

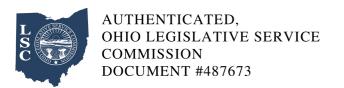
## Ohio Administrative Code

Rule 173-2-09 AAAs: waiver requests.

Effective: January 1, 2026

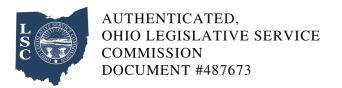
## (A) Definitions for this rule:

- (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.

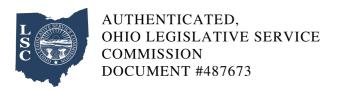


## (2) Determinations:

- (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.