



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

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**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

**CERTIFIED MAIL RECEIPT # 70153010000175365897**

May 3, 2017

Dennis Stewart, Owner  
Happy Times Day Care Center  
3237 South Perkins  
Memphis, Tennessee 38118-4354

**RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP)  
Agreement Number 00-308 and Demand for Overpayment.**

Dear Mr. Stewart:

The Department of Human Services Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Happy Times Day Care Center (Sponsor), Application Agreement number 00-308, on February 15, 2017. Additional information was March 2, 2017 to complete the review. We reviewed the Sponsor's records of reimbursements and expenditures for January 2017. The purpose of this review was to determine if the Sponsor complied with the *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/or supplements 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. We inspected CACFP documentation such as income eligibility forms, enrollment addendum forms, master enrollment lists, attendance records, meal count records, menus, and food service cost records. We also assessed compliance with civil rights requirements and observed a meal service.

Our review of the Sponsor's records for the test month of January 2017 disclosed the following: (1) Number of participants reported in the free category was incorrect; (2) the Sponsor claimed reimbursement for one extra meal service instead of snack; (3) there were meals that did not meet the USDA guidelines; (4) there were infant menus that did not meet the USDA guidelines; (5) there

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were missing enrollment forms; and (6) the Sponsor did not provide documentation for the required annual CACFP training.

### **SERIOUS DEFICIENCY DETERMINATION**

Based on the monitoring review, the Department has determined that Happy Times Day Care Center is seriously deficient in its operation of the CACFP. In addition, the Department has identified Dennis Stewart, Owner as responsible for the serious deficiencies in light of their responsibility for the overall management of Happy Times Day Care Center's CACFP.

If Happy Times Day 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 Happy Times Day Care Center's agreement to participate in the CACFP;
- Propose to disqualify Happy Times Day Care Center from future CACFP participation; and
- Propose to disqualify Dennis Stewart, Owner from future CACFP participation.

In addition, if Happy Times Day Care Center voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Happy Times Day Care Center and Dennis Stewart, Owner from future CACFP participation. If disqualified, Happy Times Day Care Center and Dennis Stewart, Owner will be placed on the National Disqualified List ("NDL"). While on the NDL, Happy Times Day Care Center will not be able to participate in the CACFP as an institution or facility. Dennis Stewart, Owner 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.

## **1. Number of participants reported in the free category was incorrect**

### Condition

The claim for reimbursement for the test month showed 239 participants in the free category, zero participants in the reduced-price category, and zero participants in the paid category. However, our review of the Sponsor's records verified there were 23 participants in the free category, zero participants in the reduced-price category, and 213 participants in the paid category. The differences were based on the following:

- The number of participants reported in the free category was over reported by three.

There were 239 participants reported in the program and 236 participants verified (See Exhibit).

### Criteria

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

The Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 18) states "To operate the CACFP and receive reimbursement, all independent child care centers and sponsoring organizations must keep accurate records on the eligibility of enrolled participants for free and reduced-price meals."

### Recommendation

The Sponsor should ensure that each claim is accurate and each participant is properly classified according to income eligibility and attendance records.

## **2. The Sponsor claimed reimbursement for one extra meal service instead of snack**

### Condition

The allowable meals that can be claimed for reimbursement by the Sponsor per child is two meals and one supplement (snack) or one meal and two supplements. However, the Sponsor claimed three meals: breakfast, lunch and supper.

(See Exhibit)

### Criteria

*Title 7 of the Code of Federal Regulations Section 26.17 (a)(3)* states, "Each child care center participating in the Program must serve one or more of the following meal types—breakfast; lunch; supper; and snack. Reimbursement must not be claimed for more than two meals and one snack or one meal and two snacks provided daily to each child."

Recommendation

The sponsor should submit a request in TIPS to change the meals served to two meals and a supplement or one meal and two supplements to comply with the USDA regulations.

As a result, 4,040 Breakfasts have been disallowed.

