

173-4-06

Older Americans Act nutrition program: diet orders.

(A) Definitions for this rule:

- (1) "Diet order" means 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) (1979).
- (3) "Medical food" has the same meaning as in 21 U.S.C. 360ee(b)(3) (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) Requirements ~~In for~~ 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~~ The AAA-provider agreement, ~~the AAA shall include~~ is subject to 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~~ may only provide a therapeutic diet, medical food, or food for special dietary use to a consumer only if the provider received a diet order for the consumer. If ~~the a~~ therapeutic diet is a dysphagia nutritive regimen, the provider ~~shall~~ may only provide the therapeutic diet only if the diet order indicates whether the consumer requires 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~~ The provider shall provide the therapeutic diet, medical food, or food for special dietary use according to the any updated diet order if the updated diet order is received before the expiration of the current diet order.
- (d) The provider ~~shall~~ may ~~assure the therapeutic diet contains nutrients consistent with the diet order by use either utilizing nutrient analysis or by using a meal-pattern plan approved by a dietitian to assure that the therapeutic diet contains nutrients consistent with the diet order.~~
- (e) The provider ~~shall only~~ may provide a therapeutic diet, medical food, or food for special dietary use only 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~~ may provide medical food and food for a special dietary use only if the provider relies upon the oversight of a dietitian when providing medical food or food for a special dietary use.

Effective:

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

Certification

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, 3030g-21; 45 C.F.R. 1321.11, 1321.17
Prior Effective Dates: 03/23/2009, 08/23/2012, 09/01/2016, 03/01/2017, 01/29/2022