



Ohio Administrative Code

Rule 5123-9-29 Home and community-based services waivers - home-delivered meals under the individual options, level one, and self-empowered life funding waivers.

Effective: July 27, 2023

(A) Purpose

This rule defines home-delivered meals and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

For the purposes of this rule, the following definitions apply:

(1) "Agency provider" means an entity that directly employs at least one person in addition to a director of operations for the purpose of providing services for which the entity is certified in accordance with rule 5123-2-08 of the Administrative Code.

(2) "County board" means a county board of developmental disabilities.

(3) "Department" means the Ohio department of developmental disabilities.

(4) "Home-delivered meals" means meals delivered to an individual who is otherwise unable to prepare or obtain nourishing meals. Meals may be ready-to-eat, frozen, vacuum-packed, modified-atmosphere-packed, or shelf-stable.

(a) A maximum of two meals per day may be provided under a home and community-based services waiver.

(b) There are three types of home-delivered meals:

(i) Kosher meal, meaning a meal certified as kosher by a recognized kosher certification or a kosher



establishment under orthodox rabbinic supervision.

(ii) Therapeutic meal, meaning a meal that is part of a therapeutic diet ordered by a licensed healthcare professional whose scope of practice includes ordering therapeutic diets:

(a) As part of the treatment for a disease or clinical condition;

(b) To modify, eliminate, decrease, or increase certain substances in the diet; or

(c) To provide mechanically altered food (i.e., the texture of food is altered by chopping, grinding, mashing, or pureeing so that it can be successfully chewed and safely swallowed) when indicated.

(iii) Standard meal, meaning a meal that is not a kosher meal or a therapeutic meal.

(c) "Home-delivered meals" do not include meals that are processed, frozen, or pre-packaged and commercially available to the general public.

(5) "Independent provider" means a self-employed person who provides services for which the person is certified in accordance with rule 5123-2-09 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.

(6) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, the person's guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.

(7) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

(8) "Modified-atmosphere-packed" means the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food and includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen.



(9) "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 includes the items delineated in paragraph (E) of this rule to validate payment for medicaid services.

(10) "Shelf-stable" means non-perishable foods that can be safely stored at room temperature.

(11) "Vacuum-packed" means air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package.

(C) Provider qualifications

(1) Home-delivered meals will 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 department of medicaid.

(2) Home-delivered meals will 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) An applicant seeking approval to provide home-delivered meals will complete and submit an application through the Ohio department of medicaid provider network management system and adhere to the requirements of as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code.

(4) Failure of a provider to comply with this rule and as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code, may result in denial, suspension, or revocation of the provider's certification.

(D) Requirements for service delivery

(1) Home-delivered meals will be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code. The individual service plan will



specify:

(a) The type of home-delivered meals (i.e., kosher meals, therapeutic meals, or standard meals) to be provided.

(b) The number of noontime and/or evening meals to be provided.

(c) The location for meal delivery, which will be the individual's residence or an alternative location chosen by the individual.

(d) The range of time in which the meals are to be delivered.

(2) A provider of home-delivered meals will:

(a) Be able to provide two meals per day, seven days per week.

(b) Ensure that each meal:

(i) Contains at least one-third of the daily recommended dietary allowances in accordance with the "Dietary Guidelines for Americans" published by the United States department of health and human services and the United States department of agriculture (available at <https://health.gov/our-work/nutrition-physical-activity/dietary-guidelines>); and

(ii) Includes clear instructions on how to safely maintain, heat, reheat, and/or assemble the meal.

(c) Ensure that a licensed dietitian approves and signs all menus and develops all therapeutic meal menus in accordance with the individual service plan.

(d) Ensure handling and delivery of meals meet applicable federal, state, and local food safety, storage, and sanitation requirements.

(e) Unless the provider uses a common carrier for meal delivery, maintain a roster of delivery drivers who are trained and have available backup staff for scheduled meal deliveries.



(f) Initiate new orders for home-delivered meals within seventy-two hours of referral or as otherwise specified in the individual service plan.

(g) Ensure delivery of home-delivered meals is verified by:

(i) Signature of the individual or the individual's representative upon delivery;

(ii) Attestation by the delivery driver, which may be made via an electronic system, that delivery occurred; or

(iii) Retaining the common carrier's tracking statement or returned postage-paid delivery invoice.

(h) Replace any home-delivered meal or portion thereof that is lost or stolen between the time of delivery and intended receipt by the individual at no cost to the individual, the Ohio department of medicaid, or the department.

(3) On condition that appropriate methods exist to ensure proper and safe handling by the provider of home-delivered meals and safe consumption by the individual, the provider may:

(a) Deliver the evening meal with the noontime meal.

(b) Deliver all meals for a week at one time during the week when frozen, vacuum-packed, modified-atmosphere-packed, or shelf-stable meals are provided. Each frozen, vacuum-packed, modified-atmosphere-packed, or shelf-stable meal will be individually packaged and labeled with the words, "use before" or "use by," followed by the month, day, and year by which the meal is to be used.

(E) Documentation of services

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

(1) Type of service.



- (2) Type of meals provided (i.e., kosher meals, therapeutic meals, or standard meals).
 - (3) Date of service.
 - (4) Place of service.
 - (5) Name of individual receiving service.
 - (6) Medicaid identification number of individual receiving service.
 - (7) Name of provider.
 - (8) Provider identifier/contract number.
 - (9) Written or electronic signature of the person delivering the service, or initials of the person delivering the service if a signature and corresponding initials are on file with the provider. When a provider uses a common carrier for meal delivery, the provider will verify the success of the delivery by retaining the common carrier's tracking statement or returned postage-paid delivery invoice. A provider may use an electronic system to verify delivery.
 - (10) Number of meals delivered.
 - (11) Time that meals were delivered.
 - (12) Name of person accepting delivery of meals, name of delivery driver who attested that delivery occurred, or the common carrier's tracking statement or returned postage-paid delivery invoice.
- (F) Payment standards
- (1) The billing unit, service codes, and payment rates for home-delivered meals are contained in the appendix to this rule.



(2) Payment rates for home-delivered meals are based on the type of meal provided (i.e., kosher meal, therapeutic meal, or standard meal).