



# AAA Input Session

January 15, 2025



# State Plan Amendments

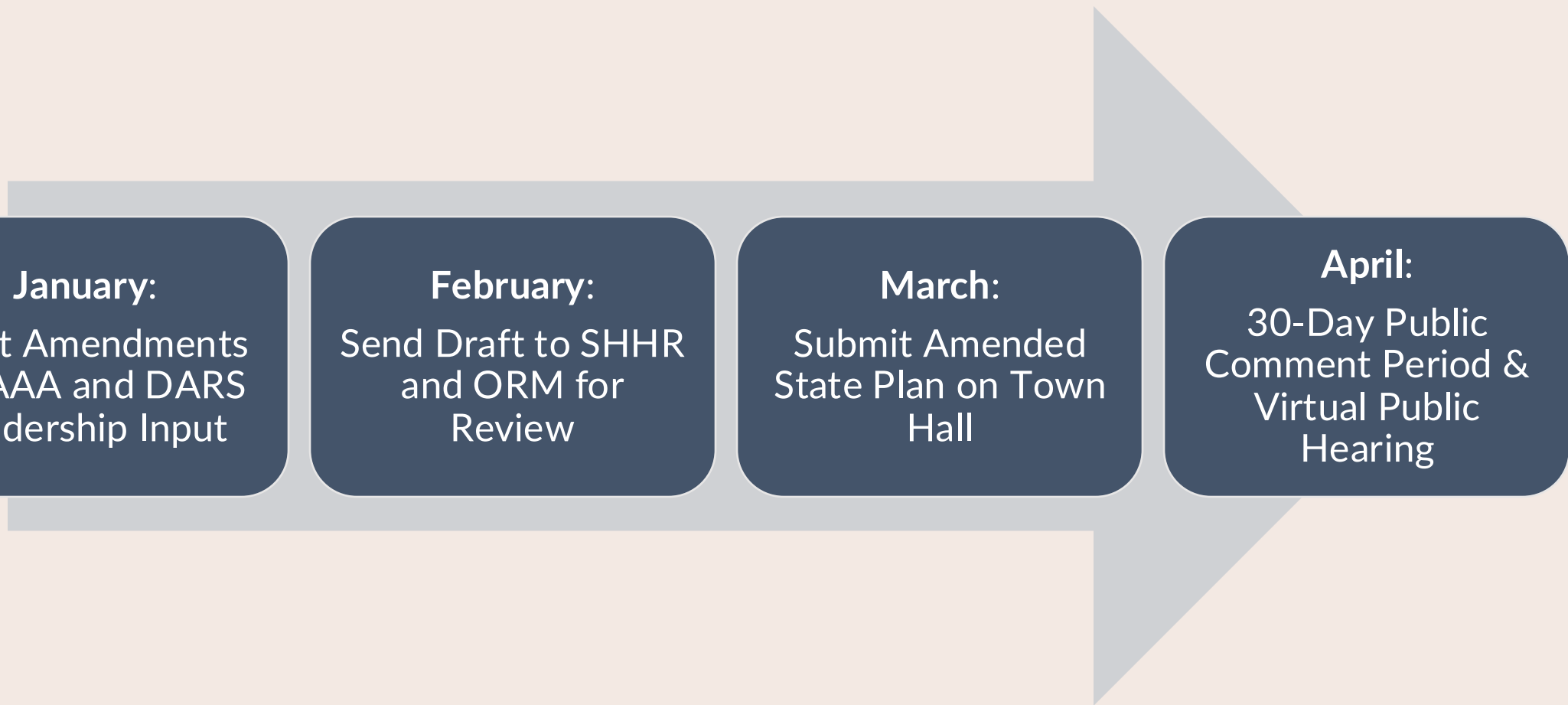
# State Plan for Aging Services

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- DARS is hoping to avoid a Corrective Action Plan (CAP) for the State Plan for Aging Services
- **Hot off the Press!**
  - ACL has finalized the new State Plan Guidance - effective January 13, 2025
- To do that, these are the **hard deadlines**:
  - **June 1**: Submit a draft amended State Plan to the ACL Regional Administrator (Stephanie Cole) for review and input
  - **July 1**: Submit a final/signed amended State Plan to ACL Central Office, via our Regional Administrator, for review and potential approval
- OAA-required tasks that must be accomplished before June:
  - 30-day public comment period
  - [Virtual] public hearing

