



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

May 25, 2018

Rose Duggar, Board Chairman
Kiddie Kollege Child Care Center
1980 East Person Avenue
Memphis, Tennessee 38114-3411

Dear Ms. Duggar,

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced on site review of the Child and Adult Care Food Program (CACFP) at Kiddie Kollege Child Care Center (Sponsor) Application Agreement 00344 on April 17, 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 22, 2018.

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

1. 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 79 participants in the free category, 10 participants in the reduced-price category and 10 participants in the paid category. However, our review of the Sponsor's records verified there were 109 participants in the free category, four participants in the reduced-price category and nine participants in the paid category. The differences were based on the following:

- Seven participants were classified as reduced-price, however, there was a Families First number listed on the applications. These participants were reclassified to the free category.
- Three participants were classified as paid, however, there was a Families First number listed on the applications. These participants were reclassified to the free category.
- One participant was reported as free but was classified in the reduced-price category on the application. This participant was reclassified to the reduced-price category.
- The Sponsor under-reported the number of participants in the free category by 21, and the paid category by two.

Criteria

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 maintain all information used to determine eligibility, and ensure that each participant is classified and reported accurately based on categorical or income eligibility.

2. The Sponsor reported the number of lunch meals incorrectly

Condition

The claim for reimbursement for the test month reported 1,582 breakfast meals, 1,576 lunch meals and 1,748 supplement meals. However, our review of the Sponsor's records verified 1,582 breakfast meals, 1,577 lunch meals and 1,748 supplement meals prior to any disallowances. The Sponsor under-reported the number of lunch meals by one.

Criteria

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 the number of meals served is accurately recorded and reported. The Sponsor should ensure that documentation is maintained to support the claim.

3. The Sponsor reported incorrect participant days

Condition

The claim for reimbursement reported 1,748 participant days. However, our review of the Sponsor's records verified 1,772 participant days. The sponsor under-reported the number of participant days by 24.

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..."

Recommendation

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

4. The Sponsor did not list the specific breakfast cereals served

Condition

In accordance with the revised meal pattern requirements, effective October 1, 2017, breakfast cereals must contain no more than six grams of sugar per dry ounce. The Sponsor did not list the specific cereals served on the menu. When labels were requested for the cereals served, the Sponsor provided a label for Cinnamon Toast Crunch which exceeds the allowable sugar amount. The Sponsor stated that other cereals were served however, the labels were not on file. Because the Sponsor only recorded "cereal" on the menu, we were unable to determine which labels were needed or the sugar content of all the cereals served.

There were no meals disallowed due to the grace period given to Sponsors to conform to the new meal pattern requirements.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (a)(4)(ii) states, "...Breakfast cereals must contain no more than 6 grams of sugar per dry ounce..."

Recommendation

The Sponsor should ensure that all cereals served meet the new sugar limits established by the USDA. The Sponsor should list the exact cereal served each day on the menu. The Sponsor should also ensure that labels are kept on file for all cereals served during the month.

5. Infant menus did not meet meal patterns established by the USDA

Condition

In accordance with the new meal pattern requirements effective October 1, 2017, an infant breakfast meal for an infant age 6-11 months consists of breastmilk or formula, infant cereal or meat alternate and a fruit or vegetable. A supplement meal for an infant age 6-11 months consists of breastmilk or formula, infant cereal or grain and a fruit or vegetable. The fruit or vegetable component must be served after it is introduced to the infant. The Sponsor's infant menus had the following deficiencies.

B.D. 10 months

Date	Meal	Missing Component
3/1/18, 3/2/18, 3/6/18, 3/7/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/28/18, 3/29/18	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

L.R. 7 months

Date	Meal	Missing Component
3/1/18, 3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18, 03/29/18	Breakfast meal	Fruit or vegetable, after it had been introduced to the infant's diet
3/1/18, 3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18, 03/29/18	Supplement meal	Infant cereal or grain
3/1/18, 3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18,	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

3/23/18, 3/26/18, 3/27/18, 3/28/18, 03/29/18		
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L.W. 8 months

Date	Meal	Missing Component
3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18, 3/29/18	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

C.T. 7 months

Date	Meal	Missing Component
3/1/18, 3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18,	Breakfast meal	Fruit or vegetable, after it had been introduced to the infant's diet
3/1/18, 3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18,	Supplement Meal	Infant Cereal or grain
3/1/18, 3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18,	Supplement Meal	Fruit or vegetable, after it had been introduced to the infant's diet

P.G. 8 months

Date	Meal	Missing Component
3/5/18, 3/6/18, 3/7/18, 3/9/18, 3/13/18	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

