



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

April 10, 2019

Latasha Malone-Brown, Board Chair
Alpha & Omega Nutrition Program, Incorporated
3145 Hickory Hill Road
Suite 103B
Memphis, Tennessee 38115-2518

Dear Ms. Malone-Brown,

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 Alpha & Omega Nutrition Program, Inc. (Sponsor), Application Agreement number 00-085, beginning on February 26, 2019. 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, provider agreement, and applicable Federal and State regulations.

Based on our review of the Sponsor's records and information provided, the Sponsor had five (5) active childcare centers, one (1) adult daycare center, four (4) at-risk sites, and 79 daycare home providers operating during the review period. The Able Academy LLC (**Able**) childcare center, Golden Years Adult Day Care (**Golden Year**) adult daycare center, and Agape International Healing and Outreach Ministries (**Agape**) at-risk site were selected as sample sites. Additionally, **Beverly Anderson, Joyce Bailey, Dorothy Bailey, Yolanda Barnes, Tiffany Booker, Krystal Bridgeforth, Shirley Childress, Stephanie Dorsey, Janeka Foster, Barbara Franklin, Valerie Killebrew, Pamela Lewis, and Jameena Scott** were selected as the sample of daycare home providers.

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) for reimbursement.

We inspected meal counts 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 meal services at the sample sites during the review period.

Our review of the Sponsor's records for January 2019 disclosed the following:

1. The Sponsor reported meal counts incorrectly

Condition

Able– *sample childcare center*

Based on our review of the Claim for Reimbursement for January 2019 for **Joyce Bailey**, the Sponsor reported 1,342 breakfast meals, 1,053 lunch meals, and 1,355 supplements served. However, based on our review of available documents, we noted that there were 1,343 breakfast meals, 1,053 lunch meals, and 1,356 supplements served, prior to any meal disallowances.

As a result, one (1) breakfast meal and one (1) supplement were underreported. (See Exhibit B)

Agape– *sample at-risk site*

Based on our review of the Claim for Reimbursement for January 2019 for **Joyce Bailey**, the Sponsor reported 283 supper meals and 282 supplements served. However, based on our review of available documents, we noted that there were 281 supper meals and 282 supplements served, prior to any meal disallowances.

As a result, two (2) supper meals were overreported. (See Exhibit E)

Dorothy Baileyel – *sample home*

Based on our review of the Claim for Reimbursement for January 2019 for **Dorothy Baileyel**, the Sponsor reported 40 breakfast meals, 38 lunch meals, and 40 supplements served. However, based on our review of available documents, we noted that there were 40 breakfast meals, 36 lunch meals, and 40 supplements served, prior to any meal disallowances.

As a result, the Sponsor overreported two (2) lunch meals. (See Exhibit I)

Tiffany Booker – *sample home*

Based on our review of the Claim for Reimbursement for January 2019 for **Tiffany Booker**, the Sponsor reported 74 breakfast meals, 66 lunch meals, and 81 supplements served. However, based on our review of available documents, we noted that there were 76 breakfast meals, 68 lunch meals, and 81 supplements served, prior to any meal disallowances.

As a result, two (2) breakfast meals and two (2) lunch meals were underreported. (See Exhibit K)

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 claims for reimbursement are completed correctly and based on accurate supporting documents.

2. The Sponsor served meals outside of the approved serving time

Condition

Able—*sample childcare center*

During our monitoring visit at **Able** on January 9, 2019, we observed a lunch was served outside of the TIPS approved time. The observed meal service was from 10:30 am to 11:45 am, but the TIPS approved meal service time was 10:45 am to 11:45 am.

Joyce Bailey – *sample home*

During our monitoring visit at the home of **Joyce Bailey** on January 9, 2019, an observed lunch was served outside of the TIPS approved time. The observed meal service was from 10:20 am to 11:30 am, but the TIPS approved meal service time was 10:45 am to 11:30 am.

Note: No meals were disallowed due to the observed meals being creditable.

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...."

Title 7 of the Code of Federal Regulations, Section 226.18(d) states, "Each day care home participating in the program shall serve 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 meals are served during the approved feeding site time.

3. The Sponsor's daycare home providers did not have a menu posted for an observed meal

Condition

During our monitoring visit at the homes of **Dorothy Baileyel, Stephanie Dorsey, and Janeka Foster** January 9, 2019, there were no menus posted for the observed meals.

