

**Department of
Aging**

John Kasich, Governor
Bonnie Kantor-Burman, Director

NOTICE

ODA proposes to amend its rules for **Non-Medicaid Nutrition Programs and Nutrition-Related Services** in Chapter 173-4 of the Administrative Code to implement the new, federal **Dietary Guidelines for Americans** and to make other changes. Section 119.03 of the Revised Code requires ODA to conduct a public hearing to obtain comments concerning ODA's proposed amendments. ODA will conduct the hearing on **January 4, 2012** at 50 W. Broad Street, 10th floor; Conference **Room 10A**; Columbus, OH 43215. The hearing will begin at **11:00AM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

ODA will attempt to consolidate this public hearing with three other public hearings on January 4, 2012 to reduce the state's administrative expenses and to reduce the general public's costs associated with traveling to Columbus to participate in public hearings.

Any person may direct written comments or requests for information concerning the proposed actions to Tom Simmons, ODA's rules manager, on or before the date of the hearing by writing to rules@age.state.oh.us.

INTRODUCTION

ODA is proposing to rescind rule 173-4-05 of the Administrative Code, and, in its stead, adopt these five proposed new rules: proposed new rules 173-4-05, 173-4-05.1, 173-4-05.2, 173-4-05.3, and 173-4-05.4 of the Administrative Code. ODA is also proposing to amend rules 173-4-07 and 173-4-08 of the Administrative Code.

Overall, ODA has 4 primary goals:

1. To incorporate guidelines of the Dietary Guidelines for Americans of 2010 into the rules. The U.S. Dept. of Health and Human Services and the U.S. Dept. of Agriculture jointly released the new guidelines on January 31, 2011. The guidelines emphasize three major goals for Americans:
 - a. Balance calories with physical activity to manage weight.
 - b. Consume more of certain foods and nutrients, such as fruits, vegetables, whole grains, fat-free and low-fat dairy products, and seafood.
 - c. Consume fewer foods with sodium (salt), saturated fats, trans fats, cholesterol, added sugars, and refined grains.
2. To emphasize person-centered (self-directed) care in the rules, by requiring providers to:
 - a. Provide choices to consumers within the Dietary Guidelines for Americans.
 - b. Help consumers make informed choices regarding meals, alternative meals, and meal types.
3. To comply with Governor Kasich's Executive Order 2011-01K "Implementing Common Sense Business Regulation" and S.B. No. 2 (129th G.A.). In doing so, ODA is:

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- a. Proposing to amend this rule after providing interested parties and the general public an opportunity to provide input on the proposed amendments to the rule before filing the rule with the Joint Committee on Agency Rule Review. From November 10, 2011 to November 27, 2011, ODA posted the proposed amended rule on <http://aging.ohio.gov/information/rules/proposed.aspx> for a public-comment period.
 - b. Making rules more user-friendly, by
 - i. Making one large, many-topic rule into five smaller fewer-topic rules.
 - ii. Incorporating more tables into the rules.
4. To comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the review date listed at the end of the rule.

173-4-05 Meal service.

Specifically, ODA is proposing to rescind the larger, multi-topic rule and replace it with five smaller, fewer-topic rules of the Administrative Code numbered “173-4-05,” 173-4-05.1,” 173-4-05.2,” 173-4-05.3,” and 173-4-05.4.”

173-4-05 Meal service.	→	173-4-05 Meal service.
		173-4-05.1 Methods for determining nutritional adequacy.
		173-4-05.2 Therapeutic and modified meals.
		173-4-05.3 Alternative meals and meal types.
		173-4-05.4 Medical food and food for special dietary use.

Compared to the current version of rule 173-4-05 of the Administrative Code that ODA is proposing to rescind, the new rules propose to:

1. Amend...

173-4-05 (B)	173-4-05 (B)(5)
Minimum requirements for a meal service:	Minimum requirements for a meal service in addition to the mandatory clauses under rule 173-3-06 of the Administrative Code:

2. Amend...

173-4-05 (B)(1)	173-4-05 (B)(5)
Dietary guidelines and dietary reference intakes:	Nutritional adequacy:

