

5123:2-9-53

Home and community-based services waivers - home-delivered meals under the transitions developmental disabilities waiver.

(A) Purpose

The purpose of this rule is to define home-delivered meals under the transitions developmental disabilities waiver and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "Activity of daily living" has the same meaning as in rule 5101:3-3-05 of the Administrative Code.
- (2) "Adult day health center services" has the same meaning as in rule 5123:2-9-51 of the Administrative Code.
- (3) "Agency provider" means an entity that employs persons for the purpose of providing services for which the entity must be approved by the Ohio office of medical assistance.
- (4) "County board" means a county board of developmental disabilities.
- (5) "Department" means the Ohio department of developmental disabilities.
- (6) "Home-delivered meals" means the provision of meals to an individual who has a need for a home-delivered meal based on a deficit in an activity of daily living or a deficit in an instrumental activity of daily living identified during the assessment process. Home-delivered meals includes the preparation, packaging, and delivery of a safe and nutritious meal to an individual at his or her home. A maximum of two meals per day shall be provided to an individual enrolled in the transitions developmental disabilities waiver.
- (7) "Independent provider" means a non-agency, self-employed person approved by the Ohio office of medical assistance to provide services who does not employ, either directly or through contract, anyone else to provide the services.
- (8) "Individual" means a person with a developmental disability or for the purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (9) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (10) "Instrumental activity of daily living" has the same meaning as in rule

5101:3-3-05 of the Administrative Code.

- (11) "Personal care aide services" has the same meaning as in rule 5123:2-9-56 of the Administrative Code.
- (12) "Service documentation" means all records and information on one or more documents, including documents that may be created or maintained in electronic software programs, created and maintained contemporaneously with the delivery of services, and kept in a manner as to fully disclose the nature and extent of services delivered that shall include the items delineated in paragraph (E) of this rule to validate payment for medicaid services.
- (13) "Waiver nursing services" has the same meaning as in rule 5123:2-9-59 of the Administrative Code.

(C) Provider qualifications

- (1) Home-delivered meals shall be provided by an independent provider or an agency provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio office of medical assistance.
- (2) Home-delivered meals shall not be provided by a county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.
- (3) Providers of home-delivered meals shall ensure that all persons, including volunteers, who participate in food preparation, food handling, and/or food delivery, shall:
- (a) Receive training and orientation on the following topics as relevant to the person's job duties:
 - (i) Food safety and sanitation;
 - (ii) Meal delivery;
 - (iii) Sensitivity to the needs of older adults and people with physical disabilities or cognitive impairments;
 - (iv) Handling emergencies;
 - (v) Handling hazardous materials;
 - (vi) The provisions governing rights of individuals as set forth in sections 5123.62 to 5123.64 of the Revised Code; and
 - (vii) The requirements of rule 5123:2-17-02 of the Administrative Code

relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department.

(b) Successfully complete at least four hours of continuing education each year on topics relevant to the person's job duties including:

(i) The provisions governing rights of individuals as set forth in sections 5123.62 to 5123.64 of the Revised Code; and

(ii) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department.

(4) Providers of home-delivered meals shall develop a training plan and conduct and document annual training and continuing education activities.

(5) Providers of home-delivered meals shall maintain:

(a) A copy of the valid driver's license for each person delivering home-delivered meals;

(b) Documentation of the vehicle owner's liability insurance for each vehicle used to deliver home-delivered meals;

(c) Documentation that the provider has established a routine delivery time with each individual receiving home-delivered meals;

(d) Copies of all local health department inspection reports and documented findings, any resulting plans of correction, and any follow-up reports;

(e) Copies of all Ohio department of agriculture inspection reports and documented findings, any resulting plans of correction, and any follow-up reports;

(f) Copies of all United States department of agriculture inspection reports and documented findings, any resulting plans of correction, and any follow-up reports; and

(g) All licensure/certification documents required in accordance with paragraph (D)(4) of this rule.

