



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

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

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**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

June 5, 2018

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

Dear Mr. Stewart,

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced review on site of the Child and Adult Care Food Program (CACFP) at Happy Times Day Care Center (Sponsor) Application Agreement 00-308 on April 24 - 26, 2018. 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**

CACFP Sponsors utilize meal count sheets to record the number of breakfast, lunch, supper and supplement meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP Sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) to seek reimbursement. We inspected meal count sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we observed a meal service on March 21, 2018.

Our review of the Sponsor's records for March 2018 disclosed the following:

**1. The Sponsor reported the number of participants in the free, reduced-price and paid categories incorrectly**

Condition

The claim for reimbursement for the test month of March 2018 reported 257 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 222 participants in the free category, two participants in the reduced-priced category and 31 participants in the paid category. The differences were based on the following:

- There were two participants classified as free. However, review of the applications revealed the participants qualified for the reduced-price category. These participants were reclassified to the reduced-price category.
- There were 11 participants classified as free. However, the applications did not have the last four digits of the adult's Social Security Number. These participants were reclassified to the paid category.
- There were four participants classified as free. However, the applications did not have the last four digits of the adult's Social Security Number, the determining official's signature or a date. These participants were reclassified to the paid category.
- There were 12 participants classified as free. However, these participants did not have an application on file. These participants were reclassified to the paid category.
- There were three participants classified as free. However, the applications did not have a determining official's signature or a date. These participants were reclassified to the paid category.
- The Sponsor over reported the number of participants in the free category by two.

This is a repeat finding from the monitoring report dated May 3, 2017.

Criteria

*Title 7 of the Code of Federal Regulations, Section 220.6 (c) states, "... In submitting a claim for reimbursement, each institution shall certify that the claim is correct and that records are available to support the claim..."*

Recommendation

The Sponsor should ensure each participant is correctly categorized and reported. The Sponsor should ensure that documentation is maintained to support the claim.

**2. The Sponsor reported the number of meals served incorrectly**

Condition

The claim for reimbursement for the test month reported 4,035 AM supplement meals, 3,484 lunch meals, and 4,036 supper meals served. However, our review of the Sponsor's records verified 4,055 AM supplement meals, 3,484 lunch meals, and 4,035 supper meals. The Sponsor over reported the number of supper meals by one (1) and under reported the number of AM supplement by 20.

Criteria

*Title 7 of the Code of Federal Regulations, Section 220.6 (c) states, "... In submitting a claim for reimbursement, each institution shall certify that the claim is correct and that records are available to support the claim..."*

Recommendation

The Sponsor should ensure the claim for reimbursement is completed based on proper supporting documentation and that the meal count agrees with the meal count documentation.

**3. The Sponsor reported incorrect participant days**

Condition

The claim for reimbursement for the test month reported 4,040 participant days. However, our review of the Sponsor's records verified 4,642 participant days.

Criteria

*Title 7 of the Code of Federal Regulations, Section 220.6 (c) states, "... In submitting a claim for reimbursement, each institution shall certify that the claim is correct and that records are available to support the claim..."*

Recommendation

The Sponsor should ensure the attendance is recorded and reported correctly. The Sponsor should ensure appropriate documentation is maintained to support the claim.

**4. The Sponsor had infant menus that did not meet USDA guidelines**

Condition

Our review of the Sponsor's infant menu documentation revealed the following deficiencies:

Infant: AH, 5 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/22/18	Infant Formula	1 Lunch, 1 Supper, 1 Supplement

Infant: KK, 8 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/13/18	Infant cereal/Meat/meat alternate	1 Lunch
3/28/18	Infant Formula	1 Lunch, 1 Supper
3/29/18	Infant Formula	1 Lunch, 1 Supper, 1 Supplement

Infant: DL, 11 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/08/18	Infant Formula	1 Supper
3/13/18	Infant Cereal/Meat/Meat Alternate	1 Lunch

Infant: KB, 9 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/20/18	Infant Cereal/Meat/Meat Alternate	1 Lunch
3/22/18	Infant Formula	1 Supper