- 3. Insert a summary of the federal Dietary Guidelines for Americans (2010) in the sub-paragraphs to paragraph (B)(1)(a) of rule 173-4-05 of the Administrative Code.
- 4. Insert a new paragraph as paragraph (B)(1)(c) of rule 173-4-05 of the Administrative Code that says, “The provider shall use rule 173-4-05.1 of the Administrative Code to determine nutritional adequacy.”
- 5. Remove “In general” from under paragraph (B)(2) of rule 173-4-05 of the Administrative Code, so that paragraphs (B)(2)(a)(i) to (B)(2)(a)(iv) of the current version of rule 173-4-05 of the Administrative Code become paragraphs (B)(2)(a) to (B)(2)(e) of proposed new rule 173-4-05 of the Administrative Code.
- 6. Make the regulations concerning methods for determining nutritional adequacy under paragraph (B)(2)(b) of the current version of rule 173-4-05 of the Administrative Code appear in proposed new rule 173-4-05.1 of the Administrative Code.
- 7. Change the title of “Table 1” in the current version of rule 173-4-05 of the Administrative Code to “DRI Nutrient-Value Requirements” in proposed new rule 173-4-05.1 of the Administrative Code.
- 8. Incorporate the new values from the federal Dietary Guidelines for Americans into “DRI Nutrient-Value Requirements” in proposed new rule 173-4-05.1 of the Administrative Code. (e.g., The target value for calories was 685 calories. It is now 650 calories.) [On January 3, 2012, ODA revise-filed the proposed new rule to

amend the DRI Nutrient-Value Requirements table. It replaced the target for calories from 650 calories to 700 calories and replaced the compliance range from 600-700 calories. ODA increased the target for sodium from 430 mg to 500 mg. ODA also increased the target for potassium from 1,300 mg to 1,567 mg. ODA made these revisions after considering comments submitted during the public-comment period.]

9. Amend...

173-4-05 (B)(2)(b)(i)(c)	173-4-05.1 (A)(3)
When serving two meals to a consumer in one day, the target values and compliance ranges are doubled (two-thirds of the DRI). When serving three meals to a consumer in one day, the values and compliance ranges are tripled (one hundred per cent of the DRI).	When serving three meals to a consumer in one day, the target values and compliance ranges are tripled (one hundred per cent of the DRI).

10. Change the title of “Table 2” in the current version of rule 173-4-05 of the Administrative Code to “Menu Pattern” in proposed new rule 173-4-05.1 of the Administrative Code.

11. Incorporate the new servings and options into the “Menu Pattern” table to proposed new rule 173-4-05.1 of the Administrative Code.

12. Add a fat food type to the “Menu Pattern” table to proposed new rule 173-4-05.1 of the Administrative Code.

13. Amend...

173-4-05 (B)(2)(b)(ii)(c)(i)	173-4-05.1 (B)(2)(a)
The provider shall not serve high-fat and high-sodium processed meats (e.g., hot dogs, bologna, or sausage) more than twice per month.	The provider shall not serve high-fat and high-sodium processed meats (e.g., hot dogs, bologna, or sausage) more than twice per month. [After considering comments submitted during ODA’s public-comment period, ODA does not currently plan to amend this paragraph.]

14. Insert a new paragraph (B)(2)(b) of rule 173-4-05.1 of the Administrative Code that says, “The provider may serve egg whites or low-cholesterol egg substitutes, but shall not serve more than one egg yolk per meal.” [After considering comments submitted during ODA’s public-comment period, ODA revised this paragraph before filing the proposed new rule with JCARR.]

15. Amend...

173-4-05 (B)(2)(b)(ii)(c)(iv)	173-4-05.1 (B)(2)(e)
When planning a meal under the menu-pattern method, the provider may use the guidelines on http://aging.ohio.gov/information/nutritionguidelinesandresources to determine one serving of meat or milk alternate.	When planning a meal under the menu-pattern method, the provider may use the guidelines in the “Serving Sizes for Meat and Meat Alternates” table to this rule to determine one serving of meat or meat alternate.

16. Insert the table “Serving Sizes for Meat and Meat Alternates” after paragraph (B)(2)(e) of proposed new rule 173-4-05.1 of the Administrative Code.

17. Amend...

173-4-05 (B)(2)(b)(ii)(d)(i)	173-4-05.1 (B)(3)(a)
Throughout each week, the provider shall serve a variety of fruits and vegetables, in particular, from all five sub-groups: the dark-green sub-group, the orange sub-group, the legumes sub-group, the starch sub-group, and the other sub-group.	Throughout each week, the provider shall serve a variety of fruits and vegetables, in particular: dark-green, orange, red, and legume items.

18. Amend...

173-4-05 (B)(2)(b)(ii)(d)(ii)	173-4-05.1 (B)(3)(b)
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The provider shall consider all vegetables (and full-strength vegetable juices) and all fruits (and full-strength fruit juices) to be vegetables and fruits. The provider shall consider cranberry juice a fruit even if it is not full-strength cranberry juice.	The provider shall consider all vegetables (and full-strength vegetable juices) and all fruits (and full-strength fruit juices) to be vegetables and fruits. [On January 3, 2012, ODA revise-filed the rule to insert "unsweetened" before "fruit juices."]
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19. Amend...

