

# **Guidance for Return to Standard Operations for the Older Americans Act Programs Post-COVID-19 Major Disaster Declaration**

## **Appendix A of PM 23-05: Title IIIC Nutrition Programs**

This document provides guidance for ending the program flexibilities tied to the California COVID-19 Major Disaster Declaration (MDD) and the Public Health Emergency (PHE) and resuming standard and/or allowable adapted operations for the Title IIIC Older Californians Nutrition Program (OCNP).

### **Program Flexibilities**

#### **MDD-Related Flexibilities**

The OCNP program flexibilities, except for the waiver of nutrition requirements, are tied to the MDD. As outlined in [PM 23-05](#), the AAAs have a six-month transition period from January 2, 2023, through June 30, 2023, to return to standard and/or allowable adapted operations, effective July 1, 2023.

Guidance on the reversal and/or adaptation of each flexibility is documented in the COVID-19 Flexibilities and Return to Standard Operations FAQs and supersedes the *Updated COVID-19 FAQs*.

The decision to resume in-person services remains at the discretion of the AAAs based on state and local public health guidance, along with an assessment of the readiness of the program staff and older adults in the community. The AAAs have the flexibility to adjust for in-person or remote services based on local circumstances which may vary by provider and site.

#### **PHE-Related Flexibility**

The waiver of nutrition requirements is granted at the federal level and is tied to the PHE; therefore, the six-month transition period does not apply, unless the PHE is extended beyond July 1, 2023. The waiver of nutrition requirements ends when the PHE ends or by July 1, 2023, whichever date occurs earlier. Health and Human Service (HHS) will provide a 60-day notice prior to the end of the PHE and the nutrition requirements waiver. Title IIIC meals must meet nutrition requirements (DGA/DRI) when the PHE ends, or by July 1, 2023, whichever date occurs earlier.

The Administration for Community Living (ACL) has advised that the waiver of nutritional requirements does not apply to Nutrition Services Incentive Program (NSIP) meals; NSIP meals must meet DRIs/DGAs. While previously held harmless during the pandemic, NSIP meals for Federal Fiscal Year (FFY) 2021 will be used to determine FY 2023-24 NSIP allocations.

CDA strongly encourages AAAs and service providers to resume following the DGAs and providing one-third of the DRIs in all meals in advance of the end of the waiver to maintain the health and manage chronic disease conditions of program participants, for NSIP meals eligibility, and in anticipation of the end of the waiver of nutrition requirements.

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### **To-Go Meals**

To-Go meals will continue to be allowable after program flexibilities have ended. ACL's [Title III C-1 and C-2 Service Delivery Decision Tree](#) is a tool for determining if To-Go meals are categorized as C-1 meals or C-2 meals and is incorporated in the following guidance.

#### **Title III C-1 Meals:**

To-Go meals that include in-person or virtual interaction as described below qualify as C-1 meals and are funded with C-1 funds. Meals may be consumed onsite (i.e., where the meal is served) or offsite.

- Consumed Onsite:
  - Criteria: At least a portion of the meal is consumed in a congregate setting.
  - Examples: Dining may take place indoors (restaurants, grocery stores, etc.) or outdoors (parks, picnic, food trucks, festivals, events, tailgate parties, etc.)
  - Tips:
    - Contracting with restaurants and food trucks can expand meal sites and help address cultural food preferences.
    - Leftovers: Clients may be allowed to leave the congregate site with their meal leftovers. AAAs and service providers should develop or adapt a current 'leftovers' policy to incorporate this option if they plan to allow clients to take leftovers.
- Consumed Offsite:
  - Criteria:
    - Meal is picked up by client (or client's agent) or delivered to client *and*
    - In-person or virtual interaction is included with the meal.
  - Examples:
    - Virtual group interaction scheduled by the nutrition provider such as nutrition education, virtual travel tours, or group chat on virtual platforms such as Zoom, FaceTime, GoogleMeet, or similar applications that offer live interaction with participants.
    - One-on-one interaction during the meals arranged by the nutrition provider which may be completed via telephone, virtual platform (Zoom, FaceTime, etc.) or in-person.
  - Confirming Virtual Attendance:
    - The service provider is not responsible for ensuring that clients attend the virtual activity; however, they are responsible for tracking confirmation of planned attendance.
    - The sign-in procedure should include confirmation that the client intends to participate in the virtual group interaction.