(6) Providers of home-delivered meals cited for critical violations, as the term "critical violations" is used in paragraph (B) of rule 3717-1-02.4 of the Administrative Code, during their local health department inspections, shall notify the Ohio office of medical assistance and the department no more than

forty-eight hours after issuance of the citation. The provider shall, within forty-eight hours, send to the Ohio office of medical assistance and the department a copy of the inspection report, any resulting plans of correction, and any follow-up reports.

- (7) Providers of home-delivered meals inspected by the Ohio department of agriculture division of food safety and placed on priority status or notice status shall notify the Ohio office of medical assistance and the department no more than two business days after the issuance of the report of priority status, or after the issuance of the report of notice status in accordance with section 913.42 of the Revised Code. The provider shall, within five business days, send to the Ohio office of medical assistance and the department, a copy of the report with documented findings, any notices issued by the Ohio department of agriculture, any resulting plans of correction, and any follow-up reports.
- (8) Providers of home-delivered meals inspected by the Ohio department of agriculture division of meat inspection or the United States department of agriculture food safety inspection service shall notify the Ohio office of medical assistance and the department no more than two business days after it takes a withholding action against, or it suspends the provider in accordance with 9 C.F.R. 500.3 and/or 9 C.F.R. 500.4 (as in effect on the effective date of this rule). The provider shall, within five business days, send to the Ohio office of medical assistance and the department, a copy of the action issued by the Ohio department of agriculture or the United States department of agriculture food safety inspection service, any resulting plans of correction, and any follow-up reports.
- (9) The Ohio office of medical assistance may immediately suspend and terminate a provider's authorization to furnish home-delivered meals pursuant to section 5111.06 of the Revised Code and rule 5101:3-1-17.6 of the Administrative Code if the Ohio office of medical assistance or the department receives credible information that the provider poses a significant threat to the health and welfare of one or more individuals due to noncompliance with one or more of the requirements set forth in this rule.

(D) Requirements for service delivery

- (1) Home-delivered meals shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (F) of rule 5123:2-9-50 of the Administrative Code.
- (2) Providers of home-delivered meals shall comply with all applicable rules set forth in Chapters 5101:3-45 and 5123:2-9 of the Administrative Code.
- (3) A provider of home-delivered meals shall be identified in the individual service

plan as the provider and have specified the number of meals the provider is authorized to furnish to the individual.

(4) A provider of home-delivered meals shall possess any applicable current, valid license or certificate from the local health department and retain records of all reports related to the licensure or certification.

(5) Home-delivered meals:

(a) Shall be furnished in accordance with menus that are approved in writing by a licensed dietitian who is currently registered with the commission on dietetic registration.

(b) Shall take into consideration the individual's medical restrictions, religious/cultural/ethnic background, and dietary preferences.

(c) Shall be prepared by a provider who is in compliance with Chapters 918., 3715., and 3717. of the Revised Code and all applicable administrative rules adopted thereunder. For the purposes of this rule, reheating a prepared home-delivered meal is not the same as preparing a meal.

(d) Shall be individually packaged if heated meals.

(e) May be individually packaged if unheated, shelf-stable meals, or may have components separately packaged, as long as the components are clearly marked as components of a single meal.

(f) May include a therapeutic diet that requires a daily amount or distribution of one or more specific nutrients in order to treat a disease or clinical condition, or eliminate, decrease, or increase certain substances in the individual's diet. A therapeutic diet must be ordered by a licensed physician or other healthcare professional with prescriptive authority. A new order for a therapeutic diet must be documented in the individual's record every ninety days.

(6) Home-delivered meals shall not:

(a) Supplant or replace meal preparation activities that occur during the provision of adult day health center services, personal care aide services, waiver nursing services, or any other similar services.

(b) Supplant or replace the purchase of food or groceries.

(c) Include bulk ingredients, liquids, and other food used to prepare meals independently or with assistance. Bulk ingredients and liquids include, but are not limited to, food that must be portioned out and prepared, or any food that must be cooked or prepared.