# Expected Timeline



## January:

Draft Amendments for AAA and DARS Leadership Input

## February:

Send Draft to SHHR and ORM for Review

## March:

Submit Amended State Plan on Town Hall

## April:

30-Day Public Comment Period & Virtual Public Hearing

# Timeline Continued

**May:**

Make Revisions &  
Engage ACL  
Regional  
Administrator (RA)

**June:**

Submit Draft Plan to  
ACL RA; Obtain  
SHHR/Governor  
Approvals

**July:**

Submit Final/Signed  
Plan to ACL

**October:**  
Plan Starts

# Amendments Required

## Logistic Updates

- Cover Page
- Table of Contents
- [Remove Appendix 6]

## Minor Updates

- Letter from the Secretary
- Letter from the Commissioner
- Verification of Intent
- Attachment A: Assurances
- New Attachment D: Geographic Service Boundaries (remove Appendix 6)

## Substantive Updates

- **Attachment B: Information Requirements**
- New Attachment E: Evidence of Public Comment

# Attachment B: Existing

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- The following prompts have not changed, but DARS needs to update our responses:
  - Low Income Minority Older Adults
  - Rural Areas – Hold Harmless
  - Rural Areas – Needs and Fund Allocations
  - Assistive Technology
  - Minimum Proportion of Funds
  - Assessment of Statewide Service Delivery
  - Emergency Preparedness Plans: Coordination & Development
  - Emergency Preparedness Plans: Involvement of the Head of the State Agency

# Attachment B: Revised

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- The following prompts have been revised and DARS will need to update our responses:
  - Greatest Economic and Greatest Social Need
  - Activities to Increase Access and Coordination for Older Native Americans
  - Funding Allocation – [LTC] Ombudsman Program



# Attachment B: New

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- The following prompts have been added and DARS needs to prepare new responses:
  - Native Americans: Greatest Economic and Greatest Social Need
  - Grab & Go Meals
  - Funding Allocation – Elder Abuse, Neglect & Exploitation
  - Monitoring of Assurances
  - State Plans Informed by and Based on Area Plans
  - Public Input and Review
  - Program Development and Coordination Activities (PDCA)
  - Legal Assistance Developer

# Program Development and Coordination Activities (PDCA)

# PDCA: Defined

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- Program Development and Coordination Activities (PDCA)
- Defined in 45 CFR 1321.3:
- “Means those actions to plan, develop, provide training, and coordinate at a systemic level those programs and activities which primarily benefit and target older adult and family caregiver populations who have the greatest social needs and greatest economic needs, including development of contracts, commercial relationships, or private pay programs.”
- “Direct services exclude State or Area Plan Administration and PDCA.”

# PDCA: Contextualized

## Can Be or Includes:

- Development of Private Pay Programs
- Development of Contracts and Commercial Relationships (CCR)
- Exploring a new service that is not currently provided by the AAA
  - Costs associated with research, planning, and training needed in the lead up to “standing up” a new service
  - Example: Housing Navigation
- Exploring 5310 transportation grants

## When It Matters:

When OAA Title III-B Funds are Used to Support It

## Cannot Be or Does Not Include:

- OAA Direct Services
  - PDCA is not a direct service under the OAA
- Area Plan Administration (APA)
  - APA deals with the implementation of OAA programs and specifically the development and delivery of OAA direct services
  - PDCA goes beyond what is entailed in APA

If an AAA uses non-OAA funds for PDCA: It is permissible, and the OAA Final Rule PDCA restrictions or parameters don't apply.

# If Not Permitted with OAA \$

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- If a State does not allow Title III-B funds to be used for PDCA:
  - The State Plan would indicate that the SUA will only permit Title III-B funds to be used for APA and direct services, and Title III-B funds cannot be used for PDCA.
  - Not explicitly required, but reasonably assumed: A SUA should also develop and have a P&P indicating/reinforcing that decision.
  - Nothing further would be required by SUA or AAAs.

# If Permitted with OAA \$

## Step 1:

- The SUA could first indicate in the State Plan that they will permit AAAs to use III-B funds for PDCA, and they could identify some potential opportunities or ways that might occur.
- To gather this type of information, the SUA could informally engage with the AAAs in the lead up to drafting the State Plan.

