PUBLIC COMMENT PERIOD

OLDER AMERICANS ACT: FRAUD REPORTING

October 22, 2026

The Ohio Department of Aging (AGE) reviewed rule 173-3-06 of the Administrative Code and now proposes to amend the rule. Please review the business impact analysis (BIA) for details.

Please feel free to review the proposed amendments to this rule and its BIA, then offer comments on the rule or the proposed amendments. Submit comments to rules@age.ohio.gov no later than **November 5, 2026** at 11:59PM.

30 E Broad St, 22nd Floor
Columbus, OH 43215-3414

Main: 1-800-266-4346
Fax: 614-466-5741

Aging.Ohio.gov
TTY: Dial 711

Common Sense Initiative

Mike DeWine, *Governor* Joseph Baker, *Director*
Jim Tressel, *Lt. Governor*

Business Impact Analysis

Agency, Board, or Commission Name: OHIO DEPT. OF AGING (AGE)

Rule Contact Name and Contact Information: Tom Simmons rules@age.ohio.gov

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

OLDER AMERICANS ACT PROGRAMS: FRAUD REPORTING

Chapter 173-3 of the Administrative Code establishes the requirements for AAA-provider[1] agreements paid, in whole or in part, with Older Americans Act funds.

Rule Number(s): 173-3-06

Date of Submission for CSI Review: October 22, 2026.

Public Comment Period End Date: November 5, 2026, at 11:59PM.

Rule Type/Number of Rules:

- ☐ **New: 0 rules**
- ☒ **Amended: 1 rules (FYR? ☒)**
- ☐ **No Change: 0 rules (FYR? ☐)**
- ☐ **Rescinded: 0 rules (FYR?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.**

[1] *AAA* means area agency on aging.

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

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 establishes requirements to include in, or exclude from, every AAA[2]-provider agreement (i.e., contract or grant) for any service that is paid, in whole or in part, with Older Americans Act funds.

AGE proposes to amend this rule to achieve the following:

1. Highlight the requirement under 2 CFR 200.113, which requires providers to promptly report credible evidence of the commission of fraud to the US Dept. of Health and Human Services (HHS), the HHS Office of Inspector General, and AGE.

2. Correct statements that describe case management as part of a care coordination program. 42 USC 3026(a)(8)(B) makes it clear that case management involves coordination rather than being part of a care coordination program. Sometimes, AAAs and government agencies use "care coordination" as a synonym for "case management." Because the Older Americans Act uses the term "case management" to describe the service, AGE proposes to do the same in AGE's rules, including this rule.

3. Require an agreement to refer to RC §3741.11 and Chapter 3701-60 of the Administrative Code if the provider is subject to a home health license under RC §3740.02. Without this amendment, this rule will continue to require an agreement with a provider of personal care or homemaker services to indicate that the provider must comply with RC §173.38 and Chapter 173-9 of the Administrative Code, which is incorrect.

4. Replace many uses of "services" with "service" throughout the rule because a provider may provide only one service (e.g., personal care) to consumers.

5. Manually hyperlink references to a chapter of the Ohio Administrative Code, federal rules, and a website address. When publishing rules on codes.ohio.gov, the Legislative Service Commission (LSC) automatically adds hyperlinks to references to sections, but not chapters of the Administrative Code. Additionally, LSC does not automatically add hyperlinks to references to federal rules or website addresses. A recent improvement to the Rule Authorizing Software (RAS) allows state agencies to manually add hyperlinks to chapters of the Ohio /Administrative Code, federal rules, and website addresses.

[2] "AAA" means "area agency on aging."

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 AGE's responsibility regarding Older Americans Act policy development in Ohio.
   - 45 CFR 1321.9 requires AGE to "develop policies governing all aspects of [Older Americans Act] programs."

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 implements the laws and federal rules listed in AGE's response to questions #3 and #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 implement the laws and federal rules listed in AGE's response to questions #3 and #4. It also exists to ensure that necessary safeguards are in place to protect the health and safety of recipients of any service paid in full or in part with Older Americans Act funds.

