173-39-02.14 **Home-delivered meal service.**

(A) "Home-delivered meal service" means the service that provides up to two meals per day to a consumer who has a need for a home-delivered meal based on a deficit in an ADL or IADL that a case manager identifies during the assessment process. The service includes the preparation, packaging, and delivery of safe and nutritious meals to the consumer at his or her home.

(B) Minimum requirements for a home-delivered meal service in addition to the conditions of participation under rule 173-39-02 of the Administrative Code:

(1) Planning:

(a) Dietitian: The provider shall only utilize a menu that has received the written approval of a dietitian who is currently registered with the commission on dietetic registration and who is also a licensed dietitian, if the state in which the provider is located licenses dietitians.

(b) Nutritional adequacy:

(i) The provider shall only provide a meal that meets one-third of the current dietary reference intakes that the food and nutrition board of the institute of medicine of the national academy of sciences establishes.

(ii) The provider shall only provide a meal that follows the current dietary guidelines for Americans, as published by the United States department of health and human services and the USDA.

(iii) The provider shall retain records to verify that each meal complies with paragraphs (B)(1)(b)(i) and (B)(1)(b)(ii) of this rule.

(c) Therapeutic diet: A provider shall only provide a home-delivered meal with a therapeutic diet to a consumer if:

(i) A licensed physician has ordered the therapeutic diet because the consumer requires a daily amount of, or distribution of, one or more specific nutrients in order to treat the consumer's disease or clinical condition, or to eliminate, decrease, or increase certain substances in the consumer's diet;

(ii) The provider provides the therapeutic diet the physician ordered instead of a diet that complies with paragraphs (B)(1)(b)(i) and (B)(1)(b)(ii) of this rule;

(iii) The provider only provides the therapeutic diet for up to ninety days after the date of the physician's order, unless the provider receives a subsequent order from the physician for any

subsequent ninety-day period; and,

(iv) The provider retains a record of the physician's order, and subsequent orders, in the consumer's clinical record.

(d) Consumer choice: The provider shall provide each consumer with a menu of meal options that, as much as possible, consider the consumer's medical restrictions; religious, cultural, and ethnic background; and dietary preferences.

(2) Preparation and safety:

(a) Packaging:

(i) Hot meals: The provider shall individually package each ready-to-eat, temperature-controlled, home-delivered meal. The provider shall label the meal with the month, day, and year that it prepared the meal and shall list the date immediately following the term "packing date" or "pack date."

(ii) Non-hot meals: The provider may individually package each component of a home-delivered meal that is a frozen meal, a vacuum-packed meal, a modified-atmosphere-packed meal, or a shelf-stable meal if the provider labels each individual package with the month, day, and year before which the consumer should consume the individual package, and shall list the date immediately following the term "use before." As used in this paragraph, "individual package" does not include a whole fruit (e.g., a fresh apple or banana) that is not packaged.

(b) Temperature monitoring:

(i) The provider shall maintain a time-and-temperature monitoring system for food preparation, handling, and delivery.

(ii) The provider shall monitor meal temperatures delivered in a thermostatically-controlled meal-delivery vehicle at least monthly. The provider shall monitor meal temperatures delivered in any other meal-delivery vehicle at least weekly.

(iii) The provider shall retain records to show that it complies with paragraphs (B)(2)(b)(i) and (B)(2)(b)(ii) of this rule.

(c) Delivery vehicles and containers: The provider shall ensure that all meal-delivery vehicles and containers are safe and sanitary.

(d) "Uniform Food Safety Code": The provider shall comply with Chapters

918., 3715., and 3717. of the Revised Code and Chapter 3717-1 of the Administrative Code. For the purposes of this rule, heating and reheating an already-prepared home-delivered meal is not the same as preparing a meal.

(e) State and federal inspections of Ohio-based providers:

(i) The provider shall retain records of all inspection reports from the Ohio department of agriculture and the USDA's food safety inspection service, as well as any resulting plans of correction or follow-up reports, according to the records-retention requirements under paragraph (B)(5)(a) of rule 173-39-02 of the Administrative Code.

