



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

March 19, 2019

Ethelyn Ward, Chairman of Board
Springhill MB Church
3815 Hawkins Mill Road
Memphis, Tennessee 38128-5207

Dear Ms. Ward,

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 Springhill MB Church (Sponsor), Application Agreement number 00507, on February 5, 2019. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, provider agreement, and applicable Federal and State regulations.

Background

CACFP Sponsors utilize meal count sheets to record the number of breakfast, lunch, supper, and supplement meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP Sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) for 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 lunch meal service on December 14, 2018.

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

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

Condition

Based on our review of the Claim for Reimbursement for December 2018, we noted that the Sponsor reported 22 participants in the free category, seven (7) participants in the reduced-price category, and zero (0) participants in the paid category. However, based on our review of the available records, we determined that there were 16 participants in the free category, eight (8) participants in the reduced-price category, and three (3) participants in the paid category.

The differences were based on the following:

- There were two participants correctly categorized as reduced-price on the applications. However, these participants were reported as free. These participants were reclassified as reduced-price.
- There were three participants reported in the free category whose applications did not have a determining official signature or date. These participants were reclassified as paid.
- There were 29 participants reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we found there were 27 participants enrolled in the program. There was one participant reported in the free category and one participant reported in the reduced-price category that did not participate during the test month. These two participants were removed from the free and reduced-price category.

As a result, the Sponsor over reported the number of participants in the free category by six (6), under reported the reduced-price category by one (1) and the paid category by three (3).

Criteria

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

Title 7 of the Code of Federal Regulations, Section 226.15(e)(2) states, "All types of centers, except for emergency shelters and at-risk afterschool care centers, must maintain information used to determine eligibility for free or reduced-price meals in accordance with §226.23(e)(1). For child care centers, 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."

Title 7 of the Code of Federal Regulations, Section 226.17(b)(8) states, in part, "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)..."

Recommendation

The Sponsor should ensure that each participant is classified and reported accurately based on categorical or income eligibility.

2. The Sponsor provided menus that did not meet the USDA meal pattern requirements

Condition

Based on our review of the menus provided by the Sponsor for December 2018, the menus provided did not meet the USDA meal pattern requirements. The Sponsor provided a Child Nutrition (CN) label for the chicken nuggets. The Sponsor stated that 1-2 year old participants were served two nuggets, 3-5 year old participants were served three chicken nuggets, and 6+ year old participants were served five chicken nuggets. According to the CN label provided five chicken nuggets provide 1.5 ounces equivalent meat. The menus provided had deficiencies as follows:

Date	Menu	Menu Error	Meal Type	No. of Meals
12/6/18	Chicken nuggets, fries, applesauce, WG white bread, ketchup, and milk	Meat/meat alternate. Not enough protein in chicken nuggets served	Lunch	12
12/12/18	Chicken nuggets, baked beans, applesauce, WG white bread, and milk	Meat/ meat alternate. Not enough protein in chicken nuggets served	Lunch	11
12/19/18	Chicken nuggets, sweet peas, applesauce, WG white bread, ketchup, and milk	Meat/ meat alternate. Not enough protein in chicken nuggets served	Lunch	13
12/26/18	Chicken nuggets, fries, applesauce, WG white bread, ketchup, and milk	Meat/ meat alternate. Not enough protein in chicken nuggets served	Lunch	7

Title 7 of the Code of Federal Regulations, Section 226.14(b) states, "In the event that the State agency finds that an institution which prepares its own meals is failing to meet the meal requirements of §226.20, the State agency need not disallow payment or collect an overpayment arising out of such failure if the institution takes such other action as, in the opinion of the State agency, will have a corrective effect."

As a result, 43 lunch meals claimed for reimbursement were disallowed. (See Exhibit)

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 ..."

The USDA Crediting Foods in the Child and Adult Care Food Program, page 62, states, "... Because of the uncertainty of the actual amount of meat/meat alternate contained in these products, they should not be used unless (1) they are CN-labeled; or (2) you obtain a Product Formulation Statement signed by an official of the manufacturer (not a salesperson) that shows how the crediting has been determined...."

