

*****DRAFT - NOT FOR FILING*****

173-4-04.1 Home-delivered nutrition program.

- (A) "Home-delivered nutrition program" means a program that consists of administrative functions; meal production; the delivery of nutritious and safe meals to eligible consumers in a home setting; and the provision of the nutrition-related services described in rules 173-4-05 to 173-4-08 of the Administrative Code. The purpose of a home-delivered nutrition program is to sustain or improve a consumer's health through safe and nutritious meals served in a home setting.
- (B) **Minimum requirements for a home-delivered nutrition program:**
- (1) **Eligibility and enrollment:** Before the provider provides a meal to a person, the provider shall verify the person's eligibility under rule 173-4-02 of the Administrative Code.
 - (2) **Frequency of meals:** Each provider may provide five to seven days per week. In areas where this frequency is not feasible, the provider may provide meals on a less-frequent basis, if the frequency is approved by the AAA.
 - (3) **Delivery:**
 - (a) The provider shall only leave a meal with the consumer or the family caregiver.
 - (b) The provider shall develop and implement procedures for assuring the delivery of safe meals.
 - (c) The provider shall use supplies and carriers for packaging and transporting meals that are appropriate for the length of the route.
 - (d) The provider may make arrangements with a consumer to deliver an additional meal so that the consumer may store the additional meal for consumption at an upcoming time if it is anticipated that he/she will not be home during an upcoming normal delivery time and, as a result, would otherwise have no meal.
 - (4) **Voluntary contributions:**
 - (a) The provider shall provide each consumer with the opportunity to voluntarily contribute to a meal's cost and shall accept the voluntary contributions. When soliciting for voluntary contributions, the provider shall:
 - (i) Clearly inform each consumer that he/she has no obligation to contribute and that the contribution is purely voluntary. It is the consumer who determines how much he/she is able to contribute toward the cost. The provider shall not deny a consumer a meal because the consumer does not contribute;
 - (ii) Protect each consumer's privacy and confidentiality with respect to the consumer's contribution or lack of contribution; and,
 - (iii) Establish appropriate procedures to safeguard and account for all contributions.
 - (b) The provider shall use all collected contributions to expand the home-delivered nutrition program for which the contributions were given and to supplement (not supplant) funds given to the provider to operate the program.
 - (c) The provider shall not choose to base suggested contribution levels on a means test. Instead, the

Comment [ODA1]: FOR RESCISSION. Please also review the proposed new version of the rule.

Comment [ODA2]: This term is used many times in Chapter 173-4 of the Administrative Code. ODA proposes to no longer define it here. Instead, ODA proposes to define it in rule 173-4-01 of the Administrative Code.

Comment [ODA3]: As ODA has been systematically doing on a project-by-project basis, ODA proposes to remove the term "minimum requirements" from this chapter. The term implies that extra regulations could be created that fly below the radars of CSIO and JCARR

Comment [ODA4]: ODA proposes to no longer duplicate its own eligibility criteria language here. Please see rules 173-4-02 and 173-4-03 of the Administrative Code.

Comment [ODA5]: ODA is proposing to delete the second sentence. There is no need for an exception to a permissible (*i.e.*, "may," not "shall") requirement.

Comment [ODA6]: ODA proposes to no longer duplicate its own voluntary contributions language here. Please see rule 173-3-07 of the Administrative Code.

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provider may choose to base suggested contribution levels on one or more of the following options:

- (i) A suggested contribution;
 - (ii) A set range of suggested contribution levels based on income ranges from the United States census bureau; and,
 - (iii) The meal's actual cost. For a person whose self-declared income is at or above one hundred eighty-five per cent of the poverty line, the provider shall encourage a voluntary contribution based on the meal's actual cost.
- (5) Records: The provider shall develop and utilize a system for documenting meals delivered. Acceptable methods include the following:
- (a) On a daily, weekly, or monthly basis, obtain the signatures of consumers who received meals on a route sheet;
 - (b) Maintain a daily, weekly, or monthly route sheet that identifies the name of each consumer, the number of meals served to that consumer, the delivery person's signature, and any other necessary documentation; or,
 - (c) Another documentation system approved by the AAA.
- (6) Nutrition consultation and nutrition education: The provider agreement shall determine whether it is the responsibility of the provider or the AAA to provide to each consumer enrolled in the home-delivered nutrition program a nutrition consultation service under rule 173-4-06 of the Administrative Code, a nutrition education service under rule 173-4-07 of the Administrative Code, or both services.
- (7) Food safety and sanitation:
- (a) The provider shall maintain documentation that demonstrates that all meals prepared by the provider or a subcontractor comply with sections 918.01 to 918.31 of the Revised Code and Chapter 3717-1 of the Administrative Code, which is also known as "The State of Ohio Uniform Food Safety Code."
 - (b) The provider shall maintain appropriate licenses and demonstrate compliance with local health department inspections and Ohio department of agriculture inspections.
 - (c) No later than five calendar days after receipt of a critical citation issued by the local health department or the Ohio department of agriculture, the provider shall report to the AAA the critical citation and also a corrective action plan.
 - (d) Regardless of whether the food items are purchased or donated, the provider shall only use food items from a source approved by the AAA.
 - (e) The provider shall not reuse a food item that has been served to a consumer that is a time/temperature controlled for safety food.
 - (f) The provider shall not serve food obtained from food banks or other food sources if the food has surpassed its use by date or expiration date.
- (8) Food temperatures:

Comment [ODA7]: For every service that ODA regulates, including home-delivered meals under rule 173-39-02.14 of the Administrative Code, ODA requires a per-service verification that the goods or services were delivered. For meals, that meals that the meal was delivered. The congregate and home-delivered meals under rules 173-4-04 and 173-4-04.1 have been the exceptions. The proposed new rules will not contain any such exception.

