

Department | Office of of Health

Mental Health

Office of Alcoholism and **Substance Abuse Services**

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Cost-Effective Alternative Services (In Lieu of)

Effective July 6, 2016, federal regulations allowed and clarified the use of cost-effective alternative services that are approved by the New York State (NYS or State) to be offered by Medicaid Managed Care Organizations (MMCOs). These regulations encourage innovation and promote efficiency and quality by enabling MMCOs to offer their enrollees physical and behavioral health services that are not covered under the Medicaid State Plan.

MMCOs may, as a cost-effective alternative to Medicaid State Plan services and settings, provide Medicaid Managed Care enrollees with alternative services and settings as permitted by 42 CFR 438.3(e)(2) and approved by the State and the Centers for Medicare and Medicaid Services (CMS). These cost-effective alternative services are often referred to as "in lieu of services" (ILS). The cost of such services must be included in the development of the MMCO rates.

ILS are defined as alternative services or settings that are not included in the Medicaid State Plan but are medically appropriate, cost-effective substitutes for covered services or settings. 1 "State Approved ILS" means ILS proposed by an MMCO that has been approved by the State. "State Identified ILS" means ILS that has been identified by the State as appropriate ILS for the Medicaid Managed Care program. Both State Approved and State Identified ILS will be posted on State agency websites.

Requirements for ILS Provision:

- MMCOs may not provide ILS pursuant to 42 CFR 438.3(e)(2) without first applying to the State, obtaining State and CMS approval to offer the ILS, and demonstrating all of the following requirements will be met. Pursuant to 42 CFR 438.3(e)(1), MMCOs may voluntarily agree to provide any service to an enrollee outside of an approved ILS construct, however the cost of such voluntary services may not be included in determining State premium rates.
 - Voluntary for Enrollee: A MMCO cannot require an enrollee to use an ILS instead of a State Plan covered service or setting but can offer enrollees the option of such services when doing so would be medically appropriate and cost-effective.
 - Voluntary for MMCO: It is a MMCO's option to offer ILS. A MMCO may apply to the State for approval if it chooses to provide an ILS.
 - o Proposals for ILS must demonstrate that the alternate services are medically appropriate and cost-effective. The plan is responsible to calculate the cost-benefit analysis.
 - Proposal must clinically define target population and criteria for the alternate service(s).

^{1 42} CFR 438.3(e)(2), https://www.ecfr.gov/cgi-bin/textidx?SID=b91d306244cadc49c856f6b4539ec2b5&mc=true&node=se42.4.438 13&rgn=div8.

- o ILS may not include expenditures that are prohibited by CMS, such as training or equipment for law enforcement and room and board.²
- ILS must be approvable through a State plan amendment authorized through the Social Security Act, including sections 1905(a), 1915(i), or 1915(k) of the Social Security Act, or a waiver under section 1915(c) of the Social Security Act.
- The MMCO shall comply with all applicable requirements contained within the Medicaid Managed Care/ Family Health Plus/ HIV Special Needs Plan/ Health and Recovery Plan Model Contract, including section 10.43- Cost-Effective Alternative Services.
- Once the State approves an ILS application for an MMCO:
 - The ILS must be added to the MMCO's Medicaid Managed Care contract (amendment to Appendix M), which must be reviewed and approved by CMS prior to implementation.
 - o The ILS will be posted on State agency websites as a State Approved ILS.
 - o The cost and utilization of ILS will be factored into the medical portion of the MMCO's rates.
 - MMCO must inform enrollees of new ILS benefits and must post approved ILS publicly, including on MMCO website and in an updated member handbook or member handbook insert.
 - The MMCO will be responsible for offering the ILS to all enrollees that meet the defined population and criteria for the alternate service. The MMCO must utilize a consistent process to ensure that a provider (either the MMCO's licensed clinical staff or participating provider) using their professional judgment, and assessing the enrollee presenting medical condition, preferred course of treatment, and current or past medical treatment determines and documents that the ILS is medically appropriate for the specific enrollee. This documentation could be included, for example, in an enrollee's care plan or medical record.
 - ILS must be provided in a manner that preserves enrollees rights and protections guaranteed to Medicaid Managed Care enrollees in accordance with federal regulations and guidance. Enrollees have the right to request appeal, external appeal, and fair hearing regarding the denial of a State approved ILS being offered by the MMCO.
 - Encounter data tracking: Plans must use rate codes that have been approved by the State to track the claiming and provision of ILS.
 - Cost reports: Plans must have mechanisms to track and report ILS expenditures in a manner and format established by the State.

