



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
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NASHVILLE, TENNESSEE 37243-1403
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BILL HASLAM

GOVERNOR

DANIELLE W. BARNES

COMMISSIONER

CERTIFIED MAIL RECEIPT #70170660000035705609

March 23, 2018

Judith St. Charles, Board Chair
Donna McConnico, CEO
Signal Centers, Incorporated
109 North Germantown Road
Chattanooga, Tennessee 37411-2790

Dear Ms. St. Charles,

The Department of Human Services (DHS) – Division of Audit Services staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at Signal Centers, Inc. (Sponsor), Application Agreement number 00-493, on February 13, 2018. The purpose of this review was to determine if the Sponsor complied with the *Title 7 of the Code of Federal 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 Signal Centers, Inc. is seriously deficient in its operation of the CACFP. In addition, the Department has identified Judith St. Charles, Board Chair and Donna McConnico, CEO, as responsible for the serious deficiencies in light of their responsibility for the overall management of Signal Centers, Inc.'s CACFP.

If Signal Centers, Inc. 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 Signal Centers, Inc.'s agreement to participate in the CACFP;
- Propose to disqualify Signal Centers, Inc. from future CACFP participation; and
- Propose to disqualify identified Judith St. Charles, Board Chair and Donna McConnico, CEO, from future CACFP participation.

In addition, if Signal Centers, Inc. voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Signal Centers, Inc., Judith St. Charles, Board Chair and Donna

McConnico, CEO, from future CACFP participation. If disqualified, Signal Centers, Inc, Judith St. Charles, Board Chair and Donna McConnico, CEO will be placed on the National Disqualified List (“NDL”). While on the NDL, Signal Centers, Inc. will not be able to participate in the CACFP as an institution or facility. Judith St. Charles, Board Chair and Donna McConnico, CEO 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 Sponsor had two sites operating during the test month. We reviewed the Sponsor’s records of reimbursements and expenditures for both Signal Centers Adult Center and Signal Centers Germantown.

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 during our site visit at Signal Centers Adult Center on January 25, 2018, and our site visit at Signal Centers Germantown on January 25, 2018.

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

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

Condition

Signal Centers Adult Center

The Claim for Reimbursement for the test month for **Signal Centers Adult Center** reported 36 participants in the free category, six participants in the reduced-price category, and one participant in the paid category. However, based on our review of the Sponsor’s records, we found there were 27 participants in the free category, five participants in the reduced-price category, and 11 participants in the paid category.

The differences were based on the following:

- There was one applicant reported in the free category, but based on the application the participant was income-eligible for the reduced-price category. This participant was reclassified as reduced-price.

- There were nine participants reported as free that did not have a current application on file. These participants were reclassified as paid.
- There were two participants reported as reduced-price, but the participants were correctly classified as free on the applications. These participants were reclassified as free.
- There was one participant reported in the free category, but the participant was correctly classified as paid on the application. This participant was reclassified as paid.

There were 43 participants reported and confirmed participating in the program.

As a result, the Sponsor overreported the number of participants in the free category by nine participants and the reduced-price category by one participant, and underreported the number of participants in the paid category by ten participants. (See Exhibit A)

Signal Centers Germantown

The Claim for Reimbursement for the test month for **Signal Centers Germantown** reported 64 participants in the free category, 11 participants in the reduced-price category, and 15 participants in the paid category. However, our review of the Sponsor’s records verified there were 63 participants in the free category, 10 participants in the reduced-price category, and 17 participants in the paid category.

The differences were based on the following:

- There was one participant reported as reduced-price, but based on the application the participant was income eligible for the free category. This participant was reclassified as free.
- There were two participants reported as free, but based on the application the participants were not categorically or income eligible for free. These participants were reclassified as paid.

As a result, the Sponsor overreported the number of participants in the free and reduced-price category by one, and underreported the number of participants in the paid category by two. (See Exhibit B)

This is a repeat finding from the previous report dated May 16, 2015.

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 implement a system of review to ensure that all participants are classified and properly based on categorical or income eligibility.

2. The Sponsor reported incorrect meal counts

Condition

Signal Centers Germantown

Based on our review of available documents and information, we noted that the Sponsor reported incorrect meals counts on the Claim for Reimbursement form for **Signal Centers Germantown**. The Sponsor reported 815 breakfast meals and 916 lunch meals served. However, we verified 822 breakfast meals and 909 lunch meals as served prior to any disallowances.

As a result, the Sponsor underreported the number of breakfast meals by seven and overreported the number of lunch meals by seven. (See Exhibit B)

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 that accurate monthly meal counts and claims for reimbursement are correct.

- 3. The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for all meals reported as served**

This is a Serious Deficiency:

Condition

Signal Centers Adult Center

Based on the number of meals served with milk as a component at **Signal Centers Adult Center**, there was a required total of 5,944 ounces of milk. However, the Sponsor did not provide documentation to show that sufficient quantities of the correct type of milk were purchased to meet the USDA meal pattern requirement for meals served with milk as a component. The menu and the food service contract provided listed 2% milk as a component for each meal served. The Sponsor did not provide receipts documenting low-fat or non-fat milk was purchased, resulting in a shortage of 5,944 ounces milk.

As a result, 248 breakfast meals, 244 lunch meals, and 251 supplements served were disallowed. (See Exhibit A)

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(a)(1)(iv) states, "Fluid milk must be served as a beverage or on cereal, or a combination of both, as follows: Adults must be served unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk...."

Recommendation:

The Sponsor should ensure that the correct type of milk is purchased and served to all participants.

