

Ohio Department of Aging



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Guide to Public Participation
in the
RULE-MAKING PROCESS
of the
Ohio Department of Aging

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The Department of Aging

THE MISSION

The Ohio Department of Aging is a state agency designated by the Ohio General Assembly to provide leadership for the delivery of services and supports that improve and promote quality of life and personal choice for older Ohioans, adults with disabilities, their families and their caregivers.

ORGANIZATION

The Department of Aging is organized into eight divisions through which it achieves its regulatory mission:

- The **Community Long-Term Care Division** (CLTCD) manages community-based Medicaid-related programs to provide a cost efficient high-quality alternative to receiving services in a nursing facility. Programs include the PASSPORT Home and Community Based Waiver Program, the self-directed Choices waiver program, the Program of All Inclusive Care for the Elderly (PACE), the Residential State Supplement Program and the Assisted Living Waiver Program that will launch in the summer of 2006. The Preadmission Review program, also overseen by the division, ensures that individuals understand the options available to them and facilitates access to these options.
- The **Elder Rights Division** (ERD) safeguards the rights of consumers of long-term care and other services throughout Ohio. The division houses the Office of the State Long-Term Care Ombudsman, whose mission is to seek resolution of problems and advocate for home care consumers and residents of long-term care facilities, with the goal of enhancing their quality of life and care. The division coordinates legal and benefits assistance, manages the Long-term Care Consumer Guide, which provides information about Ohio nursing homes and residential care facilities, and is the state coordinator for BenefitsCheckUp, a national online database of benefits and supports.
- The **Older Americans Act Programs Division** (OAAPD) supports the development and management of a comprehensive and coordinated system of community services. Staff administers and monitors programs supported by Older Americans Act and related state funds, coordinates development of the State Plan on Aging and compiles reliable data for program management, advocacy and reporting. The division also coordinates the department's housing, energy, employment, Golden Buckeye Card, transportation, Aging and Disability Resource Network, care coordination, nutrition, caregiver, health and wellness and emergency preparedness programs and initiatives.
- The **Communications Division** coordinates the public relations and media outreach programs of the department. Staff plans special events and recognitions and creates and distributes educational and informative

publications, articles and other resources. The division publishes a monthly newsletter for network professionals (Aging Connection) and produces "Finer With Age," a monthly television talk show, and maintains this Web site.

- The **Fiscal Division** monitors the programs, services and administrative entities that receive funding through the department. Fiscal staff seeks to ensure compliance with applicable regulations, statutes and policies; processes payments to vendors and subrecipients, and manages the department's administrative resources, purchasing, revenue, travel and inventory. They also track spending, prepare and monitor the biennial budget, manage the grants process for funds passed through the department and conduct annual internal accounting control reviews.
- The **Information Services Division** (ISD) provides for the technological needs of the department and the aging network. Staff designs, implements and supports the department's primary network as well as specialized information infrastructures (i.e., databases, applications, T1 communications) for agency programs and entities. They purchase, configure and maintain desktop and network computer equipment and software systems for the department. Staff also provides help desk services and specialized training programs for employees and partners.
- The **Employee Services Division** (ESD) supports the staff of the Department to ensure the day-to-day operations of the agency. Staff performs all functions of human resources management, including hiring new employees, processing payroll and benefits and staff development. The division also provides facility management, including maintenance of office space, furniture and equipment; and facilitates mail, reception, records retention and telecommunications services.
- The **Executive Division** directs the daily operation of the department, sets goals, guides policy and represents the agency to partners, constituents and decision makers. Staff represents the department in any legal activity and handles all public records requests, labor arbitrations and hearings before administrative forums. The division oversees rule-writing for all program areas, drafts budget concepts, proposes and analyzes legislative language and reviews testimony. Staff also monitors legislation that impacts older Ohioans and their families and provides information to legislators.

For more information about the Department of Aging, its mission, or its programs and services, please visit www.goldenbuckeye.com or call toll-free 1-800-266-4346.

What Are Administrative Rules?

An administrative rule is a regulation that bears the weight of law. Section 173.02 of the Ohio Revised Code grants the Ohio Department of Aging general rule-making authority to adopt new rules and to amend or rescind existing rules. Specific rule-making authority is granted elsewhere throughout the Ohio Revised Code.

When the Department (or any state agency, board, or commission) proposes a rule, it must be reviewed by the Joint Committee on Agency Rule Review (JCARR), a joint committee of both houses of the state legislature. JCARR will examine the rule to determine if:

1. The agency proposing the rule has authority to do so;
2. The proposed rule is in compliance with other existing rules;
3. The proposed rule reflects the intent of relevant legislation; and,
4. The proposed rule contains a complete and accurate summary and fiscal analysis.

