



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

CERTIFIED MAIL RECEIPT #70163010000073326173

April 12, 2018

Ora Davis, Owner
Magic Kingdom Learning Center
2110 Airways Boulevard
Memphis, Tennessee 38114-5218

Dear Ms. Davis:

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 Magic Kingdom Learning Center Application Agreement 00-404 on March 07, 2018. We reviewed the Sponsor's records of reimbursement and expenditures for the period of February 2018. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

SERIOUS DEFICIENCY DETERMINATION

Based on the monitoring review, the Department has determined that Magic Kingdom Learning Center is seriously deficient in its operation of the CACFP. In addition, the Department has identified Ora Davis, Owner as responsible for the serious deficiencies in light of their responsibility for the overall management of Magic Kingdom Learning Center's CACFP.

If Magic Kingdom Learning Center does not fully and permanently correct all of the serious deficiencies and submit documentation of the corrective action by the due date, the Department will:

- Propose to terminate Magic Kingdom Learning Center's agreement to participate in the CACFP;
- Propose to disqualify Magic Kingdom Learning Center from future CACFP participation; and
- Propose to disqualify Ora Davis, Owner, from future CACFP participation.

In addition, if Magic Kingdom Learning Center voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Magic Kingdom Learning Center and Ora Davis, Owner from future CACFP participation. If disqualified, Magic Kingdom Learning Center, and Ora Davis, Owner will be placed on the National Disqualified List (“NDL”). While on the NDL, Magic Kingdom Learning Center will not be able to participate in the CACFP as an institution or facility. Ora Davis, Owner will not be able to serve as a principal in any institution or facility or as a day care home provider in the CACFP.

Institutions and individuals remain on the NDL until the United States Department of Agriculture’s Food and Nutrition Service, in consultation with the Department, determines that the serious deficiencies have been corrected, or until seven years after their disqualification. However, if any debt relating to the serious deficiencies has not been repaid, they will remain on the list until the debt has been repaid.

The authorization for this action is found in Paragraph 1.e. of your FY 2016 CACFP Provider Agreement and in the CACFP regulations at 7 C.F.R. § 226.6(c)(3). You may not appeal a finding of serious deficiency.

SERIOUS DEFICIENCIES, ADDITIONAL FINDINGS AND REQUIRED CORRECTIVE ACTION

The following paragraphs detail each serious deficiency and additional finding:

Background

CACFP Sponsors utilize meal count sheets to record the number of meals served for breakfast, lunch, supper and supplement meals. 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 February 22, 2018.

Our review of the Sponsor’s records for February 2018 disclosed the following:

1. The number of participants reported in the free and reduced-price categories was incorrect

Condition

The claim for reimbursement for the test month of February 2018 reported 63 participants in the free category, zero participants in the reduced-price category and two participants in the paid category. However, our review of the Sponsor’s records verified there were 52 participants in the free category, zero participants in the reduced-price category and four participants in the paid category. The differences were based on the following:

- There was one participant reported in the free category, however, the participant did not have an application on file. This participant was reclassified as paid.
- There was one participant reported in the free category, but the application on file was not signed or dated by the determining official. This participant was reclassified as paid.
- There were nine participants over reported in the free category. This is considered a reporting error and adjustments were made accordingly.

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)(8) states, “Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced-price meals in accordance with §226.23(e)(1) ... Such documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care.”

Recommendation

The Sponsor should ensure each participant is classified and reported according to income eligibility applications for child care center participants. Applications should be maintained on file and updated annually.

This is a repeat finding from monitoring report dated December 11, 2018.

2. The Sponsor claimed the incorrect number of meals

This is a Serious Deficiency:

Condition

The claim for reimbursement for the test month of February 2018 reported 816 breakfast meals, 479 lunch meals, 351 supper meals and 852 supplement meals served. However, our review of the Sponsor's records verified 789 breakfast meals, 487 lunch meals, 252 supper meals, and 835 supplement meals prior to any meal disallowances. The Sponsor over claimed the number of breakfast meals by 27, under claimed lunch meals by 8, over claimed supper meals by 99 and over claimed supplement meals by 17.

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 meal count claimed agrees with the actual meal count documentation and meals served.