## Step 2:

- AAA Area Plans, developed after the State Plan, would then describe an AAA's intentions to use III-B funds for PDCA in more detail or with more specificity.

## Step 3:

- The SUA's subsequent State Plan would then be able to further detail how III-B funds have been used for PDCA recently by AAAs and what is expected for III-B funds for PDCA by AAAs moving forward.

State Plan & Area Plans: If OAA funds are permitted for PDCA, an AAA's plans for PDCA use must be included in what is published for public comment.

The SUA & AAA would likely also need P&Ps operationalizing PDCA use.

# PDCA: State Plan Requirements



- 45 CFR 1321.27 (h): Certification that any PDCA shall meet the following requirements:
  - (1) The State agency shall not fund PDCA as a cost of Supportive Service under Area Plans until [the AAA] has first spent 10% of the total of its combined allotments under Title III on the Administration of Area Plans;
  - (2) PDCA must only be expended as a cost of State Plan Administration, Area Plan Administration, and/or Title III, Part B Supportive Services;
  - (3) SUAs and AAAs shall, consistent with the Area Plan and budgeting cycles, submit the details of proposals to pay for PDCA as a cost of Title III, Part B Supportive Services to the general public for review and comment; and
  - (4) Expenditures by the SUA and AAAs on PDCA are intended to have a direct and positive impact on the enhancement of services for older individuals and family caregivers in the PSA.
- See also: [ACL State Plan Guidance: Attachment B Information Requirements](#)

# PDCA: Virginia Impacts

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- Regardless of the decision to allow or not allow Title III-B funds for PDCA, the current service “Long-Term Care Coordinating Activity” will be discontinued.
  - DARS consulted with ACL on this.
  - ACL indicates that this service does not meet the minimum criteria for an allowable OAA “direct service” and it falls within the realm of PDCA.
  - Eight of 25 AAAs currently allocate OAA funds to LTC Coordinating Activity in their Area Plans.
  - Starting October 1, 2025, this will not be included in the Area Plans or permitted with Title III-B funds.



# PDCA: Addt'l Considerations

- PDCA is Still Somewhat Abstract: Fine Line



- Tracking & Monitoring Use

- DARS does not currently have mechanisms in place to track or monitor the use of OAA funds for PDCA to ensure compliance with the OAA Final Rule requirements
  - For example: The requirement that the AAA first spend 10% of the total of its combined allotments under Title III on APA before spending III-B funds on PDCA

- What We Know Is Still Limited

- While ACL intends to issue additional guidance on this topic, it is unclear when that will be issued.

# PDCA: DARS Recommends



## Option 1: Virginia does not permit III-B funds for PDCA

- Include in State Plan for Aging Services Amendment (under development now)
- At this time, DARS is leaning toward this option, recognizing there is always the potential to switch to Option 2.

## Option 2: Virginia does permit III-B funds for PDCA

- ASAP:
  - Need specific information from AAAs on what that looks like
  - Include details in State Plan for Aging Services Amendment
- This Spring:
  - Update Area Plan Template & Area Plans
  - **Has to include specific details**
- Leading up to October 1:
  - Update AMR
  - Update AAA Monitoring Process

AAA Input: What do you think?

# <5 Day Congregate Meal Sites

# Requirement & Expectation



**OLDER AMERICANS ACT:** Requires the establishment and operation of congregate sites that provide at least 1 hot or other appropriate meal per day on 5 or more days a week (except in rural areas when not feasible and under a waiver)

**EXPECTATION:** Each AAA will have at least 1 congregate meal site open within the PSA across 5 days within the week

- Not all congregate meals sites need to be open 5 days a week
- However, a congregate site must be open within the PSA on 5 different/distinct days within the course of 1 week

Source: Older Americans Act, 42 USC §§ 3030e and 3030f; Guidance from ACL for DARS on <5 days per week waivers

# Current AAA Activities

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- Of the 25 AAAs, only 3 AAAs do not have 1 congregate meal site open within the PSA open across 5 days within a week
  - Two of these AAAs are exclusively rural
    - One AAA has 2 total congregate sites throughout the PSA
    - One AAA has 7 total congregate sites throughout the PSA
  - One of these AAAs has some rural localities, but is mostly urban
    - This AAA has 8 total congregate meal sites throughout the PSA

