



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

DEPARTMENT OF PROGRAM INTEGRITY  
AUDIT SERVICES  
CITIZENS PLAZA BUILDING  
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**BILL HASLAM**

GOVERNOR

**DANIELLE W. BARNES**

COMMISSIONER

March 16, 2017

Maurice Hulon, Board Chairperson  
Hooks Dimmick Child Care Group  
4982 Knight Arnold Road  
Memphis, Tennessee 38118-3449

Dear Mr. Hulon:

The Department of Human Services Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Hooks Dimmick Child Care Group (Sponsor), Application Agreement 00-317, on February 8, 2017. Additional information was received on February 23, 2017 to complete the review. The bank statement was requested from Hooks Dimmick Child Care Group, and it was received, however, the bank statement was not legible. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations (CFR)* applicable parts, application agreement, and applicable Federal and State regulations.

Background

Meals served by participating institutions and facilities must meet the minimum guidelines set by the U.S. Department of Agriculture (USDA) and the Tennessee Department of Human Services to be eligible for reimbursement. We examined 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 disclosed the following:

- 1. According to CACFP applications on file, participants were categorized in the incorrect category**

Condition

The review of the applications on file revealed the following:

- There was one participant that was classified as free on the application, but did not have the signature and date of the determining official. The participant was reclassified as paid.
- There was one participant that was classified as free on the application, but the application was dated over twelve months. This participant was reclassified as paid.

### Criteria

*Title 7 of the Code of Federal Regulations Section 226.10 (c) states that 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. ..."*

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 all applications are completed correctly and all participants' applications are current and up to date.

## **2. The number of participants reported in the free, reduced- price and paid categories was incorrect**

### Condition

The Claim for Reimbursement for the test month reported 34 participants in the free category, zero participants in the reduced-price category, and nine participants in the paid category. However, our review of the sponsor's records verified there were 37 participants in the free category, one participant in the reduced-price category, and nine participants in the paid category. The differences were based on the following:

- Adjustments made due to the application errors in Finding 1.
- The number of participants reported in the free category was under reported by five, the reduced-price category was under reported by one, and the paid category was over reported by two.

The total number of participants reported in the program was 43 and 47 were verified in the program.

### 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 participant is reported according to the income eligibility application for child care center participants.

This is a repeat finding from a previous report dated July 10, 2014.

### **3. Menus did not meet USDA component requirements**

#### Condition

Our review of menus disclosed the following:

<b>Date</b>	<b>Missing Component</b>	<b>Disallowed Meals</b>
12/02/16	Second component: Menu listed- Fruit Snacks and Sun chips. The label provided for fruit snacks does not document that at least 1/8 cup of fruit was in one serving.	31 Supplements
12/14/16	Grain/Bread: Menu listed- Milk, breaded steak nuggets, mashed potatoes and broccoli with cheese. The product formulation statement provided documents that there is no creditable amount of grain in the product.	33 Lunches
12/16/16	Second Component: Menu listed- Cheese Puffs and Fruit Punch Cheese puffs are not creditable.	14 Supplements
12/28/16	Grain/Bread: Menu listed- Milk, breaded steak nuggets, fruit cocktail, green beans and mashed potatoes. The product formulation statement provided documents that there is no creditable amount of grain in the product.	13 Lunches
12/30/16	Second component: Menu listed- Fruit Snacks and Sun chips. The label provided for fruit snacks does not document that at least 1/8 cup of fruit was in one serving.	26 Supplements

#### Criteria

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.

The USDA Crediting Handbook for the Child and Adult Care Food Program, Revised 2011, (page 36) concerning fruit snacks states "Labels or product literature must document at least 1/8 cup of fruit as served. Many of these products do not contain sufficient amounts of fruit per serving."

*Title 7 of the Code of Federal Regulations* Section 226 Appendix C 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."

As a result, 46 lunches and 71 supplements were disallowed. (See Exhibit)

This is a repeat finding from a previous report dated July 10, 2014.