173-4-05 (B)(2)(b)(ii)(d)(iii)	173-4-05.1 (B)(3)(b)
The provider shall prefer usage of fortified juices, low-sodium vegetable juice, or tomato juice over other juices.	The provider shall prefer usage of vitamin-fortified juices, low-sodium vegetable juice, or tomato juice over other juices.

20. Insert a new paragraph (B)(3)(g) of rule 173-4-05.1 of the Administrative Code that says, "The provider shall not serve sauerkraut more than once per month, or twice a month if one occurrence of sauerkraut is as an ingredient in another food item." [After considering comments submitted during ODA's public-comment period, ODA revised this paragraph before filing the proposed new rule with JCARR.]

21. Amend...

173-4-05 (B)(2)(b)(ii)(d)(vii)	173-4-05.1 (B)(3)(i)
The provider shall consider a medium-sized apple, a banana, an orange, or a pear; one half-cup of full-strength fruit juice; or, one fourth of a cup of dried fruit to be one serving of fruit.	The provider shall consider a medium-sized apple, an orange, a pear, or a small banana; one half-cup of full-strength fruit juice; or, one fourth of a cup of dried fruit to be one serving of fruit. [On January 3, 2012, ODA revise-filed the rule to inset "on-half cup of cranberry juice drink"]

22. Amend...

173-4-05 (B)(2)(b)(ii)(e)(i)	173-4-05.1 (B)(4)(a)
The provider shall prefer to serve a variety of enriched and/or whole-grain bread products, particularly those high in fiber.	The provider shall prefer to serve a variety of enriched whole-grain bread products.

23. Amend...

173-4-05 (B)(2)(b)(ii)(e)(iv)	173-4-05.1 (B)(4)(d)
When planning a meal under the menu-pattern method, the provider may use the guidelines on http://aging.ohio.gov/information/nutritionguidelinesandresources to determine one serving of bread or bread alternate.	When planning a meal under the menu-pattern method, the provider may use the guidelines the "Serving Sizes for Breads and Bread Alternates" table to this rule to determine one serving of bread or bread alternate.

24. Insert the table "Serving Sizes for Bread or Bread Alternates" after paragraph (B)(2)(e) of proposed new rule 173-4-05.1 of the Administrative Code. [After considering the comments submitted during ODA's public-comment period, ODA revised the list of foods in this table before filing the proposed new rule with JCARR. (e.g., replace "brown rice" with "rice"; insert "roll")]

25. Amend...

173-4-05 (B)(2)(b)(ii)(f)(i)	173-4-05.1 (B)(5)(a)
The provider shall prefer to use low-fat milk, calcium-fortified milk, or milk alternatives.	The provider shall prefer to use fat-free milk, low-fat milk (i.e., milk with no more than one per cent fat content), or fortified soy beverages.

26. Amend...

173-4-05 (B)(2)(b)(ii)(f)(ii)	173-4-05.1 (B)(5)(b)
The provider shall not consider juice both a serving of fruit and a serving of milk in the same meal.	The provider shall not consider calcium-fortified juice both a serving of fruit and a serving of milk in the same meal.

27. Amend...

173-4-05 (B)(2)(b)(ii)(f)(iv)	173-4-05.1 (B)(5)(d)
When planning a meal under the menu-pattern method, the provider may use the guidelines on http://aging.ohio.gov/information/nutritionguidelinesandresources to determine one serving of milk or milk alternate.	When planning a meal under the menu-pattern method, the provider may use the guidelines in the "Serving Sizes for Milk and Milk Alternates" table to this rule to determine one serving of milk or milk alternate.

28. Insert the table "Serving Sizes for Milk and Milk Alternates" after paragraph (B)(2)(e) of proposed new rule 173-4-05.1 of the Administrative Code.

29. Amend...

173-4-05 (B)(2)(b)(ii)(g)	173-4-05.1 (B)(6)
Desserts and baked goods (if provided in meal):	Desserts (if provided in meal):

30. Amend...

173-4-05 (B)(2)(b)(ii)(g)(i)	173-4-05.1 (B)(6)(a)
The provider shall prefer to serve healthier desserts that include fruit, whole grains, low-fat products, and/or products with limited sugar content.	The provider shall prefer to serve healthier desserts that include fruit, whole grains, low-fat products, and/or products with limited sugar content and shall avoid products that contain trans fats.

