



STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES

JAMES K. POLK BUILDING  
505 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-1403

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[www.tn.gov/humanservices](http://www.tn.gov/humanservices)

BILL LEE  
GOVERNOR

DANIELLE W. BARNES  
COMMISSIONER

March 6, 2019

Wood Caldwell, Board Chair  
YMCA of Middle Tennessee  
1000 Church Street  
Nashville, Tennessee 37203-3420

Dear Mr. Caldwell,

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 YMCA of Middle Tennessee (Sponsor), Application Agreement number 00-083, beginning on January 22, 2019. We requested additional information and the Sponsor provided that information on January 24, 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 74 active at-risk sites and one childcare center operating during the review period. The **Buena Vista**, Crieve Hall Elementary School (**Crieve Hall**), **East End Prep**, John Colemon Elementary School (**John Colemon**), Kittrell Elementary School (**Kittrell**), Lakeview Elementary School (**Lakeview**), LaVergne Lake Elementary School (**LaVergne**), Robertson County Family YMCA (**Robertson**), Rosebank Elementary School (**Rosebank**), Smyrna Elementary School (**Smyrna Elementary**), and Smyrna Primary School (**Smyrna Primary**) sites were selected as the sample at-risk sites, and we monitored the Margaret Maddox Family YMCA Preschool (**Margaret Maddox**) center.

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 service at each of the sample sites during the

review period.

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

**1. The Sponsor reported meal counts incorrectly**

Condition

**John Coleman – sample site**

Based on our review of the Claim for Reimbursement for November 2018, for John Coleman Elementary feeding site, the Sponsor reported 359 supplements served. However, based on our review of available documents, we noted that there were 363 supplements served, prior to any meal disallowances.

As a result, four (4) supplements were underreported. (See Exhibit E)

**Smyrna Primary – sample site**

Based on our review of the Claim for Reimbursement for November 2018, for Smyrna Primary School feeding site, the Sponsor reported 356 supplements served. However, based on our review of available documents, we noted that there were 358 supplements served, prior to any meal disallowances.

As a result, two (2) supplements were underreported. (See Exhibit M)

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 did not provide documentation to support the proper type of milk was purchased and served to participants**

Condition

During our on-site monitoring visit to the Sponsor on January 22, 2019, the Sponsor provided menus and receipts to support menus for the review period. The menus provided by the Sponsor did not document the type of milk served. Our review of the receipts that the Sponsor provided for **Margaret Maddox** revealed that the purchase of whole milk and 2% milk. There were no receipts documenting the purchase of fat-free or skim milk for the review period.

As a result, 583 breakfast meals were disallowed. (See Exhibit N)

Criteria

*Title 7 of the Code of Federal Regulations, Section 226.20(a)(1) states, "Fluid milk must be served as a beverage or on cereal, or a combination of both, as follows: (i) Children one year of age must be served unflavored whole milk. (ii) Children two through five years old must be served either unflavored low-fat (1 percent) or unflavored fat-free (skim) milk...."*

*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)(1) states, in part, "Fluid milk, vegetables or fruit, or portions of both, and grains are required components of the breakfast meal."*

The USDA policy memorandum, CACFP 17-2017 Documenting Meals in the Child and Adult Care Food Program, states, "CACFP centers and day care homes are required to demonstrate that they are serving meals that meet the meal pattern requirements. Centers and day care homes must keep records of menus...."

The USDA policy memorandum, CACFP 17-2016 Nutrition Requirements for Fluid Milk and Fluid Milk Substitutions in the Child and Adult Care Food Program, states, "In order to ensure compliance with the milk requirements outlined in 7 CFR 226.20(a)(1) and this memorandum, centers and day care homes must document the type of milk served on their menu. This includes listing the fat content (e.g. whole, low-fat or 1%, and fat-free or skim) and if the milk is flavored. It is the responsibility of the State agency or sponsor, as applicable, to further ensure that the correct type of milk is being served when conducting reviews."

#### Recommendation

The Sponsor should ensure that children are served the appropriate type of milk to meet the USDA meal pattern requirements. Additionally, menus should reflect and meet the meal patterns established by the USDA.

**Note:** The Sponsor has taken corrective action to purchase and document the proper type of milk served to participants.

### **3. 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 **Margaret Maddox** for the test month, the menus provided did not meet the USDA meal pattern requirements. The menus had deficiencies as follows:

- The Sponsor did not document a whole grain-rich component was served once per day as required on November 5, 8, 9, 14, 15, 26, 27, 28 and 30, 2018.
- The Sponsor served cereal for breakfast on November 7 and 29, 2018 that exceeded the allowed amount of sugar per serving. The Malt-O-Meal Raisin Bran contains 34.2 grams sucrose and other sugars per 100 grams of dry cereal.

