

173-39-02.14

**ODA provider certification: home-delivered meals.**(A) Definitions for this rule:

- (1) "Home-delivered meals" means the service that provides up to two meals per day to an individual who has a need for a home-delivered meal based on a deficit in an ADL or IADL that a case manager identifies during the assessment process. The service includes planning, preparing, packaging, and delivering safe and nutritious meals to the individual at his or her home.
- (2) "Diet order" means a written order for a therapeutic diet from a licensed healthcare professional whose scope of practice includes ordering therapeutic diets.
- (3) "Therapeutic diet" means a calculated nutritive regimen including the following regimens:
  - (a) Diabetic and other nutritive regimens requiring a daily specific calorie level.
  - (b) Renal nutritive regimens.
  - (c) Dysphagia nutritive regimens, excluding simple textural modifications.
  - (d) Any other nutritive regimen requiring a daily minimum or maximum level of one or more specific nutrients or a specific distribution of one or more nutrients.

(B) Every ODA-certified provider of home-delivered meals shall comply with the following requirements:

- (1) General requirements: The provider shall comply with the requirements for every ODA-certified provider in rule 173-39-02 of the Administrative Code.
- (2) Planning:
  - (a) Menus:
    - (i) The provider shall provide each individual with a menu of meal options that, as much as possible, consider the individual's medical restrictions; religious, cultural, and ethnic background; and dietary preferences.
    - (ii) The provider shall only utilize a menu that has received the written approval of a dietitian who is currently registered with the commission on dietetic registration and who is also a licensed dietitian, if the state in which the provider is located licenses dietitians.

- (iii) The provider shall publish its menus on its website or offer written menus to individuals.
- (iv) The provider shall either publish ingredient information on its website or offer written ingredient information to individuals.
- (v) Upon request, the provider shall provide to ODA (or ODA's designee) copies of menus and ingredient information and other evidence that it complies with the requirements under paragraph (B)(2)(a) of this rule.

(b) Nutritional adequacy:

- (i) The provider shall only provide a meal that meets at least one-third of the current dietary reference intakes (DRIs), unless the meal implements a therapeutic diet. The federal government makes the DRIs available to the general public free of charge on <http://fnic.nal.usda.gov/>.
- (ii) The provider shall only provide a meal that follows the "2015-2020 Dietary Guidelines for Americans," unless the meal implements a therapeutic diet. The federal government publishes the guidelines for the general public free of charge on <http://www.health.gov/dietaryguidelines>.
- (iii) Upon request, the provider shall provide evidence to ODA (or ODA's designee) that the provider complies with the requirements under paragraph (B)(2)(b) of this rule.
- (iv) The provider may use either nutrient analysis or menu patterns to determine compliance with paragraphs (B)(2)(b)(i) and (B)(2)(b)(ii) of this rule.

(c) Diet orders:

- (i) The provider shall only provide a therapeutic diet to an individual if the provider received a diet order for the individual.
- (ii) The provider shall provide a therapeutic diet to the individual identified in the diet order for the shorter of the following:
  - (a) The length of time authorized by the diet order.
  - (b) One year from the date the diet order indicates that the diet should begin

- (iii) If the provider receives an updated diet order before the expiration of a current diet order, the provider shall provide the therapeutic diet according to the updated diet order.
- (iv) The provider shall provide the therapeutic diet according to the diet order instead of a diet that complies with paragraphs (B)(2)(b)(i) and (B)(2)(b)(ii) of this rule.
- (v) The provider shall only provide a therapeutic diet if the provider retains a copy of the diet order.

(3) Food safety:

- (a) If a state or federal department of agriculture or a local health district prohibits the provider from manufacturing food or feeding the public, the provider shall not deliver meals to any individual.
- (b) If a state or federal department of agriculture or a local health district sanctions a provider, the provider shall do the following:
  - (i) The provider shall notify ODA (or ODA's designee) of the sanction no more than five business days after the state or federal department of agriculture or a local health district issues the sanction.
  - (ii) The provider shall notify ODA (or ODA's designee) of the provider's plan of correction no more than five business days after the provider submits the plan to the state or federal department of agriculture or local health district.
- (c) Upon request, the provider shall provide to ODA (or ODA's designee) a copy of the most recent food-safety inspection by a state or federal department of agriculture or a local health district.

(4) Delivery:

- (a) The provider shall deliver meals according to the individual's service plan.
- (b) Delivery dates and times: The provider shall establish a routine delivery date and range of time with each individual and record the established delivery date and time in the individual's clinical record.
  - (i) Per-meal delivery: The provider shall notify the individual if it will deliver a single ready-to-eat meal more than one hour after the established delivery time.

(ii) Periodic delivery: The provider shall notify the individual if it will, in one delivery, deliver multiple meals that are not hot meals, but frozen, vacuum-packed, modified-atmosphere-packed meal, or shelf-stable more than one day after the established delivery date. The provider shall provide the individual with clear instructions on how to safely heat or reheat a meal and, if the meal is delivered in components (e.g., a vacuum-packed meal), how to assemble the meal.

