Rule Summary and Fiscal Analysis
Part A - General Questions

Rule Number: 173-4-10

Rule Type: Amendment

Rule Title/Tagline: Older Americans Act nutrition program: grocery shopping assistance.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes

   A. **What is the rule's five year review date?** 9/19/2025

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, 1321.87

5. **What statute(s) does the rule implement or amplify?** 173.39, 173.392; 42 U.S.C. 3030e, 3030f; 45 C.F.R. 1321.87

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?**

   This rule exists to establish requirements to include in, or exclude from, every AAA-provider agreement (i.e., contract or grant) for grocery shopping assistance that is paid, in whole or in part, with Older Americans Act funds.

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

This rule establishes requirements to include in, or exclude from, every AAA-provider agreement (i.e., contract or grant) for grocery shopping assistance that is paid, in whole or in part, with Older Americans Act funds.

The U.S. Dept. of Health and Human Services (HHS) adopted 45 CFR 1321.87 on February 14, 2024. The new federal rule allows using Title III-C funds for "other nutrition services," including groceries, to "meet nutritional needs or preferences."

AGE proposes to amend this rule to achieve the following:

1. Amend the definition of "grocery shopping assistance" in paragraph (A) of this rule to limit it to a consumer who needs assistance shopping for groceries.

2. Indicate in paragraph (B)(3) of this rule that the extent to which the provider transfers groceries falls within the space between the store and the consumer's home.

3. Eliminate the prohibition under paragraph (B)(4) of this rule against using Title III-C funds to pay for this service or groceries provided through this service. This amendment will give providers and AAAs flexibility, not a mandate. It will allow, but will not require, a provider to use Title III-C funds for the service and the groceries provided through this service. Likewise, an AAA may, but is not required to, use Title III-C funds to procure for a provider to provide this service or groceries provided through this service. This will implement the new flexibility under 45 CFR 1321.87.

4. Replace references to needs in paragraph (B)(4)(b) of this rule with references to needs or preferences. This will also implement 45 CFR 1321.87, which uses "needs or preferences."

AGE also proposes to make non-substantive improvements to this rule.

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.**

    Not Applicable

II. <u>Fiscal Analysis</u>

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

    Amending this rule will not impact the biennial operating budget that the Ohio General Assembly established for AGE in House Bill 96 (136th GA).

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

    Please review AGE's responses to questions #15, $16, and #17 of the business impact analysis (BIA) for details.

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. <u>Common Sense Initiative (CSI) Questions</u>

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

Please review AGE's responses to BIA questions #15, $16, and #17 for details.

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