



**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

September 12, 2017

Carla Murphy, Owner
Jelly Bean Junction Daycare
1130 West Main Street
Hohenwald, Tennessee 38462-3206

Dear Ms. Murphy,

The Tennessee Department of Human Services (TDHS) Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Jelly Bean Junction Daycare (Sponsor), Application Agreement number 00-328, on June 7, 2017. We reviewed the Sponsor's records of reimbursements and expenditures for May 2017. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, provider 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 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. The CACFP sponsor reports the number of meals served through the TDHS Tennessee Information Payment System (TIPS) system to seek reimbursement. We inspected meal counts sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We assessed compliance with civil rights requirements. In addition, we observed a meal service during our site visit on May 5, 2017.

Our review of the Sponsor's records for May 2017 disclosed the following:

- 1. The number of participants reported in the free, reduced-price, and paid categories was not accurate**

Condition

The Sponsor reported 42 participants in the free category, two participants in the reduced-price category, and 31 participants in the paid category. Our review of the enrollment documents indicated there were 47 participants in the free category, seven participants in the reduced-price category, and 30 participants in the paid category. As a result, five

participants in the free category and five participants in the reduced-price category were underreported, and one participant was over reported in the paid category.

In addition, three participants were incorrectly classified, as follows:

- One participant was incorrectly classified as reduced-price. This participant qualified for free and was reclassified.
- One participant was incorrectly classified as paid. This participant qualified for reduced-price and was reclassified.
- One participant that was classified as free did not have an application on file. This participant was reclassified as paid.

This is a repeat finding from the previous report dated July 20, 2016.

Criteria

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

Title 7 of the Code of Federal Regulations, Section 226.17 (b)(8), states, "Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with §226.23(e)(1). 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."

Recommendation

The Sponsor should ensure that applications for each child reported as free or reduced-price are updated annually. If parents do not want to provide the information required on the application form, then the child should be classified as paid.

2. Enrollment addendum forms were not maintained for all children

Condition

Eight children did not have an enrollment addendum on file.

Criteria

Title 7 Title 7 of the Code of Federal Regulations, Section 226.17 (b)(8), states, "Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with §226.23(e)(1). 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."

Recommendation

The Sponsor should ensure that participants in the CACFP program enrollment addendum form are updated annually and maintained on file.

3. The Sponsor reported incorrect meal counts

Condition

The Sponsor reported serving 1,452 supplement meals. Based on our review of the meal count documents, we noted that the facility served 1,453 supplement meals. As a result, the Sponsor under claimed one supplement meal served.

This is a repeat finding from a previous report dated July 20, 2016.

Criteria

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

Recommendation

The Sponsor should ensure that the claim for reimbursement is completed based on proper supporting documentation and accurate.

4. Menus did not contain all required meal components

Condition

Based on our review of the Sponsor's menus, we noted that the menus did not meet the required USDA meal pattern. To meet USDA meal requirements, a lunch meal should consist of one serving of meat/meat alternate, two servings of fruit and/or vegetables, one serving of bread/grains, and one serving of fluid milk. According to the Sponsor's May 2017 lunch menu provided, the menu listed the following:

Date	Menu	Missing Component	Disallowed Lunches
May 1	Meatloaf, Mac-n-cheese, Applesauce, Whole grain rolls, and Milk	2 nd fruit/vegetable/juice	57
May 16	Chicken nuggets, Mac-n-cheese, Fruit cocktail, Whole grain rolls, and Milk	2 nd fruit/vegetable/juice	53
May 25	Meatloaf, Mac-n-cheese, Applesauce, Whole grain rolls, and Milk	2 nd fruit/vegetable/juice	67
May 31	Ham, Mac-n-cheese, Peaches, Whole grain rolls, and Milk	2 nd fruit/vegetable/juice	66

This is a repeat finding from a previous report dated July 20, 2016.

Criteria

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

Recommendation

The Sponsor should ensure the menus reflect all USDA required meal components and those components are available at the time of service.

5. Child nutrition (CN) labels were not provided for some processed foods

Condition

The lunch menu for May 4th and May 16th listed pizza rolls being served. The Sponsor was asked to provide child nutrition (CN) label or product formulation statement for the pizza rolls, which a receipt indicated were purchased at a local Walmart store. The Sponsor instead provided a CN label for Schwan's Pizza strips, an item not sold at Walmart. A follow-up email was sent to the Sponsor asking for a receipt showing purchased of the pizza strips and none was provided. A CN label or Product Formulation Statement was not provided for these products and there was no documentation to indicate additional protein had been added to the menu. As a result, 109 lunches were disallowed.

Criteria

The USDA Crediting Foods in the Child and Adult Care Food Program, Revised 2011, states when crediting commercial or frozen products " toward the meat/meat alternate component, the amount of meat/meat alternate per serving (not the total portion size) is the determining factor for crediting purposes. Because of the uncertainty of the actual amount of meat/meat alternate contained in these products, they should not be used unless (1) they are CN-labeled; or (2) you obtain a Product Formulation Statement signed by an official of the manufacturer (not a sales person) that shows how the crediting has been determined."

Recommendation

The Sponsor should maintain a CN label or product formulation statement for commercially prepared or frozen food items served to participants in order to determine those items are reimbursable.

