

Older Americans Act Nutrition Regulations

Title III, Parts C1 & C2 and Nutrition Services Incentive Program

ACL has finalized updates to the regulations (also known as the final rule) for its Older Americans Act (OAA) programs. The final rule went into effect on March 15, 2024, and has a compliance date of October 1, 2025. Additional information can be found on acl.gov/OAArule.

Brief Overview

Nutrition services are set forth in Title III, part C of the OAA, which includes congregate meals (part C1), home-delivered meals (part C2), nutrition education, nutrition counseling, and other nutrition services. In the final rule, nutrition services are set forth under [part 1321](#), [§ 1321.87 Nutrition services](#). Other provisions of the rule include requirements that also apply to nutrition programs.

Nutrition Flexibilities and Modernization Highlights

The congregate and home-delivered meals provided by OAA senior nutrition programs help to reduce hunger, food insecurity, and malnutrition; provide an opportunity for older adults to engage with other people, which is critical to maintaining health and independence; and provide an opportunity to educate and screen older adults for other needs before they become crises. These programs help more than 2 million older adults continue to live in the community each year.

The COVID-19 pandemic brought to light limitations in the previous nutrition regulations and highlighted the need for guidance to support innovation and response to emerging needs. The final rule modernizes nutrition rules, reflecting the evolving needs of both grantees and program participants, and alleviates uncertainty caused by relying on sub-regulatory guidance. The final rule also clarifies requirements for transfers of funds between programs.

Review of Selected Areas of the Final Rule

Definitions

The rule contains the following definitions of particular relevance to nutrition services:

- [§ 1321.3 Definitions](#): State agency, area agency on aging, service provider, direct services, domestically produced foods, Nutrition Services Incentive Program (NSIP), supplemental foods, greatest economic need, greatest social need, major disaster declaration, planning and service area, single planning and service area state, cost sharing, voluntary contributions, contracts and commercial relationships, program income, and means test.

Policies and Procedures

State units on aging (SUAs, also known as state agencies), area agencies on aging (AAAs), and service providers are required to develop (in consultation with appropriate parties) and implement policies and procedures (P&P), in accordance with the OAA final rule (§§ [1321.9](#), [1321.59](#), [1321.73](#)).

Fiscal Requirements

- The rule specifies that the SUA will have P&P regarding fiscal requirements, including those related to nutrition services such as:
 - » [§ 1321.9\(c\)\(2\)\(ii\) Non-Federal share \(match\)](#): Details the requirement that federal funding for services funded under nutrition services as set forth in [§ 1321.87](#), less funds provided under the NSIP, may not account for more than 85% of the total funding expended, and requires a 15% match, and clarifies that no match is required for NSIP funds.
 - » [§ 1321.9\(c\)\(2\)\(iii\) Transfers](#): Lists requirements and considerations that apply if an SUA elects to make transfers between allotments, including the parts (B and C) and subparts (C1 and C2) of Title III which are subject to transfer of allocations,

the maximum percentage of an allocation which may be transferred between parts and subparts, and a confirmation that such limitations apply in aggregate to the SUA.

- » [§ 1321.9\(c\)\(2\)\(x\) Voluntary contributions](#): Notes that section 315(b) of the OAA states that voluntary contributions shall be allowed and may be solicited for all services under the OAA and specifies required P&P related to voluntary contributions.
- » [§ 1321.9\(c\)\(2\)\(xi\) Cost sharing](#): Notes that section 315(a) of the Act expressly prohibits cost sharing for congregate and home-delivered meals.
- » [§ 1321.9\(c\)\(2\)\(xii\) Use of program income](#): States that voluntary contributions must be used to expand a service funded under the Title III grant award pursuant to which the income originally was collected, among other requirements.
- » [§ 1321.9\(c\)\(2\)\(xiii\) Private pay programs](#): The SUA shall maintain requirements for private pay programs and develop P&P to meet the requirements.
- » [§ 1321.9\(c\)\(2\)\(xiv\) Contracts and commercial relationships](#): The SUA shall establish P&P to maintain requirements for contracts and commercial relationships.
- » [§ 1321.9\(c\)\(2\)\(xv\) Buildings, alterations or renovations, maintenance, and equipment](#): Specifies that costs incurred for altering or renovating, utilities, insurance, security, necessary maintenance, janitorial services, repair, and upkeep, including acquisition and replacement of equipment may be an allowable use of funds, in accordance with certain requirements.
- » [§ 1321.9\(c\)\(2\)\(xix\) Fixed amount subawards](#): Specifies that fixed amount subawards up to the simplified acquisition threshold are allowed.