31. Amend...

173-4-05 (B)(2)(b)(ii)(g)(ii)	173-4-05.1 (B)(6)(b)
The provider shall consider one-half cup of fruit and one-half cup of simple dessert (e.g., pudding, gelatin desserts, ice cream, frozen yogurt, ice milk, and sherbet) to be a serving of dessert of a baked good.	The provider shall consider one-half cup of fruit and one-half cup of simple dessert (e.g., sugar-free pudding and frozen yogurt) to be a serving of dessert.

32. Amend...

173-4-05 (B)(2)(b)(ii)(g)(iv)	173-4-05.1 (B)(6)(d)
The provider shall not serve cakes, pies, cobblers, and cookies more than twice per week.	The provider prefer to not shall not serve cakes, single-crust pies, cobblers, and cookies more than twice per week and shall avoid products that contain trans fats. [After considering comments submitted during ODA's public-comment period, ODA revised this paragraph before filing the proposed new rule with JCARR.]

33. Insert as paragraph (B)(6)(e) of proposed new rule 173-4-05.1 of the Administrative Code that says, "When planning a meal under the menu-pattern method, the provider may use the guidelines in the 'Serving Sizes for Breads and Bread Alternates' table to this rule to determine one serving of dessert."

34. Amend...

173-4-05 (B)(2)(b)(ii)(h)	173-4-05.1 (B)(7) and (B)(8)
(h) Accompaniments: (i) The provider shall consider one teaspoon of fortified margarine, butter, mayonnaise, or vegetable oil; or one tablespoon of salad dressing to be a serving of an	(7) Fats (if provided in meal): (a) The provider shall consider one teaspoon of fortified, soft margarine; mayonnaise; or vegetable oil; or one tablespoon or salad dressing to be a serving of fat.

<p>accompaniment.</p> <p>(ii) The provider shall not serve more than two servings of fats and oils in a meal. Fat used as an ingredient in a menu item is not counted.</p>	<p>(b) The provider shall not serve more than two servings of fats and oils in a meal. Fat used as an ingredient in a menu item is not counted as a serving of fat.</p> <p>(8) Accompaniments (if provided in meal):</p> <p>(a) The provider shall prefer to serve mustard, ketchup, tartar sauce, or other traditional accompaniments with a meal item.</p> <p>(b) The provider shall not supply any salt for seasoning meals.</p>
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35. Amend...

<p>173-4-05 (B)(2)(b)(ii)(i)</p>	<p>173-4-05.1 (B)(9)</p>
<p>Beverages: Although servings of a beverage are optional, the provider shall prefer to serve water and other beverages with meals for proper hydration.</p>	<p>Beverages (if provided in meal): Although serving a beverage is optional and may not be purchased with Older Americans Act funds, the provider may serve water, coffee, or tea with meals to maintain proper hydration.</p> <p>[After considering comments submitted during ODA's public-comment period, ODA revised this paragraph before filing the proposed new rule with JCARR.]</p>

36. Amend...

<p>173-4-05 (B)(4)</p>	<p>173-4-05 (B)(4)</p>
<p>Consumer choice: The provider shall offer a consumer who receives a meal service the opportunity to make choices about the meals served by using one or more of the following methods:</p>	<p>Consumer choice: Consistent with self-directed care practices, the provider shall offer a consumer the opportunity to make choices about the meals served by using one or more of the following methods:</p>

37. Amend...

<p>173-4-05 (B)(4)(a)</p>	<p>173-4-05 (B)(4)(a)</p>
<p>At a minimum, allow each consumer to choose from two of the following:</p> <ul style="list-style-type: none"> (i) Meat and meat alternates; (ii) Vegetables and fruits; (iii) Bread or bread alternates; (iv) Milk or milk-alternates; (v) Desserts and baked goods (if offered); or, (vi) Entrees consisting of servings of meat and meat alternates combined with servings of other foods. 	<p>At a minimum, allow each consumer to choose from two of the following:</p> <ul style="list-style-type: none"> (i) Meat and meat alternates; (ii) Vegetables; (iii) Fruits; (iv) Bread or bread alternates; (v) Milk or milk alternates; (vi) Desserts (if offered); or, (vii) Meat or meat-alternate entrees combined with servings of other foods. <p>[After considering comments submitted to ODA during the public-comment period, ODA revised this language before filing the proposed new rule with JCARR.]</p>

38. Insert paragraph (B)(4)(d) into proposed new rule 173-4-05 of the Administrative Code. [After considering comments submitted to ODA during the public-comment period, ODA added this new paragraph to the proposed new rule before filing the proposed new rule with JCARR.] The new paragraph says, "(d) Offer

consumers of congregate meals options regarding: (i) Brunch meals; (ii) Weekend meals; (iii) Dining at restaurants; (iv) Days of service for rural areas; or, (v) Two meals per day.”