Recommendation

The Sponsor should:

- maintain copies of commercially prepared food CN labels or Product Formulation Statements on file and follow the recommended serving sizes/equivalents listed on the label;
- ensure that all meals prepared to meet the meal patterns established by the USDA, and menus should be reviewed to ensure they contain all required meal components to be eligible as a reimbursable meal.

3. The Sponsor provided menus that contained grain-based desserts as a component

Condition

In accordance with the meal pattern requirements, grain-based desserts do not count towards meeting the grain requirement. Our review of the Sponsor's menu showed the following deficiencies:

Date	Menu	Menu Error	Meal Type	No. of Meals
12/4/18	Milk and honey bun	Grain-based dessert	Supplement	20
12/6/18	Milk and rice crispy squares	Grain-based dessert	Supplement	20
12/10/18	Milk, rice crispy squares	Grain-based dessert	Supplement	20
12/12/18	Milk, cupcakes, honey buns	Grain-based dessert	Supplement	20
12/18/18	Milk, honey buns	Grain-based dessert	Supplement	21
12/19/18	Milk, rice crispy squares	Grain-based dessert	Supplement	19
12/26/18	Milk and rice crispy squares	Grain-based dessert	Supplement	6

Title 7 of the Code of Federal Regulations, Section 226.14(b) states, "In the event that the State agency finds that an institution which prepares its own meals is failing to meet the meal requirements of §226.20, the State agency need not disallow payment or collect an overpayment arising out of such failure if the institution takes such other action as, in the opinion of the State agency, will have a corrective effect."

Due to the new the CACFP meal pattern requirements and emphasis on providing technical assistance during the implementation process, there were no meals 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 ..."

Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(iii) states, "Grain-based desserts do not count towards meeting the grains requirement."

Due to the new the CACFP meal pattern requirements and emphasis on providing technical assistance during the implementation process, there were no meals disallowed.

Condition

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

4. The Sponsor served breakfast cereal that did not meet the USDA meal component requirements

Condition

Based on our review of the menus for breakfast meals provided by the Sponsor, the menus were not in accordance with the USDA meal pattern requirements and listed the following deficiencies:

- Cinnamon Toast Crunch cereal was served for the breakfast meal as one of the three required components for the following dates. This cereal contains 10 grams of sugar per 31 grams of dry cereal. Disallowances were as follows:

Date	Number of Breakfast Meals
12/05/18	15 Breakfast meals
12/18/18	18 Breakfast meals

- Honey Nut Cheerios cereal was served for breakfast meal as one of the three required components for the following dates. This cereal contains 9 grams of sugar per 28 grams of dry cereal. Disallowances were as follows:

Date	Number of Breakfast Meals
12/07/18	13 Breakfast meals
12/10/18	14 Breakfast meals
12/14/18	19 Breakfast meals
12/20/18	10 Breakfast meals
12/28/18	6 Breakfast Meals

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 226.20(a)(4)(ii) states, “... Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal)....”

Due to the new the CACFP meal pattern requirements and emphasis on providing technical assistance during the implementation process, there were no meals disallowed.”

Recommendation

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

5. The Sponsor provided infant menus that did not meet the USDA meal pattern requirements

Condition

Based on our review of the infant menus provided by the Sponsor for December 2018, the menus provided did not meet the USDA meal pattern requirements. An infant 6 through 11 months must be served 6-8 fluid ounces breastmilk or iron-fortified formula (IFIF); and 0-4 tablespoons iron-fortified infant cereal, meat, fish, poultry, whole egg, cooked dry beans or peas; 0-2 ounces cheese; or 0-4 ounces cottage cheese; or 0-4 ounces or ½ cup of yogurt; or a combination of the before mentioned items; and 0-2 tablespoons vegetable or fruit or a combination of both for breakfast, lunch, and supper. An infant aged 6-11 months must be served 2-4 fluid ounces breastmilk or iron-fortified(IFIF) formula; and 0 to ½ slice bread; or 0-2 crackers; or 0-4 tablespoons infant cereal or ready-to-eat cereals with the supplement meal when the infant is developmentally ready. This component is optional until introduced to the infant's diet than required. The Sponsor provided infant menus for two infants in the age category of 6-11 months. The following discrepancies were identified:

Infant M.C. 11 months

Date	Menu Deficiency	Deficient Meal
12/4/18	Menu listed: Apple and green beans, two bottles	1 Breakfast 1 Lunch 1 Supplement
12/5/18	Menu listed: sweet potatoes and green beans, three bottles	1 Breakfast 1 Lunch 1 Supplement
12/6/18	Menu listed: sweet potatoes, green beans, apple, and two bottles	1 Breakfast 1 Lunch 1 Supplement
12/7/18	Menu listed: apple pear squash, three bottles	1 Breakfast 1 Lunch 1 Supplement
12/11/18	Menu listed: Butternut squash and two bottles	1 Breakfast 1 Lunch 1 Supplement

Infant R.P. 7 months

Date	Menu Deficiency	Deficient Meal
12/3/18	Menu listed: Milk and dry cereal, apple and green beans, five bottles	1 Breakfast 1 Lunch 1 Supplement
12/4/18	Menu listed: Milk and dry cereal, three bottles	1 Breakfast 1 Lunch 1 Supplement
12/5/18	Menu listed: Apple, dry cereal and milk, apple juice, 5 bottles	1 Breakfast 1 Lunch
12/6/18	Menu listed: Four bottles	1 Breakfast 1 Lunch 1 Supplement
12/7/18	Menu listed: Apple, milk and dry cereal, four bottles	1 Breakfast 1 Lunch 1 Supplement
12/10/18	Menu listed: Water, mango apple twist, 6	1 Breakfast

	bottles	1 Lunch 1 Supplement
12/11/18	Menu Listed: Mango and apple, juice, water, 5 bottles	1 Breakfast 1 Lunch 1 Supplement
12/12/18	Menu listed: Cupcake assortment, 4 bottles	1 Breakfast 1 Lunch 1 Supplement
12/13/18	Menu listed: Five bottles	1 Lunch 1 Supplement
12/14/18	Menu listed: Apricot mixed fruit, three bottles	1 Breakfast
12/17/18	Menu listed: Apricot mixed fruit, three bottles	1 Breakfast 1 Lunch 1 Supplement
12/18/18	Menu listed: Apricot mixed fruit, sweet potatoes, peas, three bottles	1 Breakfast 1 Lunch 1 Supplement
12/19/18	Menu listed: Milk and dry cereal, five bottles	1 Breakfast 1 Lunch 1 Supplement
12/20/18	Menu listed: Milk and dry cereal, banana, five bottles	1 Breakfast 1 Lunch 1 Supplement
12/21/18	Menu listed: Milk and dry cereal, four bottles	1 Lunch 1 Supplement
12/26/18	Menu listed: Green beans, three bottles	1 Breakfast 1 Lunch 1 Supplement
12/27/18	Menu listed: Green beans, butternut squash, four bottles	1 Breakfast 1 Lunch 1 Supplement
12/28/18	Menu listed: Two bottles	1 Lunch 1 Supplement

As a result, 20 breakfast meals, 22 lunch meals, and 21 supplements claimed for reimbursement were disallowed. (See Exhibit)

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 226.20 (b) states in part, "... Infant meals- (1) Feeding infants. Foods in reimbursable meals served to infants ages birth through 11 months must be of a texture and a consistency that are appropriate for the age and development of the infant being fed. Foods must also be served during a span of time consistent with the infant's eating habits."

Title 7 of the Code of Federal Regulations, Section 226.20 (4)(2)(a) states in part, "...Infant meals must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age.... Breakfast, lunch, or supper. Six to 8 fluid ounces of

breastmilk or iron-fortified infant formula, or portions of both; and 0 to 4 tablespoons of iron-fortified dry infant cereal, meat, fish, poultry, whole egg, cooked dry beans, or cooked dry peas; or 0 to 2 ounces (weight) of cheese; or 0 to 4 ounces (volume) of cottage cheese; or 0 to 4 ounces of yogurt; and 0 to 2 tablespoons of vegetable, fruit, or portions of both. Fruit juices and vegetable juices must not be served. 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.”

Recommendation

Sponsor will ensure the menus meet the meal patterns established by the USDA.

