



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

June 1, 2018

Kenyatta Collins, Chairman of the Board
Learning Block Nutrition Services
3984 Gouverneur Street
Memphis, Tennessee 38135-1430

Dear Ms. Collins,

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 Learning Block Nutrition Services (Sponsor) Agreement 00-046 on April 20, 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.

Two types of programs were evaluated during the test month of January 2018- Childcare centers and homes. Our sample included one childcare center and three homes. We observed a meal service at Millington Youth International Academy on January 23, 2018. In addition, we observed three meal services at our home sample as follows: Home 0011 on January 26, 2018, Home 0016 on January 29, 2018, and Home 0015 on January 31, 2018.

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

Childcare Centers

The Sponsor had two childcare centers in operation during the test month; Millington International Youth Academy was selected as the sample site. Applications were also viewed for Hannah and Doris Prayer Daycare to meet the required valid statistical sample.

Our review of the Sponsor's records for Childcare Centers for the test month disclosed the following:

1. The Sponsor claimed the incorrect number of meals

Condition

The Claim of reimbursement for the test month reported 1,164 breakfast meals, 1,098 lunch meals and 1,303 supplements and 96 suppers served. However, our review of the Sponsor's records reconciled 1,164 breakfast meals, 1,098 lunch meals and 1,328 supplements and 96 suppers prior to any meal disallowances. The Sponsor under reported the number of supplements by 25. The difference was based on the following:

Millington International Youth Academy

The claim for reimbursement for the test month reported 663 breakfast meals, 608 lunch meals, and 731 supplement meals. However, our review of the records provided for the center reconciled 663 breakfast meals, 608 lunch meals, and 756 supplements.

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..."

Title 7 of the Code of Federal Regulations, Section 226.15(e)(4) states, "Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency... At a minimum, the following records shall be collected and maintained: (4) Daily records indicating the number of participants in attendance and the daily meal counts, by type (breakfast, lunch, supper, and snacks), served to family day care home participants, or the time of service meal counts, by type (breakfast, lunch, supper, and snacks), served to center participants...."

Recommendation

The Sponsor should ensure the meal count claimed agree with the actual meal count documentation and meals served.

2. Meals were served outside of the approved meal service time

Condition

On January 23, 2018, the day of our on-site visit to Millington International Youth Academy, we observed breakfast being served outside of the TIPS approved time of 7:30 AM– 9:00 AM. The monitor arrived at 7:19 am and observed two participants eating. The center claimed that 17 participants had eaten prior to the monitor's arrival. 17 participants were

served breakfast meals during the time of 7:20 AM – 9:00 AM. The center was eligible to claim 19 breakfast meals. The Sponsor claimed a total of 42 breakfast meals as served.

As a result, the cost of the reimbursement for 23 breakfast meals were disallowed.

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..."

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 the application in accordance with the meal pattern requirements..."

Recommendation

The Sponsor should ensure the meals reported were based on the actual meals served and eligible for reimbursement. In addition, the Sponsor should make adjustments to serving times as needed and update TIPS.

3. The Sponsor reported the number of attendance days incorrectly

Millington International Youth Academy

Condition

The claim for reimbursement for the test month reported 1,530 participant days. However, our review verified 1,538 participant days. The difference was based on the following:

Millington International Youth Academy

The Sponsor reported 903 participant days for Millington International Youth Academy. However, our review of the records provided for the center verified 911 participant days.

Criteria

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

Recommendation

The Sponsor should ensure the attendance is recorded and reported correctly.

Disallowed Costs for Centers

The disallowed meals cost associated with the findings for the Sponsored Centers is below the DHS threshold for repayment.

Homes

The Sponsor had 19 homes in operation during the test month Home 0011 (Thelma Hayslett), Home 0015 (Wanda Haymon), and Home 0016 (Sonita Cummings) were selected as sample sites.

Our review of the Sponsor's records for sponsored homes for the test month disclosed the following:

4. The Sponsor reported incorrect meal counts

Condition

The Claim for Reimbursement for the test month had 1,731 breakfast meals, 1,976 lunch meals, 466 suppers and 2,169 supplements served. However, our review of the Sponsor's records showed 1,728 breakfast meals, 1,973 lunch meals, 466 suppers, and 2,160 supplements prior to any meal disallowances. The Sponsor over reported the number of breakfast meals by three, over reported the number of lunch meals by three, and over reported the number of supplements by nine.

