, consumers into a care-coordination program (i.e., case management). (B) Whether the AAA uses a competitive bidding process to award an AAA-provider agreement for each job or for one provider to provide every job in a region over the period of the agreement. Because the language in the current rule appears to work for each scenario, ODA proposes to retain this language in the rule.

5. ODA proposes to continue to require each AAA-provider agreement to require providers to obtain permits if a federal, state, or local law requires them.
6. ODA proposes to require each AAA-provider agreement to require providers to obtain pre-job inspections if a federal, state, or local law requires them.
7. ODA proposes to require each AAA-provider agreement to require providers to obtain permits and pre-inspections if a homeowners' association with jurisdiction over the consumer's home requires them.
8. ODA proposes to combine into one requirement the requirements in this rule to inform the consumer of health or safety risks and to schedule the job for a time that minimizes those risks.
9. ODA proposes to delete the requirements to retain records from this rule because it duplicates the requirement on records retention for every AAA-provider agreement in 173-3-06.
10. ODA proposes to require each AAA-provider agreement to highlight the federal requirement in 45 C.F.R. 1321.65 for providers to report to AAAs.
11. ODA proposes to delete language in the current rule on subcontractors because it conflicts with requirements to seek AAA approval to subcontract in 173-3-06.
12. ODA proposes to update this rule's terminology.

For more information, please review the BIA.

8. **Does the rule incorporate material by reference? No**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

ODA estimates that adopting this proposed new rule will have no impact upon its biennial budget, which the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A.), especially because this new rule will replace a rule of the same number which ODA simultaneously proposes to rescind.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

ODA estimates that this rule creates a cost of compliance for providers. Please review ODA's response to question #16 on the BIA for details.

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

III. Common Sense Initiative (CSI) Questions

- 15. Was this rule filed with the Common Sense Initiative Office? Yes**

- 16. Does this rule have an adverse impact on business? Yes**

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

This rule requires providers to retain records to verify that the jobs they provide comply with the rule. Please review the BIA for more information.