3. The Sponsor's lunch meal was served outside of the approved service time

Condition

On February 22, 2018, a DHS program monitor arrived at Magic Kingdom Learning Center at approximately 10:48 a.m. The approved lunch meal service time in TIPS was 11:00 a.m. until 12:00 p.m. The assistant director stated meals were served prior to the monitor's arrival. There were no participants eating when the monitor entered the building. The monitor observed discarded meals in the trash. The

assistant director was informed no meals could be allowed for the day due to meals being served outside of the approved service time. The Sponsor did not claim the lunch meals on February 22, 2018.

Criteria

Title 7 of the Code of Federal Regulations Section 226.17(b)(4) states “Each child care center participating in the Program shall claim only the meal types specified in its approved application...”

Recommendation

The Sponsor should ensure the meals are served during the approved meal service.

4. The Sponsor provided menus that did not meet USDA requirements

Condition

According to the CN label provided by the Sponsor for the fish sticks, three fish sticks is equivalent to 0.5 ounces of protein. The Sponsor stated 1-2-year-olds are served six fish sticks; 3-5-year-olds are served 8 fish sticks and 6-12-year-olds are served 10 fish sticks. The serving amounts listed for 3-5-year-olds and 6-12-year-olds do not meet the USDA protein requirements.

In addition, another menu for Magic Kingdom Learning Center had deficiencies. The deficient menus listed the following:

Date	Deficient/ Missing Component	Disallowed Meals
02/05/18	Deficient component: Meat/meat alternate Menu Listed: Milk, fish sticks-CN, whole kernel corn, pineapple chunks, and wheat bread. Meals were only claimed for 6-12-year-olds and are disallowed due to a protein deficiency. The 6-12-year-old age group is required to receive 2 ounces of protein for supper meals.	9 supper meals
02/22/18	Deficient component: Meat/meat alternate Menu Listed: Milk, fish sticks-CN, French fries, applesauce, and wheat bread. Meals were only claimed for 6-12-year-olds and are disallowed due to a protein deficiency. The 6-12-year-old age group is required to receive 2 ounces of protein for supper meals.	17 supper meals
02/23/18	Missing component: Second fruit, juice, or vegetable Menu Listed: Milk, corn dogs, pasta salad (macaroni salad), diced peaches, and wheat rolls	19 lunch meals 15 supper meals

As a result, the cost reimbursement of 19 lunch meals and 41 supper meals was disallowed.

Criteria

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

Recommendation

The Sponsor should ensure that menus meet the meal patterns established by the USDA and ensure the products served meet the protein requirements established by the USDA.

This is a repeat finding from monitoring report dated December 11, 2018.

5. The Sponsor's infant menus did not meet the meal pattern requirements established by the USDA

Condition

The menus provided for infants had deficiencies and listed the following:

Infant: TB, 11 months

Dates	Missing Component	Disallowed Meals
02/06/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal
02/14/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal
02/22/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal

Infant: BG, 8 months

Dates	Missing Component	Disallowed Meals
02/14/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal
02/22/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal

Infant: MM, 8 months

Dates	Missing Component	Disallowed Meals
02/06/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal
02/14/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal
02/22/18	(IFIF) Infant Formula or Full Strength Juice	1 supplement meal

Infant: AG, 3 months

Dates	Missing Component	Disallowed Meals
February 2018	Infant menus were not dated and the components were not listed/circled	7 breakfasts 7 lunches 7 supplements

As a result, the cost reimbursement for seven breakfast meals, seven lunch meals, and 15 supplement meals was disallowed.

Criteria

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

Recommendation

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

6. The Sponsor served more than the allowed two meals and a supplement on one day to participants

This is a Serious Deficiency:

Condition

Child care centers are allowed to claim reimbursement for no more than two meals and a supplement or one meal and two supplements daily to any participant. Magic Kingdom Learning Center documented serving 6-12-year-old participants breakfast meals, lunch meals, pm supplement meals and supper meals on February 16, 2018. As a result, the cost reimbursement for 16 breakfast meals was disallowed since the breakfast meal had the lowest reimbursement rate.

Criteria

Title 7 of the Code of Federal Regulations Section 226.17(b)(3) “Each child care center participating in the Program must serve one or more of the following meal types—breakfast; lunch; supper; and snack. Reimbursement must not be claimed for more than two meals and one snack or one meal and two snacks provided daily to each child.”

Recommendation

The Sponsor should adhere to the USDA stipulations concerning the number of meals that can be served to each participant on any given day.

