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TITLE 40 SOCIAL SERVICES AND ASSISTANCE

PART 1 DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 55 CONTRACTING TO PROVIDE HOME-DELIVERED MEALS

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CHAPTER 55 CONTRACTING TO PROVIDE HOME-DELIVERED MEALS

RULE §55.1 Purpose

This chapter establishes the requirements for provider agencies providing home-delivered meals to eligible adults through the Texas Department of Human Services' Home-Delivered Meals Program.

Source Note: The provisions of this §55.1 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.3	Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) Adult--A person who is 18 years old or older or is an emancipated minor.
- (2) Case manager--A Texas Department of Human Services (DHS) employee who is responsible for case management activities. Activities include eligibility determination, client registration, assessment and reassessment of client need, service plan development, and intervention on the client's behalf.
- (3) Client--A Community Care for Aged or Disabled (CCAD) or Community Based Alternatives (CBA) client, as defined in Chapter 48 of this title (relating to Community Care for Aged and Disabled), who is eligible to receive services under this chapter.
- (4) Contract--The formal, written agreement between DHS and an organization or entity to provide services to DHS clients eligible under this chapter in exchange for reimbursement.
- (5) Contract manager--A DHS employee who is responsible for the overall management of the contract with the provider agency.
- (6) Dietary consultant--A dietitian who is licensed by the Texas State Board of Examiners of Dietitians; or a person with a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management.
- (7) Director--The person who is responsible for the overall operation of a provider agency.
- (8) Emancipated minor--A person who is under 18 years of age who has achieved or been granted the power and legal capacity of an adult. This includes a minor who has had the disabilities of minority removed by a court of law, or a minor who has been married, with or without parental consent.
- (9) Food service supervisor--The person who is responsible for supervising and managing the food preparation operations of a provider agency.
- (10) Home-Delivered Meals (HDM) Program--A program that provides services through a provider agency under a contract with DHS to eligible clients residing in the provider agency's

service area.

(11) Meal transport carrier--A container that is used by the provider agency to transport home-delivered meals that may be easily damaged. The container must be enclosed and either insulated or equipped to maintain food temperature to protect the meals from contamination, crushing, or spillage.

(12) Provider agency--An organization or entity that contracts with DHS to provide HDM services.

(13) Therapeutic medical diet--A menu supplied to a client by a provider agency that includes:

(A) meals prepared without the addition of salt, seasoning, or flavoring; or

(B) meals that may deviate from the standard menu pattern as required by the client's medical condition.

(14) Working days--Days that DHS is open for business.

Source Note: The provisions of this §55.3 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.5

Contracting Requirements for Provider Agencies

(a) Eligibility requirements. A provider agency must meet the provisions contained in Chapter 49 of this title (relating to Contracting for Community Care Services).

(b) Reporting requirements for the United States Department of Agriculture (USDA) incentive program. A provider agency and its subcontractors must comply with reporting requirements for the USDA incentive program.

(1) The reporting requirements of the USDA incentive program are provided annually through a Texas Department of Human Services (DHS) memo to contracted agencies.

(2) A provider agency must maintain documentation of all eligible meals delivered under the USDA incentive program according to the terms of the contract.

(3) This requirement does not apply to Title XIX (Medicaid) funded home-delivered meals contracts.

(c) Additional commitments. A provider agency that wants to contract with DHS to provide home-delivered meals must agree to provide services:

(1) for a specific number of service days, with a minimum of five meals per week;

(2) within specific geographic service areas established in the contract;

(3) to all eligible clients in a service area unless services are suspended or unless the provider agency is unable to provide a certain therapeutic medical diet; and

(4) for the reimbursement rate that DHS negotiates with the provider agency on an annual basis.

This negotiated rate must be within the DHS unit rate ceiling then in effect.