Direct Services Requirements

The rule specifies that the SUA will have P&P regarding OAA services, including nutrition services:

- [§ 1321.81 Client eligibility for participation](#): Recipients must be age 60 or older at the time of service — except in the case of limited circumstances for specific services. Nutrition services exceptions are as follows:

- » Services shall be available to spouses of any age of eligible older persons.
- » Services may be available to a person with a disability who lives with an adult age 60 or older or who resides in a housing facility that is primarily occupied by older adults at which congregate meals are served and a volunteer during meal hours.
- » State agencies, AAAs, and/or service providers may develop further eligibility requirements.
- [§ 1321.87](#): Nutrition services include congregate meals, home-delivered meals, nutrition education, nutrition counseling, and other nutrition services.
 - » Congregate meals are meals meeting the Dietary Guidelines for Americans (DGA) and Dietary Reference Intakes (DRI) as set forth in section 339 of the Act, provided under Title III-C1 by a qualified nutrition service provider to eligible individuals and consumed while congregating virtually or in person. An exception to congregating virtually or in person is when provided to complement the congregate meals program through shelf-stable, pick-up, carry-out, drive-through, or similar meals (commonly referred to as “grab-and-go” meals).
 - » Home-delivered meals are meals meeting the DGA and DRI as set forth in section 339 of the Act provided under Title III-C2 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 services.
 - 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.
 - Home-delivered meal 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.

- » Nutrition education is information provided under Title III, parts C1 or C2, which provides individuals with the knowledge and skills to make healthy food and beverage choices. Congregate and home-delivered nutrition services are required to provide nutrition education, as appropriate, based on the needs of meal participants.
 - » Nutrition counseling is a service provided under Title III, parts C1 or C2, which must align with the Academy of Nutrition and Dietetics. Congregate and home-delivered nutrition services are required to provide nutrition counseling, as appropriate, based on the needs of meal participants, the availability of resources, and the expertise of a registered dietitian nutritionist.
 - » Other nutrition services include additional services provided under Title III, parts C1 or C2, that may be provided to meet nutritional needs or preferences of eligible participants, such as weighted utensils, supplemental foods, oral nutrition supplements, or groceries. (Should not duplicate other federally funded services.)
 - » In addition, § 1321.87 specifies:
 - SUAs shall establish P&P 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.
 - NSIP meal requirements:
 - ◇ Meals are served to individuals who are eligible to receive services under the Act, who have not been means-tested, and who have been provided the opportunity to voluntarily contribute to the cost of services.
 - ◇ Meals meet other requirements of the Act, including the nutritional standards, and are served by an agency that has a grant or contract with an SUA or AAA.
 - NSIP grant funds may only be used to purchase domestically produced foods used in an eligible meal.
- [§ 1321.49 Intrastate funding formula \(IFF\)](#): Requires an IFF for the allocation of nutrition services funds specific to each PSA to AAAs and a statement of how NSIP funds will be distributed.
 - [§ 1321.51 Single PSA states](#): Requires a funds distribution plan which describes how the SUA determines the geographical distribution of nutrition services and NSIP funds.
 - [§ 1321.63 Area agency advisory council](#): Requires each AAA to establish an advisory council, with membership including representatives of service providers, which may include nutrition service providers.
 - [§ 1321.65 Submission of an area plan and plan amendments to the SUA for approval](#):
 - » Includes clarifications regarding assessment and evaluation of unmet need, as well as planned services to be provided, including numbers of individuals to be served, type and number of units, and corresponding expenditures
 - » Specifies what the area plan shall include if the AAA requests a portion of Title III-C1 funds to be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals, as set forth in [§ 1321.87\(a\)\(1\)\(i\)](#)
 - » Reflects statutory updates with respect to inclusion of hunger, food insecurity and malnutrition, and other conditions

Coordination Requirements

- Coordination is required under the Act, and all entities are responsible for coordination, including SUAs, AAAs, service providers, and Title VI grantees.
 - » Regarding Title III/VI coordination, under [part 1321](#), see §§ [1321.53 SUA Title III and Title VI coordination responsibilities](#), [1321.69 Area agency on aging Title III and Title VI coordination responsibilities](#), [1321.95 Service provider Title III and Title VI coordination responsibilities](#), and [1321.103 Title III and Title VI coordination for emergency and disaster preparedness](#).

Emergency & Disaster Requirements

- [§ 1321.99 Setting aside funds to address disasters](#): Clarifies that SUAs may specify that they are setting aside Title III funds (up to 5% of their total Title III allocations) for disaster relief in their IFF or

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- [§ 1321.27\(j\) Content of state plan](#): Specifies what the state plan shall include if the SUA allows for a portion of Title III-C1 funds to be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals, as set forth in [§ 1321.87\(a\)\(1\)\(i\)](#).

funds distribution plan and provides direction as to the process an SUA must follow in order to award such funds for use within all or part of a PSA covered by a specific major disaster declaration (MDD) where Title III services are impacted, as well as requirements with respect to the awarding of such funds.

- [§ 1321.101 Flexibilities under a major disaster declaration: \(b\)](#) Outlines flexibilities an SUA may exercise under an MDD. An SUA must submit a state plan amendment as set forth in [§ 1321.31\(b\)](#) if the SUA exercises any of these flexibilities. The state plan amendment must at a minimum include the specific entities receiving funds; the amount, source, and intended use for funds; and other such justification of the use of funds.

Resources

- [OAA Final Rule](#)
- [Nutrition Services Under Title III webinar slides](#)
- [Title III Grab-and-Go Meals Regulations Fact Sheet](#)
- Additional information on how SUAs, AAAs, and service providers have implemented various P&P is available at ACL's Nutrition and Aging Resource Center: acl.gov/senior-nutrition
- Back to Basics webinar series materials on various key topics, such as Fiscal P&P and Title III/VI Coordination, are available at acl.gov/OAArule