**3. There were meals that did not meet the USDA guidelines**

Condition

A lunch or supper meal consists of one credible serving of meat or meat alternate, two credible servings of fruit and/or vegetables, one credible serving of bread/grains, and one credible serving of fluid milk. The menus provided for the Happy Times Day Care Center had menu deficiencies and listed the following:

Date	Missing component	Disallowed Meals
01/09/2017	Meat/Meat Alternate: Menu listed- Corn dog, carrot sticks, apple sauce, cornbread wrapping and milk. The label provided for the corndogs was not a CN label and therefore the weight of the frankfurter could not be determined.	219 Suppers
01/11/2017	Meat/Meat Alternate: Menu listed- Meat loaf, green beans, mashed potatoes, pineapples, enrichment rolls and milk. The label provided for the meat loaf is not a CN label and states that the nutritional values indicated may not be complete based on limited information from the product manufacturer. The amount of protein could not be determined.	143 Lunches
01/23/2017	Meat/Meat Alternate: Menu listed- Corn dog, carrot sticks, apple sauce, cornbread wrapping and milk. The label provided for the corndogs was not a CN label and therefore the weight of the frankfurter could not be determined.	221 Suppers
01/25/2017	Meat/Meat Alternate: Menu listed- Meat loaf, green beans, mashed potatoes, pineapples, enrichment rolls and milk. The label provided for the meat loaf is not a CN label and states that the nutritional values indicated may not be complete based on limited information from the product manufacturer. The amount of protein could not be determined.	140 Lunches
01/30/2017	Meat/Meat Alternate: Menu listed- Meat loaf, green beans, mashed potatoes, pineapples, enrichment rolls and milk. The label provided for the meat loaf is not a CN label and states that the nutritional values indicated may not be complete based on limited information from the product manufacturer. The amount of protein could not be determined.	140 Lunches
01/30/2017	Meat/Meat Alternate: Menu listed- Corn dog, carrot sticks, apple sauce, cornbread wrapping and milk. The label provided for the corndogs was not a CN label and therefore the weight of the frankfurter could not be determined.	219 Suppers

As a result, 423 lunches and 659 suppers were disallowed. (See Exhibit)

Criteria

*Title 7 of the Code of Federal Regulations, Appendix C to Part 226—Child Nutrition (CN) Labeling Program (1) states “The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program administered by the Food and Nutrition Service (FNS) in conjunction with the Food Safety and Inspection Service (FSIS), and Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA), and National Marine Fisheries Service of the U.S. Department of Commerce (USDC) for the Child Nutrition Programs. This program essentially involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward meal pattern requirements and a review of the CN label statement to ensure its accuracy. CN labeled products must be produced in accordance with all requirements set forth in this rule. ... (3)(C)(2) The statement of the product's contribution toward meal pattern requirements of 7 CFR 210.10, 220.8, 225.21, and 226.20. The statement shall identify the contribution of a specific portion of a meat/meat alternate product toward the meat/meat alternate, bread/bread alternate, and/or vegetable/fruit component of the meal pattern requirements. For juice drinks and juice drink products the statement shall identify their contribution toward the vegetable/fruit component of the meal pattern requirements.”*

The USDA Crediting Handbook for the Child and Adult Care Food Program, Revised 2011, (page 23) concerning corn dogs states “This product has a high fat and salt content. The cooked batter credits toward the grains/breads component using Group B of Exhibit A. Only the weight of the frankfurter credits toward the meat/meat alternate component. See pages 1-36 and 1-37 of the *Food Buying Guide*.”

The Tennessee Child and Adult Care Food Program Policies and Procedures Manual (page 26) states, “All meals must meet the meal patterns established by the USDA to be eligible for CACFP reimbursement.” The USDA meal pattern requirements are on pages 27-32.

Recommendation

The Sponsor should ensure every meal meets the guidelines set by the USDA and keep CN labels on file.

**4. There were infant menus that did not meet the USDA guidelines**

Condition

Based on our review of the infant menus, we noted that the amount of infant formula or breast milk was not recorded for the entire month. It could not be determined if the correct amount of infant formula or breast milk was served to each participating infant age group. As a result, the following infant meals were disallowed.

<b>Date</b>	<b>Number of meals disallowed</b>
Month of January 2017	194 Breakfasts <sup>1</sup>

Month of January 2017	194 Lunches
Month of January 2017	191 Suppers

These meals were previously disallowed in Finding 2.