Source Note: The provisions of this §55.5 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.7	Staff Requirements

- (a) A provider agency must use the services of a dietary consultant who is:
- (1) a dietitian licensed by the Texas State Board of Examiners of Dietitians; or
 - (2) has a baccalaureate degree whose major field of study is in food and nutrition, dietetics, or food service management.
- (b) A provider agency must also employ a director who:
- (1) is a high school graduate, or who has passed a general education development (GED) examination, and has at least one year of experience working in an organization providing social services to individuals; or
 - (2) has two years of college or university credit.
- (c) All employees or volunteers of a provider agency who are under 18 years of age must be supervised by an employee or volunteer who is at least 18 years of age, and must receive the required training as described in §55.9 of this chapter (relating to Training Requirements).
- (d) A provider agency must maintain documentation to show that staff and volunteers meet requirements outlined in subsections (a) - (c) of this section, according to the terms of the contract.
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Source Note: The provisions of this §55.7 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.9	Training Requirements

- (a) A provider agency must provide and document at least one hour of training initially to all staff, including volunteers, who come in contact with clients by serving and/or delivering meals before the staff or volunteers assume duties. The training must be provided in person or in a written document approved by the contract manager. Training topics must include:
- (1) client confidentiality;
 - (2) procedures used in handling emergency situations involving clients;

- (3) sanitary methods used in serving and delivering meals;
 - (4) general knowledge and basic techniques of working with the aged and individuals with disabilities; and
 - (5) personal hygiene.
- (b) A provider agency must provide at least two hours of training to staff and volunteers who come in contact with clients other than through serving or delivering meals before they assume duties. Training topics must include:
- (1) client confidentiality;
 - (2) procedures used in handling emergency situations involving clients;
 - (3) general knowledge and basic techniques of working with the aged and individuals with disabilities; and
 - (4) orientation on applicable Texas Department of Human Services and provider agency forms, procedures, and policies.
- (c) A provider agency must provide at least two hours of training to the food service supervisor before the supervisor assumes duties. Training for the supervisor must include:
- (1) personal hygiene;
 - (2) food storage, preparation, and service;
 - (3) equipment cleaning before, during, and after meal service;
 - (4) selections of proper utensils and equipment for transporting and serving foods;
 - (5) automatic and manual dishwashing procedures; and
 - (6) accident prevention.
- (d) A provider agency must provide the food service supervisor with at least six hours of additional training to be completed no later than 30 days from the assumption of duties. This additional training may be waived if the food service supervisor can produce documentation of at least six hours of prior training or experience in the required topics. The provider agency must provide training on any of the topics not previously received. Training for the food service supervisor on food preparation topics must include:
- (1) practical procedures for food preparation, storage, and serving;
 - (2) portion control of food in appropriate dishes;
 - (3) use of standardized recipes;
 - (4) nutritional needs and meal pattern requirements of clients to be served; and
 - (5) quality control of:
 - (A) flavor;
 - (B) consistency;
 - (C) texture;
 - (D) temperature; and
 - (E) appearance (including the use of garnishes).
- (e) Documentation of training must include name of attendee, trainer, topics covered, date, time, and duration and must be maintained according to the terms of the contract.

Source Note: The provisions of this §55.9 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.11 **Nutrition Education**

A provider agency must provide nutrition education on a monthly basis, either verbally or in writing, to clients. An annual written plan for nutrition education must be developed, identifying subject matter, method of presentation, materials used, and source of the information presented. This plan must be maintained according to the terms of the contract.

Source Note: The provisions of this §55.11 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.13 **Compliance with Laws and Regulations**

- (a) A provider agency must follow procedures and maintain facilities that comply with all applicable state and local laws and regulations related to fire, health, sanitation, and safety; and food preparation, handling, and service activities.
- (b) A provider agency must provide a copy of all required inspection results to the contract manager within five calendar days of the provider agency's receipt of the results.

