
—PROGRAM INSTRUCTION—

Texas Department of Aging and Disability Services (DADS) – Access and Intake Division

TITLE:	Older Americans Act – Nutrition Waiver Request - Requirements	NUMBER:	AAA-PI 300
SECTION:	Area Agencies on Aging	APPROVAL:	Betty Ford
ISSUE DATE:	2/1/08	REVISION DATE:	6/1/12
RELEVANT CITATION(S)	OAA §331 and §336; 40 TAC §85.302		
DISTRIBUTION:	<input type="checkbox"/> Executive Director <input checked="" type="checkbox"/> Director <input checked="" type="checkbox"/> Fiscal Director <input checked="" type="checkbox"/> AAA Section Staff		

The Department is reissuing this program instruction (PI) to reflect revised policies and procedures for Area Agencies on Aging (AAA) to request nutrition waivers on behalf of congregate and home delivered nutrition providers.

BACKGROUND:

Nutrition waivers are a mechanism to allow nutrition providers flexibility in the service delivery structure and the design of meal programs. Waivers facilitate a flexible approach to the provision of meal service and offer possibilities for better serving consumers' needs, sustaining and potentially expanding service levels, and improving cost efficiency for nutrition providers. Nutrition waivers authorize the provision of a variety of meals to include frozen, chilled or shelf-stable meals and the reduction of serving meals to less than five (5) days per week. Waivers may be requested for both congregate and home delivered meals.

PURPOSE:

This program instruction provides guidance on the waiver requirements and the revised policy and procedures for AAAs to request waivers on behalf of their nutrition provider. To achieve consistency among the providers and the varying meal programs within DADS, uniform policies and procedures have been established for nutrition waivers. The AAAs shall ensure waiver requests are submitted for DADS review and approval for nutrition providers that determine it is not feasible to serve meals five (5) days a week or the providers' meal pattern includes frozen, chilled, or shelf-stable meals.

Waivers may be requested for one or both of the following service options:

1) To serve meals less than five (5) days a week:

Waiver requests allow a nutrition provider to serve meals less than five (5) days a week. The provision of congregate or home delivered meals is based on serving five (5) days a week and allowing ten (10) days per year for observing holidays. Therefore, the number of serving days a year is a minimum of 250 days. AAAs shall work with nutrition providers when closed on holidays to develop alternate arrangements, where possible, for the provision of congregate or home delivered meals based on the needs of the older individuals being served.

2) To deliver a combination of hot with frozen, chilled or shelf stable meals:

Waiver requests allow nutrition providers to develop meal patterns that may include frozen, chilled or shelf stable meals.

- **Frozen, chilled or shelf stable meals** included in the meal patterns and served on a regular basis shall comply with the Dietary Reference Intakes and Dietary Guidelines for Americans requirements.
- **Frozen meals** shall be maintained in a frozen state at zero (0) degrees Fahrenheit during storage, transportation and delivery. Packaging of frozen meals shall seal the container to prevent moisture loss and shall be appropriate for heating the meals. The nutrition provider shall include instructions to the consumers regarding frozen meal preparation with current and expiration dates. Frozen meals that have been completely thawed, shall not be refrozen for later delivery to consumers. Frozen meals thawed, unlabeled, in broken containers or packages, shall not be provided to consumers.

PROCEDURES:

- A AAA must request waivers on behalf of its nutrition providers using the annual instructions issued by DADS.
- A AAA shall verify the information submitted in the waiver requests to ensure that it is not feasible for nutrition providers to serve daily meals five (5) days a week.
- A AAA shall ensure its nutrition providers comply with the waiver requirements.
- A AAA shall review and approve each nutrition provider's waiver requests prior to submission to DADS for final approval.
- A AAA shall ensure the nutrition providers do not implement the provisions of the waiver request prior to DADS approval.
- Waiver requests are submitted to DADS for review and final approval in accordance with the timelines outlined in the annual instructions.
- DADS review and approval of waiver requests after the deadline are considered only for new nutrition providers and on a case-by-case basis.
- An approved waiver is valid for one federal fiscal year.
- Nutrition providers' compliance with the waiver requirements shall be reviewed during the AAA's or DADS on-site monitoring process.
- The AAA shall review the waiver requests in conjunction with the review of allocated costs in the rate setting budget worksheets.
- The AAA shall comply with its approved Disaster Plan in the event of an emergency or if inclement weather prohibits the provision of regularly scheduled nutrition services.

Congregate Meals Waiver Request:

- Waivers are **NOT** required when a congregate meal provider has multiple meal sites that, in total, serve meals five (5) days a week. The requirement for a congregate meal site to serve meals five (5) days a week applies to the nutrition provider rather than each congregate meal site.
Example: XYZ nutrition provider has two congregate meal sites. Meal site "A" serves two (2) days a week on Tuesdays and Thursdays and meal site "B" serves three (3) days a week on Mondays, Wednesdays, and Fridays. A waiver is not required in this example.
Note: AAAs may establish stricter guidelines to ensure continuity of services provided through the nutrition program, such as requiring five (5) days of service at each nutrition site.
- A AAA shall submit congregate waiver requests on behalf of nutrition providers if a provider determines it is not feasible to serve meals five (5) days a week **in total** among all congregate meal sites.

Home Delivered Meals Waiver Requests:

- A AAA must request waivers on behalf of nutrition providers when a provider determines it is not feasible to serve a home delivered meal once per day five (5) days a week, or if the meal pattern includes frozen, chilled, or shelf-stable meals.
- A nutrition provider's route(s) must extend **beyond a "10 mile radius"** from the meal preparation or pick up site to the consumer's residence in order to be considered for a waiver request.
- A AAA shall verify home delivered meals providers have established policies and procedures to ensure the following:
 - A consumer eligible to receive home-delivered meals is not denied services based on the individual's inability to safely store and prepare a frozen or shelf-stable meal.
 - Significant changes in a consumer's physical or mental condition or environment are reported in accordance with 40 TAC §85.302(n)(1)(D)(iii).
 - Each consumer affected by the waiver has sanitary and safe conditions for storage, thawing and preparation of the meal in accordance with 40 TAC §85.302(k)(1) and §85.302(n)(1)(D)(i).
 - The meal can be safely handled by the consumer affected by the waiver, or by another available person if the consumer is unable to do so in accordance with §85.302(k)(2)).
 - All frozen meals are safely packaged and transported by the provider in accordance with 40 TAC §85.302(l)-(m).
 - In the event the consumer becomes ineligible for the home-delivered meals program for any reason (i.e., loss of eligibility, relocation, nursing home placement, death) and the provider has requested payment for meals delivered past the date of the consumer's eligibility, the provider will reimburse the AAA for all such meals for which it has received payment.

Waiver Request Submissions:

Waiver requests must be submitted to the DADS Reports Desk at AAA.Reports@dads.state.tx.us, in accordance with annual instructions for "AAA only providers" and "common providers".