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- The meal is considered a C-1 meal if the client confirms their intent to join the virtual activity. The meal is considered a C-2 meal if the client does not confirm their intent to join the virtual activity.

#### Title III C-2 Meals:

To-Go meals that are consumed offsite without in-person or virtual interaction during the meal are considered C-2 meals and are funded with C-2 funds.

- Criteria:
  - Meal is picked up by client (or client's agent) or delivered by the provider to the client *and*
  - Participation in-person or virtual interaction with the meal is declined or is not available.
- Eligibility and Prioritization:
  - Eligibility: Clients receiving C-2 To-Go meals meet eligibility requirements for the C-2 program as per the CDA AP 22-23 Contract, Exhibit A, Article I.A.5.b.i.: *Frail as defined by 22 CCR 7119, homebound by reason of illness or disability, or otherwise isolated*. The term "otherwise isolated" may be interpreted as isolation related to not being comfortable with dining in a group setting.
  - Prioritization: Providers unable to serve all clients eligible for the C-2 program must have a wait list and a prioritization policy as per California Code of Regulations (CCR) 7638.3(c).
- Initial Assessments:
  - Initial assessments are required for all new C-2 clients, including clients receiving To-Go meals, within 2 weeks of the start of service.
  - The CCR 7638.3(a)(2) requirement for initial assessments to be conducted "in the home" does not apply if meals are picked up rather than home-delivered; assessments may be completed in-person at time of meal pick-up or via telephone. If meals are home-delivered by the provider, the initial assessment must be conducted in the home.
- Quarterly Eligibility Reassessment:
  - Quarterly eligibility reassessments are required for all C-2 clients, including clients receiving To-Go meals.
  - The CCR 7638.3(a)(4) requirement for quarterly eligibility reassessments to be conducted "in the home" every other quarter does not apply if meals are picked up rather than home-delivered by the provider and may be done in-person at the time of meal pick up or by phone. If meals are home-delivered, the quarterly eligibility reassessments must be conducted in the home every other quarter.

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### **Reporting**

C-1: To-Go meals that include in-person or virtual interaction with the meal:

- Report in CARS as C-1 meal and unduplicated C-1 client.

C-2: To-Go meals that are consumed offsite without in-person or virtual interaction during the meal:

- Report in CARS as C-2 meal and unduplicated C-2 client.

### **Procurement**

With the addition of To-Go meals as a permanent option under the C-1 program (with in-person or virtual interaction during the meal) or the C-2 program (without in-person or virtual interaction during the meal), AAAs may consider expanding services in their service provider contracts to allow providers to serve clients in the appropriate program. Consider the following for new contracts or as amendments to current contracts:

- C-1 providers may serve C-2 To-Go meals.
- C-1 providers may be paid with C-2 funds for C-2 meals provided.
- C-1 providers who provide C-2 To-Go meals conduct initial assessments and quarterly eligibility reassessments as described in section “Title III C-2 Meals” of this document.

### **Funding Transfers**

Per the AP 2223 Contract, Exhibit B, Article IV, E.1., AAAs may submit a request to CDA to transfer federal or State funds up to 40 percent of OAA funds received between Title III C-1 and C-2 and up to 30 percent of OAA funds received between Title III B and Title IIIC. Requests for transfers exceeding 40 percent between Title III C-1 and C-2 and 30 percent between Title III B and Title IIIC, including justification, will be reviewed by fiscal and program teams for consideration.