Comment [ODA8]: ODA is proposing to eliminate duplicate food safety and sanitation regulations. The Department of Agriculture and local health districts have food safety and sanitation authority over meal providers. ODA does not retain this authority. Repeating elements of the Ohio Uniform Food Safety Code in ODA's rules may appear to authorize ODA or area agencies on aging (AAAs) to conduct duplicate food safety and sanitation inspections upon providers. ODA is proposing to clarify that it does not authorize duplicate inspections. This will bring ODA into compliance with section 119.032 of the Revised Code.

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(a) Thermometers:

- (i) To protect the integrity of packaged food (e.g., milk carton or thermal meal container), a provider may use an infrared thermometer to measure the surface temperature.
- (ii) If the provider measures a temperature of packaged food with an infrared thermometer that does not meet standards, the provider shall use a probe thermometer to obtain the food's internal temperature. Before inserting a probe thermometer into the food, the provider shall clean and sanitize the probe thermometer and practice proper hand-washing techniques.
- (iii) If the food is in a closed environment (e.g., an insulated tray system or a thermostatically-controlled food-delivery vehicles), the provider may measure the closed environment's ambient air temperature.

(b) Monitoring:

- (i) The provider shall monitor a thermostatically-controlled food-delivery vehicle's food temperatures on a quarterly basis. If the temperatures are outside standards, the provider shall monitor the vehicle's temperatures on three consecutive delivery days. Once the temperatures meet standards, the provider may revert to monitoring the vehicle's food temperatures on a quarterly basis.
- (ii) The provider shall monitor food temperature of the last meal in a non-thermostatically-controlled vehicle on a new route until the route's food temperatures meet standards. Once the temperatures meet standards, the provider shall monitor the route's temperatures according to the frequency under paragraph (B)(8)(b)(iii) of this rule.
- (iii) The provider shall monitor food temperature of the last meal in a non-thermostatically-controlled vehicle on each established route on a monthly basis. If the temperatures on a particular route are outside standards, the provider shall monitor the route's temperatures on three consecutive delivery days. Once the temperatures meet standards, the provider may revert to monitoring the route's food temperatures on a monthly basis.

(c) Disposition of meals after measuring temperature:

- (i) The provider shall not deliver a meal if the food temperatures do not meet standards. If the provider is unable to serve a meal to a consumer because the food temperatures do not meet standards, the provider shall serve a shelf-stable meal or an alternative meal as a replacement meal, if doing so is approved by the AAA.
- (ii) The provider may deliver a meal to a consumer if the vehicle's driver measures the food temperature with a probe thermometer placed into the food container at the point of food packaging, rather than probing the food.
- (iii) The provider may deliver a meal to a consumer if the provider measures the food temperature by measuring the ambient air temperature, rather than probing the food, if the thermometer is placed in the food carrier system at the point of food packaging.

(9) Food-borne illness:

- (a) The provider shall promptly notify the local health department when any person complains of a

Comment [ODA9]: Please see ODA;s previous comment.

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food-borne illness.

- (b) No more than two calendar days after the occurrence or receipt of a complaint regarding an outbreak of food-borne illness, the provider shall report the complaint to the AAA with which it has entered into a contract or grant to provide the home-delivered nutrition program.
- (10) Emergencies: The provider shall develop and implement written contingency procedures for emergency closings due to short-term weather-related emergencies, loss of power, kitchen malfunctions, natural disasters, etc. In the procedures, the provider shall include:
- (a) Providing timely notification of emergency situations to consumers; and,
 - (b) Either the distribution of:
 - (i) Information to consumers on how to stock an emergency food shelf; or,
 - (ii) Shelf-stable meals to consumers for an emergency food shelf.
- (11) Staff training:
- (a) For each staff member, whether the staff member works as a paid employee or a volunteer, the provider shall provide an orientation and adequate training to perform assigned responsibilities.
 - (b) Using a protocol established by the AAA, the provider shall maintain documentation of training provided to each staff member, whether the staff member works as a paid employee or a volunteer.
- (12) Quality assurance:
- (a) The provider shall monitor all aspects of the program and take action to improve services. This includes the monitoring of food packaging, food temperatures during storage, food preparation, holding food before and during the meal service, retention of food quality characteristics (e.g., flavor and texture), delivery of the food, and all applicable federal, state, and local regulations.
 - (b) The provider shall develop and implement an annual plan to evaluate and improve the effectiveness of the program's operations and services to ensure continuous improvement. In the plan, the provider shall include:
 - (i) A review of the existing program;
 - (ii) Satisfaction survey results from consumers, staff, and program volunteers;
 - (iii) Program modifications made that responded to changing needs or interests of consumers, staff, or volunteers; and,
 - (iv) Proposed program and administrative improvements.
 - (c) The provider shall elicit comments from consumers on the type of food, portion size, food appearance, food packaging, food temperatures, nutrition program schedule, and staff professionalism.