



**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

August 8, 2017

Bridgette Crutchfield, Owner
Fresh Start Enrichment Center
2168 East Shelby Drive
Memphis, Tennessee 38116-7642

Dear Ms. Crutchfield:

The Department of Human Services (DHS) Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Fresh Start Enrichment Center (Sponsor), Application Agreement number 00-280, on May 23, 2017. We reviewed the Sponsor's records of reimbursements and expenditures for April 2017. The purpose of this review was to determine if the sponsoring organization complied with *Title 7 of the Code of Federal Regulations (CFR)* applicable parts, application agreement, and applicable Federal and State regulations.

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 the DHS Tennessee Information Payment System (TIPS) 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 and observed a meal service on April 24, 2017.

Our review of the Sponsor's records for the test month of April 2017 disclosed the following:

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

Condition

The Claim for Reimbursement for April 2017 reported 19 participants in the free category, zero participants in the reduced-price category, and zero participants in the paid category.

However, based on our review of the Sponsor's records, we found that there were 14 participants in the free category, zero participants in the reduced-price category, and five participants in the paid category. The differences were based on the following:

- There were 3 participants that were classified as free on their applications, but did not have an adult's Social Security number (last 4 digits required) documented. These 3 participants were reclassified as paid.
- There were 2 participants that were classified as free on their applications, but did not have the signature and date of the determining official. These 2 participants were reclassified as paid.

Criteria

7 CFR 226.10(c) states, in part, "... Claims for Reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the final Report of the Child and Adult Care Food Program (FNS 44) required under §226.7(d). 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 that each participant is classified and reported according to the applicable income eligibility application for the child care center participant. The Sponsor should also ensure that all relevant applications are kept on file.

This is a repeat finding from a previous report dated July 11, 2016.

2. The sponsor reported incorrect meal counts

Condition

The Claim for Reimbursement for the test month reported that 259 breakfasts, 259 lunches and 260 supplements were served. However, based on our review of the Sponsor's records, we found that 266 breakfasts, 264 lunches and 263 supplements were served prior to any meal disallowances.

As a result of our review, we noted that the Sponsor under reported 7 breakfasts, 5 lunches, and 3 supplements.

Criteria

7 CFR 226.10(c) states, in part, "... Claims for Reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the final Report of the Child and Adult Care Food Program (FNS 44) required under §226.7(d). 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 that claims for reimbursement are completed correctly and based on the proper supporting documents, such as meal count sheets.

This is a repeat finding from a previous report dated July 11, 2016.

3. One supplement menu did not meet USDA requirements

Condition

The supplement menu on April 25, 2017 listed grape juice and cheese puffs. The cheese puffs are not creditable. The menu did not include a creditable second component.

Therefore, 17 supplements were disallowed.

Criteria

7 CFR 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. For-profit child care centers may not claim reimbursement for meals served to children in any month in which less than 25 percent of the children in care (enrolled or licensed capacity, whichever is less) were eligible for free or reduced price meals or were title XX beneficiaries. However, children who only receive at-risk afterschool snacks and/or at-risk afterschool meals must not be included in this percentage. Menus and any other nutritional records required by the State agency shall be maintained to document compliance with such requirements.

Recommendation

The Sponsor should ensure all meals prepared meet the meal patterns established by the USDA, and menus should be reviewed to ensure they contain all required meal components.

This is a repeat finding from a previous report dated July 11, 2016.

4. Management did not maintain a financial system as required by CACFP Program policies

Condition

The financial records of Fresh Start Enrichment Center are limited to bank statements and receipts from purchases. Revenue and expenses pertaining to the CACFP program are commingled with the financial transactions of the daycare and the owner's personal expenses. The bank account is not regularly reconciled. No chart of accounts or accounting system is used to segregate expenses between CACFP-related expenses, daycare-related expenses and other business or personal expenses.

The 2016-2017 CACFP Management Plan submitted by Fresh Start Enrichment Center in the TIPS system included an affirmation at Section III.B that the institution's operational policies address the requirements of 7 CFR 226.6(b)(1)(xviii)(C)(2) requiring the institution to have a financial system with management controls specified in writing and written operational policies.

Criteria

FNS Instruction 796-2 Rev. 4. VIII.A. "Cost Principles" states, "Institutions are responsible for accounting for costs correctly and maintaining records and sufficient supporting

documentation to demonstrate that costs claimed have been incurred, are allocable to the Program, and comply with State agency financial management requirements, this Instruction, and applicable Program regulations and policies. Costs that are not properly documented and recorded pursuant to U.S. GAAP, State agency financial management requirements, 7 CFR Part 226 and other applicable regulations, 2 CFR Part 225 or 2 CFR Part 230, as applicable, and this Instruction are unallowable.”

Recommendation

The Sponsor should establish procedures to ensure that they maintain an adequate financial management system. This system must clearly segregate the revenues and expenses associated with the CACFP program from other programs.

5. The Sponsor did not have a written compensation policy or supporting documentation for labor costs

Condition:

Fresh Start Enrichment Center did not have a written compensation policy. We also noted that the owner did not provide supporting documentation for her own salary payments. According to owner, she pays herself with funds left over after expenses.

