

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. The type of home delivered meals are the following
 - (a) Standard meal means a meal that adheres to the version of the "Dietary Guidelines for Americans" in effect on the delivery day and at least thirty-three per cent of the individual's dietary reference intakes. A standard meal may include, but is not limited to, a reduced calorie meal, reduced sodium meal, reduced sugar meal, a gluten-free meal, or vegetarian meal, if the individual chooses the meal by personal preference.
 - (b) Kosher meal is a meal that complies with the kosher practices for meal preparation and dietary restrictions and certified as kosher by a recognized kosher certification or a kosher establishment under orthodox rabbinic supervision.
 - (c) Therapeutic meal means a meal provided in accordance to an order by a licensed healthcare professional whose scope of practice includes ordering therapeutic diets:
 - (i) For management of a disease or clinical condition;
 - (ii) To modify, eliminate, decrease or increase certain substances in the diet; or
 - (iii) To provide mechanically altered food when indicated.
- (3) "Meals" are single portions that are ready to eat, frozen, vacuum-packed, modified-atmosphere-packed, or shelf-stable. Meals have all the following characteristics:
 - (a) It includes instructions on how to safely maintain, heat, reheat and/or assemble the meal, in a manner understandable to the individual and/or their caregiver.

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

(B) Meal specifications.

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

(a) Providers will furnish each individual with home delivered meals that accommodate the individual's religious, cultural, ethnic, and dietary preferences.

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

(2) An individual's person-centered services plan establishes meal delivery parameters which include all the following:

(a) Up to two meals per day. The maximum number of meals delivered will not exceed fourteen meals at one time.

(b) The type of meal.

(c) The frequency of delivery.

(d) The delivery-verification method which will include:

(i) Signature upon delivery by the individual or the individual's designee;
or

(ii) The delivery driver's confirmation that delivery occurred. The provider may use an electronic system to verify.

(A) If a provider uses a common carrier to deliver meals, the provider will verify the success of the delivery by using the method in paragraph (B)(2)(d) of this rule; or

(B) By retaining the common carrier's tracking statement or other evidence showing successful delivery.

(e) A provider may deliver specifically identified items that are packaged in larger than single servings.

- (3) Additional back up meals may be authorized at the discretion of the Ohio department of medicaid (ODM), the Ohio department of aging (ODA), or their designee.

(C) Meals will not be:

- (1) Processed, pre-packed and commercially available to the general public for purchase; or
- (2) Provided in order to supplant or replace the purchase of food or groceries for others.

(D) Provider qualifications.

- (1) A provider of home delivered meals will 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 applicable licensing requirements for safety, storage, sanitation and other applicable provisions for food service.
- (2) The provider will develop, implement and maintain evidence of a training plan that includes orientation and annual continuing education.
- (a) The provider will 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 will 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 will be based on a routine delivery date and range of time.
- (2) The provider will notify the individual if meal delivery will be delayed or will not occur as planned.

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

(F) The provider will maintain the following documentation:

(1) Initial and subsequent person-centered services plans for each individual;

(2) All diet orders;

(3) 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.

(4) A written record, including date and topics covered, during the completion of orientation and continuing education sessions;

(5) All licensure or certification documents required by this rule;

(6) All local licensing or regulatory agency inspection reports and documented findings, any resulting plans of correction and any follow up reports; and

(7) All United States department of agriculture inspection reports and documented findings, any resulting plans of correction and any follow-up reports.

(G) The provider will replace any item lost or stolen between the time of delivery and non-receipt by the individual at no cost to the individual, ODM, ODA, or their designee.

Effective: 1/1/2024

Five Year Review (FYR) Dates: 01/01/2029

CERTIFIED ELECTRONICALLY

Certification

11/29/2023

Date

Promulgated Under: 119.03

Statutory Authority: 5166.02

Rule Amplifies: 5162.03, 5166.02, 5164.02