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 clients receiving services paid with Older Americans Act funds and compliance with monitoring (i.e., auditing) requirements under 2 CFR Part 200, Subpart F: (1) AGE 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) AGE finds few violations in AAA-provider agreements and (2) AAAs find few violations against AAA-provider agreements.

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.

AGE's guide *Participating in Rule Development* and the main rules webpage on AGE's website encourage stakeholders and the public to contact AGE's rules and policy administrator at rules@age.ohio.gov to give input on improving AGE's rules. This email address has not received any email from any person or entity regarding this rule.

On May 22, 2026, AGE emailed the following organization to request comments on (1) AGE's proposal to highlight existing federal fraud-reporting standards by adding 2 CFR 200.113 to the list of federal standards that apply to every AAA-provider agreement, (2) AGE's proposal to clean-up case management references, and (3) any recommendations for additional amendments to Older Americans Act rules on fraud waste, or abuse:

- LeadingAge Ohio.
- Ohio Adult Day Health Association.
- OhioAging.
- Ohio Association of Senior Centers.
- Ohio Council for Home Care and Hospice.
- Ohio Academy of Senior Health Sciences.
- Ohio Health Care Association.
- Ohio Jewish Communities.
- State Long-Term Care Ombudsman.

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

AGE received the following comments in response to its May 22 emails.

	Organization	Comment	AGE's Reply
1	**OhioAging**	We have no issue or objection to the requirement under 2 CFR 200.113 to promptly report credible evidence of the commission of fraud to the US Dept. of Health and Human Services (HHS), the HHS Office of Inspector General, and AGE	Thank you. On May 29, the Office of Management and Budget published a notice in the Federal Register about its plans to revise 2 CFR Part 200, including §200.113.
2	**OhioAging**	Clarifying questions: a. Is AGE intending to remove care coordination from 173-3-06? Thus indicating that if enrolled in case management through the AAA, they would require providers to take named actions? b. Or is AGE intending to implement a case management requirement for any older adult receiving cluster 1 OAA services? c. OR is AGE clarifying that case management is a fundable service under the OAA, with specific parameters governing how the service functions (my interpretation of 42 USC 3026(a)(8)(B)).	*None of the above*! In 2013, AGE implemented a recommendation from a senior center to amend an adult day care rule by referring to case management that is part of a care coordination program. Then, AGE imported that language into rule 173-3-06 of the Administrative Code (this rule). The language has required correction ever since. Case management is a fundable service. The Older Americans Act defines case management and says that it includes coordination, not the other way around.

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?

AGE is not proposing to amend this rule due to scientific data aside from the data received through its survey.

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 AGE to adopt rules to establish requirements for AAA-provider agreements. Additionally, the federal law and regulation AGE listed in its response to #3 require AGE to develop policies for all aspects of the Older Americans Act programs.

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

RC §173.392 authorizes only AGE to adopt rules to establish requirements for AAA-provider agreements.

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, AGE will email subscribers of our rule-notification service to feature this rule.

AGE regularly monitors AAAs for compliance pursuant to data collection requirements under 42 USC 3027(a)(2)(A), evaluation requirements under 42 USC 3025(a)(1)(C) and 42 USC 3027(a)(4), and audit requirements under 2 CFR Part 200, Subpart F.

AAAs regularly monitor providers for compliance pursuant to program integrity requirements under 42 USC 3026(a)(13)(A), audit requirements under 2 CFR Part 200, Subpart F (specifically §200.303), and monitoring requirements under this rule and rule 173-2-05 of the Administrative Code.

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 to provide and adult day service.

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.

This rule lists the requirements to include in every AAA-provider agreement for a service paid, in whole or in part, with Older Americans Act funds.

Providers establish the rate they are paid when they respond to a request for proposal (RFP) by submitting their bid to the AAA for how much they will charge per unit. The amount an AAA pays a provider is an all-inclusive rate. It's intended to cover all costs incurred in providing the project or service, including administration, training, and reporting. Therefore, the provider's bid includes all costs anticipated in providing the service.

