

## TO BE RESCINDED

**173-4-05.1                    Older Americans Act nutrition program: congregate dining projects.**

In every AAA-provider agreement for a congregate dining project paid, in whole or in part, with Older Americans Act funds, the AAA shall include the following requirements:

(A) General requirements:

- (1) In the AAA-provider agreement, the AAA shall include the requirements in rule 173-3-06 of the Administrative Code for every AAA-provider agreement paid, in whole or in part, with Older Americans Act funds.
- (2) In the AAA-provider agreement, the AAA shall include the requirements in rule 173-4-05 of the Administrative Code for every AAA-provider agreement for a nutrition project.

(B) Availability:

- (1) The provider shall keep at least one congregate dining location in its nutrition project open for business to provide meals for at least one mealtime (i.e., a breakfast, lunch, or dinner) per day to consumers on five or more days per week, within a reasonable distance to older adult target populations, unless the AAA obtains ODA's approval to enter into an AAA-provider agreement or during a state of emergency declared by the governor or a federal public health emergency that allows fewer days per week.
- (2) In the AAA-provider agreement, the AAA shall not prohibit the provider from offering meals in different congregate dining locations on different days rather than have every congregate dining location open for at least five days per week.

(C) Carry-out meals: Older Americans Act Title III-C1 funds shall not pay, in whole or in part, for regularly-provided carry-out meals provided at congregate dining locations, but may pay for occasional carry-out meals, including meals sent home with consumers to prepare for an anticipated closing of congregate dining locations for weather-related emergencies or a state of emergency declared by the governor or a federal public health emergency.

(D) Emergency closings:

- (1) The provider shall give those consumers enrolled in its congregate dining project, to the extent practicable, reasonable notice before a scheduled mealtime when a congregate dining location will be closed due to weather-related emergencies, loss of power, kitchen malfunctions, natural disasters, a state of emergency

declared by the governor (or a federal public health emergency), etc. Providers shall notify consumers by using broadcast media, by using its website, by telephone, or by any combination of the three.

- (2) To prepare for emergency closings, the provider shall distribute information to consumers on how to stock an emergency food shelf.

(E) Quality assurance:

- (1) Each year, the provider shall implement a plan to evaluate and improve the effectiveness of the project's operations and services to ensure continuous improvement. In the plan, the provider shall include a review of the existing project; modifications the provider made to respond to changing needs or interest of consumers, staff, or volunteers; and proposed improvements.
- (2) In the AAA-provider agreement, the AAA shall not prohibit a provider from using an electronic system to collect and retain the records showing compliance with the continuous-improvement requirements in this rule.

(F) Meal verification:

- (1) By one of the following two methods, the provider shall verify that each meal for which it bills was provided:
  - (a) The provider may use an electronic system if the system does all of the following:
    - (i) Collects the consumer's name, date, and a unique identifier of the consumer or the consumer's caregiver.
    - (ii) Retains the information it collects.
    - (iii) Produces reports, upon request, that the AAA can monitor for compliance.
  - (b) The provider may use a manual system if the provider documents the consumer's name, date, and a unique identifier of the consumer or the consumer's caregiver.
- (2) In the AAA-provider agreement, the AAA shall not prohibit a provider from using an electronic system to collect and retain the records this rule requires.

- (3) During a state of emergency declared by the governor or a federal public health emergency, the provider may verify each meal provided without collecting a unique identifier of the consumer or the consumer's caregiver.

Effective: 1/1/2023

Five Year Review (FYR) Dates: 10/14/2022

CERTIFIED ELECTRONICALLY

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Certification

12/19/2022

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Date

Promulgated Under: 119.03

Statutory Authority: 121.07, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45  
C.F.R. 1321.11, 1321.17

Rule Amplifies: 173.39, 173.392; 42 U.S.C. 3025, 3030e, 3030g-21; 45  
C.F.R. 1321.11, 1321.17

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