

5160-44-11

**Nursing facility-based level of care home and community-based services programs: home delivered meals.**

(A) The following definitions are applicable to this rule:

- (1) "Dietitian" and "licensed dietitian" mean a person with a current, valid license to practice dietetics under section 4759.06 of the Revised Code.
- (2) "Home delivered meals" is a meal delivery service based on an individual's need for assistance with activities of daily living (ADLs) and/or instrumental activities of daily living (IADLs) in order to safely prepare meals, or ensure meals are prepared to meet the individual's dietary needs or specialized nutritional needs, including kosher meals, as ordered by a licensed healthcare professional within his or her scope of practice.
- (3) "Special diet" means a diet ordered by a licensed healthcare professional whose scope of practice includes ordering special diets based upon, and adjusted to, the individual's assessed needs. A special diet is limited to:
  - (a) Nutrient adjusted diets, including high protein, no added salt and no concentrated sweets;
  - (b) Volume adjusted diets, including small, medium and large portions;
  - (c) The use of finger foods or bite-sized pieces for an individual's physical needs; or
  - (d) Mechanically altered food (i.e., the texture of food is altered by chopping, grinding, mashing or pureeing so that it can be successfully chewed and safely swallowed).
- (4) "Therapeutic diet" means a diet ordered by a licensed healthcare professional whose scope of practice includes ordering therapeutic diets, including:
  - (a) As part of the treatment for a disease or clinical condition;
  - (b) To modify, eliminate, decrease or increase certain substances in the diet; or
  - (c) To provide mechanically altered food when indicated.

(B) Meal specifications.

- (1) Meals are single portions that are:
  - (a) Ready to eat; or

(b) Frozen, vacuum-packed, modified-atmosphere-packed or shelf-stable.

(2) Each meal shall:

(a) Include clear instructions on how to safely maintain, heat, reheat and/or assemble the meal.

(b) Adhere to the current "Dietary Guidelines for Americans" ([www.health.gov/dietaryguidelines/](http://www.health.gov/dietaryguidelines/)).

(c) Provide at least thirty-three per cent of the dietary reference intakes;

(d) Meet state and local food safety and sanitation requirements; and

(e) Adhere to the individual's medical restrictions as set forth in their person-centered services plan.

(3) Meal menus shall be approved in writing by a dietitian who is currently registered with the commission on dietetic registration, and who is also a licensed dietitian when the state in which the dietitian is located licenses dietitians.

(a) Providers shall furnish each individual with home delivered meals that, as much as possible, accommodate the individual's religious, cultural, ethnic, and dietary preferences, including kosher meals.

(b) Providers shall publish their current menu and ingredient information on their websites and offer written menus and ingredient information to individuals.

(4) Meal delivery shall be specified in the person-centered services plan. The plan shall include the type and amount of meals to be furnished, as well as the frequency.

(a) Up to two meals per day may be provided.

(b) Planned multiple meal delivery shall not exceed fourteen meals that are compliant with food storage and safety requirements.

(c) For the purposes of this rule, method of delivery verification shall include:

(i) The individual's, his or her authorized representative's or other designee's signature upon delivery; or

- (ii) The delivery driver's attestation that delivery occurred. Nothing shall prohibit the provider from using an electronic system to verify delivery.
  - (d) If a provider uses a common carrier to deliver meals, the provider shall verify the success of the delivery by using the method in paragraph (B)(4)(c) of this rule or by retaining the common carrier's tracking statement or returned postage-paid delivery invoice.
  - (e) The provider shall replace any item lost or stolen between the time of delivery and receipt by the individual at no cost to the individual, the Ohio department of medicaid (ODM), the Ohio department of aging (ODA) or their designee.
- (5) Additional back up meals may be authorized at the discretion of ODM, ODA or their designee.

(C) Limitations.

- (1) Meals shall not be:
  - (a) Processed, frozen, pre-packed and commercially available to the general public for purchase; or
  - (b) Provided in order to supplant or replace the purchase of food or groceries for others.
- (2) A provider may deliver specifically identified items that are packaged in larger than single servings, in compliance with paragraph (B)(4) of this rule.
- (3) The type of meal and frequency of delivery shall not be for provider convenience.

(D) Provider qualifications.

- (1) A provider of home delivered meals shall provide and maintain evidence of:
  - (a) A current, valid food operations or other applicable license or certificate as required by licensing or regulatory agencies where the meal is produced.
  - (b) Good standing with all applicable federal, state and local regulatory agencies; and
  - (c) Meeting licensing requirements for safety, storage, sanitation and other applicable provisions for food service.

(2) The provider shall develop, implement and maintain evidence of a training plan that includes orientation and annual continuing education.

(a) The provider shall ensure anyone who participates in meal preparation, handling or delivery receives orientation on topics relevant to the person's job duties before they perform those duties.

(b) The provider shall ensure anyone who participates in meal preparation, handling or delivery completes continuing education annually on topics relevant to the person's job duties.

(E) Delivery requirements.

(1) Delivery shall be based on a routine delivery date and range of time.

(2) Written or electronic delivery instructions shall be provided to the delivery driver.

(3) The provider shall notify the individual if meal delivery will be delayed or will not occur as planned.

(4) The provider shall ensure that delivery provided by commercial or common carrier meets applicable federal, state and local food safety, storage and sanitation requirements.

(F) Documentation requirements.

(1) The provider shall maintain a clinical record for each individual served that shall include:

(a) Initial and all subsequent person-centered services plans;

(b) All dietary orders (including therapeutic and/or special diets) and instructions prepared by the applicable medical professional; and

(c) A record of the established delivery date and time.

(2) The provider shall maintain documentation of meal delivery, including:

(a) The individual's name;

(b) The date, time and number of meals in the delivery;

(c) Verification of delivery in accordance with the individual's person-centered services plan;

- (d) Verification that the individual was notified if service delivery was not provided within the established delivery date or time; and
  - (e) Verification that the individual has been furnished clear instructions about how to safely heat, reheat and assemble each meal.
- (3) The provider shall document and retain a written record of completed orientation and continuing education including the topics covered during the orientation and continuing education.
- (4) The provider shall maintain documentation of the following:
- (a) All licensure or certification documents required by this rule;
  - (b) All local licensing or regulatory agency inspection reports and documented findings, any resulting plans of correction and any follow up reports; and
  - (c) All United States department of agriculture inspection reports and documented findings, any resulting plans of correction and any follow-up reports.

(G) Notwithstanding any provisions to the contrary in this rule, during the COVID-19 state of emergency ODM and ODA are authorized to deem any provider approved by ODM or certified by ODA or the Ohio department of developmental disabilities (DODD) to provide waiver services as having satisfied the requirements for approval by ODM or certification by ODA for the same or similar services.

Effective:

6/12/2020

## CERTIFIED ELECTRONICALLY

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Certification

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Date

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