Termination of ILS:

- State-initiated termination: State may terminate an ILS if it is determined to be harmful to the enrollee and/or is not cost effective, or upon direction by CMS.
- MMCO-initiated termination: MMCO may terminate an ILS upon notice to NYS. The MMCO must publicize a termination date and provide 90 days' notice to enrollees. The MMCO must create and implement a plan for continuity of care for member(s) who are in receipt of the ILS.
- Termination date must occur at the end of the fiscal quarter, except in the case the ILS is terminated due to a threat against the health, safety, or welfare of the plan's enrollees.

² Unless otherwise specified in statute or regulation, section 4442.3.B.12 of the State Medicaid Manual, defines "room" as hotel or shelter-type expenses, including all property-related costs (e.g., rental or purchase of real estate and furnishings, maintenance, utilities, and related administrative services) and defines "board" as three meals a day or any other full nutritional regimen.

Process for Requesting Approval of In Lieu of Services:

MMCOs must complete the In Lieu of Request Form attached to this guidance and submit for review and approval to the NYS Department of Health at: lLS@health.ny.gov.

MMCOs may apply to the State for approval to:

- 1) provide State Identified ILS completing only Section One below;
- 2) provide a State Approved ILS previously developed by another MMCO as posted on State agency websites by completing only Section One below; and/or
- 3) Initiate a new ILS by completing the full application.

The State will use the information provided by the MMCO via this Request Form to approve or deny the request, and to serve as documentation for the State's actuary and/or CMS regarding the cost-effectiveness of the service. The Office of Mental Health and the Office of Alcohol and Substance Abuse Services, in consultation with the Department of Health, will determine the clinical appropriateness of the proposed ILS intended for Health and Recovery Plan (HARP) enrollees and for Behavioral Health ILS.

MMCOs may submit requests for approval of ILS to the State at any time. The State will review requests upon receipt. Upon State and CMS approval, plans may begin providing the ILS only at the beginning of a State fiscal quarter.

New York State Medicaid Managed Care In Lieu of Services Request Form

The MMCO should answer each question as comprehensively as practical. Questions should be directed to ILS@health.ny.gov at the New York State Department of Health

MMCO INFORMATION

Date:	
MMCO Plan Name:	
Contact Person:	Title:
Phone:	Email:

SECTION ONE:

Complete only this section to provide State Approved or State Identified ILS. Add additional lines if necessary. If the MCO is modifying <u>any portion</u> of the State Approved or State Identified ILS, describe the change by completing the appropriate section(s) in Section Two of this form.

1.

ILS to be Provided	NYS Authorization Number	Expected start date for provision of service	Target area for availability of service	Related to DSRIP/VBP?
A. Medically Tailored Meals (MTM)	(Leave blank)	Must be at the beginning of a State fiscal quarter upon State and CMS approval.		No
В.				
C.				

o moi	nitor the provision,	utilization, qualit	y, cost-benefit	•	es your MCO will use s of the in lieu of	е
Prvic	e. MUST be comple	ted for State Ider	ntified ILS.			

SECTION TWO:

Complete this section if the plan is initiating a new ILS. Complete appropriate areas as necessary if the MMCO is modifying a State Approved or State Identified ILS.

1. In Lieu Of Service Name and Description – Describe the proposed in lieu of service with sufficient detail so that the State can evaluate and assess the nature of this request. (One service per request form)