As a result, 60 breakfast meals and 1,112 supplements were disallowed. (See Exhibit N)

***This is a repeat finding from a previous report dated May 24, 2017.***

### 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)(i)(A) states, "At least one serving per day, across all eating occasions of bread, cereals, and grains, must be whole grain-rich. Whole grain-rich foods contain at least 50 percent whole grains and the remaining grains in the food are enriched, and must meet the whole grain-rich criteria specified in FNS guidance."*

*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)...."*

### Recommendation

The Sponsor should ensure that all meals prepared meet the meal patterns established by the USDA. Menus should be reviewed to ensure they contain all required meal components and that all components are creditable to be eligible as a reimbursable meal

#### **4. The Sponsor provided a meal that did not meet the USDA meal pattern requirements during an observed meal service**

### Condition

#### **East End Prep – sample site**

During our unannounced on-site monitoring visit on November 26, 2018, we observed a supplement service at **East End Prep**. The supplement served included a Fig Newton bar and Gogurt Yogurt. Fig Newton bars a grain-based dessert.

#### **Lakeview – sample site**

During our unannounced on-site monitoring visit on November 7, 2018, we observed a supper meal service at **Lakeview**. The meal served included barbecue chicken, corn on the cob, orange, bun, and 2% milk. The milk served was not low-fat (1 percent fat or less) or fat-free (skim).

#### **Margaret Maddox – sample center**

During our unannounced on-site monitoring visit on November 19, 2018, we observed a breakfast meal at **Margaret Maddox**. The meal served included granola bars or cereal bars, raisins or applesauce, and milk. Granola bars and cereal bars are grain-based desserts. In addition, children ages two years were served whole milk and children ages three years and older were served 2% milk.

The Sponsor did not claim meals for these observed meals; therefore, no meals were disallowed.

### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(1) states, in part, "Fluid milk, vegetables or fruit, or portions of both, and grains are required components of the breakfast meal."*

*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."*

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(3) states, "Serve two of the following five components: Fluid milk, meat and meat alternates, vegetables, fruits, and grains. Fruit juice, vegetable juice, and milk may comprise only one component of the snack..."*

*Title 7 of the Code of Federal Regulations, Section 226.20(a)(1) states, "Fluid milk must be served as a beverage or on cereal, or a combination of both, as follows: (i) Children one year of age must be served unflavored whole milk. (ii) Children two through five years old must be served either unflavored low-fat (1 percent) or unflavored fat-free (skim) milk. (iii) Children six years old and older must be served milk that is low-fat (1 percent fat or less) or fat-free (skim)...."*

*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."*

Recommendation

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

**5. The Sponsor did not have a menu posted at a feeding site for an observed meal**

Condition

During our monitoring visit at **Lakeview** on November 7, 2018, a current menu was not posted. The posted menu was dated August 2018.

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 that a current menu is posted for each meal served.

**Note:** There were no significant issues during the meal observations at **Buena Vista, Crieve Hall, John Coleman, Kittrell, LaVergne, Robertson, Rosebank, Smyrna Elementary, and Smyrna Primary** feeding sites during the review period.

## **Technical Assistance Provided**

During our exit conference on January 23, 2019, technical assistance was requested and provided regarding noting the type of milk served on a menu, requirements for serving whole grain-rich foods, and documenting allergy substitutions.

## **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 disallowed cost of \$356.99.

## **Corrective Action**

The Sponsor should 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 November 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, 15<sup>th</sup> 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 16<sup>th</sup> Floor  
James K. Polk Building  
505 Deaderick Street  
Nashville, Tennessee 37243

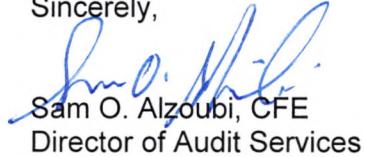
In accordance with the federal regulation found at 7 CFR Part 226.6 (k), your institution may appeal the amount of disallowed cost identified in this monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

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](mailto:Sean.Baker@tn.gov).

Sincerely,



Sam O. Alzoubi, CFE  
Director of Audit Services

#### Exhibits

cc: Jill Tramel, Vice President of Youth Development, YMCA of Middle TN  
Alley Pickren, Director of Healthy Young and Families, YMCA of Middle TN  
Dan Dummermuth, CEO/President, YMCA of Middle TN  
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 At-Risk Afterschool Meals Program Data**

**Sponsor: YMCA of Middle Tennessee**

**Review Month/Year: November, 2018**

**Total Reimbursement: \$79,034.39**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	19	19
Number of At-Risk Sites	74	74
Number of Childcare Centers	1	1
Number of Breakfasts Served	1,029	386
Number of Suppers Served	16,929	16,929
Number of Supplements Served	21,563	20,457
Total Amount of Food Costs	XXXXXXX	\$74,416.91
Total Amount of Eligible Food and Nonfood Costs	XXXXXXX	\$76,648.72