# Waivers

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- The OAA permits State Units on Aging (SUA) to grant waivers under the following conditions:
  1. The area is rural
  2. The requirement is not feasible
- It is at the SUA's discretion to grant a waiver that meets the criteria above (1 and 2)

# Implementation

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- DARS will be creating a waiver process through the AAA Area Plan Template
- AAAs that will be eligible to apply for a waiver from this expectation must:
  1. Be majority rural (measured by locality using the Intrastate Funding Formula “rural” measure; >50% of localities must be rural in the PSA) **AND**
  2. Must demonstrate, through the provision of thorough information and documentation, that it is not feasible to meet the expectation
- For waivers that are granted, DARS will require the AAA get the waiver renewed annually as part of the AAA Area Plan update process
  - This will include updating the information provided to demonstrate that it is not feasible to meet the expectation (#2 above)

# Implementation Continued

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- DARS will be reaching out to the 3 AAAs to discuss the viability of scheduling changes to meet the 5-day expectation
  - This is the simplest path forward to meeting the OAA requirement
  - However...
- If truly needed, the:
  - Two rural AAAs would be potentially eligible for a waiver from the expectation
    - Remember, a waiver request does not guarantee DARS' approval
  - The third AAA would not be eligible; it does not qualify as rural
    - DARS will be working with this AAA to confirm their plans for meeting the OAA requirement by October 1, 2025
- This requirement & process stands separate from guidance, discussions, and decision-making around Grab & Go meals for C1 participants on the days when congregate sites are closed



**Any Questions?**

**Grab & Go**

# Level Setting: Title III-C



## C1: Congregate Meals

- Establishment and operation of congregate sites that provide at least one hot or other appropriate meal per day on 5 or more days a week (except in rural areas when not feasible and under a waiver)

## C2: Home-Delivered Meals

- Establishment and operation of HDM program that provides at least 1 HDM per day, which may consist of hot, cold, frozen, dried, canned, or fresh foods, on at least 5 or more days a week (except in rural areas when not feasible and under a waiver)

Source: Older Americans Act, 42 USC §§ 3030e and 3030f

Note: Stay tuned for potentially more guidance from ACL for DARS on <5 days per week waivers

# Grab & Go: Allowances

## C1: Congregate Meals

- Federal regulatory and funding cap restrictions/limitations apply
- State Plan & Area Plan requirements must be met

## C2: Home-Delivered Meals

- Permitted with no restrictions/limitations
- DARS will be incorporating this in the Area Plan Template for transparency

# Grab & Go Meals – Defined



- **Definition:** includes **shelf-stable**, pick-up, carry-out, drive-through, or similar meals provided under Title III-C1
- **Funding Cap:** Grab & Go Meals provided shall not exceed 25% of the funds expended by the State agency or any AAA under Title III, part C-1, to be calculated based on the amount of Title III, part C-1 funds available after all transfers are completed
  - The SUA has a funding cap, and each AAA has their own funding cap
- **Allowance Applications:** Such meals can be provided to complement the congregate meal program:
  - (A) During disaster or emergency situations affecting the provision of nutrition services;
  - (B) To older individuals who have an occasional need for such meal; and/or
  - (C) To older individuals who have a regular need for such meal, based on an individualized assessment, when targeting services to those in greatest economic need and greatest social need; and

Source: 45 CFR § 1321.87(a)(1)(ii)

# Grab & Go: PeerPlace & AMR



- To better understand the current scope of Grab & Go using C1 funds by AAAs, DARS implemented changes to the AMR to capture the meal units that AAAs need to map through PeerPlace
- However, only 8 AAAs have been mapped so far
- DARS will be reaching out to the remaining AAAs to ensure all AAAs are mapped
  - You never know when you will need to capture C1 Grab & Go for an emergency (A) or occasional need (B)
- Capturing this data is essential to DARS' understanding of Grab & Go using C1 for future planning and potential allowances

# State Plan Amendment



- The practical reality is DARS still does not know enough about Grab & Go, including:

## ACL's Interpretation or Application of the Regulatory Requirements

- Still New
- All states are trying to figure this out

## Minimal Reporting Data is Available from the AAAs on Current Use

- Too short of data collection period
- Not enough AAAs entering data

## Interplay between C1 Waivers for <5 Days Per Week and the Grab & Go C1 Permissions/Restrictions

- DARS will be working through this as needed with the relevant AAAs

- Nonetheless, a State Plan Amendment is required to be submitted to ACL by July 1, 2025 (following a 30-day public comment period and prior administration approvals)

# State Plan Requirement

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- 45 CFR § 1321.27 (j): If the SUA allows for Title III, part C-1 funds to be used for Grab & Go, the SUA must include the following in the State Plan:
  1. Evidence, using participation projections based on existing data, that provision of such meals will enhance and not diminish the congregate meals program, and a commitment to monitor the impact on congregate meals program participation;
  2. Description of how provision of such meals will be targeted to reach those populations identified as in greatest economic need and greatest social need;
  3. Description of the eligibility criteria for service provision;
  4. Evidence of consultation with AAAs, nutrition and other direct services providers, other stakeholders, and the general public regarding the provision of such meals; and
  5. Description of how provision of such meals will be coordinated with AAAs, nutrition and other direct services providers, and other stakeholders.

Source: 45 CFR § 1321.27 (j); Draft State Plan Guidance from ACL, Attachment B, Pages 33-34



# DARS Recommends



Given the information we have at hand now, DARS intends to permit the following uses for Grab & Go using C1 funds:

- (A) During disaster or emergency situations affecting the provision of nutrition services, and
- (B) To older individuals who have an occasional need for such meal

Lacking adequate information and evidence to complete the State Plan requirements, DARS intends to not allow the following use for Grab & Go using C1 funds (for now):

- (C) To older individuals who have a regular need for such meal, based on an individualized assessment, when targeting services to those in greatest economic need and greatest social need
- This can be reevaluated over the next two years in preparation for the submission of Virginia's 2027-2031 State Plan for Aging

AAA Input: What do you think?

# References/Full Text

If Needed

# <5 Days HDM Citation

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- From Title 42-THE PUBLIC HEALTH AND WELFARE
- CHAPTER 35-PROGRAMS FOR OLDER AMERICANS
- SUBCHAPTER III-GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING
- Part C-Nutrition Services
- subpart ii-home delivered nutrition services
- §3030f. Program authorized
- The Assistant Secretary shall establish and carry out a program to make grants to States under State plans approved under section 3027 of this title for the establishment and operation of nutrition projects for older individuals that provide-
  - (1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, or fresh foods and, as appropriate, supplemental foods, and any additional meals that the recipient of a grant or contract under this subpart elects to provide; and
  - (2) nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal recipients.

# <5 Days Congregate Meals

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- From Title 42-THE PUBLIC HEALTH AND WELFARE
- CHAPTER 35-PROGRAMS FOR OLDER AMERICANS
- SUBCHAPTER III-GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING
- Part C-Nutrition Services
- subpart i-congregate nutrition services
- §3030e. Grants for establishment and operation of nutrition projects
- The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 3027 of this title for the establishment and operation of nutrition projects that-
  - (1) 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by regulation) and a lesser frequency is approved by the State agency), provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide;
  - (2) shall be provided in congregate settings, including adult day care facilities and multigenerational meal sites; and
  - (3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants.

# 45 CFR § 1321.87(a)(1)(ii)



- Title III C-1 funds may be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals, subject to certain terms and conditions:
- (A) Such meals must not exceed 25 percent of the funds expended by the State agency under Title III, part C-1, to be calculated based on the amount of Title III, part C-1 funds available after all transfers as set forth in 45 CFR § 1321.9(c)(2)(iii) are completed;
- (B) Such meals must not exceed 25 percent of the funds expended by any area agency on aging under Title III, part C-1, to be calculated based on the amount of Title III, part C-1 funds available after all transfers as set forth in 45 CFR § 1321.9(c)(2)(iii) are completed;
- (iii) Such meals are to be provided to complement the congregate meal program:
  - (A) During disaster or emergency situations affecting the provision of nutrition services;
  - (B) To older individuals who have an occasional need for such meal; and/or
  - (C) To older individuals who have a regular need for such meal, based on an individualized assessment, when targeting services to those in greatest economic need and greatest social need; and