Proposed In Lieu of Service					
A. Service name	Medically Tailored Meals (MTM)				
	Home delivered MTMs will be available to individuals 18yrs or older, living with severe illness through a referral from a medical professional or healthcare plan. Meal plans will be tailored to the medical needs of the recipient by a Registered Dietitian Nutritionist (RDN), and designed to improve health outcomes, lower cost of care, and increase patient satisfaction. MTM services will include an initial intake with an RDN and nutritional therapy to discuss meal composition. MTM will substitute for one of the following:				
B. Description of service, including which State Plan service this may be offered as a substitute for	 Personal Care Aide (PCA) service – PCA hours allotted for meal preparation and food shopping may be substituted for delivery of MTM. Members who opt in to receive MTM in lieu of meal preparation and food shopping hours will incur a reduction in the number of PCA hours they receive. The hours reduced will depend on the number of meals the individual receives. 				
	 Hospital Inpatient stays and/or Emergency Department visits – high- volume service utilizers with hospital inpatient stays and emergency department visits related to cancer, diabetes, heart failure, and/or HIV/AIDS. High-volume service utilization being defined as: Two or more Hospital Inpatient stays related to cancer, diabetes, heart failure, and/or HIV/AIDS within the last 12 				
	months; or Five or more Emergency Department visits related to cancer, diabetes, heart failure, and/or HIV/AIDS within the last 12 months; or One Hospital Inpatient stay AND four Emergency Department visits related to cancer, diabetes, heart failure, and/or HIV/AIDS within the last 12 months.				
C. Proposed procedure code(s)	HCPCS Code S5170 SE– home delivered meal, including preparation, per				
defining service (must include	meal				
SE modifier)					
D. Is this ILS related to a DSRIP	No. This ILS is being issued as part of MRTII SDH initiative. The purpose is to				
project or VBP contract?	promote social determinant of health interventions.				
E. Expected start date for provision of service	Must be at the beginning of a State fiscal quarter upon State and CMS approval.				

	ILS may be offered in full Medicaid Managed Care Plan (MMCP) service area. MMCOs must contract with an eligible provider for MTM services. Identified MTM providers include: God's Love We Deliver The Food Pantries for the Capital District FeedMore of Western New York. Mom's Meals
to provide this service within each target area	MMCOs must partner with an organization that has the capacity to prepare and deliver meals according to Food is Medicine Coalition (FIMC) MTM nutritional standards, to individuals in their homes under the supervision of a Registered Dietitian Nutritionist (RDN). The provider must have experience providing Medically Tailored Meals; infrastructure to perform necessary tasks and services, including tracking service delivery and data collection.

2. Information about the Population(s) that may receive the In Lieu Of Service – Describe the clinically oriented target managed care population that will use/receive the proposed in lieu of service.³

Population	Age Range	Approximate Number of Expected Users over 12–Month Period	Characteristics of the Population (e.g., acuity level, gender, family status, placement setting, other)
Adults	18+	N/A	 Eligible individuals must meet the following criteria: High-volume service utilizer (as defined above) with at least one of the following diagnoses: cancer, diabetes, heart failure, and/or HIV/AIDS, OR Limited in ability to perform ADLs Recommended for MTM by a healthcare provider or MCO Must have a secure place to store and heat meals Must be able to benefit from the MTM intervention to improve overall health

3. Goals and Objectives- Describe the rationale for providing this service.

Maintaining proper nutrition is essential for all individuals and is particularly important for those experiencing serious or chronic illness. Poor nutrition is associated with reduced control of chronic conditions. Providing MTM will reduce food insecurity and prevent malnutrition by providing healthy, balanced meals. Providing MTM as a partial substitute for PCA services with allotted meal preparation and food shopping duties can reduce Medicaid spend since the PCA hours will not be needed for these tasks. MTM can also reduce costs by decreasing monthly healthcare costs and reducing inpatient hospital stays and ED utilization. In addition, the meals will be prepared for the individual based on their specific medical needs, ensuring that they are eating a proper diet to improve their overall health and symptoms of chronic disease.

³ MMCO's should utilize experience and knowledge of their enrolled populations and any research/findings available regarding the proposed ILS to best estimate or approximate the information requested. The State will use this information in its assessment of the MMCO's application; however, will not consider the estimates or approximations as binding for actual service delivery or outcomes

4. Expected Outcomes – Describe the expected outcomes resulting from the provision of this in lieu of service on member's health status, utilization of services, cost of care, functional status and/or community integration. If your MMCO has provided this service in other programs or states, please describe the outcomes observed. The purpose of this question is to inform how the service will provide the same or better quality of care as the State Plan service for which it is being substituted.³