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RULE §55.15 **Menus**

- (a) A dietary consultant must approve each menu with a list of allowable substitutions as meeting one-third of the recommended daily dietary allowance. The approval must be dated before the date the meal is served. A provider agency may not deviate from the approved menu and its allowable substitutions, unless the provider agency is providing a therapeutic medical diet.
 - (b) Planned menus must provide foods with a variety of flavor, consistency, texture, and temperature.
 - (c) A provider agency must maintain approved menus that meet the terms of the contract.
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Source Note: The provisions of this §55.15 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.17 **Standard Recipes**

(a) A provider agency must plan and manage food production through the use of standardized recipes. These menus must be adjusted to yield the number of servings needed, provide consistency in quality of the food prepared, and maintain documented nutrient content of the food prepared.

(b) A provider agency must keep documentation to show it has complied with the requirements for recipes, according to the terms of the contract.

Source Note: The provisions of this §55.17 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.19 **Modified Diets**

(a) A provider agency must keep documentation from the client's physician of the client's need for a therapeutic medical diet, according to the terms of the contract.

(b) A provider agency must determine the extent to which the provider agency can provide therapeutic medical diets.

Source Note: The provisions of this §55.19 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.21 **Frozen, Chilled, or Shelf-Stable Meals**

A provider agency may use frozen, chilled, or shelf-stable meals for emergency or inclement weather situations, emergency situations, and for situations approved by the contract manager on a case-by-case basis, if the following conditions exist:

(1) Sanitary and safe conditions for storage, thawing, and preparation of the meal can be

provided by the provider agency and the client.

(2) Meals can be safely handled by the client, or by another available person if the client is unable to do so.

Source Note: The provisions of this §55.21 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.23	Meal Packaging

(a) A provider agency must use supplies and meal transport carriers so that hot foods are packaged and transported separately from cold foods.

(b) A provider agency must use meal transport carriers to transport trays or containers of hot or cold foods that may be easily damaged and must enclose the carriers to protect such food from contamination, crushing, or spillage. The provider agency must equip these carriers with insulation and/or supplemental hot or cold sources, as necessary to maintain safe temperatures.

(c) Meal packaging must be:

(1) sealed to prevent moisture loss or spillage to the outside of the container;

(2) maintained at a safe temperature throughout transport;

(3) designed with compartments to separate food items for visual appeal and minimize spillage between compartments; and

(4) easy for the client to open.

Source Note: The provisions of this §55.23 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.25	Service Initiation

(a) A provider agency must initiate services within 10 calendar days from the effective date of the Texas Department of Human Services (DHS) referral.

(b) If a provider agency does not begin services within the 10-day period, it must notify the case manager, orally or by fax, by the 11th calendar day after the effective date of the DHS referral, or the first working day after the 11th calendar day. If the initial notification is oral, the provider agency must send written notification to the case manager within five working days of the initial verbal notification. The provider agency must include the reasons for the delay and the date

services are scheduled to begin.

(c) A provider agency must return to the case manager the Authorization for Community Care Services form for Title XX services, or the Case Information form for Title XIX services, within 21 calendar days from the date of the referral, with the following information:

- (1) the date services were initiated;
- (2) the number of meals to be provided per week; and
- (3) the scheduled days for delivering meals.

(d) The provider agency must sign and date the form, return it to the case manager, and maintain a copy in the client's record, according to the terms of the contract.

Source Note: The provisions of this §55.25 adopted to be effective March 1, 2004, 29 TexReg 1672

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(a) A provider agency must deliver hot food within four hours of the time the hot food is removed from cooking or reheating equipment.

(b) A provider agency must prepare and package meals so that delivery is made within the required delivery period of 10:30 a.m. to 1:30 p.m. or as approved by the contract manager on a case-by-case basis.

(c) Food temperature of meals prepared and packaged for delivery at the preparation site must be below 41 degrees Fahrenheit for cold food items and above 140 degrees Fahrenheit for hot food items.

(d) A provider agency must provide meals according to the Texas Department of Human Services (DHS) service authorization form.

- (1) The provider agency must document each meal as being delivered or undelivered.
- (2) The provider agency must deliver the meal to the client or responsible party.

(A) If the client or responsible party is not present to accept the meal, the provider agency must not leave the meal.

(B) The provider agency must handle undelivered meals in accordance with its policy on undelivered meals.