- (d) Be provided while the individual is hospitalized or is residing in an institutional setting.
- (7) Providers of home-delivered meals shall ensure that all meals, with the exception of a therapeutic diet prescribed and prepared in accordance with paragraph (D)(5)(f) of this rule, meet the following requirements with regard to nutritional adequacy:
- (a) Meet one-third of the current dietary reference intakes established by the food and nutrition board of the institute of medicine of the national academy of sciences; and
- (b) Follow the current dietary guidelines for Americans as published by the United States department of agriculture.
- (8) Providers of home-delivered meals shall ensure the safe delivery of meals as authorized in the individual service plan:
- (a) Ready-to-eat, temperature-controlled meals must be labeled with a preparation date. The date shall include the month, day, and year each meal was prepared, and shall list, immediately adjacent to this date, the phrase "package date." All other meals shall be labeled with the month, day, and year by which the meal shall be consumed or discarded, and shall list the date immediately following the phrase "sell by" or "use before."
- (b) The provider shall document evidence of a time and temperature monitoring system for food preparation, handling, and delivery.
- (c) The provider shall ensure all meal delivery vehicles and containers are safe and sanitary.
- (d) When using a thermostatically-controlled meal delivery vehicle, the provider must maintain verification of testing meal temperatures no less than monthly. When using other meal delivery vehicles, the provider must maintain verification of testing meal temperatures no less than weekly.
- (e) The provider must establish with the individual, and document in the individual's record, a routine date and time for meal delivery. The provider must notify the individual if delivery of the meals will be delayed more than one hour past the established time.
- (f) The provider must furnish written delivery instructions to the driver.
- (g) The provider must furnish the individual with clear instructions on how to

safely heat or reheat each meal.

(E) Documentation of services

Service documentation for home-delivered meals shall include each of the following to validate payment for medicaid services:

- (1) A record for each individual served that contains a copy of all individual service plans, dietary orders and instructions prepared by the physician or other healthcare professional with prescriptive authority, menus approved by the dietitian, and any additional information supporting meal delivery as specified in the individual service plan in effect when the provider provides services.
- (2) Documentation that each meal complies with paragraphs (D)(7)(a) and (D)(7)(b) of this rule.
- (3) Documentation of each individual's therapeutic diet as set forth in paragraph (D)(5)(f) of this rule.
- (4) Documentation from the provider that the individual has been furnished clear instructions about how to safely heat or reheat each meal.
- (5) Documentation that verifies delivery of home-delivered meals as authorized in the individual service plan which includes, but is not limited to:
 - (a) The individual's name;
 - (b) The dated signature of the home-delivered meals provider;
 - (c) The established delivery date and time;
 - (d) The actual time of delivery of all meals and the number of meals delivered;
 - (e) Signature or initials of the person delivering the meal; and
 - (f) Signature of the individual or his or her authorized representative receiving the meals. The individual's signature of choice shall be documented in the individual service plan, and may include, but is not limited to, a handwritten signature, initials, a stamp or mark, or an electronic signature.

(F) Payment standards

- (1) The billing unit, service code, and payment rate for home-delivered meals are contained in the appendix to this rule.

(2) Providers shall submit claims for reimbursement for home-delivered meals to the Ohio office of medical assistance in accordance with rule 5101:3-41-22 of the Administrative Code.

Replaces: Part of 5101:3-47-04
Effective: 01/01/2013
R.C. 119.032 review dates: 01/01/2018

CERTIFIED ELECTRONICALLY

Certification

12/21/2012

Date

Promulgated Under: 119.03
Statutory Authority: 5111.871, 5123.04
Rule Amplifies: 5111.871, 5123.04
Prior Effective Dates: 03/30/1990 (Emer.), 06/29/1990, 07/01/1990,
03/12/1992 (Emer.), 06/01/1992, 07/31/1992 (Emer.),
10/30/1992, 07/01/1993 (Emer.), 07/30/1993,
09/01/1993, 01/01/1996, 07/01/1998, 07/01/2006,
07/01/2010