39. Insert paragraph (B)(4)(e) into proposed new rule 173-4-05 of the Administrative Code that says, “Allow consumers of congregate meal sites to make an informed choice regarding the menu, food alternates, and portion sizes, based on the availability of food items. The provider shall retain records to show that it informs consumers of the benefits and risks of dietary choices, so long as the AAA approves of the method for recording this information.” [After considering comments submitted during the public-comment period, ODA revised this new paragraph before filing the proposed new rule with JCARR.] [After further considering comments submitted during the public-comment period, on January 3, 2012, ODA revise-filed the rule to insert, after the words “The provider,” the words “of congregate meals who chooses this option.”]
40. Insert as paragraph (B)(5) of proposed new rule 173-4-05 of the Administrative Code a paragraph that says, “Therapeutic and modified meals: A provider shall only offer therapeutic or modified meals if those meals meet the additional requirements under rule 173-4-05.2 of the Administrative Code.”
41. Make the regulations that concerned therapeutic and modified meals that appear in paragraphs (B)(5) to (B)(5)(d) of the current version of rule 173-4-05 of the Administrative Code appear in proposed new rule 173-4-05.2 of the Administrative Code.

42. Amend...

173-4-05 (B)(5)	173-4-05.2 [unnumbered paragraph]
Alternative meals: Before a provider may offer alternative meals, the provider shall determine the need, feasibility, and cost effectiveness of offering alternative meals by using the knowledge and expertise of a LD, by listing serving sizes of food items in alternative meals in menus, and by obtaining the approval for the alternative meal plan and any menu substitutions and substitution lists from the LD. The provider shall only provide alternative meals that meet the following:	Before a provider may offer a therapeutic or modified meal, the provider shall determine the need, feasibility, and cost-effectiveness of offering a therapeutic or modified meal by using the knowledge and expertise of a LD. The provider shall only provide a therapeutic or modified meal that meets the requirements of rule 173-4-05 of the Administrative Code and the following requirements:

43. Amend...

173-4-05 (B)(5)(a)(iii)	173-4-05.2 (A)(1)(c)
The physician or case manager of the AAA shall review the written order for a therapeutic meal and update it according to the physician’s order.	The case manager of the AAA or the provider shall review the physician’s written order for a therapeutic meal and update it when the physician changes the order. [After considering comments submitted during ODA’s public-comment period, ODA revised this paragraph before filing the proposed new rule with JCARR.]

44. Amend...

173-4-05 (B)(5)(a)(iv)	173-4-05.2 (A)(1)(d)
The provider shall assure that the therapeutic diet contains nutrients consistent with the diet order by either utilizing nutrient analysis or by obtaining a list of food items from the physician or an LD.	The provider shall assure that the therapeutic diet contains nutrients consistent with the physician’s order by either utilizing nutrient analysis or by using a meal-pattern plan approved by an LD.

45. Amend...

173-4-05 (B)(5)(b)(ii)	173-4-05.2 (A)(2)(b)
The physician or other healthcare professional with prescriptive authority shall order either a level one (pureed) or level two (chopped or ground) dysphagia therapeutic diet. The order shall include thickening agents, if required.	The physician or other healthcare professional with prescriptive authority shall order either a level-one (puréed) or level-two (chopped or ground) dysphagia therapeutic diet. The order shall include thickening agents, if required.

46. Amend...

173-4-05 (B)(5)(c)(ii)(c)[first sentence]	173-4-05.2 (A)(3)(b)(iii)[first sentence]
Shall allow one carbohydrate choice per serving of starchy vegetables and use the same items and serving sizes listed in paragraph (B)(2)(b)(ii)(d) of this rule.	Shall allow one carbohydrate choice per serving of starchy vegetables and use the same items and serving sizes listed in paragraph (B)(3) of rule 173-4-05.1 of the Administrative Code.

47. Amend...

173-4-05 (B)(5)(c)(ii)(d)	173-4-05.2 (A)(3)(b)(iv)
Shall allow one carbohydrate choice per serving of fruit. One carbohydrate choice equals one piece of a small or medium-sized fresh fruit; one-half cup of unsweetened, frozen fruit; one-half cup of unsweetened, canned fruit; one-half cup of fruit juice; one-fourth cup of dried fruit; or one-half cup of cranberry juice cocktail;	Shall allow one carbohydrate choice per serving of fruit. One carbohydrate choice equals one piece of a small or medium-sized fresh fruit; one-half cup of unsweetened, frozen fruit; one-half cup of unsweetened, canned fruit; or one-half cup of fruit juice; one-fourth cup of dried fruit;

48. Amend...

173-4-05 (B)(5)(c)(ii)(e)[second sentence]	173-4-05.2 (A)(3)(b)(v)[second sentence]
One carbohydrate choice is equivalent to one cup of buttermilk, low-fat milk, or skim milk fortified with vitamins A and D; one cup of lactose-reduced or lactose-free milk; six ounces of yogurt; or one cup of soy beverage that is enriched with calcium and vitamins A and D;	One carbohydrate choice is equivalent to one cup of buttermilk, low-fat milk, or skim milk fortified with vitamins A and D; one cup of lactose-reduced or lactose-free milk; six ounces of low-fat yogurt that is fortified with vitamins A and D; or one cup of soy beverage that is fortified with calcium and vitamins A and D;

49. Amend...

173-4-05 (B)(5)(c)(ii)(f)	173-4-05.2 (A)(3)(b)(vi)
Shall allow one carbohydrate choice per serving of desserts or baked goods. One carbohydrate choice equals one ounce or a two-inch square of an unfrosted brownie or cake, two small plain cookies, one-half cup of ice cream or frozen yogurt; one-half cup of sugar-free pudding; or, a slice of pie that is one-sixteenth of an eight-inch diameter pumpkin or custard pie; and,	Shall allow one carbohydrate choice per serving of dessert. One carbohydrate choice equals one ounce or a two—inch square of an unfrosted cake, two small plain cookies, one-half cup of frozen yogurt; one-half cup of sugar-free pudding; or, a slice of single-crust pie that is one-sixteenth of an eight-inch-diameter pie; and, [On January 3, 2012, ODA revise-filed the rule to insert “brownie” before “cake.”]

50. Amend...

173-4-05 (B)(5)(c)(ii)(g)	173-4-05.2 (A)(3)(b)(vii)
May use the guidelines on http://aging.ohio.gov/information/nutrition/nutrition_guidelinesandresources to plan a meal using carbohydrate choices.	May use the guidelines in the “Carbohydrate Choice Guidelines” table to this rule. The table’s menu illustrates how carbohydrate choices can be used to plan a diabetic meal. The amount of carbohydrates a person consumes and the timing of the meals, rather than the source of the carbohydrates, are the keys to controlling blood-sugar levels. One carbohydrate choice is equal to fifteen grams of carbohydrates.

51. Insert the table “Carbohydrate Choice Guidelines” after paragraph (A)(3)(b)(vii) of proposed new rule 173-4-05.2 of the Administrative Code.

52. Make the regulations regarding alternative meals that appeared in paragraphs (B)(5)(e) to (B)(5)(k) of the current version of rule 173-4-05 of the Administrative Code appear in proposed new rule 173-4-05.3 of the Administrative Code. [On January 3, 2012, ODA revise-filed proposed new rule 173-4-05.3 of the Administrative Code to replace “rule 173-4-05” in the introductory paragraph with “rules 173-4-05 and 173-4-05.1 of the

Administrative Code.”]

53. Insert as paragraph (B)(6) of proposed new rule 173-4-05 of the Administrative Code a paragraph that says, “Alternative meals: A provider shall only offer alternative meals if those meals meet the additional requirements under rule 173-4-05.3 of the Administrative Code.”

54. Amend...

173-4-05 (B)(5)(e) and (B)(5)(g)	173-4-05.3 (A)
<p>(e) Vegetarian meals:</p> <ul style="list-style-type: none"> (i) The provider may provide any of the following categories of vegetarian diets: <ul style="list-style-type: none"> (a) “Vegan diet” (i.e., “total vegetarian diet”) means a diet of only foods derived from plants (e.g., fruits, vegetables, legumes (dried beans and peas), grains, seeds, and nuts). (b) “Lacto-vegetarian diet” means a diet of only foods derived from plants and also cheese and other dairy products. (c) “Ovo-lacto-vegetarian diet” means a diet of only plant foods, cheese and other dairy products, and eggs. (d) “Semi-vegetarian diet” means a diet that does not include red meat, but includes chicken, fish, plant foods, dairy products, and eggs. (ii) The provider may only provide a vegetarian meal if the meal has the same nutrient content of a regular meal or follows the meal pattern for a regular meal as closely as possible. <p>(g) Ethnic or religious meals:</p> <ul style="list-style-type: none"> (i) The provider may provide an ethnic or religious meal to meet the particular dietary needs arising from religious requirements, cultural backgrounds, or ethnic backgrounds. (ii) The provider shall only provide an ethnic or religious meal if the meal has the same nutrient content of a regular meal or follows the meal pattern for a regular meal unless restricted by religious requirements or ethnic background. 	<ul style="list-style-type: none"> (1) Cultural meal: (2) The provider may provide a cultural meal to meet the particular dietary needs arising from cultural backgrounds or beliefs. (3) The provider shall only provide a cultural meal if the meal has the same nutrient content of a regular meal or follows the meal pattern for a regular meal, unless restricted by cultural backgrounds or beliefs. (4) The provider may provide any of the following categories of vegetarian diets: <ul style="list-style-type: none"> (a) “Lacto-vegetarian diet” means a diet of only foods derived from plants and also cheese and other dairy products. (b) “Ovo-lacto-vegetarian diet” means a diet of only plant foods, cheese and other dairy products, and eggs. (c) “Semi-vegetarian diet” means a diet that does not include red meat, but includes chicken, fish, plant foods, dairy products, and eggs.