7. The Sponsor did not provide supporting documentation to show sufficient quantities of milk were purchased for the number of meals served requiring milk

This is a Serious Deficiency:

Condition

Based on the number of meals served with milk as a required component, a total of 7,958 ounces were needed. However, the Sponsor provided receipts that showed the purchase of 6,400 ounces for February 2018. The Sponsor did not provide a beginning inventory of milk for the review month, therefore rollover milk could not be considered. This resulted in a milk shortage of 1,558 ounces. As a result, the cost reimbursement for 195 breakfast meals was disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10 (c)(2) 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 226.20 (c)(2) states, "Fluid milk, meat and meat alternates, vegetables, fruits, and grains are required components in the lunch and supper meals..."

Recommendation

- The Sponsor should purchase enough milk to provide all participants with the required amount of milk for meals that are claimed for reimbursement.
- The Sponsor should maintain receipts to verify the purchase of the food items identified on the menu.
- The Sponsor should complete a monthly milk inventory which is completed on the last day of operation for each month. The inventory should list the amount of milk purchased and not used during the month that is available at the close of business on the last day of the operation of that month.

9. The Sponsor did not provide documentation to support the requirement that one whole grain-rich grain must be served each day

Condition

In accordance with the revised meal pattern requirements effective October 2017; at least one serving of grain per day must be whole grain-rich. The following menus either did not list a whole grain-rich product on the menu or listed a whole grain-rich item on the menu and the sponsor did not provide a label for verification:

On February 20, 2018 the Sponsor did not list a whole grain-rich grain for the breakfast meal, lunch meal, supper meal or supplement meal.

On February 28, 2018 the Sponsor listed a wheat bun with the lunch and supper meals to meet the requirement that at least one serving of grain per day must be whole grain-rich. However, we were unable to verify that the product was whole grain-rich because the Sponsor did not provide a label as supporting documentation.

There were no meals 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 (4)(a) states, "At least one serving per day, across all eating occasions of bread, cereals, and grains, must be whole grain-rich. Whole grain-rich foods contain at least 50 percent whole grains and the remaining grains in the food are enriched, and must meet the whole grain-rich criteria specified in FNS guidance."

Recommendation

The Sponsor should ensure all labels are maintained for verification purposes and menus meet the meal patterns established by the USDA.

10. The Sponsor served cereals that exceeded the allowable sugar amounts established by the USDA

Condition

In accordance with the revised meal pattern requirements effective October 2017, breakfast cereals must contain no more than six grams of sugar per dry ounce. The following menus were deficient:

- The breakfast meal menu on February 6, 2018, listed Cinnamon Toast Cereal as the grain component. The amount of sugar in the cereal exceeded the allowable six grams of sugar per dry ounce.
- The breakfast meal menu on February 12, 2018, listed Froot Loops as the grain component. The amount of sugar in the cereal exceeded the allowable six grams of sugar per dry ounce.

There were no meals 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)(4)(ii) states, "...Breakfast cereals must contain no more than 6 grams of sugar per dry ounce..."

Recommendation

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

11. The Sponsor listed dessert based grain products on some supplement menus

Condition

In accordance with the revised meal pattern requirements effective October 2017, grain based desserts are no longer creditable toward the grain component. The following menus listed a grain based dessert as a component and were deficient:

Date	Deficient component
02/09/18	Vanilla Wafers were served as one of the two supplement components
02/16/18	Vanilla Wafers were served as one of the two supplement components

There were no meals 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)(4)(iii) states, "*Desserts.* Grain-based desserts do not count towards meeting the grains requirement..."

Recommendation

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

12. The Sponsor provided infant menus that did not conform to the updated CACFP meal pattern requirements for infants which was effective October 2017

Condition

The menus provided for infants had deficiencies and listed the following:

Infant: TB, 11 Months

Dates	Deficiencies
February 2018	None of the infant supplement menus listed IFIF/BM as required
February 2018	None of the infant supplement menus listed a fruit or vegetable after the component had been introduced into the infant's diet as required
02/05/18, 02/09/18, 02/12/18, 02/20/18	Dessert based grains were served as the grain component on supplement menus. Dessert based grains are no longer creditable toward the grain component
02/01/18, 02/02/18, 02/05/18, 02/07/18, 02/08/18, 02/09/18, 02/12/18, 02/13/18, 02/16/18, 02/19/18, 02/20/18, 02/21/18, 02/23/18, 02/26/18, 02/27/18, 02/28/18	Juice was listed as a supplement component. Juice is no longer allowed to be served to infants.

