

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-3-06.9

Rule Type: New

Rule Title/Tagline: Older Americans Act: case management.

Agency Name: Department of Aging

Division:

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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? 121.07, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.9
5. What statute(s) does the rule implement or amplify? 173.39, 173.392; 42 U.S.C. 3002, 45 C.F.R. Part 75, 1321.9, 1321.55, 1321.73
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

Congress and the Administration for Community Living (ACL) under the U.S. Dept. of Health and Human Services established the requirement to case manage each consumer of an adult day service, chore, homemaker service, personal care, or home-

delivered meal by requiring providers, AAAs, and ODA to report data to ACL on how consumes qualify for these services.

42 U.S.C. 3012(a)(26) and (f)(1) requires ACL to operate the National Aging Program Information System (NAPIS) and to design uniform data-collection procedures for what and how to report into NAPIS. This data collected in NAPIS is used to develop state performance reports (SPRs), which ACL shares with Congress under 42 U.S.C. 3018.

ACL's design for NAPIS, SPRs, and data collection requires dividing services into different clusters. In "State Performance Report for State Units on Aging, Appendix A: Data Element Definitions" (09/15/2021), ACL defines "cluster 1 service" as "a service...for which ADL limitations and IADL limitations characteristics are reported in addition to other consumer demographics and characteristics. These services are personal care, homemaker, chore, home-delivered nutrition, adult day care/health and case management." ACL requires reporting on any service in cluster 1 by providing information that can be gathered only through an assessment, which is the primary case-management activity.

45 C.F.R. 1321.73(b) requires AAAs and providers to report data for each cluster 1 service to ODA for NAPIS and SPRs. In turn, 42 U.S.C. 3027(a)(2)(A) requires ODA to report the data to ACL.

ODA proposes to adopt this new rule to bring Ohio's Older Americans Act programs into compliance with these requirements for case management.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This proposed new rule will refer to the definition of "case management" in the Older Americans Act.

Every AAA -provider agreement (i.e., contract or grant) in Ohio that is paid, in whole or in part, with Older Americans Act funds (agreement), including an agreement for case management, is subject to the general standards in rule 173 3 06 of the Administrative Code. This proposed new rule will include a helpful reference to rule 173-3 06 of the Administrative Code to make this clear to a reader who reads the rule apart from its context in Chapter 173-3 of the Administrative Code.

The proposed new rule will indicate that the provider is responsible for providing case management to every consumer in the planning and service area (PSA) who receives one or more of the following 5 services paid, in whole or in part, with Older Americans Act funds:

1. Adult day service.
2. Chores.
3. Homemaker service.
4. Personal care.
5. Home-delivered meals.

These are services that the Administration for Community Living (ACL) considers to be "cluster 1" services.

This proposed new rule will establish the requirements for providing case management itself (e.g., assessments, information, service plans, and monitoring).

In response to comments from the public-comment period, the proposed new rule will not require ongoing case management for a consumer who does not continue to receive the aforementioned services.

This proposed new rule will establish the following qualifications to be a case manager:

1. The person has a thorough knowledge of Older Americans Act service in the PSA.
2. The person has the knowledge, skills, and expertise necessary to provide case management.

Additionally, this proposed new rule will establish the reporting items needed to comply with the service verification requirements in rule 173-3-06 of the Administrative Code.

9. **Does the rule incorporate material by reference?** No
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

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

ODA made a revised filing of this rule to indicate that the in-depth assessment of each consumer or caregiver in paragraph (B)(3)(a) of this rule is an assessment conducted in the consumer's home.

09/16/2024 ODA made a revised filing of this rule to achieve the following:

- 1. Correct a misspelled word in paragraph (B)(3) of this rule.*

2. Delete paragraph (B)(3)(i) of the rule. That paragraph would have required a home visit at least every 6 months to monitor the service plan.

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Adopting this new rule will not impact the biennial budget that the Ohio General Assembly established for ODA in Am. Sub. H.B. 33 (135th G.A.).

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

ODA estimates that the cost of compliance for providers of case management is to comply with AAA-provider agreements that comply with the requirements in this rule for AAA-provider agreements for case management. These requirements cover the general standards for AAA-provider agreements in rule 173-3-06 of the Administrative Code and the basic activities of case management (e.g., assessments, information, service plans, and monitoring).

ODA estimates that the cost of compliance for providers is hiring people who meet the the rule's qualifications to be a case manager.

Please review ODA's response to questions #15, #16, and #17 of the business impact analysis (BIA) for additional information.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes

18. 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

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ODA estimates that the cost of compliance for providers is hiring people who meet the the rule's qualifications to be a case manager.

Please review ODA's response to questions #15, #16, and #17 of the business impact analysis (BIA) for additional information.

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

- B. How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable