



Ohio Administrative Code Rule 173-2-09 AAAs: waiver requests.

Effective: January 1, 2026

(A) Definitions for this rule:

- (1) "Direct service waiver" means permission for an AAA to directly provide a service paid with Title III-B, III-C, III-D, or III-E Older Americans Act funds or senior community service funds in lieu of procuring for a provider(s) to provide the service in its PSA.
- (2) "Title III-B required funding allocation waiver" means permission for an AAA to allocate less than the percentage of funding designated in Ohio's state plan on aging for services paid with Title III-B Older Americans Act funds as required by 42 U.S.C. 3026(a)(2) and 45 C.F.R. 1321.9(c)(2)(v) and 1321.27(i).
- (3) "Cost sharing waiver" means permission for an AAA to not comply with the requirements paragraph (C)(2) of rule 173-3-07 of the Administrative Code.
- (4) "Competitive procurement waiver" means permission for an AAA to use non-competitive procurement in paragraph (B) of rule 173-3-05 of the Administrative Code.

(B) Waiver requests:

- (1) An AAA may request a waiver concurrent with the AAA's area plan cycle as defined in its area plan, as part of any of the following submissions:
 - (a) Area plan.
 - (b) Annual area plan update.
 - (c) Emergency request.



(2) Determinations:

(a) Waiver requests submitted with the area plan or annual update receive a response as part of the area plan approval process.

(b) Waiver requests submitted as an emergency request receive a response within thirty days after AGE's receipt of a complete waiver request. If AGE determines that it needs clarification on the request or supporting documentation, AGE's response time may be extended.

(3) Duration: A waiver does not extend beyond the AAA's area plan cycle.

(4) Direct service waiver:

(a) In accordance with 45 U.S.C. 1321.65(b)(7)(ii) and Ohio's state plan on aging, an AAA may directly provide case management, information and assistance, and outreach without first requesting and obtaining a waiver.

(b) A request qualifies for approval only if it meets the following standards:

(i) The request meets the standards in 42 U.S.C. 3027(a)(8)(A) and 45 C.F.R. 1321.65(b)(7).

(ii) The request is submitted on form ODA3002.

(iii) The request includes the following:

(a) A copy of the RFP.

(b) The list of prospective and current providers notified of the RFP.

(c) The methods used to notify potential providers of the RFP.

(d) The names of those that submitted a proposal.



(e) The reason(s) why the proposals received were not acceptable.

(c) Emergency request:

(i) An AAA may request an emergency direct service waiver under any one or more of the following circumstances:

(a) A current service provider is unable to continue to meet its timely provision of service to consumers.

(b) An established service provider's contract is suddenly terminated by the provider or AAA.

(c) A service not presently funded by the AAA is needed due to the existence of a major disaster.

(ii) A request qualifies for approval only if it meets the following standards:

(a) The request is submitted on form ODA3003.

(b) The request states the circumstance(s) that constitute an emergency.

(c) The request includes correspondence from the provider indicating when the AAA became aware of the emergency.

(d) The request includes a precise explanation of the applicable service and the number of consumers and counties impacted.

(e) The request includes a detailed action plan for the AAA and timelines indicating when a provider will be in place for the services identified in the emergency request.

(f) The request includes a detailed explanation indicating the AAA's efforts to identify providers to offer services using a competitive procurement process under rule 173-3-05 of the Administrative Code.



(5) Title III-B required funding allocation waiver: A request qualifies for approval only if it meets the following standards:

(a) The request meets the requirements in 42 U.S.C. 3026(c).

(b) The request is submitted on form ODA3001.

(c) If requested by any person, the AAA conducted a public hearing, including the following:

(i) A specific review of the waiver request.

(ii) A public hearing notice was provided to the public, providers, older individuals in the PSA, and other stakeholders at least ten business days before the public hearing.

(iii) The public hearing notice was provided by:

(a) Publishing through external publicly available digital and/or print media that reaches all geographic regions of the PSA.

(b) Posting on the AAA's website, social media outlets, media channels, and other city or local governmental websites where notices of local public hearings are posted.

(iv) The public hearing notice included the following:

(a) The date, time, and location of the public hearing.

(b) The specific reason for the public hearing, including the type of waiver the AAA intends to seek from AGE.

(c) The specific service(s) affected.

(d) The amount and source of funds involved.



- (e) The AAA's reason(s) for requesting to reallocate funds.
 - (f) Instructions for reviewing the waiver request documents before the public hearing.
 - (g) The deadline for submitting written comments and the address to which written comments may be directed.
 - (h) A contact name for more information.
 - (v) A copy of the public hearing notice was sent to the service providers within the PSA and anyone who requested notification of such public hearings.
 - (vi) Evidence of the AAA's active effort to notify potential providers and encourage their participation in the process.
- (6) Cost sharing waiver: A request qualifies for approval only if it meets the following standards:
- (a) The AAA demonstrates that its request meets the requirements in 42 U.S.C. 3030c-2(a)(6) and 45 C.F.R 1321.9(c)(2)(xi)(A). To meet the requirement in 42 U.S.C. 3030c-2(a)(6)(A), at least eighty per cent of consumers receiving services subject to cost sharing in the PSA have incomes below one hundred fifty per cent of the federal poverty guidelines.
 - (b) The request is submitted on form ODA3004.
- (7) Waiver of competitive procurement: A request for waiver of competitive procurement, which is separate from an emergency waiver request, qualifies for approval only if it meets the standards in paragraph (B) of rule 173-3-05 of the Administrative Code.