



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

CERTIFIED MAIL RECEIPT #70163010000073891824

November 22, 2017

Byron Moore, Chairman of the Board
Sonia Washington, Director
Ernestine Rivers Child Care Center
1492 Mississippi Boulevard
Memphis, Tennessee 38106-5770

RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP) Agreement Number 00-264 and Demand for Overpayment.

Dear Mr. Moore and Ms. Washington:

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced on-site review of the Child and Adult Care Food Program (CACFP) at Ernestine Rivers Child Care Center, Application Agreement 00-264, on October 11, 2017. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

SERIOUS DEFICIENCY DETERMINATION

Based on the monitoring review, the Department has determined that Ernestine Rivers Child Care Center is seriously deficient in its operation of the CACFP. In addition, the Department has identified Byron Moore, Chairman of the Board and Sonia Washington, Director as responsible for the serious deficiencies in light of their responsibility for the overall management of Ernestine Rivers Child Care Center's CACFP.

If Ernestine Rivers Child Care Center does not fully and permanently correct all of the serious deficiencies and submit documentation of the corrective action by the due date, the Department will:

- Propose to terminate Ernestine Rivers Child Care Center's, agreement to participate in the CACFP;

- Propose to disqualify Ernestine Rivers Child Care Center from future CACFP participation; and
- Propose to disqualify Byron Moore, Chairman of the Board and Sonia Washington, from future CACFP participation.

In addition, if Ernestine Rivers Child Care Center voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Ernestine Rivers Child Care Center, Byron Moore, Chairman of the Board and Sonia Washington from future CACFP participation. If disqualified, Ernestine Rivers Child Care Center, Byron Moore, Chairman of the Board and Sonia Washington will be placed on the National Disqualified List (“NDL”). While on the NDL, Ernestine Rivers Child Care Center will not be able to participate in the CACFP as an institution or facility. Byron Moore, Chairman of the Board and Sonia Washington will not be able to serve as a principal in any institution or facility or as a day care home provider in the CACFP.

Institutions and individuals remain on the NDL until the United States Department of Agriculture’s Food and Nutrition Service, in consultation with the Department, determines that the serious deficiencies have been corrected, or until seven years after their disqualification. However, if any debt relating to the serious deficiencies has not been repaid, they will remain on the list until the debt has been repaid.

The authorization for this action is found in Paragraph 1.e. of your FY 2016 CACFP Provider Agreement and in the CACFP regulations at 7 C.F.R. § 226.6(c)(3). You may not appeal a finding of serious deficiency.

SERIOUS DEFICIENCIES, ADDITIONAL FINDINGS AND REQUIRED CORRECTIVE ACTION

The following paragraphs detail each serious deficiency and additional finding:

Background

CACFP Sponsors utilize meal count sheets to record the number of meals served for breakfast, lunch, supper and supplement meals served. Meals served by participating sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through DHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) system to seek reimbursement. We inspected meal count sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we observed a meal service during our site visit on September 18, 2017.

Our review of the Sponsor’s records for September 2017 disclosed the following:

- 1. The number of participants reported by the Sponsor in the free, reduced, and paid categories was incorrect**

Condition

Based on our review of available documents and information, we noted that the number of participants reported in the free, reduced-price, and paid categories was incorrect.

The claim for reimbursement for September 2017 reported 37 participants in the free category, seven participants in the reduced-price category, and two participants in the paid category. However, our review of the Sponsor's records verified there were 21 participants in the free category, zero participants in the reduced-price category, and 25 participants in the paid category. The differences were based on the following:

- There were nine participants whose applications were dated over 12 months. Seven of those participants were classified in the free category and two were classified in the reduced-price category. Those participants were reclassified as paid.
- There was one participant reported in the free category whose application did not have a Families First assistance number, household income, or determining official's signature or date. The participant was reclassified as paid.
- There were two participants reported in the reduced-price category whose applications did not have an adult's signature, determining officials signature or date, last 4 digits of the parent's social security number, Families First assistance number or household income listed. Those two participants were reclassified as paid.
- There was one participant reported in the reduced-price category whose application did not have an adult's signature or the last 4 digits of the parent's social security number listed. This participant was reclassified as paid.
- There was one participant reported in the free category whose application did not have a determining official's signature and the application was dated over 12 months. The participant was reclassified as paid.
- There was one participant reported in the reduced-price category but the participant did not have an application on file. The participant was reclassified as paid.
- There were seven participants reported in the free category but the participants did not have an application on file for the test month. These seven participants were reclassified as paid.
- There was one participant that was reported in the free category, but according to the application on file, the participant should have been reported as paid. The participant was reclassified as paid.
- There was one participant that was reported in the reduced-price category, but according to the application on file the participant should have been reported as free. The participant was reclassified as free.

Criteria

Title 7 of the Code of Federal Regulations, Section, 226.10 (c) states, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim..."

Recommendation

The Sponsor should ensure each participant is classified and reported according to income eligibility applications for child care center participants and maintained on file and updated annually.

2. The Sponsor reported incorrect meal counts

Condition

The claim for reimbursement for September reported 600 breakfast meals, 746 lunch meals and 741 supplements served. However, our review of the Sponsor's records verified 600 breakfast meals, 757 lunch meals and 747 supplements prior to any meal disallowances. The Sponsor under reported the number of lunch meals by 11 and under reported the number of supplements by 6.

Criteria

Title 7 of the Code of Federal Regulations, Section, 226.10 (c) states, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim..."

Recommendation

The Sponsor should ensure the meal count claimed for reimbursement was based on the actual meals served.

3. The Sponsor's menus did not contain all required components of USDA meal pattern

This is a Serious Deficiency:

Condition

The menus for Ernestine River Child Care Center had deficiencies. Below is a list of the deficiencies noted:

Date	Deficient or Missing Component	Disallowed Meals
09/01/17	Missing component: Second creditable component Menu listed: Whole wheat gold fish and water	25 Supplements
09/05/17	Deficient component: Meat/Meat alternate Menu listed: Milk, chicken nuggets, mashed potatoes, squash and wheat bread. The Sponsor did not provide a Child Nutrition Label or product formulation statement for the chicken nuggets and the amount of protein could not be determined	40 Lunches
09/05/17	Missing component: Second creditable component Menu listed: Water, veggie chips and ranch	40 Supplements
09/06/17	Missing component: Fruit/vegetable/juice Menu listed: Cereal and milk	31 Breakfasts
09/06/17	Missing component: Second creditable component Menu listed: Whole wheat gold fish crackers and water	43 Supplements
09/08/17	Missing component: Second fruit/juice/vegetable Menu listed: Milk, meatballs, rice, sweet peas and wheat bread	39 Lunches