If the provider's bid wins, the provider is paid what it bid during the open and free competition for the AAA-provider agreement (cf., 2 CFR 200.319, plus rules 173-3-04 and 173-3-05 of the Administrative Code).

This rule lists the following general items to include in every AAA-provider agreement:

- Requirements under applicable federal statutes and rules.
- A requirement to identify the Older Americans Act program and Older Americans Act funds in the agreement.
- Safety requirements:
    - Cooperating with the AAA and AGE in a disaster.
    - Reporting significant changes to the consumer's case manager.
    - Reporting any reasonable cause to believe that a consumer is the victim of abuse, neglect, or exploitation to the local adult protective services program (cf., RC §5101.63).
    - Reporting a discontinuation of service provision to the consumer's case manager 30 days before the service provision will end.
- A requirement to store consumer's electronic records in a password-protected file and physical records in a designated, locked storage space.
- A requirement to qualify to be a provider by (1) complying with background check statutes and rules and (2) maintaining legal operating status (e.g., under state licensure laws, Uniform Food Safety Code, Ohio Building Code, Ohio Fire Code).
- A requirement to obtain the AAA's authorization before subcontracting with another provider.
- Standards for modifying the agreement.
- A requirement to indicate that the agreement is subject to the requirements for renewable or multi-year agreements under rule 173-3-05 of the Administrative Code if the agreement is renewable or covers a multi-year term.
- Basic records and service-verification requirements.
- Standards for paying the provider, including the requirement to comply with rule 173-3-07 of the Administrative Code.
- Standards for a provider to appeal an AAA's action against the provider.

16. Are there any proposed changes to the rules that will <u>reduce</u> 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.

An AAA-provider agreement protects the provider and the AAA from bad actions by the other party.

AGE's proposed amendments to this rule will not increase requirements on providers. The proposed amendment to add a reference to 2 CFR 200.113 highlights a fraud reporting requirement that already exists in federal rules. AGE's other proposed amendments are technical corrections or non-substantive improvements.

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

RC §173.392 requires AGE to develop rules establishing standards for AAA-provider agreements (*i.e.*, contracts and grants) and RC §173.01 requires AGE to represent the interests older Ohioans. Establishing standards for AAA-provider agreements

in this rule ensures the health and safety of the older Ohioans who are consumers of services through Older Americans Act programs, which fulfills both statutes.

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 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.

Additionally, providers voluntarily bid for AAA-provider agreements. A provider is only required to comply with an AAA-provider agreement if (1) the provider bids on providing the service to be paid with Older Americans Act funds, and (2) the provider's bid is a winning bid. 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.

Regulatory Flexibility

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

This rule treats all providers the same, regardless of their size, because the primary purpose of this rule is to ensure the health and safety of clients receiving services.

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?

AGE is concerned primarily about protecting the health and safety of clients receiving services through compliance with this rule. Whenever possible, AGE treats administrative violations that do not involve health, safety, or fraud 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?

AGE is available to help providers of all sizes with their questions. Any person may contact AGE's rules and policy administrator with questions about AGE's proposals for this rule.

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173-3-06 **Older Americans Act: requirements to include in every AAA-provider agreement.**

(A) Federal requirements for every AAA-provider agreement (agreement) for a ~~services~~ service paid, in whole or in part, with Older Americans Act funds:

(1) The Older Americans Act.

(2) Subparts ~~C~~ C↗ and ~~D~~ D↗ of 45 C.F.R. Part 1321.

(3) 2 C.F.R. 200.113↗ .

~~(3)~~(4) 2 C.F.R. ~~200.318~~ 200.318↗ to ~~200.327~~ 200.327↗ and ~~2 C.F.R. Part 300~~ 2 C.F.R. Part 300↗ .

~~(4)~~(5) 45 C.F.R. Parts ~~160~~ 160↗ , ~~162~~ 162↗ , and ~~164~~ 164↗ regarding individually identifiable health information and protected health information.

~~(5)~~(6) Any additional federal law, rule, or executive order with jurisdiction over the agreement or any service procured through the agreement.

