

§ 1321.87 Nutrition services.

(a) Nutrition services are community-based interventions as set forth in Title III, part C of the Act, and as further defined by the Assistant Secretary for Aging. Nutrition services include congregate meals, home-delivered meals, nutrition education, nutrition counseling, and other nutrition services.

(1) Congregate meals are meals meeting the Dietary Guidelines for Americans and Dietary Reference Intakes as set forth in section 339 of the Act (42 U.S.C. 3030g-21) provided under Title III, part C-1 by a qualified nutrition service provider to eligible individuals and consumed while congregating virtually or in-person, except where:

(i) If included as part of an approved State plan as set forth in § 1321.27 or State plan amendment as set forth in § 1321.31(a) and area plan or plan amendment as set forth in § 1321.65 and to complement the congregate meals program, shelf-stable, pick-up, carry-out, drive-through, or similar meals may be provided under Title III, part C-1;

(ii) Meals provided as set forth in paragraph (a)(1)(i) of this section shall:

(A) Not exceed 25 percent of the funds expended by the State agency under Title III, part C-1, to be calculated based on the amount of Title III, part C-1 funds available after all transfers as set forth in § 1321.9(c)(2)(iii) are completed;

(B) Not exceed 25 percent of the funds expended by any area agency on aging under Title III, part C-1, to be calculated based on the amount of Title III, part C-1 funds available after all transfers as set forth in § 1321.9(c)(2)(iii) are completed.

(iii) Meals provided as set forth in paragraph (a)(1)(i) of this section may be provided to complement the congregate meal program:

(A) During disaster or emergency situations affecting the provision of nutrition services;

(B) To older individuals who have an occasional need for such meal; and/or

(C) To older individuals who have a regular need for such meal, based on an individualized assessment, when targeting services to those in greatest economic need and greatest social need.

(2) Home-delivered meals are meals meeting the Dietary Guidelines for Americans and Dietary Reference Intakes as set forth in section 339 of the Act (42 U.S.C. 3030g-21) provided under Title III, part C-2 by a qualified nutrition service provider to eligible individuals and consumed at their residence or otherwise outside of a congregate setting, as organized by a service provider under the Act. Meals may be provided via home delivery, pick-up, carry-out, drive-through, or similar meals.

(i) Eligibility criteria for home-delivered meals may include consideration of an individual's ability to leave home unassisted, ability to shop for and prepare nutritious meals, degree of disability, or other relevant factors pertaining to their need for the service, including social need and economic need.

(ii) Home-delivered meals service providers may encourage meal participants to attend congregate meal sites and other health and wellness activities, as feasible, based on a person-centered approach and local service availability.

(3) Nutrition education is information provided under Title III, parts C-1 or 2 which provides individuals with the knowledge and skills to make healthy food and beverage choices. Congregate and home-delivered nutrition services shall provide nutrition education, as appropriate, based on the needs of meal participants.

(4) Nutrition counseling is a service provided under Title III, parts C-1 or 2 which must align with the Academy of Nutrition and Dietetics. Congregate and home-delivered nutrition services shall provide nutrition counseling, as appropriate, based on the needs of meal participants, the availability of resources, and the expertise of a Registered Dietitian Nutritionist.

(5) Other nutrition services include additional services provided under Title III, parts C-1 or 2 that may be provided to meet nutritional needs or preferences of eligible participants, such as weighted utensils, supplemental foods, oral nutrition supplements, or groceries.

(b) State agencies shall establish policies and procedures that define a nutrition project and include how a nutrition project will provide meals and nutrition services five or more days per week in accordance with the Act. The definition of nutrition project established by the State agency must consider the availability of resources and the community's need for nutrition services as described in the State and area plans.

(c) All funds provided under Title III, part C of the Act must be distributed within a State pursuant to § 1321.49 or § 1321.51.

(d) Nutrition Services Incentive Program allocations are available to States and Territories that provide nutrition services where:

(1) Nutrition Services Incentive Program allocation amounts are based on the number of meals reported by the State agency which meet the following requirements:

(i) The meal is served to an individual who is eligible to receive services under the Act;

(ii) The meal is served to an individual who has not been means-tested to receive the meal;

(iii) The meal is served to an individual who has been provided the opportunity to provide a voluntary contribution to the cost of service;

(iv) The meal meets the other requirements of the Act, including that the meal meets the Dietary Guidelines for Americans and Dietary Reference Intakes as set forth in section 339 of the Act (42 U.S.C. 3030g-21); and

(v) The meal is served by an agency that has a grant or contract with a State agency or area agency.

(2) The State agency may choose to receive their Nutrition Services Incentive Program grant as cash, commodities, or a combination of cash and commodities.

(3) Nutrition Services Incentive Program funds may only be used to purchase domestically produced foods used in a meal as set forth under the Act.

(4) Nutrition Services Incentive Program funds are distributed within a State pursuant to § 1321.49(b)(1)(iii) and (d) or § 1321.51(b)(1).