



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243
TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

Certified Mail – Return Receipt #7016356000084443111

March 11, 2020

Kena Price, Owner
Creative Learning Academy
7288 East Shelby Drive
Memphis, Tennessee 38125-3506

RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP) Agreement Number 00-229

Dear Ms. Price,

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 Creative Learning Academy (Sponsor), Application Agreement number 00229 on December 19, 2019. Additional information was requested and received on December 23, 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.

SERIOUS DEFICIENCY DETERMINATION

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

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

- Propose to terminate Creative Learning Academy's agreement to participate in the CACFP;
- Propose to disqualify Creative Learning Academy from future CACFP participation; and
- Propose to disqualify Kena Price, Owner from future CACFP participation.

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

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

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

SERIOUS DEFICIENCIES, ADDITIONAL FINDINGS AND REQUIRED CORRECTIVE ACTION

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 November 18, 2019.

Our review of the Sponsor’s records for November 2019 disclosed the following:

- 1. The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for meals claimed for reimbursement**

This is a Serious Deficiency:

Condition

Based on the number of meals served with milk as a component, the Sponsor was required to purchase a total of 3,952 ounces of milk. However, the Sponsor could only document the purchase of 896 ounces of milk, resulting in a shortage of 3,056 ounces of milk.

As a result, 331 breakfast meals and 270 lunch meals claimed for reimbursement were 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(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, vegetables, fruits, and grains are required components in the lunch and supper meals."

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 1 year old. Children one year of age must be served unflavored whole milk. (ii) Children 2 through 5 years old. Children two through five years old must be served either unflavored low-fat (1 percent) or unflavored fat-free (skim) milk. (iii) Children 6 years and older. Children six years old and older must be served milk that is low-fat (1 percent fat or less) or fat-free (skim). Milk may be unflavored or flavored from July 1, 2018, through June 30, 2019 (school year 2018-2019)."

Recommendation

The Sponsor should perform a month-end inventory for milk and maintain all receipts for food purchases to verify the required amount of milk was purchased and served.

2. The Sponsor reported an incorrect number of meals from an observed meal service

Condition

On November 18, 2019, we observed a lunch meal service during the approved time listed in TIPS. We observed 29 lunch meals served. However, the Sponsor claimed 27 lunch meals for reimbursement.

As a result, the Sponsor underreported the lunch meals by two (2).

This is a repeat finding from the previous report dated January 3, 2018.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10 (c) states in part "...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 meals reported agree with the actual meals served during the meal service time.

3. The Sponsor provided a supplement menu that did not meet the USDA meal pattern requirements

Condition

Based on our review of the menus provided by the Sponsor, a supplement menu was not in accordance with the USDA meal pattern requirements.

The supplement menu on November 6, 2019, listed cheeseballs and 100% orange juice. Cheeseballs are considered snacks like chips and must be made of whole grain or enriched cornmeal or flour. According to the label provided, this item was not made with the required ingredients.

As a result, 28 supplements claimed for reimbursement were disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, in part, "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) states, "All grains must be made with enriched or whole grain meal or flour."

Recommendation

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

4. The Sponsor provided menus that did not meet USDA meal pattern requirements effective October 2017

Condition

Based on our review of the menus provided by the Sponsor, there were menus that were not in accordance with the USDA meal pattern requirement changes. The menus provided had deficiencies as follows:

Date	Menu Deficiency
11/13/19	Lunch menu listed: Saulsberry steak, applesauce, fruit cocktail, whole grain white bread, milk Deficiency: No vegetable component listed
11/20/19	Supplement menu listed: Nutri-grain bar (breakfast bar) and 100% grape juice Deficiency: Grain based dessert was served
11/25/19	Breakfast menu Listed: 100% apple juice, French toast sticks, and milk Supplement menu listed: Goldfish crackers and 100% apple juice Deficiency: Fruit juice exceeded the allowance of one meal per day
11/27/19	Lunch menu listed: Saulsberry Steak, applesauce, fruit cocktail, whole grain white bread, milk Deficiency: No vegetable component listed

The menu deficiencies listed above resulted from meal pattern changes effective as of October 2017. Sponsors are being allowed time to conform to the USDA meal pattern changes, and as a result of this and the technical assistance provided, no meals were 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(c)(2) "Fluid milk, meat and meat alternates, vegetables, fruits, and grains are required components in the lunch and supper meals."

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."

Title 7 of the Code of Federal Regulations, Section 226.20(a)(3)(i) states, "... Fruit juice or vegetable juice may only be served at one meal, including snack, per day."

Recommendation

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

5. The Sponsor provided unauthentic invoices to support the food purchases and edited meal count documents.

This is a Serious Deficiency:

Condition

The Sponsor provided us with invoices that appear to be forged to support food purchases and edited meal count documents.