(ii) If the Ohio department of agriculture's division of food safety places the provider on priority status or notice status, the provider shall notify the PAA of the status no more than two business days after the department of agriculture issues a report of priority-status findings or a notice under section 913.42 of the Revised Code. The provider shall send to the PAA a copy of any report and any notice the department of agriculture issues against the provider no more than five business days after the department of agriculture issues the report or notice. If the department of agriculture issues a notice requiring a plan of correction or follow-up report, the provider shall send to the PAA a copy of the plan of correction and follow-up report in no more than five business days after the provider submits the plan of correction or follow-up report to the department of agriculture.

(iii) If the Ohio department of agriculture's division of meat inspection or the USDA's food safety inspection service takes a withholding action against or suspends the provider under 9 C.F.R. 500.3 or 9 C.F.R. 500.4, the provider shall notify the PAA of the action or suspension no more than two business days after the department of agriculture acts or suspends. The provider shall send to the PAA a copy of the department of agriculture's action of suspension in no more than five days after the department of agriculture acts or suspends. If the department of agriculture requires a plan of correction or follow-up report, the provider shall send to the PAA a copy of the plan of correction or follow-up report in no more than five business days after the provider submits the plan of correction or follow-up report to the department of agriculture.

(f) Federal inspections of non-Ohio-based providers:

(i) If a provider is located outside of Ohio, the provider shall retain records of all inspection reports from the USDA's food safety inspection service, as well as any plans of correction or follow-up reports, according to the records-retention requirements under paragraph (B)(5)(a) of rule 173-39-02 of the Administrative Code.

(ii) If the USDA's food safety inspection service takes a withholding action against or suspension the provider under 9 C.F.R. 500.3 or 9 C.F.R. 500.4, the provider shall notify the PAA of the action or suspension no more than two business days after the USDA acts or suspends. The provider shall send to the PAA a copy of the USDA's action or suspension in no more than five business days after the USDA acts or suspends. If the USDA requires a plan of correction or follow-up report, the provider shall send to the PAA a copy of the plan of correction or follow-up report in no more than five business days after the provider submits the plan or correction or follow-up report to the USDA.

(g) Local health department inspections of providers:

(i) The provider shall retain records of all inspection reports from the local health department, as well as any resulting plans of correction or follow-up reports, according to the records-retention requirements under paragraph (B)(5)(a) of rule 173-39-02 of the Administrative Code.

(ii) If the local health department cites the provider for a critical violation, as the term "critical violation" is used in paragraph (B) of rule 3717-1-02.4 of the Administrative Code, the provider shall notify the PAA of the citation no more than forty-eight hours after the citation. The provider shall send to the PAA a copy of the inspection report in no more than forty-eight hours after the local department of health cites the provider. If the local health department requires a plan of correction or follow-up report, the provider shall send to the PAA a copy of the plan of correction and follow-up report no more than forty-eight hours after the provider submits the plan of correction or follow-up report to the local health department.

(h) Sanctions: Pursuant to section 173.391 of the Revised Code and to rule 173-39-05 of the Administrative Code, ODA may issue a level-two or level-three sanction to a provider if the provider is endangering the health, safety, or welfare of one or more consumers because it doesn't comply with one or more requirements in this rule. This may result in

the suspension or termination of the provider.

(3) Delivery:

(a) The provider shall deliver each meal according to the consumer's service plan.

(b) Delivery dates and times: The provider shall establish a routine delivery date and range of time with each consumer and record the established delivery date and time in the consumer's clinical record.

(i) The provider shall notify the consumer if it will deliver a ready-to-eat home-delivered meal more than one hour past the established delivery time.

(ii) The provider shall notify the consumer if it will , in one delivery, deliver multiple home-delivered meals that are not ready-to-eat and temperature-controlled (e.g., deliver ten vacuum-packed meals in one package) more than one day past the established delivery date.

(c) Delivery instructions: The provider shall furnish written delivery instructions to its delivery persons.

(d) Consumer instructions: The provider shall provide the consumer with clear instructions on how to safely heat or reheat a meal and, if the meal is delivered in components (e.g., a vacuum-packed meal), how to assemble the meal. The provider shall retain records to show it complies with this paragraph.