(B) State requirements for every agreement for a ~~services~~ service paid, in whole or in part, with Older Americans Act funds:

(1) Program and funding identification:

(a) The agreement shall identify the names of the federal and state programs that are sources for the Older Americans Act funding being used to pay for the ~~services~~ service procured through the agreement.

(b) The agreement shall contain the following statement:

"This agreement is for the provision of a ~~services~~ service paid with federal funds that the United States Department of Health and Human Services appropriated to the Ohio Department of Aging (AGE). AGE, in turn, allocated the federal funds to the area agency on aging. The agreement is subject to federal and state laws, rules, and executive orders

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with jurisdiction over the agreement or any service procured through the agreement."

(2) Additional state laws:

(a) The agreement is subject to any rule in this chapter or Chapter ~~173-4~~ 173-4↗ of the Administrative Code regulating agreements in general or the provision of any service being procured through the agreement.

(b) The agreement is subject to any additional state law, rule, or executive order with jurisdiction over agreements in general or the provision of any service procured through the agreement.

(3) Safety:

(a) Disasters: The agreement shall require the provider to cooperate with the AAA and AGE to assess disaster impact on consumers and to coordinate with public and private resources in the field of aging to assist consumers when the president of the United States declares that the provider's service area is a disaster area.

(b) Significant changes: If the provider provides a service to a consumer ~~who is enrolled in a~~ that requires case management ~~service as part of care coordination~~, then the agreement shall require the provider to notify the AAA of any significant change that may necessitate a reassessment of the ~~case-managed~~ consumer's need for the service no later than one day after the provider is aware of a repeated refusal to receive the service; changes in the consumer's physical, mental, or emotional status; documented changes in the consumer's environmental conditions; or, other significant, documented changes to the consumer's health and safety. If "one day after" falls on a weekend or legal holiday, the deadline is extended to the next business day.

(c) APS: The agreement shall require the provider to immediately report any reasonable cause to believe a consumer is the victim of abuse, neglect, or exploitation to the local adult protective services program in accordance with section 5101.63 of the Revised Code.

(d) Discontinuing the provision of a ~~services~~ service: If the provider provides a service to a consumer ~~who is enrolled in a~~ that requires case management ~~service with the AAA as part of care coordination~~, then the agreement shall require the provider to notify the AAA and the ~~case-managed~~ consumer in writing of the anticipated last day the provider will provide the

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service to the ~~case-managed~~ consumer no later than thirty days before the anticipated last day, unless the reason for discontinuing the service is the hospitalization, institutionalization, or death of the consumer; serious risk to the health or safety of the provider; the consumer's decision to discontinue the service; or a similar reason why the provider is unable to notify the AAA and the ~~case-managed~~ consumer thirty days before the anticipated last day. The provider shall also notify the ~~case-managed~~ consumer on how to reach a long-term care ombudsman. If the thirtieth day falls on a weekend or legal holiday, the deadline is extended to the next business day.

(4) Confidentiality: In addition to the federal requirements in 45 C.F.R. Parts ~~160~~ 160↗ , ~~162~~ 162↗ , and ~~164~~ 164↗ and ~~45 C.F.R. 1321.75~~ 45 C.F.R. 1321.75↗ the agreement shall require the provider to store each consumer's electronic records in a password-protected file and physical records in a designated, locked storage space.

(5) Provider qualifications: In the agreement, the AAA shall include the following requirements:

(a) When hiring an applicant for, or retaining an employee in, a paid direct-care position, the provider is subject to section 173.38 of the Revised Code and Chapter ~~173-9~~ 173-9↗ of the Administrative Code~~,~~; or if self-employed, section 173.381 of the Revised Code and Chapter ~~173-9~~ 173-9↗ of the Administrative Code; or if the provider is subject to a home health license under section 3740.02 of the Revised Code, section 3741.11 of the Revised Code and Chapter 3701-60↗ of the Administrative Code.

(b) If a federal, state, or local government regulatory authority prohibits the provider from providing a service required by the agreement, the provider shall notify the AAA of the disciplinary action and the AAA shall, simultaneous to the date of the regulatory authority's disciplinary action, deem the provider to be ineligible to be paid with Older Americans Act funds for providing that service to consumers.