Infant: BG, 8 months

Dates	Deficiencies
February 2018	None of the infant supplement menus listed IFIF/BM as required
February 2018	None of the infant supplement menus listed a fruit or vegetable after the component had been introduced into the infant's diet as required
02/09/18, 02/12/18, 02/20/18	Dessert based grains were served as the grain component on supplement menus. Dessert based grains are no longer creditable toward the grain component.
02/01/18, 02/07/18, 02/08/18, 02/09/18, 02/12/18, 02/13/18, 02/15/18, 02/16/18, 02/19/18, 02/20/18, 02/21/18, 02/23/18, 02/28/18	Juice was listed as a supplement component. Juice is no longer allowed to be served to infants.

Infant: MM 8 months

Dates	Deficiencies
February 2018	None of the infant supplement menus listed IFIF/BM as required
February 2018	None of the infant supplement menus listed a fruit or vegetable after the component had been introduced into the infant's diet as required
02/05/18, 02/09/18, 02/12/18, 02/20/18	Dessert based grains were served as the grain component on supplement menus. Dessert based grains are no longer creditable toward the grain component.
02/01/18, 02/05/18, 02/07/18, 02/08/18, 02/09/18, 02/12/18, 02/13/18, 02/15/18,	Juice was listed as a supplement component. Juice is no longer allowed to be served to infants.

02/16/18, 02/19/18, 02/20/18, 02/21/18, 02/23/18, 02/26/18, 02/27/18, 02/28/18	
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There were no meals 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 (b)(4)(ii)(B) states, “(ii) 6 through 11 months. Breastmilk or iron-fortified formula, or portions of both, is required. Meals are reimbursable when institutions and facilities provide all the components in the meal pattern that the infant is developmentally ready to accept... (B) 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 (a)(4)(iii) states, “Desserts. Grain-based desserts do not count towards meeting the grains requirement...”

Recommendation

The Sponsor should ensure the USDA meal requirements are met.

13. The Sponsor reported incorrect participant days

Condition

The claim for reimbursement for February 2018 reported 1,235 participant days. However, based on our review of the Sponsor’s records, we noted 851 participant days.

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 attendance is recorded and reported correctly. Appropriate supporting documentation should be maintained and available.

This is a repeat finding from monitoring report dated December 11, 2018.

Technical Assistance Provided

Technical assistance was provided to the Sponsor concerning making changes in the DHS Tennessee Information Payment System (TIPS), and the responsibility of keeping whole grain labels. The Sponsor was also referred to the Program Specialists for additional technical assistance.

OVERPAYMENT-RIGHT TO APPEAL

Disallowed Costs

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$1,077.77.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$1,077.77, which the institution owes the Department. **The procedures for submitting an appeal regarding the amount of overpayment are enclosed. Please note that the appeal must be in writing and must be received by our Department no later than fifteen (15) calendar days from your receipt of this letter.** 7 C.F.R. § 226.6(k). The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

If the Institution decides to appeal the amount of overpayment, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

In accordance with the CACFP regulations at 7 C.F.R. § 226.14(a), in part, the State agency must assess interest 30 days from the initial request for repayment. For information about applied interest rates please visit the following website:

http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/historical_rates.htm

SUMMARY

The Department has determined that Magic Kingdom Learning Center is seriously deficient in its operation of the CACFP and that Ora Davis, Owner is responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Magic Kingdom Learning Center's CACFP agreement, or propose to disqualify Magic Kingdom Learning Center and the responsible individuals, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

Magic Kingdom Learning Center may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Magic Kingdom Learning Center for the corrective action period. As always, you must submit claims within sixty (60) calendar days of the last day of the month covered by the claim. The Department will deny any portion of a claim we determine is invalid. If the Department denies payment of any portion of a claim submitted for the corrective action period, that action would be appealable.

To provide for the full and permanent correction of the serious deficiencies and findings, please complete the following actions within thirty (30) days of your receipt of this notice:

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for February 2018, which contains the verified claim data from the enclosed exhibit.
- Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$1,077.77 for recovery of the amounts disallowed in this report. ***Please return the attached billing notice with your check;*** and

- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

If the Department does not receive the corrective action plan by the deadline date, or the Department determines that the corrective action plan does not provide for the full and permanent correction of the serious deficiencies and findings, the Department will propose to terminate the Institution's CACFP Provider Agreement and to disqualify you and the Institution from future CACFP participation by issuing a Notice of Proposed Termination and Disqualification.

