

651 CMR 4.00: THE STATE FUNDED NUTRITION PROGRAM FOR ELDERLY PERSONS

Section

- 4.01: Scope and Purpose
- 4.02: Definitions
- 4.03: Administration of the Program
- 4.04: Nutrition Project Functions and Requirements
- 4.05: Requirement for Meals
- 4.06: Contributions by Eligible Elders
- 4.07: Reimbursement Procedures
- 4.08: Non-discrimination and Affirmative Action Requirements
- 4.09: Safety Codes and Training

4.01: Scope and Purpose

651 CMR 4.00 is promulgated pursuant to the authority granted by M.G.L. c. 19A § 6, to govern the Department's administration of the State funded Lunch Program for Elderly Persons effective January 1, 1980. This program is to be administered through existing Nutrition Projects funded under Title IIIC of the Older Americans Act of 1965 in order to maximize federal reimbursements for meals served hereunder.

4.02: Definitions

The following words and phrases whenever used in 651 CMR 4.00, unless the context clearly requires otherwise, shall have the following meanings:

AAA Area Agency on Aging.

Central Production Center A central kitchen which prepares and packages meals to be transported to serving centers.

Congregate Meal A meal provided in a congregate setting to Eligible Elders which meets the requirements set by D.E.A.

D.E.A. The Massachusetts Department of Elder Affairs.

D.R.I. The Dietary Reference Intake, which is a system of nutrition recommendations from the Institute of Medicine (IOM) of the U.S. National Academy of Sciences. The DRI system is used by both the United States and Canada and is intended for the general public and health professionals.

Eligible Elder An individual aged 60 or older and his/her spouse, regardless of age.

Fiscal Year A period of 12 calendar months beginning with July 1st in any calendar year and ending with June 30th of the following year.

Food Service Management Company (FSMC) is a commercial enterprise or a non-profit organization which is, or may be, contracted with the AAA or Nutrition Projects to manage any aspect of elderly nutrition program food services.

Funded Costs Those expenses incurred by the Nutrition Project which are approved by D.E.A. pursuant to agreement and the existing program appropriation available which are in excess of the participant contribution for each Congregate and Home Delivered Meal prepared and served.

G.A.O. The United States General Accounting Office.

Home Delivered Meal A meal which is furnished by a Nutrition Project to an Eligible Elder who is homebound by reason of illness, incapacitating disability, or isolation, which meal meets the requirements set by D.E.A.

4.02: continued

H.H.S. The United States Department of Health and Human Services.

Meal Site The locations where each Nutrition Program serves Congregate Meals.

Nutrition Project An organization which is the recipient of a grant from the appropriate Area Agency on Aging to provide nutrition services or which has the administrative authority under contract to provide nutrition services under Title III-C to a Project Area, and which participates in this Program.

Nutrition Services Those federally funded services required to be provided by Nutrition Projects to Eligible Elders in accordance with Title III-C, including but not limited to Congregate Meals and Home Delivered Meals.

Program The Private Vendor Portion of the School Lunch Program commencing on or after January 1, 1980.

Project Area The geographic area served by a Nutrition Project as defined by D.E.A.

Title III-C Title III-C of the Older Americans Act of 1965, (42 USC 3030e *et seq.*) by the Comprehensive Older Americans Act Amendments of 1978

U.S.D.A. United States Department of Agriculture.

4.03: Administration of the Program

- (1) Each Nutrition Project taking part in the State Funded Nutrition Program will enter into a written agreement with D.E.A.
- (2) All written agreements shall be on a form approved by D.E.A.
- (3) If for any reason, D.E.A. is unable to enter into or renew a written agreement with a Nutrition Project, it may contract with another Nutrition Project either directly or through the Area Agency on Aging (AAA) in that local area.

4.04: Nutrition Project Functions and Requirements

Pursuant to the agreement with D.E.A. each Nutrition Project shall agree to meet the following requirements:

- (1) Congregate Meals.
 - (a) Each Nutrition Project shall provide to Eligible Elders a hot or other appropriate Congregate Meal.
 - (b) Each Congregate Meal served shall contain a minimum of 1/3 of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences, National Research Council and shall comply with D.E.A. meal requirements stated in 651 CMR 4.07.
 - (c) The Nutrition Project shall locate Meal Sites as close as possible, preferably within walking distance, to the majority of Eligible Elders, and give preference to community facilities in the selection of such sites.
- (2) Home Delivered Meals.
 - (a) Each Nutrition Project shall provide a home-delivered meal to those Elders who are determined to be unable to prepare nutritionally adequate meals or attend a congregate meal site.
 - (b) Each Home Delivered Meal served shall contain a minimum of 1/3 of the daily recommended dietary allowance as established by the Food and Nutrition Board of the National Academy of Sciences - National Research Council and shall comply with D.E.A. meal requirements stated in 651 CMR 4.05.