- 4. The Sponsor provided menus that did not meet the USDA meal pattern requirements**

Condition

Signal Centers Adult Center

The Sponsor did not provide menus for **Signal Centers Adult Center** that included a whole grain-rich food item for January 5, 9, 11, 16, 17, 18, 24, 26, and 30.

Signal Centers Germantown

The Sponsor did not provide menus for **Signal Centers Germantown** that included a whole grain-rich food item for January 8, 9, 11, 12, 17, 18, 22, 24, 26, or 30.

Note: No meals or supplements were disallowed based on this finding due to the one year transition period granted for the new meal pattern requirements established as of October 1, 2017.

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 USDA guidance."

Recommendation

Menus should be reviewed to ensure they reflect and contain all required meal components.

Note: Our observation of the breakfast meal service on January 25, 2018 revealed no deficiencies.

Technical Assistance Provided

Our on-site visit on January 25, 2018 included a discussion of the nutritional requirements for creditable milk substitutes.

During our on-site visit on February 13, 2018, we provided assistance regarding the updated meal patterns, focusing on grain requirements and fruit and vegetable requirements.

Reference materials regarding the updated USDA meal pattern requirements and obtaining current income eligibility tables were provided via email messages on February 15, 2018.

OVERPAYMENT-RIGHT TO APPEAL

Disallowed Meals Cost

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 \$1,511.92.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of **\$1,511.92**, 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 Signal Centers, Inc. is seriously deficient in its operation of the CACFP and that Judith St. Charles, Board Chair and Donna McConnico, CEO are responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Signal Centers, Inc.'s CACFP agreement, or propose to disqualify Signal Centers, Inc. 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.

Signal Centers, Inc. may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Signal Centers, Inc. 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:

- Login to the Tennessee Information Payment System (TIPS) and revise the claims submitted for each site for January 2018, which contains the verified claim data from the enclosed exhibits. A copy of the claim form is attached for your use;
- Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$1,511.92 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 a 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, CACFP & SFSP

Enclosures

cc: Donna McConnico, Executive Director, Signal Centers, Inc.
Sam Alzoubi, Director of Audit Services, Office of the Inspector General
Sean Baker, Audit Director 2, Office of the Inspector General
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
Elke Moore, Administrative Services Assistant 3, Child and Adult Care Food Program
USDA Southeast Regional Office
Comptroller of the Treasury, State of Tennessee

EXHIBIT A

Verification of CACFP Independent Center Claim

Name of Agency: Signal Centers Adult Center
Review Month/Year: January 2018
Total Meal Reimbursement Received: \$1,428.06

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	19	18
Total Attendance	255	254 ¹
Number of Breakfasts Served	248	0
Number of Lunches Served	244	0
Number of Supplements Served	251	0
Number of Participants in Free Category	36	27
Number of Participants in Reduced-Price Category	6	5
Number of Participants in Paid Category	1	11
Total Number of Participants	43	43
Total Amount of Eligible Food Costs	XXXXXXXX	\$1,466.13
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$1,466.13

¹The difference in the reported and verified days of attendance is immaterial and was not included in this report as a finding

EXHIBIT B

Verification of CACFP Independent Center Claim

Name of Agency: Signal Centers Germantown
Review Month/Year: January, 2018
Total Meal Reimbursement Received: \$3,875.47

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	20	18
Total Attendance	976	976
Number of Breakfasts Served	815	822
Number of Lunches Served	916	909
Number of Participants in Free Category	64	63
Number of Participants in Reduced-Price Category	11	10
Number of Participants in Paid Category	15	17
Total Number of Participants	90	90
Total Amount of Eligible Food Costs	XXXXXXXX	\$4,704.81
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$5,579.88



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COMMISSIONER

March 23, 2018

Judith St. Charles, Board Chair
Signal Centers, Incorporated
109 North Germantown Road
Chattanooga, Tennessee 37411-2790

**Notice of payment due to findings disclosed in the monitoring report dated March 21, 2018, for
Child and Adult Care Food Program (CACFP)**

Institution Name:	Signal Centers, Inc.
Institution Address:	109 North Germantown Road Chattanooga, Tennessee 37411-2790
Agreement Numbers:	00-493
Amount Due:	\$1,511.92
Due Date:	April 24, 2018

Based on the monitoring report issued by the Division of Audit Services within the Tennessee Department of Human Services, the Community and Social Services - Food Programs - CACFP & SFSP management has agreed with the findings which requires your institution to reimburse the Department of Human Services for disallowed meals cost.

Please remit a check or money order payable to the *Tennessee Department of Human Services* the disallowed amount noted in the report by the due date to:

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

Please note that the disallowed 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 the 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 Signal Centers, Incorporated	CACFP Agreement No. 00-493
Mailing Address: 109 North Germantown Road Chattanooga, Tennessee 37411	

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

Name and Title: Donna McConnico, CEO Judith St. Charles, Board Chair	Date of Birth (s):
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

SD Report: March 23, 2018	Corrective Action Plan: March 23, 2018
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Section D. Findings

<p>Findings:</p> <ol style="list-style-type: none"> 1. The Sponsor reported the number of participants in the free, reduced-price and paid categories incorrectly 2. The Sponsor reported incorrect meal counts 3. The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for all meals reported as served 4. The Sponsor provided menus that did not meet the USDA meal pattern requirements 5.
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The following measures will be completed within **5 business days** of my institution's receipt of this corrective action plan:

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

The finding will be fully and permanently corrected.

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

Name: _____

Position Title: _____

Name: _____

Position Title: _____

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

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 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. 3: The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for all meals reported as 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. 4: The Sponsor provided menus that did not meet the USDA meal pattern 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:

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;

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

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

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

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

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

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

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

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

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

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

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

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

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

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.