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(6) Subcontracting: The agreement shall require the provider to obtain authorization from the AAA before subcontracting any of its duties under the agreement to another provider.

(7) Modification:

(a) The agreement shall describe the grounds (and the process) for modifying the agreement.

(b) The agreement shall state that if an amendment, repeal, or rescission of any law, rule, or regulation cited in the agreement would change the responsibilities of the AAA, the provider, or both the AAA and provider, then the AAA, the provider, or both the AAA and provider shall comply with the amendment, repeal, or rescission of the law, rule, or regulation even if the agreement is not updated before the amendment, repeal, or rescission takes effect.

(c) Every new agreement shall require the provider to sign up for email updates on AGE's rules on ~~https://aging.ohio.gov/wps/portal/gov/aging/see-news-and-events/subscribe/subscribe~~ https://aging.ohio.gov/wps/portal/gov/aging/see-news-and-events/subscribe/subscribe↗ .

(8) Renewable and multi-year agreements: If the agreement is renewable or covers a multi-year term, the agreement is subject to the requirements for renewable or multi-year agreements under rule 173-3-05 of the Administrative Code.

(9) Records: The agreement shall include the following permissions and requirements:

(a) Permission to use an electronic system to collect or retain records.

(b) A requirement to retain any record relating to ~~services provided~~ service provision, including activity plans (if required), assessments (if required), permits (if required), evaluations (if required), and mandatory reporting items to verify a unit of service, until all of the following periods of time have passed:

(i) Three years after the date the provider receives payment for the ~~services~~ service.

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(ii) The date on which AGE, the AAA, or a duly-authorized law enforcement official concludes monitoring the records and any findings are finally settled.

(iii) The date on which the auditor of the state of Ohio, the inspector general, or a duly-authorized law enforcement official concludes an audit of the records and any findings are finally settled.

(c) A requirement to retain all records regarding an employee's background checks and qualifications, including records on initial qualifications, successful completion of orientation and subsequent training (if required), and performance reviews (if required) until all of the following periods of time have passed:

(i) Three years after the date the provider no longer retains the employee.

(ii) The date on which AGE, the AAA, or a duly-authorized law enforcement official concludes monitoring the records and any findings are finally settled.

(iii) The date on which the auditor of the state of Ohio, the inspector general, or a duly-authorized law enforcement official concludes an audit of the records and any findings are finally settled.

(d) A requirement to participate in good faith in the monitoring of the provider's provision of ~~services~~ the service. To participate in good faith includes assisting the AAA and AGE with the scheduling of announced or unannounced monitoring and providing the AAA and AGE with access to its business site(s) during the provider's normal business hours, a place to work in its business site(s), and access to policies and records for each unit of service billed.

(10) Payment:

(a) The agreement shall describe how the AAA pays the provider, including the amount and payment method.

(b) The agreement shall include the following requirements:

(i) The requirements in rule 173-3-07 of the Administrative Code.

(ii) The requirement to return any Older Americans Act funds payments for its ~~services,~~ service if the provider's provision of the ~~services~~

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service did not comply with the laws, rules, or executive orders with jurisdiction over the provision of the service.

(11) Administrative hearings:

(a) The agreement shall state that the provider may appeal an action the AAA takes against the provider according to rule 173-3-09 of the Administrative Code and state the procedures by which the provider may appeal the adverse action.

(b) If the AAA intends to redistribute unearned funds to other providers, the agreement shall state that it may redistribute funds if a provider is not, in a timely manner, earning the funds it was awarded and if the AAA determines the provider is not, in a timely manner earning the funds it was awarded in the agreement.

(C) An AAA may add requirements to an agreement in addition to the requirements in paragraphs (A) and (B) of this rule if the additional requirements do not conflict with any federal laws, rules, or executive orders with jurisdiction over the agreement or state laws, rules, or executive orders with jurisdiction over the agreement.

(D) Any reference in this rule to a consumer includes a caregiver if the caregiver is the service recipient.