4.04: continued

(c) Each Nutrition Project which provides Home Delivered Meals may purchase such meals from a FSMC, where one exists, which:

1. demonstrates proven ability to provide Home Delivered Meals effectively and at reasonable cost; and
2. agrees to comply with applicable regulations under this part.

(d) Only when there is no existing organization which meets the criteria specified in 651 CMR 4.06(2)(f), may the Nutrition Project furnish Home Delivered Meals directly.

(3) Each Nutrition Project shall give each Eligible Elder who participates in the Program an opportunity to voluntarily contribute to part or all of the cost of each meal provided in compliance with the requirements set forth in 651 CMR 4.08. In implementing 651 CMR 4.04(3), the Sponsoring Agency shall develop a suggested contribution schedule for meals provided which takes into consideration the income ranges of older persons in the community.

(4) Each Nutrition Project is encouraged to provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of the Eligible Elders served.

(5) Each Nutrition Project that does not use the services of a FCMC shall maintain facilities for storing, preparing and serving food.

(6) Each Nutrition Project shall ensure that its FSMC complies with all applicable State and local health and sanitation laws and regulations in its storage, preparation and service of food.

(7) Each Nutrition Project shall submit claims for reimbursement in accordance with procedures set forth by D.E.A. in an Agreement between D.E.A. and/or the Nutrition Project within whose Project Area it is located.

(8) Each Nutrition Project shall keep and maintain such records and make such reports as are required by D.E.A. for the collection and collation of fiscal and programmatic information. Such records shall include but not be limited to the following:

- (a) Daily number of Congregate and Home Delivered Meals served to Eligible Elders.
- (b) Program Income:
 1. from donations from Eligible Elders;
 2. from Federal and State reimbursements;
 3. from all other sources.
- (c) Program costs (supported by invoices, receipts or other evidence of expenditures):
 1. for food;
 2. for labor;
 3. for other allowable costs.

Such records, including menus, shall be maintained for a period of three years after the end of the fiscal year to which they pertain.

(9) Upon request, each Nutrition Project shall make all accounts and records pertaining to the Program available to D.E.A. for audit and administrative review at any reasonable time and place. These accounts and records shall also be made available for purposes of review and audit to authorized agents or employees of H.H.S., G.A.O., or N.E.S.F.S. at any reasonable time or place.

4.05: Requirements for Meals

(1) General Requirement. The Congregate Meal and Home Delivered Meal offered to Eligible Elders shall comply with the most recent *Dietary Guidelines for Americans*, published by the Secretary of Agriculture and meet a minimum of 33 $\frac{1}{3}$ % of the dietary reference intakes (DRI) established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.

4.05: continued

- (2) Menu Preparation. Each Nutrition Project, or the organization with whom it contracts for the preparation of its Congregate Meals or Home Delivered Meals shall prepare a menu adhering to the $\frac{1}{3}$ of the daily recommended dietary allowance requirements stated in 651 CMR 4.05(1) one month prior to the implementation of the menu.
- (3) Food Components. A Congregate Meal or Home Delivered Meal shall contain, at a minimum, each of the following food components in the amounts indicated:
- (a) Three ounces (edible portion as served) of lean meat, poultry or fish (with more emphasis on the latter two) or two ounces of cheese; or one egg; or one half cup of cooked dry beans or peas; or an equivalent quantity of any combination of the above listed foods. To be counted in meeting this requirement, these foods must be served in a main dish or in a main dish with another menu item.
 - (b) Two $\frac{1}{2}$ cup servings of fruit and/or vegetables, with emphasis on Vitamin C and green and yellow leafy vegetables. Fruits should be fresh, when in season and cost permitting, or canned in water or light syrup. Vegetables should be fresh or frozen, and if canned, the sodium content should be reviewed prior to use. Full strength unsweetened vegetable and fruit juices may be counted to meet not more than $\frac{1}{4}$ of this requirement.
 - (c) One slice of whole grain or enriched bread or alternate. Rice and pasta products are considered bread alternatives and not a vegetable substitute. Potatoes, however, are considered a vegetable alternative and can be used accordingly.
 - (d) One teaspoon butter or fortified margarine.
 - (e) One $\frac{1}{2}$ cup dessert (optional if fruit or fruit juice is already present on menu). Encourage fruits for desserts and refrain from concentrated sweets.
 - (f) One $\frac{1}{2}$ pint of fluid milk, preferable non or low-fat.
 - (g) Coffee and tea may be offered in addition to the milk and not substituted for it.