55. Amend...

173-4-05 (B)(5)(f)	173-4-05.3 (C)
Salad bar or soup and salad bar meals:	Salad bar or soup and salad bar meal (self-directed care):

56. Amend...

<p>173-4-05 (B)(5)(f)(ii)</p> <p>A salad bar served as a meal accompaniment shall offer at least three raw vegetables, one of which is deep green or orange; two fruits; two salad dressings, one of which is low fat; one mixed salad that contains fruits or vegetables like coleslaw, waldorf salad, etc. This counts as two servings of fruits or vegetables.</p>	<p>173-4-05.3 (C)(2)</p> <p>A salad bar served as a meal accompaniment shall offer at least three raw vegetables, one of which is deep green, red, or orange; two fruits; two salad dressings, one of which is low-fat; one mixed salad that contains fruits or vegetables like coleslaw, waldorf salad, etc. This counts as two servings of fruits or vegetables.</p> <p>[Note: The Legislative Service Commission's rule drafting manual prevents ODA from capitalizing the "w" in "waldorf."]</p>
<p>57. Amend...</p>	
<p>173-4-05 (B)(5)(f)(iii)</p> <p>A salad bar served as a meal replacement shall offer four raw vegetables, one of which is deep green or orange; two fruits; two meats or meat substitutes; a calcium source equivalent to eight ounces of milk per serving; two salad dressings; and two servings from the bread group ; and one dessert. This counts as a full meal if all menu requirements are met.</p>	<p>173-4-05.3 (C)(3)</p> <p>A salad bar served as a meal replacement shall offer four raw vegetables, one of which is deep green, red, or orange; two fruits; two meats or meat substitutes; a calcium source equivalent to eight ounces of milk per serving; two salad dressings; and two servings from the bread group; and an optional dessert. This counts as a full meal if all menu requirements are met.</p> <p>[After considering comments submitted during the public-comment period, ODA revised this paragraph before filing the proposed new rule with JCARR.]</p>
<p>58. Amend...</p>	
<p>173-4-05 (B)(5)(f)(iv)</p> <p>A soup and salad bar served as a meal replacement shall meet the criteria under paragraph (B)(5)(f)(iii) of this rule and contain one soup that is a lower-sodium and lower-fat soup.</p>	<p>173-4-05.3 (C)(4)</p> <p>A soup and salad bar served as a meal replacement shall meet the criteria under paragraph (C)(3) of this rule and contain one soup that is a lower-sodium and lower-fat soup.</p>
<p>59. Amend...</p>	
<p>173-4-05 (B)(5)(f)(v)</p> <p>The provider shall obtain the approval of a LD before serving a salad bar or soup and salad bar meal.</p>	<p>173-4-05.3 (C)(5)</p> <p>The provider shall document that it provided food safety and sanitation training before serving a salad bar or soup and salad bar meal.</p> <p>[After considering comments submitted during the public-comment period, ODA revised this paragraph before filing the proposed new rule with JCARR.]</p>
<p>60. The regulations concerning medical food and food for special dietary use that appeared in paragraph (B)(6) of the current version of rule 173-4-05 of the Administrative Code now appear in proposed new rule 173-4-05.4 of the Administrative Code.</p>	
<p>61. Insert a new paragraph (B)(7) into proposed new rule 173-4-05 of the Administrative Code that says, "Medical food and food for special dietary use: A provider shall only offer medical food or food for special dietary use if the food meets the additional requirements under rule 173-4-05.4 of the Administrative Code."</p>	
<p>62. Amend...</p>	
<p>173-4-05 (B)(6)(a)(i)</p>	<p>173-4-05.4 (A)(1)</p>

The AAA shall determine the need, feasibility, and cost-effectiveness of establishing a service for implementing medical food by using the knowledge and expertise of a LD.	The AAA shall determine the need, feasibility, and cost-effectiveness of establishing a service for implementing medical food by using the knowledge a LD.
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63. Amend...