(See Exhibit)

#### Criteria

The *USDA FNS Code of Federal Regulations 7 CFR, part 226.20 Appendix (b)(4)* states “Infant meals must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age. (i) *Birth through 5 months*—(A) *Breakfast*. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both. (B) *Lunch or supper*. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both. (C) *Snack*. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both. (ii) *6 through 11 months*. Breastmilk or iron-fortified formula, or portions of both, is required. Meals are reimbursable when institutions and facilities provide all the components in the meal pattern that the infant is developmentally ready to accept. (A) *Breakfast, lunch, or supper*. Six to 8 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both; and 0 to 4 tablespoons of iron-fortified dry infant cereal, meat, fish, poultry, whole egg, cooked dry beans, or cooked dry peas; or 0 to 2 ounces (weight) of cheese; or 0 to 4 ounces (volume) of cottage cheese; or 0 to 4 ounces of yogurt; and 0 to 2 tablespoons of vegetable, fruit, or portions of both. Fruit juices and vegetable juices must not be served.”

As a result, 194 lunches and 191 suppers were disallowed.

#### Recommendation

The Sponsor should ensure all infant menus are complete with all components to reflect what the infant was served and the actual amount.

### **5. There were missing enrollment forms**

#### Condition

There were 77 participants claimed during the test month who did not have a current enrollment 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.”

In addition, the Tennessee Child and Adult Care Food Program Policies and Procedures Manual state that “Each institution must meet the enrollment requirements mandated by child care licensing regulations. In addition, each institution must have an enrollment form for each CACFP participant. The enrollment form must meet the following requirements:

1. Be updated annually and signed by a parent or guardian of the participant;
2. Identify the “normal” days and hours in care for each enrolled participant; and
3. Identify the meals to be received by each enrolled participant.”

#### Recommendation

The Sponsor should ensure that all participants have a current CACFP enrollment addendum form on file.

### **6. The Sponsor did not provide documentation for the required annual CACFP training**

#### Condition

Documentation of the annual CACFP training is required and must emphasize food service procedures and record keeping requirements. The sponsor provided us with documentation of the Civil Rights training, however the CACFP training documentation was not provided.

#### Criteria

*Title 7 of the Code of Federal Regulations 7 Section 226.16 (d)(2)* states “Training on Program duties and responsibilities to key staff from all sponsored facilities prior to the beginning of Program operations. At a minimum, such training must include instruction, appropriate to the level of staff experience and duties, on the Program's meal patterns, meal counts, claims submission and review procedures, recordkeeping requirements, and reimbursement system. Attendance by key staff, as defined by the State agency, is mandatory. ... (3) Additional mandatory training sessions for key staff from all sponsored child care and adult day care facilities not less frequently than annually. At a minimum, such training must include instruction, appropriate to the level of staff experience and duties, on the Program's meal patterns, meal counts, claims submission and review procedures, recordkeeping requirements, and reimbursement system. Attendance by key staff, as defined by the State agency, is mandatory.”

#### Recommendation

The Sponsor should keep adequate documentation of all trainings provided to the staff involved in CACFP operations.

Happy Times Day Care Center must submit a Corrective Action Plan (“CAP”), which details how the Institution will ensure the correction of the serious deficiencies and additional findings described above. The CAP must include information regarding what procedures were implemented to address the serious deficiencies, who is responsible for addressing the serious

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deficiencies, when was the procedure implemented to address the serious deficiencies, and how the institution will ensure the continued implementation of the corrective action. A blank CAP is enclosed for your use.

## **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 meals cost of \$26,349.56.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$26,349.56, 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](http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/historical_rates.htm)

## **SUMMARY**

The Department has determined that Happy Times Day Care Center is seriously deficient in its operation of the CACFP and that Dennis Stewart, Owner is responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Happy Times Day Care Center's CACFP agreement, or propose to disqualify Happy Times Day 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.

Happy Times Day 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 Happy

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Times Day 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 fifteen (15) days of your receipt of this notice:

1. Login to (TIPS) the Tennessee Information Payment System and submit a revised claim for January 2017.
2. Remit a check payable to the Department in the amount of \$26,349.56.
3. Complete and return the enclosed corrective action plan to address in full the monitoring review to:

**Tennessee Department of Human Services  
Allette Vayda-CACFP/SFSP Unit  
Citizens Plaza – 8th Floor  
400 Deaderick Street  
Nashville, Tennessee 37243-1403.**

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](mailto:Jackie.D.Yokley@tn.gov).