Increasing research indicates that MTM is an effective strategy for achieving the "triple aim" – better quality care, more cost-effective care, and improved patient satisfaction. MTM can improve care quality by providing meals prepared for each individual's specific health and dietary needs. MTM can ensure that highly specific dietary needs of those with cancer, HIV/AIDS, heart failure, and diabetes are consuming the nutrients that their bodies need to become and remain healthy. MTM is a low-cost, high-impact intervention that can reduce overall Medicaid spend, inpatient hospitalizations, and ED utilization. Finally, MTM can improve patient satisfaction by providing a diet that will reduce side effects of chronic conditions and prevent malnutrition. MTM deliveries can also provide social interaction for those who are generally isolated from their communities.

5. Staffing Qualifications, Credentialing Process, and Levels of Supervision, Administrative, and Clinical Required – Describe the provider's licensure or certification (if required), staffing patterns, and clinician oversight (if required) over unlicensed practitioners. Describe how your MMCO will enroll/screen qualified providers that meet the requirements to deliver the service with the quality outlined in #4 above.

MTM providers must have the capacity to prepare and deliver meals to individuals at their homes. Eligible Medicaid members will be assessed, and all meal plans must be approved by a RDN. Medicaid members must be referred to the program by a healthcare provider or health plan. In addition, providers must offer nutrition education and counseling to Medicaid members served. Special diets, including diabetic and heart healthy, must be available. All individuals who work with food must receive food safety training and providers must consistently receive passing grades on all safety inspections by the local department of health.

6. Unit of Service – For each proposed procedure code listed in question #1, what is the unit of service that defines this alternative in lieu of service (e.g., 1 hour, 1 day, a visit, 15 minutes)? If different units of service apply to different procedure codes, delineate in the following table as applicable. Add more rows as needed.

Procedure Code	Unit of Service Definition	Other Information (optional)
HCPCS Code S5170 SE – home delivered meal, including preparation; per meal	Per meal	Costs of intake, screening, nutrition assessment and education, meal preparation, and delivery are included in the unit cost of each medically tailored meal.

7. Anticipated Units of Service per User – For each proposed procedure code listed in question #1, what is the anticipated average number of expected users and average number of units per expected user over a 12-month period? (Time frame, LOS, expected units) If this metric varies by population, delineate by population type.³

Population	Age Range	Approximate Number of Expected Users over 12–Month Period	Procedure Code (must indicate unique identifier to track service)	Approximate Number of Units of Service Per User Per 12–Month Period
Adults	18+	N/A	HCPCS Code S5170 SE – home delivered meal, including preparation; per meal	The total number of units per user (1 unit = 1 meal) for a 12-month period would be 728 meals (up to 14meals/ week for 52 weeks) For this ILS, MMCOs will utilize a 6-month authorization period. The total number of units per user will be 364 meals (up to 14 meals/ week for 26 weeks)

8. Targeted Duration of Service – For the service, describe the expected average duration of the service to achieve the desired outcomes. This could be the average length of treatment/care (e.g., 6 weeks, 6 months) or, if the service is not directly tied to a course of treatment, it could be the frequency at which the service is expected to be delivered to each user (e.g., weekly, monthly, as needed).

MMCOs will utilize a 6-month authorization period for MTM services. MTM recipients will participate in the program for a minimum 6-months, with the potential to extend MTM services if the need persists. Members will receive up to 2 meals/day through the program.

9. Cost-Effectiveness – For the population intended to receive the in lieu of service, provide information on the cost-effectiveness of the in lieu of service versus the State Plan service(s) available. The State is requesting this information to determine if the requested in lieu of service is cost-effective, consistent with the provisions of 42 CFR 438.3(e)(2).³

This question requires the MMCO to complete two Parts: Part 1 requests information on expenditures on the State Plan service(s) that the in lieu of service would be offered to replace, and Part 2 requests information on anticipated expenditures on the in lieu of service.**

For the in lieu of service to be considered cost-effective, the total expected expenditure on the in lieu of service must be less than or equal to the total expected cost of comparable State Plan service(s).

Part 1: Computation of Comparable State Plan Service(s) Cost (include type, amount, frequency, etc.)