B.C. 7 months

Date	Meal	Missing Component
3/1/18, 3/2/18, 3/5/18, 3/12/18, 3/13/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18, 3/29/18	Breakfast meal	Fruit or vegetable, after it had been introduced to the infant's diet
3/1/18, 3/2/18, 3/5/18, 3/12/18, 3/13/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18, 3/29/18	Supplement meal	Infant cereal or grain
3/1/18, 3/2/18, 3/5/18, 3/12/18, 3/13/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18, 3/29/18	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

J.M. 8 months

Date	Meal	Missing Component
3/1/18, 3/2/18, 3/5/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/20/18, 3/21/18, 3/22/18, 3/23/18, 3/26/18, 3/27/18, 3/28/18, 3/29/18	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

K.B. 8 months

Date	Meal	Missing Component
3/1/18, 3/6/18, 3/7/18, 3/8/18, 3/9/18, 3/12/18, 3/13/18, 3/14/18, 3/15/18, 3/16/18,	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

3/19/18, 3/20/18, 3/21/18, 3/26/18, 3/27/18, 3/28/18, 3/29/18		
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J.W. 8 months

Date	Meal	Missing Component
3/14/18, 3/15/18, 3/16/18, 3/19/18, 3/20/18, 3/21/18, 3/22/18	Supplement meal	Fruit or vegetable, after it had been introduced to the infant's diet

There were no meals disallowed due to the grace period given to Sponsors to conform to the new meal pattern requirements.

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)(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 1/2 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)(ii)(A) states that the required components for a breakfast meal for children 6 through 11 months include "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."

Recommendation

The Sponsor should ensure that all infant menus meet the current meal patterns established by the USDA. The Sponsor should ensure that once a fruit or vegetable component is introduced to an infant's diet; the item is served at each meal service.

6. The Sponsor served juice at more than one meal service per day

Condition

In accordance with the revised meal pattern requirements effective October 1, 2017; fruit and vegetable juice may only be served at one meal service each day. Our review of the Sponsor's menu revealed juice was served at the breakfast meal service and the supplement meal service on March 6, 2018.

No meals were disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal patterns.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (a)(2)(i) states, "Pasteurized, full-strength vegetable juice may be used to fulfill the entire requirement. Vegetable juice or fruit juice may only be served at one meal, including snack, per day."

Title 7 of the Code of Federal Regulations, Section 226.20 (a)(3)(i) states, "Pasteurized, full-strength fruit juice may be used to fulfill the entire requirement. Fruit juice or vegetable juice may only be served at one meal, including snack, per day."

Recommendation

The Sponsor should review the menu and ensure the menu meets the new meal pattern requirements established by the USDA.

Technical Assistance

Technical assistance was provided to the Sponsor concerning categorizing and claiming participants as well as infant meal pattern requirements.

Note: Our observation of the meal service on March 22, 2018, revealed no deficiencies.

Corrective Action

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

- 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:

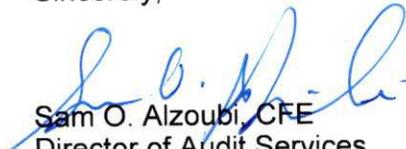
AuditServices.CAPS.DHS@tn.gov

If you have questions relative to the corrective action plan please contact:

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

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.

Sincerely,



Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

Cc: Carolyn Goodwin, Director, Kiddie Kollege Child Care Center
Allette Vayda, Director of Operations, Child and Adult Care Food Program
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: Kiddie Kollege Child Care Center

Review Month/Year: March 2018

Total Meal Reimbursement Received: \$8,731.85

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	21	21
Total Attendance	1,748	1,772
Number of Breakfast meals Served	1,582	1,582
Number of Lunch meals Served	1,576	1,577
Number of PM snacks Served	1,748	1,748
Number of Participants in Free Category	79	109
Number of Participants in Reduced-Price Category	10	4
Number of Participants in Paid Category	10	9
Total Number of Participants	99	122
Total Amount of Eligible Food Costs	XXXXXXXX	\$2,562.14
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$4,846.34



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: Kidie Kollege Child Care Center	Agreement No. 00344	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 1980 East Person Avenue Memphis, Tennessee 38114-3411

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

Name and Title: Rose Duggar, Board Chairman	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 5/25/2018	Corrective Action Plan: 5/25/2018
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Section D. Findings

Findings:

1. The number of participants reported in the free, reduced-price and paid categories was incorrect
2. The Sponsor reported the number of lunch meals incorrectly
3. The Sponsor reported incorrect participant days
4. The Sponsor did not list the specific breakfast cereals served
5. Infant menus did not meet meal patterns established by the USDA
6. The Sponsor served juice at more than one meal service per day
- 7.

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 incorrect

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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

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

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

Measure No.2: The Sponsor reported the number of lunch meals 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:

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 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:

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: The Sponsor did not list the specific breakfast cereals served

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: Infant menus did not meet meal patterns established by the USDA

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 served juice at more than one meal service per day

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;

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 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

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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

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.