Sincerely,



Allette Vayda  
Director, CACFP & SFSP

AV/ba

Enclosures

**Exhibit A:**

**Sponsor: Happy Times Day Care Center**  
**Review Month/Year: January 2017**  
**Total Meal Reimbursement Received: \$30,882.48**

<b>Site Meal Service Activity and Monitor Reconciliation</b>	<b>Reported on Claim</b>	<b>Reconciled Meals to Meal Counts Sheets</b>
Total Number of Days Food Served	20	20
Total Attendance	4,040	4,040
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXXXXXX	10%
Percentage of Participants in the Child Care Certificate Program	XXXXXXXXXX	47%
Number of Breakfasts Served	4,040	0 <sup>1</sup>
Number of Lunches Served	3,032	2,415 <sup>2</sup>
Number of Suppers Served	4,040	3,190 <sup>2</sup>
Number of Supplements Served	NA	NA
Number of Participants in Free Category	239	23 <sup>3</sup>
Number of Participants in Reduced Category	0	0
Number of Participants in Paid Category	0	213 <sup>3</sup>
Total Number of Participants	239	236 <sup>3</sup>
Total Amount of Eligible Food Costs	XXXXXXXXXX	\$18,966.93
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXXXX	\$28,839.09

<sup>1</sup>The difference is due to meals being disallowed for claiming 3 meals on one shift. (Finding 4)

<sup>2</sup>The difference is due to meals disallowed for menu deficiencies. (Findings 5 and 6)

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<sup>3</sup>The differences are due to the reclassification of participants due to the alteration of applications, application errors and reporting errors. (Findings 1, 2 and 3)

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COMMISSIONER

May 3, 2017

Dennis Stewart, Owner  
Happy Times Day Care Center  
3237 South Perkins  
Memphis, Tennessee 38118-4354

**Notice of payment due to findings disclosed in the monitoring report dated May 3, 2017, for  
Child and Adult Care Food Program (CACFP).**

Institution Name:	Happy Times Day Care Center
Institution Address:	3237 South Perkins Memphis, Tennessee 38118-4354
Agreement Number:	00-308
Amount Due:	\$26,349.56
Due Date:	June 3, 2017

Based on the monitoring report issued on May 3, 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 require your institution to reimburse the Department of Human Services the disallowed meals cost.

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount of \$26,349.56 by the due date to:

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

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**Tennessee Department of Human Services**

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 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](mailto:Allette.Vayda@tn.gov)

Thank you for your attention

## **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;

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- (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 16<sup>th</sup> 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

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](mailto: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.

**CORRECTIVE ACTION PLAN FOR  
MONITORING FINDINGS FOR  
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**

<b>Name of Institution</b> Happy Times Day Care Center	<b>CACFP Agreement No.</b> 00-308
<b>Mailing Address:</b> 3237 South Perkins  Memphis, Tennessee 38118-4354	

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

<b>Name and Title:</b>  Dennis Stewart, Owner	<b>Date of Birth (s):</b>  
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**Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan**

<b>SD Report:</b> May 3, 2017	<b>Corrective Action Plan:</b> May 3, 2017
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**Section D. Findings**

<p><b>Findings:</b></p> <ol style="list-style-type: none"> <li>1. Number of participants reported in the free category was incorrect</li> <li>2. The Sponsor claimed reimbursement for one extra meal service instead of snack</li> <li>3. There were meals that did not meet the USDA guidelines</li> <li>4. There were infant menus that did not meet the USDA guidelines</li> <li>5. There were missing enrollment forms</li> <li>6. The Sponsor did not provide documentation for the required annual CACFP training</li> </ol>
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The following measures will be completed within **30 business days** of my institution's receipt of this corrective action plan:

**Measure No. 1: Number of participants reported in the free category 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:

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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?):

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

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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:

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**Measure No.2: The Sponsor claimed reimbursement for one extra meal service instead of snack**

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:

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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?):

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

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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:

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**Measure No. 3: There were meals that did not meet the USDA guidelines**

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:

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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?):

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

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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:

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**Measure No. 4: There were infant menus that did not meet the USDA guidelines**

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:

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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?):

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

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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:

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**Measure No. 5: There were missing enrollment 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:

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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?):

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

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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:

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**Measure No.6: The Sponsor did not provide documentation for the required annual CACFP training**

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:

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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?):

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

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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:

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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