



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: **OHIO DEPT. OF AGING**

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Regulation/Package Title (a general description of the rules' substantive content):

OLDER AMERICANS ACT: VOLUNTARY CONTRIBUTIONS, COST SHARING, AND OTHER PROGRAM INCOME

Chapter 173-3 of the Administrative Code establishes the requirements for AAA-provider agreements paid, in whole or in part, with Older Americans Act funds.

Rule Number(s): 173-3-07

Date of Submission for CSI Review: July 2, 2025.

Public Comment Period End Date: July 14, 2025 at 11:59PM.

Rule Type/Number of Rules:

☐ New/___ rules

☒ Amended/1 rule (FYR? ☒)

☐ No Change/___ rules (FYR? ☐)

☐ Rescinded/___ rules (FYR? ☐)

The Common-Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common-Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

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The rule(s):

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

This rule exists to establish standards for voluntary contributions, cost sharing, and other program income received for services provided, in whole or in part, with Older Americans Act funds. It also establishes Ohio's option to implement cost-sharing requirements under [42 USC 3030c-2\(a\)](#), which includes a sliding-fee scale.

ODA proposes to amend this rule to achieve the following:

- No longer refer to 45 CFR 1321.67, since the US Dept. of Health and Human Services (HHS) rescinded the applicable requirements that were once in that rule.
- Replace “consumer” with “service recipient” throughout this rule since a service recipient can be a consumer or a consumer’s caregiver.
- Implement HHS’s new standards for voluntary contributions, cost sharing, and other program income into this rule. Those standards are found in [2 CFR 200.1](#), [2 CFR 200.307](#), [45 CFR 1321.3](#), [45 CFR 1321.9\(c\)\(2\)\(x\)](#), [45 CFR 1321.9\(c\)\(2\)\(xi\)](#), and [45 CFR 1321.9\(c\)\(2\)\(xii\)](#).

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

RC §§ [121.07](#), [173.01](#), [173.02](#), [173.392](#).

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

[42 USC 3025](#) establishes ODA’s responsibility regarding Older Americans Act policy development in Ohio. This rule implements federal requirements for voluntary contributions under [42 USC 3030c-2\(b\)](#). This rule also establishes Ohio’s option to implement cost-sharing requirements under [42 USC 3030c-2\(a\)](#), which includes a sliding-fee scale.

[45 CFR 1321.9](#) requires ODA to “develop policies governing all aspects of [Older Americans Act] programs,” with specific requirements for ODA to adopt policies on voluntary contributions, cost sharing, and program income, as those terms are defined in [2 CFR 200.1](#) (only “program income”) [45 CFR 1321.3](#) (all 3 terms) according to the standards in [2 CFR 200.307](#), [45 CFR 1321.9\(c\)\(2\)\(x\)](#), [45 CFR 1321.9\(c\)\(2\)\(xi\)](#), and [45 CFR 1321.9\(c\)\(2\)\(xii\)](#).

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This rule exists to implement the state laws ODA listed in its response to #3 and the federal law and rules that ODA listed in its response to #4.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

This rule exists to establish standards for voluntary contributions, cost sharing, and other program income received for services provided, in whole or in part, with Older Americans Act funds. It also establishes Ohio's option to implement cost-sharing requirements under [42 USC 3030c-2\(a\)](#), which includes a sliding-fee scale.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

To ensure compliance fostering the health and safety of consumers receiving services paid with Older Americans Act funds and compliance with monitoring (i.e., auditing) requirements under [2 CFR Part 200, Subpart F](#): (1) ODA regularly monitors AAAs for compliance with this rule and (2) AAAs regularly monitor providers for their compliance with AAA-provider agreements. The rule is judged as being successful when (1) ODA finds few AAA-provider agreements that do not comply with this rule and (2) AAAs find few providers that do not comply with this rule.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

ODA's guide [Participating in ODA's Rule Development](#) and the [main rules webpage](#) on ODA's website encourage stakeholders and the general public to contact ODA's rules and policy administrator at rules@age.ohio.gov to give input on improving ODA's rules. Outside of email responses to the stakeholder outreach below, this email address has not received any email from any person or entity regarding this rule since the last time that ODA amended it.

On February 26, 2025, ODA conducted an online stakeholder meeting for AAAs, providers, and other organizations to give ODA recommendations for implementing new federal requirements in 45 CFR Part 1321 into ODA's rules. ODA invited every AAA and the following providers and organizations to participate in this meeting:

- Academy of Senior Health Sciences, Inc.
- Carroll County CoA.
- Comfort Keepers.
- Guernsey County Senior Citizens Center, Inc.

- Kno-Ho-Co-Ashland Community Action Commission (KHCA).
- LeadingAge Ohio.
- LifeCare Alliance.
- OhioAging (O4A).
- Ohio Association of Senior Centers (OASC).
- Ohio Council for Home Care and Hospice (OCHCH).
- Ohio Health Care Association (OHCA).
- Ohio Jewish Communities (OJC).
- Preble County Senior Center.
- Senior Resource Connection.
- State Long-Term Care Ombudsman.
- United Senior Services.