## **Exhibit B**

### **At-Risk Afterschool Site Data**

**Site: Buena Vista**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	396	395
Number of Suppers Served	358	358

**Exhibit C****At-Risk Afterschool Site Data****Site: Crieve Hall Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	5	5
Total Attendance	216	216
Number of Supplements Served	211	211

**Exhibit D****At-Risk Afterschool Site Data****Site: East End Prep**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	7	7
Total Attendance	349	349
Number of Supplements Served	342	342

**Exhibit E****At-Risk Afterschool Site Data****Site: John Colemon Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	18	18
Total Attendance	392	391
Number of Supplements Served	359	363

**Exhibit F****At-Risk Afterschool Site Data****Site: Kittrell Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	413	413
Number of Supplements Served	396	396

**Exhibit G****At-Risk Afterschool Site Data****Site: Lakeview Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	466	466
Number of Suppers Served	338	338

**Exhibit H****At-Risk Afterschool Site Data****Site: LaVergne Lake Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	564	567
Number of Supplements Served	564	564

**Exhibit I****At-Risk Afterschool Site Data****Site: Millersville Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	18	18
Total Attendance	355	355
Number of Supplements Served	314	314

**Exhibit J****At-Risk Afterschool Site Data****Site: Robertson County Family YMCA**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	15	15
Total Attendance	385	410
Number of Suppers Served	377	377

**Exhibit K****At-Risk Afterschool Site Data****Site: Rosebank Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	768	797
Number of Suppers Served	699	699

**Exhibit L****At-Risk Afterschool Site Data****Site: Smyrna Elementary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	482	482
Number of Supplements Served	481	481

**Exhibit M****At-Risk Afterschool Site Data****Site: Smyrna Primary School**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	362	361
Number of Supplements Served	356	358

**EXHIBIT N****Verification of Affiliated Sponsored Center Program Data****Center: Margaret Maddox Family YMCA Preschool**

<b>Site Meal Service Activity and Monitor Reconciliation</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	19	19
Total Attendance	1,263	1,263
Number of Breakfasts Served	1,029	386
Number of Supplements Served	1,235	123
Number of Participants in Free Category	1	1
Number of Participants in Reduced-Price Category	3	3
Number of Participants in Paid Category	67	67
Total Number of Participants	71	71



**STATE OF TENNESSEE  
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**BILL LEE**

GOVERNOR

**DANIELLE W. BARNES**

COMMISSIONER

March 6, 2019

Wood Caldwell, Board Chair  
YMCA of Middle Tennessee  
1000 Church Street  
Nashville, Tennessee 37203-3420

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

Institution Name:	YMCA of Middle Tennessee
Institution Address:	1000 Church Street, Nashville, Tennessee 37203
Agreement Numbers:	00-083
Amount Due:	\$356.99
Due Date:	April 7, 2019

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

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

**Fiscal Services**  
James K. Polk Building, 16<sup>th</sup> 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](mailto:Allette.Vayda@tn.gov).

Thank you for your attention



Tennessee Department of Human Services

# 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: YMCA of Middle Tennessee	Agreement No. 00083	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP

Mailing Address: 1000 Church Street Nashville, TN 37203-3420

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

Name and Title: Wood Caldwell, Board Chair	Date of Birth: / /

## Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 3/6/2019	Corrective Action Plan: 3/6/2019

## Section D. Findings

### Findings:

1. The Sponsor reported meal count incorrectly
2. The Sponsor did not provide documentation to support the proper type of milk was purchased and served to participants
3. The Sponsor provided menus that did not meet the USDA meal pattern requirements
4. The Sponsor provided a meal that did not meet the USDA meal pattern requirements during an observed meal service
5. The Sponsor did not have a menu posted at feeding site for 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 meal count 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:

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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?):

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

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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:

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**Measure No.2: The Sponsor did not provide documentation to support the proper type of milk was purchased and served to participants**

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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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?):

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

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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:

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**Measure No. 3: 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:

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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?):

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

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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:

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**Measure No. 4: The Sponsor provided a meal that did not meet the USDA meal pattern requirements during an observed meal service**

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:

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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?):

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

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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:

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**Measure No. 5: The Sponsor did not have a menu posted at a feeding site 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:

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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?):

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

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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:

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

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: \_\_\_\_\_

Date: / /

Signature of Authorized TDHS Official: \_\_\_\_\_

Date: / /

## **APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES**

### **Appeal Procedures**

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

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

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

- (a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:
  - (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
  - (ii) Determination of serious deficiency.
  - (iii) State agency determination that corrective action is inadequate.
  - (iv) Disqualification and placement on State agency list and National disqualified list.
  - (v) Termination.
  - (vi) State agency or FNS decision regarding removal from the National disqualified list.
  - (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

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

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

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

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

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

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

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

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16<sup>th</sup> 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](mailto: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.