During our on-site review at the Sponsor on December 19, 2019, we requested supporting documents for the food purchases during November 2019. The Sponsor provided us with invoices that appear to have been forged. We contacted the Store personnel where the invoices appear to be printed. The Store personnel told us that the invoices have been forged and provided us with an example of the Store's invoice. The Store personnel marked where the Store's invoices differ from the invoices the Sponsor provided. There several difference between the two invoices: fax number, invoice number, the name of the Store fonts. (see Example 1 and Example 2 below) We also noted that the invoices total for November 2019 exceeds the amount of reimbursement for the CACFP. We did not rely on the invoices for our monitoring work.

During our on-site visit on November 18, 2019 to observe a lunch meal service, we requested and obtained the meal count document for November 1 through November 17, 2019. However, during our visit to the Sponsor on December 19, 2019, the sponsor provided us with altered meal count documents that showed different meal counts for November 1 through November 17, 2019.

We followed up with an on-site visit to the Sponsor on January 28, 2020 and communicated our concerns regarding the invoices and meal count documents with an emphasis on the implementing internal control procedure to maintain accurate counts and proper documents to support the administration of the CACFP and reimbursements.

Criteria

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

Recommendation

The Sponsor should implement internal control procedures to maintain valid invoices and meal count documents to mitigate the risk of errors and improper claiming. The Sponsor should also ensure claims for reimbursement are completed correctly and based on authentic accurate supporting documents.

Note: Our observation of the lunch meal service on November 18, 2019, revealed no deficiencies.

Technical Assistance Provided

The Sponsor received technical assistance regarding documenting whole grains on the menu, the allowable sugar level in cereal and yogurt, and maintaining receipts for purchases on site. The Sponsor also received information about maintaining a milk log of milk purchased and rollover milk amounts.

OVERPAYMENT-RIGHT TO APPEAL

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 \$1,610.47.

The procedures for submitting an appeal regarding the amount of overpayment are enclosed. Please note that the appeal must be in writing and must be received by our Department no later than fifteen (15) calendar days from your receipt of this letter. 7 C.F.R. § 226.6(k). The appeal must be submitted to:

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

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

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

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

SUMMARY

The Department has determined that Creative Learning Academy is seriously deficient in its operation of the CACFP and that Kena Price, Owner are responsible for the serious deficiencies.

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

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

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

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for November 2019, which contains the verified claim data from the enclosed exhibit. ***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 the Department does not receive the corrective action plan by the deadline date, or the Department determines that the corrective action plan does not provide for the full and permanent correction of the serious deficiencies and findings, the Department will propose to terminate the Institution's CACFP Provider Agreement and to disqualify you and the Institution from future CACFP participation by issuing a Notice of Proposed Termination and Disqualification.

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

Sincerely,



Allette Vayda
Director of Operations- Food Programs

Exhibit

cc: Sean Baker, Audit Director 2
Sam Alzoubi, Director of Audit Services
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: Creative Learning Academy

Review Month/Year: November 2019

Total Meal Reimbursement Received: \$2,846.51

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	18	18
Total Attendance	494	494
Percentage of Free or Reduced-price Category	XXXXXX	100%
Number of Breakfasts Meals Served	331	0
Number of Lunch Meals Served	492	224
Number of Supplements Served	487	459
Number of Participants in Free Category	34	34
Number of Participants in Reduced-Price Category	1	1
Number of Participants in Paid Category	0	0
Total Number of Participants	35	35

Example 1: Invoice from The Store

VZ YOU

Memphis Cash & Carry
161 East Carolina
Memphis, TN 38106
Phone 901-523-8099
Fax# 901-523-9195

9001 CASH SALE
161 E CAROLINA AVE

MEMPHIS TN 38126

10:55:50 12/20/19
INVOICE#: 993799

PACK/SIZE	DESCRIPTION	ITEM#	QTY	PRICE	TAX	EXT
24/20 OZ	COCA COLA CHERRY 20 OZ	9-259	1	23.08	2.13	23.08
24/20 OZ	DIET COKE BOTTLE 20 OZ 0	9-224	1	23.08	2.13	23.08
2/12 PK	FAYGO CAN PEACH	9-069	1	6.14	.57	6.14

Example 2: Invoice provided by the Sponsor's personnel (appears forged)