(iii) Per-meal delivery with periodic delivery of milk, bread, and butter: Because certain individuals may have difficulty opening small milk cartons or small butter packets (e.g., due to arthritis), if the individual's service plan authorizes the provider to do so, a provider may deliver a pint or half-gallon of milk; a loaf of sliced bread; and a stick of butter to an individual up to once per week if the milk, bread, and butter are components of home-delivered meals that the provider delivers throughout the week, so long as the meals comply with this rule, regardless of whether the meals are ready-to-eat, frozen, vacuum-packed, modified-atmosphere-packed, or shelf-stable. (E.g., A provider may provide a pint of milk for consumption as multiple servings of milk that are part of multiple meals, but not as an ingredient for the individual to use to prepare a meal.

(c) Delivery instructions: The provider shall provide written or electronic delivery instructions to its delivery persons.

(d) Records: Upon request, the provider shall provide evidence to ODA (or ODA's designee) that it complies with the requirements under paragraph (B)(4) of this rule.

(5) Provider qualifications:

(a) Type of provider: Only an agency that ODA certifies as an agency provider shall provide meals. No individual shall provide meals unless the individual is an employee or volunteer of an agency that ODA certifies as an agency provider.

(b) Licensure:

(i) Food service operator's license: The provider shall possess any current, valid license or certificate that the local health department requires the provider to possess.

(ii) Driver's license: The provider shall retain records to show that each of its drivers possesses a current, valid driver's license.

(c) Auto liability insurance: The provider shall retain records to show that the owner of each meal-delivery vehicle carries auto liability insurance on the vehicle.

(d) Training:

(i) The provider shall develop a training plan that includes orientation and annual continuing education.

(a) Orientation: The provider shall assure that each employee, including each volunteer, who participates in meal preparation, handling, or delivery receives orientation on topics relevant to the employee's job duties before the employee performs those duties.

(b) Continuing education: The provider shall assure that each employee, including a volunteer, who participates in meal preparation, handling, or delivery completes continuing education each year on topics relevant to the employee's job duties.

(ii) The provider shall make, and retain, a written record of each employee's completion of orientation and continuing education. The record shall include the topics covered during the orientation and continuing education.

(e) Records: Upon request, the provider shall provide evidence to ODA (or ODA's designee) that the provider complies with the requirements under paragraph (B)(5) of this rule.

(6) Limitations: Medicaid waiver funds through the PASSPORT program shall not be used to pay for any of the following:

(a) Meals provided to an individual in excess of what the case manager orders for the individual.

(b) Meals provided by a provider other than the provider the case manager identifies in the individual's service plan.

(c) Meals provided as a supplement or replacement to the purchase of food or groceries.

(d) Bulk ingredients, liquids, or other food provided to an individual, whether or not the individual would use the ingredients, liquids, or food to prepare a meal independently or with assistance. As used in this paragraph, "bulk ingredients, liquids, and other food" includes food that

one portions, prepares, or cooks to eat, but does not include a fully-prepared meal that one heats or reheats to eat.

(e) Meals provided to an individual who is hospitalized or is residing in an institutional setting.

(7) Delivery verification:

(a) The provider shall retain a record of the case manager's service order.

(b) At the time of each delivery, the provider shall verify that each meal for which it bills was delivered by one of the following two methods:

(i) The provider may use an electronic system to verify each meal delivery if the system does all of the following:

(a) Collects the individual's name, date, time, number of meals in the delivery, , whether the delivery successfully reaches the individual, identification of delivery person, and an identifier (e.g., electronic signature, fingerprint, password, swipe card, bar code) unique to the individual.

(b) Retains the information it collects.

(c) Produces reports, upon request, that ODA (or ODA's designee) can monitor for compliance.

(ii) The provider may use a manual system to verify each meal delivery if the provider documents the individual's name, delivery date, delivery time, and number of meals in the delivery; and collects the handwritten signature of the delivery person and the individual. If the individual is unable to produce a handwritten signature, the individual's handwritten initials, stamp, or mark are acceptable if the case manager recorded the alternative in the individual's service plan.

(c) Because the verification under paragraph (B)(7) of this rule is conducted per-delivery and the verification includes documenting the number of meals in the delivery, the provider is not required to obtain multiple verifications for multi-meal deliveries.

(d) Upon request, the provider shall provide evidence to ODA (or ODA's designee) showing compliance with the requirements under paragraph (B)(7) of this rule.

(C) Unit and rates:

- (1) A unit of regular home-delivered meals is one home-delivered meal that is planned, safely prepared, packaged, and delivered by qualified employees of an agency provider according to this rule. The maximum rate allowable for one regular home-delivered meal is listed in rule 5160-1-06.1 of the Administrative Code.
- (2) A unit of home-delivered meals with a therapeutic diet is one home-delivered meal with a therapeutic diet that is planned, safely prepared, packaged, and delivered by qualified employees of any agency provider according to this rule. The maximum rate allowable for a meal with a therapeutic diet is listed in rule 5160-1-06.1 of the Administrative Code.
- (3) The rates are subject to the rate-setting methodology in rule 5160-31-07 of the Administrative Code.

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CERTIFIED ELECTRONICALLY

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Certification

08/22/2016

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Date

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