Criteria:

FNS 796-2 Revision 4, Page 44 states, "Institutions must establish and maintain a written compensation policy for every element of compensation charged to the Program. At a minimum, the written compensation policy must apply to any individual or group of individuals employed by the institution and identify:

(a) Rates of pay;

(b) Hours of work, including breaks and meal periods; and

(c) The institution's policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay and payroll tax withholding. The timing and frequency of the institution's payments to its employees will follow a routine schedule as directed by its human resource policy. For example, it may compensate employees weekly, bi-weekly, or monthly.

(d) The compensation policy must also reflect the requirements of the U.S. Department of Labor's FLSA, which directs whether non-salaried employees are compensated for overtime or compensatory time whenever time worked exceeds eight hours per day or forty hours per week.

Recommendation:

The Sponsor should establish written compensation guidelines that comply with state and federal regulations.

6. The Sponsor did not have written procurement policies and procedures

Condition

The Sponsor did not have written procurement policies and procedures to provide guidance to its officers, employees, or agents engaged in the center's procurement processes.

Criteria

7 CFR 226.22(d) states, in part, "Institutions shall maintain a written code of standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Program payments. ..."

7 CFR 226.22(e) states, in part, "The institution shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by institution officials to avoid the purchase of unnecessary or duplicative items. ..."

Recommendation

The Sponsor should comply with state and federal regulations by establishing written procurement policies and procedures.

Disallowed Meals Cost

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 \$332.36.

Corrective Action

Fresh Start Enrichment 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 April 2017, which contains the claim data from the enclosed exhibit.
- Remit a check payable to the ***Tennessee Department of Human Services*** in the amount of \$332.36 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 you have questions relative to the corrective action plan please contact:

Allette Vayda, Director
Child and Adult Care Food Program
8th Floor Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov
(615) 313-3769

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim is completed within 30 business days from the date of this report. If the revised claim is not completed by the 30 business - day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program
Fiscal Services
11th Floor, Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243


In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the amount of disallowed cost identified in this monitoring report. The procedures for submitting an appeal are enclosed. 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 disallowed meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

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,


Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

cc: Allette Vayda, Director, Child and Adult Care Food Programs
Constance Moore, Program Specialist, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Fresh Start Enrichment Center

Review Month/Year: April 2017

Total Meal Reimbursement Received: \$1,544.50

Program Area	Reported on Claim	Reconciled to Supporting Documents
Number of Days that CACFP Food Service was operated	19	19
Total Attendance	278	284
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	74%
Number of Breakfasts Served	259	266
Number of Lunches Served	259	264
Number of Supplements Served	260	246
Number of Participants in Free Category	19	14
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	5
Total Number of Participants	19	19
Total Amount of Eligible Food Costs	XXXXXXXX	\$626.12
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$626.12



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COMMISSIONER

August 8, 2017

Bridgette Crutchfield
Fresh Start Enrichment Center
2168 East Shelby Drive
Memphis, Tennessee 38116-7642

Notice of payment due to findings disclosed in the monitoring report dated August 8, 2017 for Child and Adult Care Food Program (CACFP).

Institution Name:	Fresh Start Enrichment Center
Institution Address:	2168 East Shelby Drive, Memphis, Tennessee 38116
Agreement Numbers:	00280
Amount Due:	\$332.36
Due Date:	September 9, 2017

Based on the monitoring report issued on August 8, 2017 by the Audit Services Unit within the Tennessee Department of Human Services; the Community and Social Services- Food Programs - CACFP & SFSP management has agreed with the findings which require your entity to reimburse the Department of Human Services unallowed cost in the amount of \$332.36.

Please remit a check or money order payable to the **Tennessee Department of Human Services** in the amount of \$332.36 by the due date to:

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

Please note that the disallowed meals 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 the 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 for Monitoring Findings

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 name, title and date of signature on the last page. Please sign your name in ink.

Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: Fresh Start Enrichment Center	Agreement No. 00280	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 2168 East Shelby Dr. Memphis, TN 38116-7642

Section B. Responsible Principal(s) and/or Individual(s)

Name and Title: Bridgette Crutchfield, Owner	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 8/8/17	Corrective Action Plan: 8/8/17
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Section D. Findings

Findings:

1. The number of participants reported in the free and paid categories was incorrect.
2. The sponsor reported incorrect meal counts.
3. One supplement menu did not meet USDA requirements.
4. Management did not maintain a financial system as required by CACFP Program policies.
5. The Sponsor did not have a written compensation policy or supporting documentation for labor costs.
6. The Sponsor did not have written procurement policies and procedures.

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

Measure No. 1: The number of participants reported in the free 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: One supplement menu did not meet USDA requirements

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: Management did not maintain a financial system as required by CACFP Program policies

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 have a written compensation policy or supporting documentation for labor costs

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: The Sponsor did not have written procurement policies and procedures

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. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

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;

- (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

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

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

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

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.