4.06: Contributions by Eligible Elders

- (1) Opportunity to Contribute. Each Nutrition Project shall:
- (a) give each Eligible Elder who participates in the Program information about the cost of providing the Congregate or Home Delivered Meal;
 - (b) give each Eligible Elder who participates in the Program an opportunity to contribute to part or all of the cost of the Congregate or Home Delivered Meal provided;
 - (c) tell each Eligible Elder who participates in the Program that he or she may decide freely whether or not to contribute;
 - (d) avoid the appearance of pressure to contribute;
 - (e) protect the privacy of each Eligible Elder with respect to his or her contribution;
 - (f) have appropriate procedures in effect to safeguard and account for all participant contributions;
 - (g) use all contributions to increase the number of meals served under the Program.
- (2) Failure to Contribute. No Nutrition Project shall deny an Eligible Elder a Congregate or Home Delivered Meal because that person fails to contribute.
- (3) Collection and Protection of
- (a) D.E.A. may specify general standards for the collection of contributions for Program participants in its agreements with each Nutrition Project.
 - (b) Each Nutrition Project shall deposit participant contributions in a bank as often as the amounts warrant, but no less than weekly. Each Nutrition Project shall insure that proper safeguards are employed to protect cash pending deposit and personnel handling cash.

4.07: Reimbursement Procedures

Reimbursement payments shall be made by D.E.A. to Title III-C Nutrition Projects.

4.08 Non-discrimination and Affirmative Action Requirements(1) Non-discrimination in Service Delivery.

(a) The Nutrition Project shall not deny Congregate Meals to an Eligible Elder or deny Home Delivered Meals to an Eligible Elder who has been determined to be in need of such meals on the basis of race, color, religion, sex, age, national origin, ancestry, physical or mental disability, or because such person is a recipient of Federal, State, or local public assistance or housing subsidy.

(b) The Nutrition Project shall reasonably accommodate participants with disabilities.

(c) Each Nutrition Project shall comply with the applicable provisions of:

1. Title VI of the Civil Rights Act of 1964 (42 USC 2000d *et seq.*) which prohibits discrimination on the basis of race, color, or national origin;
2. Section 504 of the Rehabilitation Act of 1973 (42 USC 794) and the regulations promulgated thereunder (45 CFR Part 84) which prohibits discrimination against qualified disabilitytyped individuals on the basis of disability in any program or activity receiving or benefitting from Federal financial assistance and requires programs and activities when viewed in their entirety, to be readily accessible to disabilitytyped persons;
3. The Commonwealth's Executive Order 526, prohibiting discrimination based on disability;
4. M.G.L. c. 151B § 4(10) which prohibits discrimination in furnishing services on the grounds that an individual is a recipient of Federal, State or local public assistance or housing subsidies.

(2) Non-discrimination In Employment.

(a) The Nutrition Project shall not discriminate against any qualified employee or applicant for employment because of his or her race, color, age, national origin, ancestry, religion, or physical or mental disability.

(b) Each Nutrition Project shall comply with the provisions of:

1. M.G.L. c. 151B s.4(1) which prohibits discrimination in employment on the basis of race, color, religion, sex or national origin, creed, ancestry or age;
2. D.E.A. Regulations 651 CMR 8.00, *Discrimination Based on Age in Agencies and Organizations in Receipt of Funds from the Department of Elder Affairs.*
3. Section 504 of the Rehabilitation Act of 1973 (29 USC 794) and the regulations promulgated pursuant thereto (45 CFR 84) which prohibits discrimination against qualified disabilitytyped individuals on the basis of disability and requires employers to make reasonable accommodations to known physical or mental limitations of otherwise qualified disabilitytyped applicants or employees; and
4. The Commonwealth's Executive Order 526 regarding non-discrimination based upon disability.

(3) Other Applicable D.E.A. Requirements. Each Nutrition Project shall comply with the D.E.A. Program Instruction (EOEA-PI-04-05) Governing the Protection of Clients Who are Participants in Research Projects.

(4) Affirmative Action. Each Nutrition Project with a contract with D.E.A. and the applicable Nutrition Project with a value of \$10,000 or less shall have in effect a policy of affirmative action which fulfills the applicable requirements of State Executive Order 526. A Nutrition Project with such a contract with a value of more than \$10,000 shall have in effect, maintain, and adhere to an Affirmative Action Plan which fulfills the applicable requirements of State Executive Order 526 well as those requirements set by D.E.A.

4.09: Safety Codes and Training

Each Nutrition Project shall take all steps necessary to ensure the safety of all Program participants. These steps shall include but not be limited to the following:

- (1) Document that all Meal Sites are in compliance with State and local health and fire standards.
- (2) Train all site project personnel and key volunteers in emergency procedures and choke saving procedures.

651 CMR: DEPARTMENT OF ELDER AFFAIRS

4.09: continued

(3) Develop appropriate health and sanitary procedures for Congregate Meals and Home Delivered Meals.

REGULATORY AUTHORITY

651 CMR 4.00: M.G.L. c. 19A, § 6.

(PAGES 63 AND 64 ARE RESERVED FOR FUTURE USE.)