173-4-05 (B)(7)[first sentence]	173-4-05 (B)(8)[first sentence]
Dietary supplements: The AAA shall not allow dietary supplements nor reimburse a provider for them unless they qualify as medical food or food for special dietary use under paragraph (B)(6) of this rule.	Dietary supplements: The AAA shall not allow dietary supplements nor reimburse a provider for them unless they qualify as medical food or food for special dietary use under rule 173-4-05.4 of the Administrative Code.

64. Insert "173.01" into the statutory authority section for each of the new rules because section 173.01 of the Revised Code also gives ODA authority to adopt each rule.

173-4-07 Nutrition education service.

Specifically, ODA is proposing to amend the rule to:

1. Insert "or AAA" after each occurrence of "provider" in the rule (except in paragraph (B)(2)(c) of the rule) because area agencies on aging often provide the nutrition education service instead of engaging in a competitive-bidding process to find area businesses to provide the service. [ODA added this change after considering comments from ODA's public-comment period.]
2. Insert "food safety" in between "physical activity" and "or disease prevention" in paragraph (A) of the rule.
3. Add, after "Minimum requirements for a nutrition education service" in paragraph (B) of the rule, "in addition to the mandatory clauses under rule 173-3-06 of the Administrative Code."
4. Replace paragraph (B)(1)(a) of the rule, which said, "Education materials: The provider may only provide the service if the provider maintains documentation that the AAA's LD determines that the educational materials that the provider plans to distribute:" The proposed amended language says, "Education materials: The provider may only provide the service if the provider retains a record to show that the AAA's LD determined that the educational materials that the provider plans to distribute:" In doing so, ODA is replacing the "document maintenance" language with the more conventional "records retention" language.
5. Replace "maintain records" in paragraph (B)(1)(b) of the rule with "retain records," thereby replacing the "document maintenance" language with the more conventional "records retention" language.
6. Add to the end of paragraph (B)(1)(c) of the rule: "one of the following."
7. Insert two sub-paragraphs to paragraph (B)(1)(c)(i) of the rule, as follows: (a) Every even-numbered year, the provider shall offer one of the nutrition-education sessions on the topic of food safety as referenced in the "Dietary Guidelines for Americans." (b) Every odd-numbered year, the provider shall offer one of the nutrition-education sessions on the topic of the relationship between physical activity and healthy weight as referenced in the 'Dietary Guidelines for Americans.'"
8. Replace paragraph (B)(2)(b) of the rule, which says "Records: For each service performed, the provider shall document each consumer's name (e.g., attendance sheet); service date and duration of service, service topic; service units; instructor's name; and instructor's signature." The new language says, "Records: For each service performed, the provider shall record each consumer's name (e.g., attendance sheet); the service date and duration of service; the educational topic; the service units; the instructor's name; and the instructor's signature."
9. Replace paragraph (B)(3) of the rule, which says, "Home-delivered nutrition programs and restaurant and grocery meal services: For each service provided, the provider shall document the number of consumers who received the educational materials, service date, topic of the materials, and the provider's signature." The proposed new language says, "Home-delivered nutrition programs and restaurant and grocery services: For each service a provider provides through a home-delivered nutrition program or restaurant

and grocery meal service, the provider shall retain a record to show the number of consumers who received the educational materials, the service date, the topic of the educational materials, and the provider's signature."

10. Insert "173.01" into the statutory authority section of the rule because section 173.01 of the Revised Code also gives ODA authority to adopt the rule.

173-4-08 Nutrition health screening.

Specifically, ODA is proposing to amend the rule to:

1. Add, after "Definitions" in paragraph (A) of the rule, "for this rule."
2. Add, after "Minimum requirements for a nutrition health screening" in paragraph (B) of the rule, "in addition to the mandatory clauses under rule 173-3-06 of the Administrative Code."
3. Add, after "Referrals" in paragraph (B)(2) of the rule "for high nutritional risk."
4. Insert a new paragraph (B)(3) of the rule on excessive alcohol consumption. [After considering comments received during ODA's public-comment period, ODA revised the language from a requirement to make referrals to a requirement to provide information.]
5. Move the records-retention language in paragraph (B)(2)(c) of the rule to paragraph (B)(4) of the rule. In doing so, ODA proposes to eliminate the requirement to report on a monthly basis because ODA thought it was unnecessarily prescriptive. A provider could bill more or less frequently.
6. Insert "173.01" into the statutory authority section of the rule because section 173.01 of the Revised Code also gives ODA authority to adopt the rule.