6. The Sponsor provided a meal that did not meet the USDA meal pattern requirements during an observed meal

Condition

During our on-site monitoring visit to the Sponsor on December 14, 2018, we observed a lunch meal service. The meal served included shredded turkey and dressing, macaroni and cheese, sweet peas, applesauce, WG wheat roll, cranberry sauce, lemon cake and 100% apple juice. There was no milk component served.

Note: We informed the Sponsor all meals for this day would not be eligible for reimbursement. No meals are disallowed due to the Sponsor claiming zero meals for the day.

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 226.20(c)(2) states, “Fluid milk, meat and meat alternatives, vegetable, fruits, and grains are required components in the lunch and supper meals.”

Recommendation

The Sponsor should ensure that menus meet the USDA meal pattern requirements.

Technical Assistance Provided

The Sponsor requested technical assistance regarding recordkeeping requirements, classifying participants and menu planning. The Sponsor was referred to a trainer for specialized technical assistance.

Disallowed Meals Cost

Based on the 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 \$411.82

Corrective Action

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

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for December 2018, which contains the verified claim data from the enclosed exhibits. ***Please note that, if the claim is revised***, TIPS will automatically deduct the overpayment from your next CACFP claim for reimbursement. **OR**
- If you are no longer participating in the CACFP program, remit a check payable to the ***Tennessee Department of Human Services*** in the amount noted in the report 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 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

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim within 30 days from the date of this report. If the revised claim is not completed by the 30-day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program
Fiscal Services
James K. Polk Building, 16th Floor
505 Deaderick Street
Nashville, Tennessee 37243

In accordance with the federal regulation found at 7 *CFR Part 226.6 (k)*, your institution may appeal the amount of disallowed cost identified in this monitoring report. The procedures for submitting an appeal are enclosed. 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 disallowed administrative and meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

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

Sincerely,


Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

cc: Cleo Berry, Director, Springhill MB Church
Regina Berry-Seymour, Office Administrator, Springhill MB Church
Allette Vayda, Director of Operations, Child and Adult Care Food Program
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

Verification of CACFP Independent Center Claim

Name of Agency: Springhill MB Church

Review Month/Year: December 2018

Total Meal Reimbursement Received: \$1,484.64

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	18	18
Total Attendance	339	339
Number of Breakfasts Served	270	250
Number of Lunches Served	220	155
Number of Supplements Served	328	307
Number of Participants in Free Category	22	16
Number of Participants in Reduced-Price Category	7	8
Number of Participants in Paid Category	0	3
Total Number of Participants	29	27
Total Amount of Eligible Food Costs	XXXXXXXX	\$529.12
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$1,886.42



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GOVERNOR

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COMMISSIONER

March 19, 2019

Ethelyn Ward, Board Chairman
Springhill MB Church
3815 Hawkins Mill Road
Memphis, Tennessee 38128-5207

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

Institution Name:	Springhill MB Church
Institution Address:	3815 Hawkins Mill Road, Memphis, Tennessee 38128-5207
Agreement Numbers:	00507
Amount Due:	\$411.82
Due Date:	April 22, 2019

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 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
James K. Polk Building, 16th Floor
505 Deaderick Street
Nashville, Tennessee 37243
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 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: Springhill MB Church	Agreement No. 00507	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 3815 Hawkins Mill Road Memphis, Tennessee 38128-5207

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

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

Monitoring Report: 3/19/2019	Corrective Action Plan: 3/19/2019
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Section D. Findings

Findings:

1. The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly
2. The Sponsor provided menus that did not meet the USDA meal pattern requirements
3. The Sponsor provided menus that contain grain-based desserts as a component
4. The Sponsor served breakfast cereal that did not meet the USDA meal component requirements
5. The Sponsor provided infant menus that did not meet the USDA meal pattern requirements
6. The Sponsor provided a meal that did not meet the USDA meal pattern requirements during an observed meal

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 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 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:

Measure No. 3: The Sponsor provided menus that contained grain-based desserts as a component

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 served breakfast cereal that did not meet the USDA meal component 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 provided infant 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:

Measure No.6: The Sponsor provided a meal that did not meet the USDA meal pattern requirements during 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:

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.