Recommendation

The sponsor should ensure all meals prepared meet the meal patterns established by the USDA.

**4. Infant menus did not have the required components**

Condition

According to prior date's menus the bread component had been introduced into the listed infant's menu and therefore is a requirement.

Our review of the infant menus revealed the following:

Infant: RM (9 months)

<b>Date</b>	<b>Missing Component</b>	<b>Disallowed Meals (# and type)</b>
December 2, 2016	Enriched crackers/breads Menu listed: BM and Cheese Puffs Cheese puffs are not credible	1 Supplement

Infant: AM (7-8 months)

<b>Date</b>	<b>Missing Component</b>	<b>Disallowed Meals (# and type)</b>
December 2, 2016	Enriched crackers/breads Menu listed: BM and Cheese Puffs Cheese puffs are not credible	2 supplements
December 7, 2016		

Criteria

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.

As a result, three supplements were disallowed. (See Exhibit)

Recommendation

The sponsor should ensure all meals prepared meet the meal patterns established by the USDA.

**5. The sponsor reported infant meals on four days, but did not provide menus for the meals**

Condition

Our review of infant menus revealed that that though meals were claimed for the following dates, no menus were provided for the infant meals:

<b>Infant Menus Missing Date</b>	<b>Disallowed Meals</b>
December 9, 2016	3 Breakfasts 3 Lunches 3 Supplements
December 23, 2016	1 Breakfast 1 Lunch 1 Supplement
December 28, 2016	1 Breakfast 1 Lunch 1 Supplement
December 29, 2016	1 Breakfast 1 Lunch 1 Supplement

*Title 7 of the Code of Federal Regulations Section 226.15 (e)* states, "Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained: ..." *Title 7 of the Code of Federal Regulations Section 226.15 (e)(10)* states, "Copies of menus, and any other food service records required by the State agency"

The Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 23) states that "An institution is required to maintain: Menus that meet the following requirements:  
a. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified"

As a result six breakfasts, six lunches and six supplements were disallowed. (See Exhibit)

Recommendation

The sponsor should ensure all infant menus are documented with the correct components according to the USDA requirements.

**6. There were menus that did not have the specific names of components**

Condition

There were menus that did not have the specific name of the cereal that was served. The receipts did show the specific names of the cereal purchased, however, the sponsor should document the specific type of cereal that is served on the menus.

Criteria

The Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 24) states, "It is recommended that the specific names of all breads or bread alternates, meats or

meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services.”

### Recommendation

The sponsor should ensure specific names of menu items are listed on the menus.

### **7. There were participants that did not have a CACFP enrollment addendum form**

#### Condition

There were two participants that did not have a current CACFP 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.”

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.

### **Disallowed Meal 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 \$172.03.

The 2016 Administrative Guidance for Sponsors Handbook states, “*Violations of Program requirements may result in withholding or recovery of reimbursements, corrective action, or termination and exclusion from future Program participation.*”

### **Corrective Action**

Hooks Dimmick Child Care Group must complete the following actions within 30 business days from the date of this report:

- Login to the Tennessee Information Payment System (TIPS) and revise the claim(s) submitted for each site for December 2016, which contains the verified claim data from the enclosed exhibit. A copy of the claim form is attached for your use;
- Remit a check payable to the **Tennessee Department of Human Services** in the amount of \$172.03 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](mailto: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](mailto:Allette.Vayda@tn.gov)  
 (615) 313-3769

Please note that the amount of disallowed administrative and/or meals cost is subject to an interest charge. The interest charge will be waived if your revised claim 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 make your check payable to the **Tennessee Department of Human Services** and 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

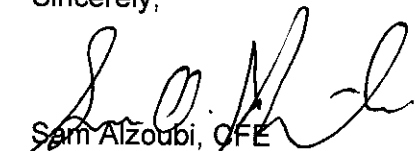
In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the disallowed meals cost identified by this monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

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 administrative and/or 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, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or [Jackie.D.Yokley@tn.gov](mailto:Jackie.D.Yokley@tn.gov).