(C) The provider agency must document the meal as undelivered and document the reason it was unable to deliver the meal. Documentation must be maintained according to the terms of the contract. If there is no documentation available to indicate an acceptable reason for the meals being marked as undelivered, DHS considers this a break in service.

(e) If a provider agency cannot locate a client after two consecutive meal delivery attempts, the provider agency must notify the client's DHS case manager no later than one working day after the second unsuccessful delivery.

(1) The provider agency must notify the client's case manager, orally or by fax, that the client could not be located.

(2) If the provider agency notifies the case manager orally, the provider agency must send written notification to the case manager within five working days of the initial notification.

Source Note: The provisions of this §55.27 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.29	Significant Changes

(a) A provider agency must have written procedures in place to ensure it investigates and reports to the appropriate persons or entities any significant changes in the client's physical or mental condition or environment. These procedures must require the following:

(1) The provider agency notifies a client's case manager, orally or by fax, within one working day after becoming aware of significant changes in the client's physical or mental condition or environment.

(2) If the provider agency notifies the case manager orally, the provider agency must send written notification to the case manager within five working days of the initial verbal notification.

(3) The provider agency retains the following in its files, according to the terms of the contract:

(A) a copy of the written procedures;

(B) reports of significant changes received;

(C) investigations of reports; and

(D) a copy of the written notification to the case manager.

(b) A provider agency must inform the client about safety, health, or fire hazards identified in the client's home when the provider agency discovers these hazards. The provider agency must retain documentation of such communications in its files, according to the terms of the contract.

(c) A provider agency must notify the Texas Department of Human Services (DHS) personnel listed in paragraph (2) of this subsection, orally or by fax, within one working day after an incident that may prevent the provider agency from delivering meals to one or more clients.

(1) A reportable incident includes:

(A) weather-related emergency;

(B) fire; or

(C) other natural disaster.

(2) The provider agency must report an incident to:

(A) the contract manager;

(B) the clients' case manager(s) or supervisors; or

(C) both the contract manager and the clients' case manager(s) or supervisors.

(3) If the provider agency notifies the case manager orally, the provider agency must send written notification to the contract manager or case manager, or both, within five working days of the initial notification.

(4) The provider agency must retain documentation, including the written notification, of an

incident that may prevent meal delivery. Documentation must be retained in the files, according to the terms of the contract.

(d) A provider agency must have written procedures to provide food to clients in emergencies and disasters. The provider agency must have a copy of the procedures in its files, according to the terms of the contract.

Source Note: The provisions of this §55.29 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.31	Provider Agency Quality Control Measures

(a) A provider agency must give clients the opportunity to complete a customer satisfaction survey at least once every 12 months.

(b) The provider agency must use the results from the completed customer satisfaction surveys to establish benchmarks and to make necessary improvements identified through the surveys.

(c) The provider agency must conduct monitoring at the food preparation site at least annually to document holding times, safe food temperatures, and quality of meals. The provider agency must provide a copy of the food preparation site monitoring results to the contract manager within five working days of the monitoring visit.

(d) The provider agency must document all quality control measures and retain them in provider agency files according to the terms of the contract.

Source Note: The provisions of this §55.31 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.33 Suspension of Services

- (a) A provider agency must suspend services if one of the following happens:
- (1) the client leaves the state or moves out of the provider agency's geographic service area;
 - (2) the client dies;
 - (3) the client is admitted to a hospital, nursing facility, or institution;
 - (4) the client or someone in the client's home threatens the health or safety of a person delivering meals;
 - (5) the client cannot be located and has been without services for more than two consecutive service days;
 - (6) the client's eligibility is denied; or
 - (7) the client or case manager requests that services be suspended or terminated.
- (b) A provider agency may suspend services if one of the following happens:
- (1) the client or someone in the client's home racially discriminates against the person delivering meals in the client's home; or
 - (2) the client or someone in the client's home sexually harasses the person delivering meals in the client's home.
- (c) If a provider agency suspends services, the provider agency must notify the case manager no later than one working day after the suspension of services.
- (1) The provider agency must notify the client's case manager, orally or by fax, of the reason for service suspension.
 - (2) If the provider agency notifies the case manager orally, the provider agency must send written notification to the case manager within five working days of the initial notification.
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Source Note: The provisions of this §55.33 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.35	Service Plan Changes

A provider agency must implement service plan changes within seven calendar days from the effective date on the Authorization for Community Care Services form for Title XX services, or

the Notification of Community Based Alternatives (CBA) Services form for Title XIX services.