The differences were based on the following:

Home 0015 Wanda Haymon

The sponsor reported 99 breakfast meals, 99 lunch meals, and 99 supplements. However, our review of the Sponsor's records reconciled 96 breakfast meals, 96 lunch meals, and 90 supplements prior to any disallowances. The sponsor over reported the number of breakfast meals by three, over reported the lunch meal by three, and over reported the number of supplements by nine.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15(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 the meal count claimed agree with the actual meal count documentation submitted by the provider

5. The Sponsor's monitoring forms did not indicate if the monitoring review for homes were announced or unannounced.

Condition

Sponsoring organizations are required to monitor each sponsored home at least three times each year, two of which must be unannounced with no more than six months between monitoring visits. The Sponsor provided documentation that monitoring was completed but the forms did not indicate whether monitoring reviews were announced or unannounced.

Criteria

Title 7 of the Code of Federal Regulations Section 226.16(d)(4)(iii) states "Frequency and type of required facility reviews. Sponsoring organizations must review each facility three times each year, except as described in paragraph (d)(4)(iv) of this section. In addition: (A) At least two of the three reviews must be unannounced; (B) At least one unannounced review must include observation of a meal service; (C) At least one review must be made during each new facility's first four weeks of Program operations; and (D) Not more than six months may elapse between reviews."

Recommendation

The Sponsor should ensure that at least two of the reviews are unannounced and that the monitoring review forms indicate if the review was announced or unannounced.

Technical Assistance Provided

Technical assistance was provided on menu training for providers.

Note: Our observations for the meal services for the Daycare Homes in January 2018 revealed no deficiencies.

Disallowed Costs for Homes

The disallowed meals cost associated with the findings for the Sponsored homes is below the DHS threshold for repayment.

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:

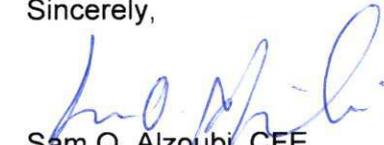
AuditServices.CAPS.DHS@tn.gov

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
Exhibits

Cc: Thomas Garrison, Executive Director, Learning Block Nutrition Services
Allette Vayda, Director of Operations, Child and Adult Care Food Program
Debra Pasta, Program Manager, Child and Adult Care Food Program
Elke Moore, Administrative Assistant 3, 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 A

Verification of CACFP Sponsor of Unaffiliated Centers Claim

Sponsor: Learning Block Nutrition Center

Review Month/Year: January 2018

Total Amount of Reimbursement to Sponsor: \$ 4,777.34

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	21	21
Total Attendance	1,530	1,538
Number of Breakfasts Served	1,164	1,141
Number of Lunches Served	1,098	1,098
Number of Suppers Served	96	96
Number of Supplements Served	1,303	1,328
Number of Participants in Free Category	46	46
Number of Participants in Reduced-Price Category	2	2
Number of Participants in Paid Category	48	48
Total Number of Participants	96	96
Total Number of Centers	2	2

Exhibit B**Verification of Unaffiliated Sponsored Center Data****Name of Agency: Millington International Youth Academy****Review Month/Year: January 2018****Total Meal Reimbursement Received: \$ 1,565. 50**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	17	17
Total Attendance	903	911
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	30%
Number of Breakfasts Served	663	640
Number of Lunches Served	608	608
Number of Supplements Served	731	756
Number of Participants in Free Category	18	18
Number of Participants in Reduced-Price Category	2	2
Number of Participants in Paid Category	46	46
Total Number of Participants	66	66

Exhibit C**Verification of Unaffiliated Sponsored Center Data****Name of Agency: Hannah and Doris Prayer Daycare****Review Month/Year: January 2018****Total Meal Reimbursement Received: \$ 3,211.83**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	NA	NA
Total Attendance	NA	NA
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	NA	NA
Number of Breakfasts Served	NA	NA
Number of Lunches Served	NA	NA
Number of Supplements Served	NA	NA
Number of Participants in Free Category	28	28
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	2	2
Total Number of Participants	30	30
Total Amount of Eligible Food Costs	NA	NA
Total Amount of Eligible Food and Non-Food Costs	NA	NA