Sincerely,



Sam Alzoubi, OFE  
Director, Audit Services

Exhibit

cc: Lorraine Brown, Director, Hooks Dimmick Child Care Group  
Allette Vayda, Director, Child and Adult Care Food Programs  
Brian Anthis, Program Coordinator, Child and Adult Care Food Program  
Comptroller of the Treasury, State of Tennessee



**EXHIBIT**

**Verification of CACFP Independent Center Claim (Claiming Percentages)**

**Sponsor: Hooks Dimmick Child Care Group**

**Review Month/Year: December 2016**

**Total Meal Reimbursement Received: \$2,729.18**

<b>Program Area</b>	<b>Reported on Claim</b>	<b>Verified By Monitoring Review</b>
Number of Days that CACFP Food Service was operated	22	20 <sup>1</sup>
Total Attendance	567	567
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	NA
Number of Breakfasts Served	557	551 <sup>2</sup>
Number of Lunches Served	557	505 <sup>2</sup>
Number of Suppers Served	NA	NA
Number of Supplements Served	561	481 <sup>2</sup>
Number of Participants in Free Category	34	37 <sup>3</sup>
Number of Participants in Reduced-Price Category	0	1 <sup>3</sup>
Number of Participants in Paid Category	9	9 <sup>3</sup>
Total Number of Participants	43	47 <sup>3</sup>
Total Amount of Eligible Food Costs	XXXXXXXX	\$2,116.36
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$2,380.87

<sup>1</sup>The difference is due to a reporting error.

<sup>2</sup>The differences are due to meals disallowed for menu deficiencies.

<sup>3</sup> The differences are due to application and reporting errors.



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**DANIELLE W. BARMES**  
COMMISSIONER

March 16, 2017

Maurice Hulon, Board Chairperson  
Hooks Dimmick Child Care Group  
4982 Knight Arnold Road  
Memphis, Tennessee 38118-3449

**Notice of payment due to findings disclosed in the monitoring report dated March 16, 2017, for Child and Adult Care Food Program (CACFP).**

Institution Name:	Hooks Dimmick Child Care Group
Institution Address:	4982 Knight Arnold Road Memphis, Tennessee 38118-3449
Agreement Numbers:	00-317
Amount Due:	\$172.03
Due Date:	April 16, 2017

Based on the monitoring report issued on March 17, 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 Backfield in Motion, Inc. to reimburse the Department of Human Services unallowed cost in the amount of \$172.03.

Please remit a check or money order payable to the **Tennessee Department of Human Services** in the amount of \$172.03 by the due date to:

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

Please note that the unallowed 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 add 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



# 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: Hooks Dimmick Child Care Group	Agreement No. 00-317	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 4982 Knight Arnold Road Memphis, Tennessee 38118-3449

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

Name and Title: Maurice Hulon, Board Chairperson	Date of Birth: / /
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### Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 03/16/2017	Corrective Action Plan: 03/16/2017
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### Section D. Findings

- Findings:
1. According to CACFP applications on file, participants were categorized in the incorrect category.
  2. The number of participants reported in the free, reduced-price and paid categories was incorrect.
  3. Menus did not meet USDA component requirements.
  4. Infant menus did not have the required components.
  5. The Sponsor reported infant meals on four days, but did not provide menus for the meals.
  6. There were menus that did not have the specific names of components.
  7. There were participants that did not have a CACFP enrollment addendum form.

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

**Measure No. 1:** According to CACFP applications on file, participants were categorized in the incorrect category.

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 number of participants reported in the free, reduced-price 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:

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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: Menus did not meet USDA component 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:

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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:** Infant menus did not have the required components.

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:** The Sponsor reported infant meals on four days, but did not provide menus for the meals.

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:** There were menus that did not have the specific names of components.

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. 7:** There were participants that did not have a CACFP enrollment addendum form.

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. 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;

Appeal Procedures for Child and Adult Care Food Program-Institutions  
Revised August 2016

- (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 Intent to Terminate, 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

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](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.

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.