RC BMD
 MEMPHIS CASH & CARRY
 161 EAST CAROLINA
 MEMPHIS, TN 38126
 PHONE 901-523-8099
 FAX# 901-523-9788

9001 CASH SALE 09:26:29 11/08/19
 161 E CAROLINA AVE INVOICE#: 3714829
 MEMPHIS TN 38126

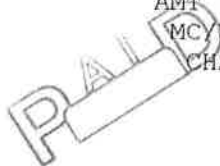
PACK/SIZE	DESCRIPTION	ITEM#	QTY	PRICE	TAX	EXT
6/2 CT.	POP TART FRSTED STRWBERRY	60-755	2	13.96	1.30	15.26
36/CT	FULLY COOKED HOT DOGS	93-515	4	25.20	2.33	27.53
1/CASE	BOXED MACARONI&CHEESE 24	476-987	2	30.60	2.83	33.43
1/2 PC	BRYAN DELI BEEF BOLO	93-188	1	16.20	1.50	17.70
1/GAL	APPLESAUCE #10	P117-826	10	85.00	7.86	92.86
1/CASE	BOXED MACARONI&CHEESE 24	476-987	2	30.60	2.83	33.43
1/GAL	CHEF RAVIOLI #10	265-765	5	33.25	3.08	36.33
6/GAL GA	DAIRY PRIDE HOMOG MILK	94-016	4	71.28	6.60	77.88
8/LB	HOLTEN REST QUA PURE BEEF	98-732	2	38.24	3.53	41.77
1/GAL	WHOLE PEARS 1-GAL	P114-765	10	85.00	7.86	92.86
12/14.5	BUSH CUT GREEN BEANS 010	4-500	1	11.20	1.04	12.24
1/GAL	SLICED PEACHES	P111-827	5	42.50	3.93	46.43
1/5LB	AMERICAN CHEESE 5LB	98-654	2	40.45	3.74	44.19
12/10 OZ	TROPICANA APPLE JUICE	8-165	5	62.75	5.80	68.55
1/GAL	YAMS CUT #10	920-141	5	31.75	2.94	34.69
1/10LB	DOMINIO SUGAR 10LB	044-754	1	8.10	0.75	8.85
1/2 PC	BRYAN TURKEY BREAST	93-225	1	38.37	3.55	41.92
1/10LB	CHICKEN NUGGETS 10LB	98-779	2	64.20	5.94	70.14
16/CT	YEAST DINNER ROLLS 16 CT	28-376	6	13.45	1.24	14.69
1/GAL	CREAMY WHOLE CORN	177-212	10	56.50	5.23	61.73

CHECK RECEIPT FOR ERRORS. NO CORRECTIONS WILL BE MADE AFTER YOU EXIT THE STORE. ALL RETURNS WILL BE HONORED WITH INVOICE NEXT BUSINESS DAY ONLY.

CSHR/CUST CNT:

CIGARETTES:
 TOB/SNUFF: 78
 OTHER: 78
 SINGLE CHIPS: 78
 PIECES: 78

SUBTOTAL: 768.00
 TAX: 71.05
 TOTAL: 839.05
 AMT RCVD: 839.10
 MC/VISA:
 CHANGE: .05





**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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COMMISSIONER

March 11, 2020

Kena Price, Owner
Creative Learning Academy
7288 East Shelby Drive
Memphis, Tennessee 38125-3506

Note: If you are no longer participating in the CACFP, remit a check payable to the Tennessee Department of Human Services in the amounts disallowed in this report to the address below. Please return the attached billing notice with your check.

If you plan to continue participating in the CACFP, log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for November 2019, which contains the verified claim data from the enclosed exhibits.

Institution Name:	Creative Learning Academy
Institution Address:	7288 East Shelby Drive Memphis, Tennessee 38125-3506
Agreement Numbers:	00-229
Amount Due:	\$1,610.47
Due Date:	April 12, 2020

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 16th Floor
James K. Polk Building
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: Creative Learning Academy	Agreement No. 00-229	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
Mailing Address: 7288 East Shelby Drive Memphis, Tennessee 38125-3506		

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

Name and Title: Kena Price, Owner	Date of Birth: 04/23/1980
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 3/11/2020	Corrective Action Plan: 3/11/2020
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Section D. Findings

Findings:

1. The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for meals claimed for reimbursement
2. The Sponsor reported an incorrect number of meals from an observed meal service
3. The Sponsor provided a supplement menu that did not meet USDA meal pattern requirements
4. The Sponsor provided menus that did not meet USDA meal pattern requirements effective October 2017
5. The Sponsor provided unauthentic invoices to support the food purchases and edited meal count documents.

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 did not provide documentation to support sufficient quantities of milk were purchased for meals claimed for reimbursement

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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

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

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

Measure No.2: The Sponsor reported an incorrect number of meals from 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:

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 a supplement menu 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. 4: The Sponsor provided menus that did not meet the USDA meal pattern requirements effective October 2017

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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

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

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

Measure No. 5: The Sponsor provided unauthentic invoices to support the food purchases and edited meal count documents.

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: / /

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

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

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.