Criteria

Food & Nutrition Service (FNS) 796-2, Rev. 4, states, "Menu records that identify the meal components served to participants must be maintained. Menu records must be updated to reflect changes to planned menus so that the menu records reflect the actual meal components and foods service to participants."

The USDA Monitoring Handbook for State Agencies, page 29, states, “Institutions must serve meals according to the posted menus and document substitutions...”

Recommendation

The Sponsor should ensure the menu is posted for each meal served.

4. The Sponsor did not ensure that Women, Infants and Children (WIC) information is distributed to participating parents or guardians of enrolled children

Condition

During our monitoring visit at the home of **Barbara Franklin** on January 9, 2019, we determined WIC program information was not distributed to the parents or guardians of the enrolled children.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15(o) states, “Each institution must ensure that parents of enrolled children are provided with current information on the benefits and importance of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and the eligibility requirements for WIC participation.”

Recommendation

The Sponsor should ensure the distribution of WIC program information to parents or guardians of enrolled children.

5. The Sponsor did not have the “Building for the Future Poster” displayed

Condition

During our on-site monitoring visit at the home of **Barbara Franklin** on January 9, 2019, the “Building for the Future” poster was not displayed at the home.

Criteria

The USDA Family Day Care Home Monitor Handbook, page 10 states, “A sponsor can require providers to tell parents or guardians of children enrolled in CACFP facilities about the Program and its benefits [7 CFR §226.18(b)(16)].... An example of this type of notice is “Building for the Future.”

Recommendation

The Sponsor will ensure the posters are displayed in the home and are compliant with civil rights and CACFP regulations.

Technical Assistance Provided

Technical assistance was offered however it was declined by the Sponsor.

Note: Our observation of the meal services during the review period at **Able, Golden Years, Beverly Anderson, Yolanda Barnes, Tiffany Booker, Krystal Bridgeforth, Shirley Childress, Valerie Killebrew, Pamela Lewis, and Jameena Scott** revealed no significant deficiencies.

Corrective Action

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

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

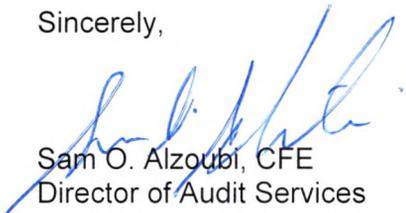
AuditServices.CAPS.DHS@tn.gov

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

Allette Vayda, Director of Operations
Child and Adult Care Food Program
James K. Polk Building, 15th Floor
505 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov
(615) 313-3769

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Sean Baker, Audit Director 2, at 615-313-4727 or Sean.Baker@tn.gov.

Sincerely,



Sam O. Alzoubi, CFE
Director of Audit Services

Exhibits

cc: Shedron Davis, Executive Director, Alpha & Omega Nutrition Program, Inc.
Allette Vayda, Director of Operations, Child and Adult Care Food Programs
Debra Pasta, Program Manager, Child and Adult Care Food Program
Elke Moore, Administrative Services Assistant 3, Child and Adult Care Food Program
Constance Moore, Program Specialist, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT A**Sponsor of Centers Program Data Summary****Name of Agency: Alpha & Omega Nutrition Program, Inc.****Review Month/Year: January 2019****Total Meal Reimbursement Received: \$19,711.20**

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Total Centers	5	5
Total Breakfasts	3,463	3,464
Total Lunches	3,682	3,682
Total Supplements	4,330	4,331
Total Suppers	60	60

EXHIBIT B**Unaffiliated Childcare Center Program Data****Name of Agency: Able Academy LLC****Review Month/Year: January 2019****Total Meal Reimbursement Received: \$5,910.91**

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Total Attendance	1,585	1,585
Number of Breakfasts Served	1,342	1,343
Number of Lunches Served	1,053	1,053
Number of Supplements Served	1,355	1,356
Number of Participants in Free Category	83	83
Number of Participants in Reduced-Price Category	9	9
Number of Participants in Paid Category	25	25
Total Number of Participants	117	117
Total Amount of Eligible Food Costs	XXXXXXXX	\$2,931.27
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$3,330.82