Exhibit D

Verification of CACFP Claim for Home Sponsor

Sponsor: Learning Block Nutrition Services

Review Month/Year: January 2018

Total Amount Paid to Sponsor for Reported Meals: \$ 12,024.30

Total Amount Paid by Sponsor to Homes for Meals: \$9,858.30

Total Sponsor Admin Paid: \$2,057

Total Sponsor Admin Due Based on Number of Homes: \$ 2,057

Program Area	Reported on Claim	Reconciled by Monitoring Review
Total Tier 1 Average Attendance	2,230	NA
Number of Tier 1 Breakfasts Served	1,731	1,728
Number of Tier 1 Lunches Served	1,976	1,973
Number of Tier 1 Suppers Served	466	466
Number of Tier 1 Supplements Served	2,169	2,160
Total Number of Tier 1 Homes	19	19
Total Number of Homes	19	19

EXHIBIT E

Individual Home Review Data

Name of Home/Tier Type: Thelma Hayslett 0011/ Tier 1
Sponsor Reimbursement Paid to the Home: \$413.03
Reimbursement due based on Reported Information: \$413.03
Reimbursement due based on Verified Information: \$413.03

Program Area	Reported	Reconciled by Monitoring Review
Number of Days that CACFP Food Service was operated	21	21
Reconciled Attendance	XXXXXX	102
Tier 1 Average Daily Attendance	9	9
Number of Tier 1 Breakfasts Served	101	101
Number of Tier 1 AM Snacks Served	88	88
Number of Tier 1 Lunches Served	88	88
Number of Tier 1 Supplements Served	88	88

EXHIBIT F

Individual Home Review Data

Name of Home/Tier Type: Sonita Cummings 0016/ Tier 1

Sponsor Reimbursement Paid to the Home: \$562.50

Reimbursement due based on Reported Information: \$562.50

Reimbursement due based on Verified Information: \$ 562.50

Program Area	Reported	Reconciled by Monitoring Review
Number of Days that CACFP Food Service was operated	19	19
Reconciled Attendance	XXXXXX	125
Tier 1 Average Attendance	7	7
Number of Tier 1 Breakfasts Served	125	125
Number of Tier 1 Lunches Served	125	125
Number of Tier 1 Supplements Served	125	125

EXHIBIT G

Individual Home Review Data

Name of Home/Tier Type: Wanda Haymon 0015/ Tier 1
Sponsor Reimbursement Paid to the Home: \$445.50
Reimbursement due based on Reported Information: \$445.50
Reimbursement due based on Verified Information: \$427.62

Program Area	Reported	Reconciled by Monitoring Review
Number of Days that CACFP Food Service was operated	19	19
Reconciled Attendance	XXXXXX	96
Tier 1 Average Attendance	7	7
Total Tier 2 Mixed Attendance	NA	NA
Number of Tier 1 Breakfasts Served	99	96
Number of Tier 1 Lunches Served	99	96
Number of Tier 1 Supplements Served	99	90



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: Learning Block Nutrition Services	Agreement No. 00046	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 3984 Gouvernuer Street Memphis, Tennessee 38135-1430

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

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

Monitoring Report: 6/1/2018	Corrective Action Plan: 6/1/2018
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Section D. Findings

Findings:

1. The Sponsor claimed the incorrect number of meals
2. Meals were served outside of the approved meal service time
3. The Sponsor reported the number of attendance days incorrectly
4. The Sponsor reported incorrect meal counts
5. The Sponsor's monitoring forms did not indicate if the monitoring review for homes were announced or unannounced

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 claimed the incorrect number of meals

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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: Meals were served outside of the approved meal service time

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 the number of attendance days 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. 4: 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. 5: The Sponsor's monitoring forms did not indicate if the monitoring review for homes were announced or unannounced

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;

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

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

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

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

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

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

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hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

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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.