Source Note: The provisions of this §55.35 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.37	Termination of Services

The case manager must send the provider agency the Authorization for Community Care Services form for Title XX services, or the Notification of Community Based Alternatives (CBA) Services form for Title XIX services, indicating the date services are to be terminated.

Source Note: The provisions of this §55.37 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.39	Recordkeeping

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- (a) A provider agency must maintain records according to Chapter 49 of this title (relating to Contracting for Community Care Services) and according to the terms of the contract.
- (b) The provider agency must maintain financial records:
- (1) to support its billings to the Texas Department of Human Services (DHS) for payment under §55.41 of this chapter (relating to Billing and Claims Payment);
 - (2) to support the source and application of other funding, such as Title III meals program;
 - (3) to document reimbursements made by DHS. The documentation must include:
 - (A) amount of reimbursement;
 - (B) voucher number;
 - (C) warrant number;
 - (D) date of receipt; and
 - (E) any other information necessary to trace deposits of reimbursements and payments made from the reimbursements in the provider agency's accounting system; and
 - (4) in accordance with generally accepted accounting principles (GAAP) and DHS procedures.
- A provider agency's financial records must include the following:
- (A) deposit slips, bank statements, cancelled checks, and receipts;
 - (B) purchase orders;
 - (C) invoices;

- (D) journals and ledgers;
 - (E) timesheets, payroll, and tax records;
 - (F) inventory records for food and other supplies;
 - (G) Internal Revenue Service and Department of Labor and other government records and forms;
 - (H) records of insurance coverage, claims, and payments (for example, medical, liability, fire and casualty, and workers' compensation);
 - (I) equipment inventory records;
 - (J) records of the provider agency's internal accounting procedures;
 - (K) chart of accounts, as defined by GAAP; and
 - (L) records of company policies.
- (5) If a provider agency utilizes a subcontractor, the provider agency must maintain records of the subcontractor's activity. Maintaining records to support subcontractor claims is the responsibility of the provider agency.
- (c) A provider agency must maintain a record of names of employees and volunteers who deliver meals.
- (d) A provider agency must retain all service delivery records, including financial records, according to the terms of the contract.

Source Note: The provisions of this §55.39 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.41	Billing and Claims Payment

- (a) A provider agency must accept the contracted reimbursement rates as payment in full for the meals provided and seek no other reimbursements from any source, except as allowed by the Texas Department of Human Services (DHS).
- (b) A provider agency may accept contributions from DHS clients resulting from a general broad-based appeal for public donations, as long as the provider agency does not directly solicit donations from individual clients and as long as the provider agency is in compliance with the terms of the contract.

(c) A provider agency may be reimbursed for up to two consecutive failed deliveries per month per client when:

- (1) a meal delivery is attempted;
- (2) the client or responsible party is not home to accept it; and
- (3) services have not been suspended.

(d) One unit of service is one meal per client per contracted day.

Source Note: The provisions of this §55.41 adopted to be effective March 1, 2004, 29 TexReg 1672

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RULE §55.43	Complaints

A provider agency must:

- (1) comply with the complaint procedures outlined under Chapter 49 of this title (relating to Contracting for Community Care Services); and
- (2) promptly contact the local health authorities to report complaints involving two or more persons with symptoms of food-borne illnesses that have occurred within a similar timeframe after consuming food from the provider agency, and request the local health authorities initiate an investigation of these complaints. The provider agency must report such complaints as detailed in Chapter 49 of this title.

Source Note: The provisions of this §55.43 adopted to be effective March 1, 2004, 29 TexReg 1672