

173-4-06

Older Americans Act nutrition program: diet orders.

(A) Definitions for this rule:

- (1) "Diet order" means ~~a written~~ an order for a therapeutic diet, medical food, or food for special dietary use from a licensed healthcare professional whose scope of practice includes ordering these diets.
- (2) "Food for special dietary use" has the same meaning as in 21 C.F.R. 105.3(a)(1) ~~(April, 2015 edition)~~ (1979).
- (3) "Medical food" has the same meaning as in 21 U.S.C. 360ee(b)(3) ~~(as accessed on December 9, 2015)~~ (2017).
- (4) "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) In every AAA-provider agreement for therapeutic diets, medical meals, or food for a special dietary use paid, in whole or in part, with Older Americans Act funds, the AAA shall include the following requirements:

- (1) General requirements: 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) Diet orders:
 - (a) The provider shall only provide a therapeutic diet, medical food, or food for special dietary use to a consumer if the provider received a diet order for the consumer. If the therapeutic diet is a dysphagia nutritive regimen, the provider shall only provide the therapeutic diet if the diet order indicates whether the consumer requires ~~thickening agents in his or her drinks, soups, etc. and indicates whether the consumer requires a level-one (puréed) or level-two (chopped or ground) dysphagia therapeutic diet texture-modified foods and/or thickened liquids.~~

- (b) The provider shall provide a therapeutic diet, medical food, or food for special dietary use to the consumer identified in the diet order for the shorter of the following two durations:
 - (i) The length of time authorized by the diet order.
 - (ii) One year from the date the diet order indicates the diet should begin.
- (c) If the provider receives an updated diet order before the expiration of a current diet order, the provider shall provide the therapeutic diet, medical food, or food for special dietary use according to the updated diet order.
- (d) The provider shall assure the therapeutic diet contains nutrients consistent with the diet order by either utilizing nutrient analysis or by using a meal-pattern plan approved by a dietitian.
- (e) The provider shall only provide a therapeutic diet, medical food, or food for special dietary use if the provider (or, if the consumer is in a care-coordination program, the AAA), retains a copy of the diet order.

(3) Dietitians:

- (a) The provider shall determine the need, feasibility, and cost-effectiveness of offering a therapeutic diet, medical food, or food for special dietary use by consulting with a licensed dietitian.
- (b) A provider shall only provide medical food and food for a special dietary use if the provider relies upon the oversight of a dietitian when providing medical food or food for a special dietary use.

~~(C) Nutrition services incentive program (NSIP) funding for medical food and food for special dietary use:~~

- ~~(1) Stand-alone meals: If the medical food or food for a special dietary use is offered to a consumer as meals, the meals are eligible for payment with Older Americans Act funds as medical food or food for a special dietary purpose, but are not eligible for payment with Older Americans Act funds as congregate or home-delivered meals. Thus, if the medical food or food for a special dietary use is offered to consumers as meals, they would not qualify for NSIP incentive payments.~~
- ~~(2) Supplements to meals: If the medical food or food for a special dietary purpose is offered to consumers as supplements to meals, the supplements are included in the cost of the meals. Meals with the supplement are eligible for payment with~~

~~Older Americans Act funds as a congregate or home-delivered meals, both of which qualify for NSIP incentive payments.~~

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