If a majority of the members of JCARR believe that any of the above criteria has been violated in regard to a particular rule, then JCARR will make a motion to the state legislature to request that it vote upon the invalidation of that proposed rule. If the majority of the legislators vote to invalidate the rule, then it will not become an official state regulation. If the majority of the legislators vote against the motion to invalidate the rule, then the Department can file that rule in final form, which will make it an official state regulation.

Likewise, if no such motion is made by JCARR, then the Department can file that rule in final form, which will make it an official state regulation.

Upon filing a rule in final form, the Department will notify any known affected parties that the new rule, amended rule, or rule rescission will soon be effective.

Section 119.032 of the Ohio Revised Code mandates that the Department repeat the review process for every rule within five years of enactment and each subsequent reenactment.

Public Participation

INTRODUCTION

Because an administrative rule of the Ohio Department of Aging governs the operation or administration of one of our programs, enacting a new rule or changing an existing rule could affect the lives of many older Ohioans who benefit from that program. Therefore, older Ohioans, advocates for older Ohioans, providers of services to older Ohioans, and members of the general public are invited to participate in the rule-making process.

Our rule-making process is consistent with the requirements found in Chapters 119.03 and 111.15 of the Ohio Revised Code, which establish the procedures a rule-making agency is to follow for proposing new, amended, or rescinded rules. However, in addition to those requirements, the Department may include interested parties in the rule-drafting process prior to filing the proposed rule with JCARR.

PRIOR TO THE FORMAL RULE-FILING PROCESS

The first opportunity to participate

Any older Ohioan, advocate, service provider, or member of the general public should feel free to contact the Department any time that it is believed that a change is needed in the area of administrative law regarding our programs. After considering the suggestion, the Department will determine whether a new rule needs to be adopted or an existing rule needs to be amended or rescinded.

Additionally, we will consult with Area Agencies on Aging (AAAs) over the drafting of these rules. This will generally be handled by holding workgroups.

The second opportunity to participate

Once we have drafted the language for a proposed rule, almost always post the draft on our Web site for a public comment period that generally lasts for two weeks. Whenever the Department takes this action, it is seeking public input prior to the initiation of the formal rules process.

Visit www.goldenbuckeye.com/rules/draft.html to review the draft of any rule that may currently be posted for a public comment period. Through this Web page, one may also subscribe to be notified via e-mail whenever new information pertaining to rules has been posted on the Web site. Subscribing enables concerned citizens to know when the opportunity to comment on a draft rule begins. This is a free service of the Department.

Interested parties are encouraged to make comments and suggestions about a draft rule by submitting them through our Web site. Any older Ohioan, advocate, service provider, or member of the general public can make a comment through this Web site.

After considering the input received during the public comment period and from meeting with AAAs, improvements may be made to the language of a draft rule before we submit it to JCARR for the formal review process.

THE FORMAL RULE-FILING PROCESS

The third opportunity to participate

Once a proposed rule has been filed with JCARR, the formal review process begins. During the JCARR review, we will hold a public hearing to receive further input on the proposal. Any older Ohioan, advocate, service provider, or member of the general public can attend the public hearing to discuss a proposed rule.

Visit www.goldenbuckeye.com/rules/proposed.html to review information about proposed rules that have recently been filed with JCARR. Along with the text of each proposed rule, one can find a summary and fiscal analysis of each rule and a notice for a public hearing concerning that proposed rule. As mentioned earlier, one may also subscribe to be notified via e-mail whenever new information pertaining to rules has been posted to this Web site. Those who have subscribed will also receive notification whenever a proposed rule has been filed with JCARR.

After considering the input received during the public hearing, we may revise the language of a proposed rule before that rule progresses further through the formal review process.

The final opportunity to participate

As part of the formal review process, each rule will be scheduled for a hearing before the legislative members of JCARR. Anyone who wishes to testify before JCARR concerning a rule may do so. To know when a rule will be considered by JCARR, regularly visit www.jcarr.state.oh.us to review the JCARR agenda of upcoming meetings.

As stated earlier, a proposed rule will become an official state regulation unless it is invalidated by a majority vote of the state legislature in response to a motion by JCARR to vote upon the rule for invalidation. Any input received about such an administrative rule after it has been adopted will be considered at future opportunities when the rule-making process begins again.

PROPOSED RULES OF OTHER AGENCIES THAT AFFECT OLDER OHIOANS

Our Web site also lists rule proposals from other state agencies that could impact older Ohioans whenever the Department becomes aware of such proposals. Links are provided to learn more about the rule-making processes of those agencies.

General questions on any topic concerning the programs for older Ohioans can be submitted to:

- Your Area Agency on Aging: 1-866-243-5678
- Ohio Department of Aging: 1-800-266-4346

Questions and comments regarding the rule-making process can be submitted in writing to the rules coordinator for the Ohio Department of Aging by submitting an e-mail to tsimmons@age.state.oh.us (preferred), by submitting a fax to 614-466-1049, or by writing to the Department of Aging at 50 W. Broad St., 9th Floor; Columbus, OH 43215.