09/08/17	Missing component: Second creditable component Menu listed: Whole wheat gold fish and water	37 Supplements
09/11/17	Missing component: Second fruit/vegetable/juice Menu listed: Milk, fish sandwich, macaroni and cheese, tropical fruit and a roll	41 Lunches
09/15/17	Deficient component: Meat/meat alternate and grain/bread Menu listed: Milk, cheese pizza, steamed broccoli, sliced oranges The sponsor did not provide a Child Nutrition label, product formulation statement or recipe for the pizza and the amount of protein and grain could not be determined	41 Lunches
09/18/17	Missing component: Grain/bread Menu listed: 1% Milk, 100% Cranberry juice, bacon and hash browns	23 Breakfasts
09/18/17	Missing component: Meat/meat alternate and grain/bread Menu listed: 1% milk, chicken strips, vegetable medley, and tropical fruit The Sponsor did not provide a Child Nutrition label or product formulation statement for the chicken strips and the amounts of protein and grain could not be determined	38 Lunches
09/22/17	Deficient component: Meat/meat alternate and grain/bread Menu listed: 1% milk, cheese pizza, steamed broccoli and sliced oranges The sponsor did not provide a Child Nutrition label, product formulation statement or recipe for the pizza and the amount of protein and grain could not be determined	37 Lunches
09/27/17	Missing component: Grain/Bread Menu listed: 1% milk, 100% mixed berry juice, hash browns and turkey sausage	19 Breakfasts
09/27/17	Deficient component: Meat/meat alternate Menu listed: 1% milk, fish sticks, sweet peas, oranges and wheat bread The Sponsor did not provide a Child Nutrition label or product formulation statement for the fish sticks and the amount of protein could not be determined	25 Lunches
09/27/17	Missing component: Second creditable component Menu listed: Rice crispy treat and water	25 Supplements
09/28/17	Deficient component: Meat/meat alternate Menu listed: 1% milk, chicken strips, broccoli, pears, wheat bread The Sponsor did not provide a Child Nutrition label or product formulation statement for the chicken strips and the amount of protein could not be determined	39 Lunches
09/29/17	Missing component: Second fruit/vegetable/juice Menu listed: 1% milk, tuna, baked chips, apple sauce and crackers	39 Lunches
09/29/17	Missing component: Second creditable component Menu listed: Water, jello cups and vanilla wafers The jello cups and water are not creditable components	38 Supplements

As a result, the cost reimbursement for 73 breakfast meals, 339 lunch meals, and 208 supplements were disallowed.

Criteria

Title 7 of the Code of Federal Regulations Section 226.17(b)(4) states in part “Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20 ...”

Recommendation

The menus should be reviewed to ensure it reflects the meal served and contain all required meal components.

4. The Sponsor served 1 year old children 1% or fat free milk

Condition

The milk listed on some menus for September 2017 listed 1% milk or fat free milk served with meals. The USDA requires children 1 year of age must be served whole, unflavored milk. The chart below details the days and the number of meals disallowed for the review month.

Date	Deficiency	Number of Meals Disallowed for children 1 year of age
09/18/17	1% or fat free milk was listed on the menu for breakfasts and lunch meals	Breakfasts and lunch meals were disallowed in Finding 3
09/19/17	1% or fat free milk was listed on the menu for breakfasts and lunch meals	4 Breakfasts 6 Lunches
09/20/17	1% or fat free milk was listed on the menu for breakfasts and lunch meals	5 Breakfasts 5 Lunches
09/21/17	1% or fat free milk was listed on the menu for breakfasts and lunch meals	7 Breakfasts 6 Lunches
09/22/17	1% or fat free milk was listed on the menu for breakfasts lunch and supplement meals	5 Breakfasts Lunch meals were disallowed in Finding 3 5 Supplements
09/25/17	1% or fat-free milk specified on menu for breakfast, lunch and supplements served	5 Breakfasts 8 Lunches 8 Supplements
09/26/17	1% or fat free milk was listed on the menu for breakfasts lunch and supplement meals	4 Breakfasts 6 Lunches 6 Supplements

09/27/17	1% or fat free milk was listed on the menu for breakfasts and lunch meals	Breakfasts and Lunch meals were disallowed in Finding 3
09/28/17	1% or fat free milk was listed on the menu for breakfasts and lunch meals	5 Breakfasts Lunch meals were disallowed in Finding 3
09/29/17	1% or fat free milk was listed on the menu for breakfasts and lunch meals	6 Breakfasts Lunch meals were disallowed in Finding 3

As a result, the cost reimbursement for 41 breakfast meals, 31 lunch meals and 19 supplements were disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (a)(1)(i) states, "Children 1 year old. Children one year of age must be served unflavored whole milk."

Recommendation

The Sponsor should ensure that the menus reflect the meals served as required by the USDA meal pattern requirements.