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,



Allette Vayda
Director of Operations- Food Programs

Exhibits

EXHIBIT

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Magic Kingdom Learning Center

Review Month/Year: February 2018

Total Meal Reimbursement Received: \$4,723.44

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	19	19
Total Attendance	1,235	851
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	93%
Number of Breakfasts Served	816	571
Number of Lunches Served	479	461
Number of Suppers Served	351	211
Number of Supplements Served	852	820
Number of Participants in Free Category	63	52
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	2	4
Total Number of Participants	65	56
Total Amount of Eligible Food Costs	XXXXXXXX	\$1,061.93
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$3,323.69



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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

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www.tn.gov/humanservices

BILL HASLAM

GOVERNOR

DANIELLE W. BARNES

COMMISSIONER

April 12, 2018

Ora Davis, Owner
Magic Kingdom Learning Center
2110 Airways Boulevard
Memphis, Tennessee 38114-5218

Notice of payment due to findings disclosed in the monitoring report dated April 9, 2018 for Child and Adult Care Food Program (CACFP)

Institution Name:	Magic Kingdom Learning Center
Institution Address:	2110 Airways Boulevard Memphis, Tennessee 38114-5218
Agreement Numbers:	00404
Amount Due:	\$1,077.77
Due Date:	May 14, 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 11th 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

Thank you for your attention

**CORRECTIVE ACTION PLAN
CHILD AND ADULT CARE FOOD PROGRAM (CACFP)
TENNESSEE DEPARTMENT OF HUMAN SERVICES (TDHS)**

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 Date of Birth on the first page; enter your name, title and date of signature on the last page. Sign your name in ink. **Please return ALL pages of the completed Corrective Action Plan form.**

Section A. Institution Information	
Name of Institution Magic Kingdom Learning Center	CACFP Agreement No. 00-404
Mailing Address: 2110 Airways Boulevard Memphis, Tennessee 38114	
Section B. Responsible Principal(s) and/or Individual(s)	
Name and Title: Ora Davis, Owner	Date of Birth (s):
Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan	
SD Report: April 12, 2018	Corrective Action Plan: April 12, 2018
Section D. Findings	
Findings:	
<ol style="list-style-type: none"> 1. The number of participants reported in the free, reduced, and paid categories was incorrect 2. The Sponsor claimed the incorrect number of meals 3. The Sponsor's lunch meal was served outside of the approved service time 4. The Sponsor provided menus that did not meet USDA requirements 5. The Sponsor's infant menus did not meet the meal pattern requirements established by the USDA 6. The Sponsor served more than the allowed two meals and a supplement on one day to participants 7. The Sponsor did not provide supporting documentation to show sufficient quantities of milk were purchased for the number of meals served requiring milk 8. The Sponsor did not provide documentation to support the requirement that one whole grain-rich grain must be served each day 9. The Sponsor served cereals that exceeded the allowable sugar amounts established by the USDA 10. The Sponsor listed dessert based grain products on some supplement menus 11. The Sponsor provided infant menus that did not conform to the updated CACFP meal pattern requirements for infants which was effective October 2017 12. The Sponsor reported incorrect participant days 	

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

Measure No. 1: The number of participants reported in the free, reduced, 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 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. 3: The Sponsor’s lunch meal was served outside of the approved 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. 4: The Sponsor provided menus that did not meet USDA requirements

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

Name: _____ Position Title: _____

Name: _____

Position Title: _____

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

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 infant menus did not meet the meal pattern requirements 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 more than the allowed two meals and a supplement on one day to participants

The finding will be fully and permanently corrected.

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

Name: _____

Position Title: _____

Name: _____

Position Title: _____

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

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

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

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

Measure No. 7: The Sponsor did not provide supporting documentation to show sufficient quantities of milk were purchased for the number of meals served requiring milk

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. 8: The Sponsor did not provide documentation to support the requirement that one whole grain-rich grain must be served each 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:

Measure No. 9: The Sponsor served cereals that exceeded the allowable sugar amounts 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. 10: The Sponsor listed dessert based grain products on some supplement menus

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. 11: The Sponsor provided infant menus that did not conform to the updated CACFP meal pattern requirements for infants which was effective October 2017

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. 12: 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:

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.

Printed Name of Authorized Institution Official

Position

Signature of Authorized Institution Official

Date

Signature of Authorized TDHS Official

Date

APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

Appeal Procedures

1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

- (a) Annually to all institutions;
- (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
- (c) Any other time upon request.

2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:

- (viii) The information submitted on the application was false;
- (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
- (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

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

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

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

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

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

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair

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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.