EXHIBIT C**Adult Daycare Center Program Data**

Name of Agency: Golden Years Adult Daycare
Review Month/Year: January 2019
Total Meal Reimbursement Received: \$440.86

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	20	20
Total Attendance	84	84
Number of Breakfasts Served	75	75
Number of Lunches Served	83	83
Number of Supplements Served	82	82
Number of Participants in Free Category	6	6
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	1	1
Total Number of Participants	7	7
Total Amount of Eligible Food Costs	XXXXXXXX	\$258.63
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$264.53

EXHIBIT D**Sponsor of At-Risk Sites Program Data Summary**

Name of Agency: Alpha & Omega Nutrition Program, Inc.
Review Month/Year: January 2019
Total Meal Reimbursement Received: \$10,179.77

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Total At-Risk Sites	4	4
Total Supplements	2,289	2,289
Total Suppers	2,284	2,282

Exhibit E

At-Risk Site Program Data

Name of Agency: Agape International Healing and Outreach Ministries

Review Month/Year: January, 2019

Total Meal Reimbursement Received: \$1,259.85

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	16	16
Total Attendance	286	286
Number of Supplements Served	282	282
Number of Suppers Served	283	281
Total Amount of Food Costs	XXXXXXXX	\$421.65
Total Amount of Eligible Food and Nonfood Costs	XXXXXXXX	\$444.59

Exhibit F

Sponsor of Day Care Homes Program Data Summary

Sponsor: Alpha & Omega Nutrition Program, Inc.

Review Month/Year: January 2019

Total Amount Paid to Sponsor for Reported Meals: \$49,132.46

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Total Number of Homes	79	72
Number of Breakfasts Served	8,421	8,423
Number of Lunches Served	8,445	8,445
Number of Supplements Served	9,459	9,459
Number of Suppers Served	1,033	1,033

Exhibit G

Day Care Home Program Data

Name of Home/Tier Type: Anderson, Beverly
Sponsor Reimbursement Paid to the Home: \$346.04
Reimbursement due based on Reported Information: \$346.04
Reimbursement due based on Verified Information: \$346.04

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	20	20
Number of Breakfasts Served	77	77
Number of Lunches Served	78	78
Number of Supplements Served	73	73

Exhibit H

Day Care Home Program Data

Name of Home/Tier Type: Bailey, Joyce
Sponsor Reimbursement Paid to the Home: \$796.28
Reimbursement due based on Reported Information: \$796.28
Reimbursement due based on Verified Information: \$796.28

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Number of Breakfasts Served	179	179
Number of Lunches Served	180	180
Number of Supplements Served	163	163

Exhibit I

Day Care Home Program Data

Name of Home/Tier Type: Baileyel, Dorothy
Sponsor Reimbursement Paid to the Home: \$175.08
Reimbursement due based on Reported Information: \$175.08
Reimbursement due based on Verified Information: \$170.16

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	10	10
Number of Breakfasts Served	40	40
Number of Lunches Served	38	36
Number of Supplements Served	40	40

Exhibit J

Day Care Home Program Data

Name of Home/Tier Type: Barnes, Yolanda
Sponsor Reimbursement Paid to the Home: \$642.94
Reimbursement due based on Reported Information: \$642.94
Reimbursement due based on Verified Information: \$642.94

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	18	18
Number of Breakfasts Served	137	137
Number of Lunches Served	143	143
Number of Supplements Served	153	153

Exhibit K

Day Care Home Program Data

Name of Home/Tier Type: Booker, Tiffany

Sponsor Reimbursement Paid to the Home: \$318.43

Reimbursement due based on Reported Information: \$318.43

Reimbursement due based on Verified Information: \$416.70

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Number of Breakfasts Served	74	76
Number of Lunches Served	66	68
Number of Supplements Served	81	81

Exhibit L

Day Care Home Program Data

Name of Home/Tier Type: Bridgeforth, Krystal

Sponsor Reimbursement Paid to the Home: \$825.98

Reimbursement due based on Reported Information: \$825.98

Reimbursement due based on Verified Information: \$825.98

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	18	18
Number of Breakfasts Served	202	202
Number of Lunches Served	173	173
Number of Supplements Served	186	186