5. The Sponsor did not provide documentation of annual CACFP training for staff

Condition

The Sponsor did not provide documentation of annual CACFP training for staff. This training is required and must emphasize food service procedures and record keeping requirements.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15 (e)(14) (14) For sponsoring organizations, records documenting the attendance at annual training of each staff member with monitoring responsibilities. Training must include instruction, appropriate to the level of staff experience and duties, on the Program's meal patterns, meal counts, claims submission and claim review procedures, recordkeeping requirements, and an explanation of the Program's reimbursement system.

Recommendation

The Sponsor should ensure staff has CACFP training annually and the training is documented.

6. There were errors in the completion of enrollment addendum forms

Condition

- There were 12 participant enrollment addendum forms dated over 12 months ago. The forms were not updated annually.
- There were 10 participants that did not have an enrollment addendum form on file.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15 (e)(2) states, "Documentation of the enrollment of each participant at centers (except for outside-school-hours care centers, emergency shelters, and at-risk afterschool care centers). All types of centers, except for emergency shelters and at-risk afterschool care centers, must maintain information used to determine eligibility for free or reduced-price meals in accordance with §226.23(e)(1). For child care centers, such documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care."

OVERPAYMENT-RIGHT TO APPEAL

Disallowed Costs

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$2,665.74

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$2,665.74, which the institution owes the Department. **The procedures for submitting an appeal regarding the amount of overpayment are enclosed. Please note that the appeal must be in writing and must be received by our Department no later than fifteen (15) calendar days from your receipt of this letter.** 7 C.F.R. § 226.6(k). The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

If the Institution decides to appeal the amount of overpayment, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

In accordance with the CACFP regulations at 7 C.F.R. § 226.14(a), in part, the State agency must assess interest 30 days from the initial request for repayment. For information about applied interest rates please visit the following website:

http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/historical_rates.htm

SUMMARY

The Department has determined that Ernestine Rivers Child Care Center is seriously deficient in its operation of the CACFP and that Byron Moore, Chairman of the Board and Sonia Washington, Director are responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Ernestine Rivers Child Care Center's CACFP agreement, or propose to Ernestine Rivers Child Care Center and the responsible individuals, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

Ernestine Rivers Child Care Center may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Ernestine Rivers Child Care Center for the corrective action period. As always, you must submit claims within sixty (60) calendar days of the last day of the month covered by the claim. The Department will deny any portion of

a claim we determine is invalid. If the Department denies payment of any portion of a claim submitted for the corrective action period, that action would be appealable.

To provide for the full and permanent correction of the serious deficiencies and findings, please complete the following actions within thirty (30) days of your receipt of this notice:

Ernestine Rivers Child Care Center must complete the following actions within 30 days from the date of this report:

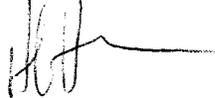
- Login to the Tennessee Information Payment System (TIPS) and revise the claim submitted for the center for September 2017, which contains the reconciled claim data from the enclosed exhibit.
- Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$2,665.74 for recovery of the amounts disallowed in this report. **Please return the attached billing notice with your check;** and
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

If the Department does not receive the corrective action plan by the deadline date, or the Department determines that the corrective action plan does not provide for the full and permanent correction of the serious deficiencies and findings, the Department will propose to terminate the Institution's CACFP Provider Agreement and to disqualify you and the Institution from future CACFP participation by issuing a Notice of Proposed Termination and Disqualification.

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or Jackie.D.Yokley@tn.gov.

Sincerely,



Allette Vayda
Director, CACFP & SFSP

Enclosures

EXHIBIT

Verification of CACFP Independent Center Claim

Name of Agency: Ernestine Rivers Child Care Center

Review Month/Year: September 2017

Total Meal Reimbursement Received: \$4,000.62

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	786	786
Number of Breakfasts Served	600	486
Number of Lunches Served	746	387
Number of Supplements Served	741	520
Number of Participants in Free Category	37	21
Number of Participants in Reduced-Price Category	7	0
Number of Participants in Paid Category	2	25
Total Number of Participants	46	46
Total Amount of Eligible Food Costs	XXXXXXXX	\$2,377.84
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$4,191.80



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BILL HASLAM

GOVERNOR

DANIELLE W. BARNES

COMMISSIONER

November 22, 2017

Byron Moore, Chairman of the Board
Ernestine Rivers Child Care Center
1492 Mississippi Boulevard
Memphis, Tennessee 38106-5770

Notice of payment due to findings disclosed in the monitoring report dated November 22, 2017, for Child and Adult Care Food Program (CACFP).