Infant: CC, 7 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/13/18	Infant Cereal/Meat/Meat Alternate	1 Lunch
3/22/18	Infant Formula	1 Lunch, 1 Supper
3/27/18	Infant Formula	1 Lunch, 1 Supper, 1 Supplement
3/28/18	Infant Formula	1 Lunch, 1 Supper, 1 Supplement
3/29/18	Infant Formula	1 Lunch, 1 Supper, 1 Supplement

Infant: KS, 7 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/13/18	Infant Cereal/Meat/Meat Alternate	1 Lunch

Infant: SS, 7 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/13/18	Infant Cereal/Meat/Meat Alternate	1 Lunch

Infant: LC, 7 Months

<b>Dates</b>	<b>Missing Component</b>	<b>Meals Disallowed</b>
3/9/18	Infant Formula	1 Lunch, 1 Supper, 1 Supplement
3/12/18	Infant Formula	1 Supper
3/13/18	Infant Cereal/Meat/Meat Alternate	1 Lunch

3/27/18	Infant Formula	1 Lunch, 1 Supper
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Infant: JG, 11 Months

Dates	Missing Component	Meals Disallowed
3/13/18	Infant Cereal/Meat/Meat Alternate	1 Lunch

Infant: BL, 11 Months

Dates	Missing Component	Meals Disallowed
3/7/18	Infant Formula	1 Lunch, 1 Supper, 1 Supplement
3/13/18	Infant Cereal/Meat/Meat Alternate	1 Lunch
3/14/18	Fruit/Vegetable	1 Supper
3/15/18	Fruit/Vegetable	1 Supper

As a result, the cost reimbursement of 19 lunch meals, 15 supper meals, and 7 supplements were disallowed.

### Criteria

*Title 7 of the Code of Federal Regulations Section 226.20(b)(4)(ii)* states, "6 through 11 months... Meals are reimbursable when institutions and facilities provide all the components in the meal pattern that the infant is developmentally ready to accept."

*Title 7 of the Code of Federal Regulations Section 226.20(b)(4)(ii)(A)* states that the required components for a breakfast, lunch or supper for children 6 through 11 months includes "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."

*Title 7 of the Code of Federal Regulations Section 226.20(b)(4)(ii)(B)* states that the required components for a snack for children 6 through 11 months includes "Snack. Two to 4 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to ½ slice bread; or 0-2 crackers; or 0-4 tablespoons infant cereal or ready-to-eat cereals; and 0 to 2 tablespoons of vegetable or fruit, or portions of both. Fruit juices and vegetable juices must not be served. A serving of grains must be whole grain-rich, enriched meal, or enriched flour."

*Title 7 of the Code of Federal Regulations Section 226.20(b)(4)(i)(B)* states that the required components for a lunch or supper for children Birth-5 months includes "Lunch or supper. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both."

*Title 7 of the Code of Federal Regulations Section 226.20(b)(4)(i)(C)* states that the required components for a snack for children Birth-5 months includes "Snack. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both."

### Recommendation

The Sponsor should ensure menus meet the meal patterns established by the USDA.

## **5. The Sponsor failed to maintain enrollment information**

### Condition

There were 12 participants that did not have enrollment information.

### 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."

### Recommendation

The Sponsor should ensure enrollment information is current and up to date for each participant.

This is a repeat finding from the report dated May 3, 2017.

## **6. The Sponsor did not have an adequate financial management system.**

### Condition

The financial records of Happy Time Day Care Center were limited to bank statements, receipts from purchases and payroll reports. Revenue and expenses pertaining to the CACFP program are commingled with the financial transactions of the daycare center and personal expenses. There was no chart of accounts or accounting system used that segregates expenses between CACFP related expenses, daycare related expenses, and other business or personal expenses.