Exhibit M

Day Care Home Program Data

Name of Home/Tier Type: Childress, Shirley
Sponsor Reimbursement Paid to the Home: \$118.14
Reimbursement due based on Reported Information: \$118.14
Reimbursement due based on Verified Information: \$118.14

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	22	22
Number of Breakfasts Served	22	22
Number of Lunches Served	28	28
Number of Supplements Served	28	28

Exhibit N

Day Care Home Program Data

Name of Home/Tier Type: Dorsey, Stephanie
Sponsor Reimbursement Paid to the Home: \$552.30
Reimbursement due based on Reported Information: \$552.30
Reimbursement due based on Verified Information: \$552.30

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Number of Breakfasts Served	144	144
Number of Lunches Served	114	114
Number of Supplements Served	114	114

Exhibit O

Day Care Home Program Data

Name of Home/Tier Type: Foster, Janeka

Sponsor Reimbursement Paid to the Home: \$267.00

Reimbursement due based on Reported Information: \$267.00

Reimbursement due based on Verified Information: \$267.00

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	19	19
Number of Breakfasts Served	71	71
Number of Lunches Served	55	55
Number of Supplements Served	53	53

Exhibit P

Day Care Home Program Data

Name of Home/Tier Type: Franklin, Barbara

Sponsor Reimbursement Paid to the Home: \$1,048.10

Reimbursement due based on Reported Information: \$1,048.10

Reimbursement due based on Verified Information: \$1,048.10

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Number of Breakfasts Served	240	240
Number of Lunches Served	230	230
Number of Supplements Served	230	230

Exhibit Q

Day Care Home Program Data

Name of Home/Tier Type: Killebrew, Valerie
Sponsor Reimbursement Paid to the Home: \$389.46
Reimbursement due based on Reported Information: \$389.46
Reimbursement due based on Verified Information: \$389.46

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Number of Breakfasts Served	86	86
Number of Lunches Served	87	87
Number of Supplements Served	86	86

Exhibit R

Day Care Home Program Data

Name of Home/Tier Type: Lewis, Pamela
Sponsor Reimbursement Paid to the Home: \$559.16
Reimbursement due based on Reported Information: \$559.16
Reimbursement due based on Verified Information: \$559.16

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	20	20
Number of Breakfasts Served	126	126
Number of Lunches Served	124	124
Number of Supplements Served	122	122

Exhibit S

Day Care Home Program Data

Name of Home/Tier Type: Scott, Jameena

Sponsor Reimbursement Paid to the Home: \$664.22

Reimbursement due based on Reported Information: \$664.22

Reimbursement due based on Verified Information: \$664.22

Home Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Number of Breakfasts Served	148	148
Number of Lunches Served	136	136
Number of Supplements Served	186	186



Corrective Action Plan for Monitoring Findings

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.

Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: Alpha & Omega Nutrition Program Inc.	Agreement No. 00085	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 3145 Hickory Hill Road Suite 103B Memphis, Tennessee 38115-2518

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

Name and Title: Latasha Malone-Brown, Board Chair	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 4/10/2019	Corrective Action Plan: 4/10/2019
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Section D. Findings

Findings:

1. The Sponsor reported meal counts incorrectly
2. The Sponsor served meals outside of the approved serving time
3. The Sponsor's daycare home providers did not have a menu posted for an observed meal
4. The Sponsor did not ensure that Women, Infants, and Children (WIC) information is distributed to participating parents or guardians of enrolled children
5. The Sponsor did not have the "Building for the Future Poster" displayed

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

Measure No. 1: The Sponsor reported meal counts 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 served meals outside of the approved serving time

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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

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

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

Measure No. 3: The Sponsor's daycare home providers did not have a menu posted for an observed meal

The finding will be fully and permanently corrected.

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

Name: _____ Position Title: _____

Name: _____ Position Title: _____

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

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

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

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

Measure No. 4: The Sponsor did not ensure that Women, Infants and Children (WIC) information is distributed to participating parents or guardians of enrolled children

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 did not have the “Building for the Future Poster” displayed

The finding will be fully and permanently corrected.

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

Name: _____ Position Title: _____

Name: _____ Position Title: _____

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

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

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

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

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: _____

Date: / /

Signature of Authorized TDHS Official: _____

Date: / /

APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

Appeal Procedures

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

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

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

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

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

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

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

- (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.