(4) Provider qualifications:

(a) Type of provider: Only an agency that ODA certifies as an agency provider shall provide this service. No individual shall provide the service unless the individual is an employee or volunteer of an agency that ODA certifies as an agency provider.

(b) Licensure:

(i) Food service operator's license: The provider shall possess any current, valid license or certificate that the local health department requires the provider to possess.

(ii) Driver's license: The provider shall retain records to show that each of its meal-delivery persons possesses a current, valid driver's license.

(c) Auto liability insurance: The provider shall retain records to show that the owner of each meal-delivery vehicle used for this service carries auto liability insurance on the vehicle.

(d) Training: The provider shall develop a training plan that includes orientation and annual continuing education.

(i) Orientation: The provider shall assure that each employee, including each volunteer, who participates in meal preparation, handling, or delivery receives orientation on any of the following topics that are relevant to the employee's job duties:

(a) Sensitivity to the needs of older adults and people with physical disabilities or cognitive impairments;

(b) Handling emergencies;

(c) Food storage, preparation, and handling;

(d) Food safety and sanitation;

(e) Meal delivery; and,

(f) Handling hazardous materials.

(ii) Continuing education: The provider shall assure that each employee, including a volunteer, who participates in meal preparation, handling, or delivery completes four hours of continuing education each year on the topics under paragraph (B)(4)(d)(i) of this rule that are relevant to the employee's job duties.

(iii) The provider shall retain records to show that it complies with paragraphs (B)(4)(d), (B)(4)(d)(i), and (B)(4)(d)(ii) of this rule.

(5) Limitations:

(a) The provider shall not provide the service to a consumer in excess of what the case manager orders in the service order for the consumer.

(b) The provider shall only bill the PAA for the service under the PASSPORT program if the case manager identifies the provider in the service order for the consumer

(c) The provider shall not provide the service as a supplement or replacement to the purchase of food or groceries.

(d) The provider shall not provide bulk ingredients, liquids, or other food to a consumer, whether or not the consumer would prepare a meal independently or with assistance. As used in this paragraph, "bulk ingredients, liquids, and other food" includes food that one portions, prepares, or cooks to eat, but does not include a fully-prepared meal that one heats or reheats to eat. Because certain consumers may have difficulty opening small milk cartons or small butter packets (e.g., due to arthritis), if the service plan authorizes the provider to do so, a provider may deliver a pint or half-gallon of milk; a loaf of sliced bread; and a stick of butter to a consumer up to once per week if the milk, bread, and butter are components of fully-prepared meals that the provider delivers throughout the week. (e.g., A provider may provide a pint of milk for consumption as multiple servings of milk that are part of multiple meals, but not as an ingredient for the consumer to use to prepare a meal.)

(e) The provider shall not provide the service to a consumer who is hospitalized or is residing in an institutional setting.

(6) Service verification:

(a) The provider shall retain a record of the case manager's service order.

(b) For each meal delivery, the provider shall retain a record of the:

(i) Consumer's name;

(ii) Delivery date;

(iii) Delivery time;

(iv) Number of meals in the delivery;

(v) Delivery person's signature or initials; and,

(vi) Consumer's signature. The case manager shall record the consumer's signature of choice in the consumer's service plan. The signature of choice may include a handwritten signature; initials; stamp or mark; or electronic signature.

(c) The provider may use a technology-based system to collect or retain the records required under this rule.

(d) The provider shall retain records required under this rule and provide access to those records for monitoring according to paragraph (B)(5) of rule 173-39-02 of the Administrative Code.

(C) Unit and rates:

(1) A unit of a regular home-delivered meal service is one home-delivered meal that is planned, prepared, delivered, and recorded by qualified employees of an agency provider according to this rule. The maximum rate allowable for one regular home-delivered meal is listed in rule 5101:3-1-06.1 of the Administrative Code.

(2) A unit of a home-delivered meal service with a therapeutic diet is one home-delivered meal with a therapeutic diet that is planned, prepared, delivered, and recorded by qualified employees of any agency provider according to this rule. The maximum rate allowable for one unit of a home-delivered meal with a therapeutic diet is listed in rule 5101:3-1-06.1 of the Administrative Code

(D) Definition: "USDA" means "United States department of agriculture."

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