On May 29, 2025, ODA emailed AAAs and OhioAging to solicit feedback on a draft of this rule. ODA previously discussed this rule with AAAs, providers, and other organizations at its February meeting.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

During the February meeting, ODA received a question from an AAA on this rule, as noted in the table below.

	Rule	Mtg. Date	Stakeholder	Comment	ODA's Reply
1	173-3-07	02/26	AAA4	ODA is proposing to amend the title of rule 173-3-07 of the Administrative Code to include "other program income." Is private pay a type of program income under rule 173-3-07 of the Administrative Code?	<p>ODA emailed the stakeholder to provide the following response:</p> <p>No. 45 CFR 1321.3 defines <i>program income</i> in part as "gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as otherwise provided under Federal grantmaking authorities." Thus, program income for Older Americans Act programs is income related to Older Americans Act grants. 45 CFR 1321.9(c)(2)(xii)(A) says, "Voluntary contributions and cost sharing payments are considered program income" for Older Americans Act programs. The definition of <i>program income</i> in 45 CFR 1321.3 provides the following examples of other program income (i.e., other than voluntary contributions and cost sharing): "income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds."</p> <p>By contrast, 45 CFR 1321.3 defines <i>private pay programs</i> as (1) "a type of contract or commercial relationship" and (2) "programs, separate and apart from programs funded under the [Older Americans] Act, for which the individual consumer agrees to pay to receive services under the programs."</p> <p>ODA proposes to adopt proposed new rule 173-3-10 of the Administrative Code to regulate private pay programs.</p>

ODA received 0 comments from Ohio's 12 AAAs on this rule in response to the May 29 email.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

ODA is not proposing to amend this rule due to scientific data.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

[RC§173.392](#) requires ODA to adopt rules to establish requirements for AAA-provider agreements. Additionally, the federal law and regulation ODA listed in its response to #3 require ODA to develop policies for all aspects of the Older Americans Act programs and specifies that policies must cover the topics of voluntary contributions, cost sharing, and program income.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

[RC§173.392](#) authorizes only ODA to adopt rules to establish requirements for AAA-provider agreements. Additionally, [RC§173.01](#), designates ODA as Ohio's state unit on aging and no other agency has similar authority to adopt policies on the Older Americans Act programs in Ohio.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Before the proposed amendments take effect, ODA will email subscribers of our rule-notification service to feature this rule. Through regular monitoring (i.e., auditing) requirements under [2 CFR Part 200, Subpart E](#): (1) ODA will regularly monitor AAAs for compliance with this rule and (2) AAAs will regularly monitor providers for compliance with this rule.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

Every provider with an AAA-provider agreement to be paid with Older Americans Act funds in Ohio.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

An adverse impact of this rule is a requirement for providers to allow consumers to contribute towards the provision of services paid, in whole or in part, with Older Americans Act funds. This has no cost other than to provide the opportunity.

An adverse impact of this rule is also the requirement to safeguard consumer's contributions and other program income.

ODA's proposed amendments to this rule will not affect the adverse impact of this rule, especially since they mirror existing federal standards in [45 CFR 1321.9\(c\)\(2\)\(x\)](#), [45 CFR 1321.9\(c\)\(2\)\(xi\)](#), and [45 CFR 1321.9\(c\)\(2\)\(xii\)](#).

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

No.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The income providers make through voluntary contributions and cost sharing allow them to provide more services to consumers. The rule states that if cost sharing generated fewer funds in a planning and service area (PSA) than required to cover administration expenses for cost sharing, an AAA may request from ODA a waiver from cost sharing for its PSA.

There is no requirement for a provider to enter into an AAA-provider agreement to provide services in this state. An AAA-provider agreement is not a gateway to doing business in Ohio. Instead, a provider who wants to add the Older Americans Act programs to its lines of business may voluntarily enter into an AAA-provider agreement for those Older Americans Act programs to pay the provider for the services it wants to provide to the consumers of those programs. If a provider does not want to be paid with Older Americans Act funds, then it is not subject to this rule. Providers may provide the same service without entering into an AAA-provider agreement when paid by private pay, third-party insurers, or other government programs that do not use Older Americans Act funds.

Additionally, if a provider wants paid with Older Americans Act funds and finds this rule to be burdensome (e.g., if implementation costs exceed program income), then the provider can factor the cost of complying with this rule in the bid that the provider makes when it voluntarily bids to an AAA for an AAA-provider agreement to provide a service paid with Older Americans Act funds.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Because the primary purpose of this rule is to ensure the health and safety of consumers receiving services paid with Older Americans Act funds, this rule treats all providers the same, regardless of their size.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

ODA is concerned primarily about protecting the health and safety of consumers receiving services paid with Older Americans Act funds through compliance with this rule. Whenever possible, ODA or AAAs treats administrative violations that do not involve health and safety as opportunities for improvement through warning notices and solicitation of corrective action.

20. What resources are available to assist small businesses with compliance of the regulation?

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ODA and AAAs are available to help providers of all sizes with their questions. Any person may contact ODA's [rules and policy administrator](#) with questions about ODA's proposals for this rule.