### Criteria

Per FNS Instruction 796-2 Rev.4. Section A Cost Principles states, "Institutions are responsible for accounting for costs correctly and for maintaining records and sufficient supporting documentation to demonstrate that costs claimed have been incurred, are allocable to the Program, and comply with State agency financial management requirements, this Instruction, and applicable Program regulations and policies. Costs that are not properly documented and recorded pursuant to U.S. GAAP, State agency financial management requirements, 7 CFR Part 226 and other applicable regulations, 2 CFR Part 225 or 2 CFR Part 230, as applicable, and this Instruction are unallowable."

### Recommendation

The Sponsor should comply with federal and state regulations by maintaining an adequate financial management system that segregates expenses to match the source of funding and clearly documents the revenues and expenses associated with the CACFP.

## Technical Assistance

Technical assistance was provided to the Sponsor concerning infant meal pattern requirements, classifying participants and maintaining a financial management system.

**Note:** Our observation of the meal service on March 21, 2018, revealed no deficiencies.

## Disallowed Costs

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern CACFP resulted in a total disallowed cost of \$3,197.92.

## Corrective Action

The Sponsor must complete the following actions within 30 days from the date of this report:

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for March 2018, which contains the verified claim data from the enclosed exhibits. ***Please note that, if the claim is revised,*** TIPS will automatically deduct the overpayment from your next CACFP claim for reimbursement. **OR**
- If you are no longer participating in the CACFP program, remit a check payable to the ***Tennessee Department of Human Services*** in the amount noted in the report 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 of Operations  
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 cost is subject to an interest charge. The interest charge will be waived if your revised claim is completed 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 overpayment identified by the 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, Clerks Office  
P.O. Box 198996  
Nashville, Tennessee 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 Sean Baker, Audit Director 2, at 615-313-4727 or [sean.baker@tn.gov](mailto:sean.baker@tn.gov).

Sincerely,



Sam O. Alzoubi, CFE  
Director of Audit Services

Exhibit

cc: Allette Vayda, Director of Operations, Child and Adult Care Food Programs  
Debra Pasta, Program Manager, 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****Verification of CACFP Independent Center Claim****Name of Agency: Happy Times Day Care Center****Review Month/Year: March 2018****Total Meal Reimbursement Received: \$29,588.80**

<b>Program Area</b>	<b>Reported on Claim</b>	<b>Reconciled By Monitoring Review</b>
Number of Days that CACFP Food Service was operated	21	21
Total Attendance	4,040	4,642
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	88%
Number of Lunch Meals Served	3,484	3,465
Number of Supper Meals Served	4,036	4,020
Number of AM Supplement Meals Served	4,035	4,048
Number of Participants in Free Category	257	222
Number of Participants in Reduced-Price Category	0	2
Number of Participants in Paid Category	0	31
Total Number of Participants	257	255



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**BILL HASLAM**

GOVERNOR

**DANIELLE W. BARNES**

COMMISSIONER

June 5, 2018

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 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 Numbers:	00-308
Amount Due:	\$3,197.92
Due Date:	July 5, 2018

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 require your institution to reimburse the Department of Human Services the disallowed cost noted in the report

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount noted above 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 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 of Operations 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: Happy Times Day Care Center	Agreement No. 00308	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 3237 South Perkins Memphis, Tennessee 38118-4354

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

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

Monitoring Report: 6/5/2018	Corrective Action Plan: 6/5/2018
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## Section D. Findings

Findings:

1. The Sponsor reported the number of participants in the free, reduced-price and paid categories incorrectly
2. The Sponsor reported the number of meals served incorrectly
3. The Sponsor reported incorrect participant days
4. The Sponsor had infant menus that did not meet USDA guidelines
5. The Sponsor failed to maintain enrollment information
6. The Sponsor did not have an adequate financial management system

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

**Measure No. 1: The Sponsor reported the number of participants in the free, reduced-price and paid categories incorrectly**

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 reported the number of meals served incorrectly**

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: The Sponsor reported incorrect participant days**

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: The Sponsor had infant menus that did not meet 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: The Sponsor failed to maintain enrollment information**

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 have an adequate financial management system**

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 March 2017

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

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

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

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

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

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 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

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](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.