6. The Sponsor did not have a medical statement on file for menu substitution

Condition

One participant was provided an alternative fruit (applesauce) due to a reported food allergy to peaches. The Sponsor did not have a medical statement on file addressing the food allergy.

Criteria

Title 7 Title 7 of the Code of Federal Regulations, Section 226.20 (i) states, "A written statement must support the need for the substitution. The statement must include recommended alternate foods, unless otherwise exempted by FNS, and must be signed by a licensed physician or licensed health care professional who is authorized by State law to write medical prescriptions."

Recommendation

The Sponsor should ensure parents provide a medical statement in order to make appropriate menu substitutions for persons with food allergies.

7. An inventory of non-food items was not maintained

Condition

The Sponsor did not maintain an annual inventory of food and non-food items purchased with CACFP funds.

Criteria

The USDA Independent Child Care Centers Handbook, page 57, states, "State agencies may, however, require an inventory to be taken once a year so centers can make adjustments in the cost of food on an annual basis."

The Tennessee Child and Adult Care Food Program Policies and Procedures Manual, page 205, states institutions must, "Complete an inventory of non-food supplies and office supplies purchased but not used at the end of the program year."

Recommendation

The Sponsor should ensure an inventory is completed annually and that an end of year reconciliation is completed.

Technical Assistance Provided

During both site and sponsor monitoring, the following technical assistance was provided:

- The Sponsor was guided to the FNS website where the latest information for the CACFP program is posted.
- The Sponsor was unclear about what constitutes a Child Nutrition label, and assistance was provided.
- Options for ways to encourage children to consume the milk served to them were discussed.
- A discussion regarding what purchases are allowed to be made with CACFP funds (with prior budget approval) was held with the site director.

Disallowed Meals Cost

Based on the 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 \$556.52.

Corrective Action

Jelly Bean Junction Daycare 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 May 2017, 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 \$556.52 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 within 30 days from the date of this report. If the revised claim is not completed by the 30-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

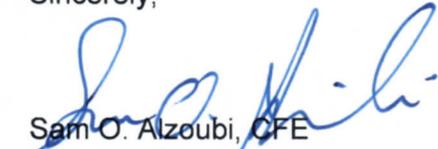
In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the amount of disallowed cost identified in this monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

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 administrative and 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

cc: Juanita Woods, Director, Jelly Bean Junction Daycare
Allette Vayda, Director, Child and Adult Care Food Programs
Sean Baker, Director of Quality Assurance
Elke Moore, Child and Adult Care Food Program
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

Sponsor: Jelly Bean Junction Daycare

Review Month/Year: May 2017

Total Meal Reimbursement Received: \$5,003.20

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled Meals to Meal Counts Sheets
Total Number of Days Food Served	22	22
Number of Breakfast Meals Served	1,235	1,235
Number of Lunches Served	1,308	944
Number of Supplements Served	1,452	1,453
Number of Participants in Free Category	42	47
Number of Participants in Reduced Category	2	7
Number of Participants in Paid Category	31	30
Total Number of Participants	75	84
Total Amount of Eligible Food Costs	XXXXXXXX	\$1,778.62
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$4,454.19



**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

September 12, 2017

Carla Murphy, Owner
Jelly Bean Junction Daycare
1130 West Main Street
Hohenwald, Tennessee 38462-3206

**Notice of payment due to findings disclosed in the monitoring report dated September 12, 2017,
for Child and Adult Care Food Program (CACFP).**

Institution Name:	Jelly Bean Junction Daycare
Institution Address:	1130 West Main Street, Hohenwald TN 38462-3206
Agreement Numbers:	00-328
Amount Due:	\$556.52
Due Date:	October 13, 2017

Based on the monitoring report issued 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 Jelly Bean Junction Daycare to reimburse the Department of Human Services unallowed cost noted in the report.

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount of **\$556.52** by the due date to:

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

Please note that the 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 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: Jelly Bean Junction Daycare	Agreement No. 00328	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
--	------------------------	--

Mailing Address: 1130 West Main Street Hohenwald Tennessee 38462-3206

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

Name and Title: Carla Murphy, Owner	Date of Birth: / /
-------------------------------------	--------------------

Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 9/12/2017	Corrective Action Plan: 9/12/2017
------------------------------	-----------------------------------

Section D. Findings

Findings:

1. The number of participants reported in the free, reduced-price, and paid categories was not accurate
2. Enrollment addendum forms were not maintained for all children
3. The Sponsor reported incorrect meal counts
4. Menus did not contain all required meal components
5. Child nutrition (CN) labels were not provided for some processed foods
6. The Sponsor did not have a medical statement on file for menu substitution
7. An inventory of non-food items was not maintained

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, reduced-price, and paid categories was not accurate

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: Enrollment addendum forms were not maintained for all children

The finding will be fully and permanently corrected.

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

Name: _____ Position Title: _____

Name: _____ Position Title: _____

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

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

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

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

Measure No. 3: The Sponsor 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. 4: Menus did not contain all required meal 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:

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: Child nutrition (CN) labels were not provided for some processed foods

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 a medical statement on file for menu substitution

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. 7: An inventory of non-food items was not maintained

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.