Institution Name:	Ernestine Rivers Child Care Center
Institution Address:	1492 Mississippi Blvd Memphis TN 38106-5770
Agreement Numbers:	00-264
Amount Due:	\$2,665.74
Due Date:	December 21, 2017

Based on the monitoring report issued on November 22, 2017, by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services- Food Programs- CACFP & SFSP management has agreed with the findings which requires Ernestine Rivers Child Care Center to reimburse the Department of Human Services the disallowed cost noted in the report.

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount of \$2,665.74 by the due date to:

**Fiscal Services 11th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243-1403**

Tennessee Department of Human Services

Please note that the disallowed cost / overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director, Community and Social Services- Food Programs- CACFP & SFSP at (615) 313-3769 or Allette.Vayda@tn.gov

Thank you for your attention

**CORRECTIVE ACTION PLAN
CHILD AND ADULT CARE FOOD PROGRAM (CACFP)
TENNESSEE DEPARTMENT OF HUMAN SERVICES (TDHS)**

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your Date of Birth on the first page; enter your name, title and date of signature on the last page. Sign your name in ink. **Please return ALL pages of the completed Corrective Action Plan form.**

Section A. Institution Information	
Name of Institution Ernestine Rivers Child Care Center	CACFP Agreement No. 00-264
Mailing Address: 1492 Mississippi Boulevard Memphis, Tennessee 38106	
Section B. Responsible Principal(s) and/or Individual(s)	
Name and Title:	Date of Birth (s):
Bryon Moore, Chairman of the Board Sonia Washington, Director	
Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan	
SD Report:	Corrective Action Plan:
November 22, 2017	November 22, 2017
Section D. Findings	
Findings:	
<ol style="list-style-type: none"> 1. The number of participants reported by the Sponsor in the free, reduced, and paid categories was incorrect 2. The Sponsor reported incorrect meal counts 3. The Sponsor's menus did not contain all required components of USDA meal pattern 4. The Sponsor served 1 year old children 1% or fat free milk 5. The Sponsor did not provide documentation of annual CACFP training for staff 6. There were errors in the completion of enrollment addendum forms 7. There were meals served outside of approved meal service times 8. One FDH claimed meals in excess of the approved capacity 9. The Sponsor allowed two providers to operate during the same shift and serve the same meal 10. The Sponsor did not have approval from DHS to use CACFP funds for personal expenditures 	

The following measures will be completed within **30 business days** of my institution's receipt of this corrective action plan:

Measure No. 1: The number of participants reported by the Sponsor in the free, reduced, and paid categories was incorrect

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.2: The Sponsor reported incorrect meal counts

The finding will be fully and permanently corrected.
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 3: The Sponsor's menus did not contain all required components of USDA meal pattern

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 4: The Sponsor served 1 year old children 1% or fat free milk

The finding will be fully and permanently corrected.
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____

Position Title: _____

Name: _____

Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 5: The Sponsor did not provide documentation of annual CACFP training for staff

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 6: There were errors in the completion of enrollment addendum forms

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame.

Printed Name of Authorized Institution Official

Position

Signature of Authorized Institution Official

Date

Signature of Authorized TDHS Official

Date

APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

Appeal Procedures

1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

- (a) Annually to all institutions;
- (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
- (c) Any other time upon request.

2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:

- (viii) The information submitted on the application was false;
- (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
- (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair

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hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

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continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

**Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov**

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.