State Plan Service Name/Description	State Plan Service Identifying Code(s)	Unit of Service Definition	Average Number of Expected Users over 12–Month Period	Average Number of Units of Service Per User Per 12- Month Period	Average Unit Cost
Personal Care Assistant (PCA) with meal prep	S5130, T1019, T1020	Per hour	N/A	7.00hrs of PCA meal prep per week. At 7.00hrs/per week, the average number of service unit for 12-month period, will be 364hrs of PCA with meal prep.	Average unit cost is \$18.83- \$29.64 per hour
Emergency Department	Professional-CPT 99281 99282 99283 99284 99285 Ambulatory Payment Classification (APC) 5021 5022 5023 5024 5025	Per visit	N/A	N/A	Average cost per visit: \$278
Hospital Inpatient Stays	Professional -CPT 99221 99222 99223 99231 99232 99233	Per day	N/A	N/A	Average cost per stay: \$12,234

Part 2: Computation of In Lieu Of Services Cost (include type, amount, frequency, etc.)

In Lieu Of Services Name/Description	In Lieu Of Services Identifying Code(s)	Unit of Service Definition	Average Number of Expected Users over 12–Month Period	Average Number of Units of Service Per User Per 12–Month Period	Average Unit Cost
Medically Tailored Meals	S5170 SE	Per meal	N/A	For a 6-month intervention, each user will receive 364 meals total (2 meals/day)	\$9.50/meal

- ** MCOs may propose a different cost analysis approach that includes comparison of state plans services vs ILS to demonstrate projected cost with and without ILS.
- 10. Encounter Data Reporting Describe the process by which your MMCO will submit valid and complete encounter data applicable to the in lieu of service. If possible, include descriptions of record/claim type(s), provider codes/taxonomies, and other data elements so that the State and its actuary will have the ability to locate and analyze actual encounter data for the requested in lieu of service.

All Medically Tailored Home-Delivered meal encounters will be submitted to the NYS All Payer Database (APD), consistent with the requirement of all other MMCO encounters. **Procedure code: S5170 SE.** NYS will track this service using encounter data reported.

Additionally, MMCO will be required to submit patient level information using attached **MTM Reporting Template** on a quarterly basis, to track utilization and ILS service evaluation.

11. Financial Statement Reporting – Please explain your MMCO's ability to track in lieu of service expenditure. These expenditures will be required to be reported in the plans Operating Reports (i.e., MMCOR). The information will inform the State and its actuary the amount of in lieu of expenditure for the development of prospective managed care capitation rates.

Cost and Utilization for this MTM ILS should be reported on Medicaid Tables 21 and 21A and HARP Tables 21 and 21A (Tables 23 and 23A for SNPOR).

12. MMCO Monitoring Activities – Describe activities, reports, and/or analyses your MMCO will use to monitor the provision, utilization, quality, cost-benefit and/or outcomes of the in lieu of service. This MUST be completed for state identified ILS.

Must be completed by MMCO in section 1, question 2 of the application.

13. Other Information – Provide any other relevant information for the State's consideration of this request. This could include, if the MMCO wishes to submit it, information like references to medical and scientific evidence in support of the proposed ILS, provider- and/or enrollee facing information regarding of the purpose of the ILS, authorization requirements for ILS, or other operational considerations.

N/A for State Identified ILS.

Attachment I: Medically Tailored Meals Nutritional Standards

Medically tailored meals are:

- Delivered to individuals living with severe illness through a referral from a medical professional or healthcare plan;
- Meal plans are tailored to the medical needs of the recipient by a Registered Dietitian Nutritionist (RDN) and designed to improve health outcomes, lower cost of care and increase patient satisfaction; and
- Delivered in accordance with the FIMC MTM Nutrition Standards.



Nutrition Standards

Nutrient	DASH TLC Heart Healthy (Standard Diet)	HIV/AIDS	HIV/AIDS + HLD (hyperlipidemia)	Elderly	Kidney Chronic Stages 1-5 (non- dialysis)	Kidney ESRD/Dialysis	Diabetes/Pre-diabetes	Heart Failure
Calories	As per individual needs	Needs vary similar to healthy individuals	Needs vary	Needs vary	23-35 kcal/kg	25-35 Koal/kg	Needs vary	Higher if catabolic
Protein % of total dally calories	18% Daily calories Lean meats/plant-based sources	*10-35% of daily calories Individualized	10-35% of daily calories individualized	N/A	N/A	N/A	Individualized macronutrient composition addressed in practice.	N/A
Protein g/kg body weight	N/A	N/A	N/A	1-1.25g/kg (NCM)	GFR<50=0.6-0.8g/kg	HD 1.2 g/kg PD 1.2-1.3 g/kg		1.1g/kg is stable 1.3 g/kg if depleted for CHF
Carbohydrate % total dally calories	55% daily calories Emphasize whole grains + vegetables	N/A	N/A	45-65% daily calories	N/A	N/A		N/A
Total Fat % total dally calories	25-35% daily calories	N/A	25-35% of total daily calories	20-35% of daily calories	N/A	N/A		N/A
Saturated Fat % total daily calories	6-7% daily calories	<10% **	<7% total daily calories	<10% daily calories	N/A	N/A	<7%	<7%
Sodium (mg)	2300 mg for stendard 1500 mg for lower NA DASH	DGA	DGA	2300 mg/day	<2400 mg/day	<2400 mg/day	<2300 mg/day	CHF: 2000-3000 mg/day *
Cholesterol	150	DGA	<200 mg/day	<300 mg/day	N/A	N/A	N/A	<200mg/day
Fiber (g)	25-31g	*14g/1000	*14g/1000	30 g Male 21 g female 14g/1000 Kcal	N/A		N/A	Female: 21-25g Male: 25-28 g Soluble fiber 7-13 g
Vitamin D (IU)	N/A	600 IU**	600 IU	800	N/A	N/A	RDA	600 IU
Calcium (mg)	1000-1200 mg	1000 mg **	1000 mg	1200	Stages 3-5 not to exceed 2000 mg/day		RDA	1000 mg
Potassium	4700 mg	DGA	DGA	4700	Stages 3-5 < 2400 mg/day	<2400 mg/day	DGA	N/A
Phosphorus	N/A	N/A	N/A	700	Stages 3-5 800- 1000mg/day or 10-12 mg P04/g protein	800-1000 mg or 10-12 mg/g protein	RDA	N/A
Reference for Evidence Based Guidelines	DASH TLC	*EAL **DGA (link)	EAL	NCM	EAL	NKF-K/DOQI EAL AND Nutrition care Manual	ADA EAL	EAL

N/A= not applicable because guidelines do not exist for this value, is not relevant for condition or listed elsewhere on chart NCM – Academy of Nutrition and Dietetics Nutrition Care Manual (nember only site) https://www.nutritioncaremanual.org
DGA= Dietary Guidelines for Americans – https://health.gov/diateravguidelines/2015/guidelines/
NKF KDOQI = National Kidney Foundation Kidney Disease Quality Initiative – https://www.kidney.org/professionals/guidelines

RDA/DRI Reports https://www.nal.usda.gov/fnic/dri-nutrient-reports
DRI's Interactive - https://www.nal.usda.gov/fnic/interactiveDRI/
EAL = Evidence Analysis Library from AND and the Evidence-based Nutrition Practice Guideline -(member only access) https://www.andeal.org

ADA Standards of Medical Care for Diabetes-2017- http://care.diabetesjournals.org/content/diacare/suppl/2016/12/15/40.Supplement 1.DCI/DC 40 51 final.pdf TLC- Therapeutic Lifestyle Changes (NIH/NHLBI)- https://www.nhlbl.nih.gov/files/docs/public/heart/chol_tlc.pdf
DASH Diet - https://www.nhlbl.nih.gov/files/docs/public/heart/hbp_low.pdf

Courtesy of: www.fimcoalition.org

References:

Berkowitz SA, Terranova J, Randall L, Cranston K, Waters DB, Hsu J. Association between receipt of a medically tailored meal program and health care use. JAMA Intern Med. 2019;179(6):786-793. doi:10.1001/jamainternmed.2019.0198

Refers to the EAL (Updated from AND November 2017)

Attachment II: MTM Reporting Template

MMCOs will utilize the attached template to collect and report member level information on a quarterly basis, for the purpose of tracking MTM utilization and program evaluation. Reporting Template can also be accessed and downloaded at Initiatives (ny.gov)

