



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

Certified Mail – Return Receipt #7016356000084443128

March 11, 2020

Paul Taylor, Board Chairman
Deb Heard, Executive Director
Hands Up Preschool
185 Greenfield Drive
Jackson, Tennessee 38305-2721

RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP) Agreement Number 00-306

Dear Mr. Taylor,

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 Hands Up Preschool (Sponsor), Application Agreement number 00306, on January 29, 2020. 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 Hands Up Preschool is seriously deficient in its operation of the CACFP. In addition, the Department has identified Paul Taylor, Board Chairman and Deb Heard, Executive Director as responsible for the serious deficiencies in light of their responsibility for the overall management of Hands Up Preschool's CACFP.

If Hands Up Preschool 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 Hands Up Preschool's agreement to participate in the CACFP;
- Propose to disqualify Hands Up Preschool from future CACFP participation; and

- Propose to disqualify Paul Taylor, Board Chairman and Deb Heard, Executive Director from future CACFP participation.

In addition, if Hands Up Preschool voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Hands Up Preschool and Paul Taylor, Board Chairman and Deb Heard, Executive Director from future CACFP participation. If disqualified, Hands Up Preschool, and Paul Taylor, Board Chairman and Deb Heard, Executive Director and will be placed on the National Disqualified List (“NDL”). While on the NDL, Hands Up Preschool will not be able to participate in the CACFP as an institution or facility. Paul Taylor, Board Chairman and Deb Heard, Executive Director 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 supplement meal service on November 25, 2019.

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

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

This is a Serious Deficiency:

Condition

Based on our review of the Claim for Reimbursement for November 2019, we noted that the Sponsor reported 48 participants in the free category, four (4) participants in the reduced-price category, and 12 participants in the paid category. However, based on our review of the records available, we noted that there were 27 participants in the free category, two (2) participants in the reduced-price category, and 36 participants in the paid category.

The differences were based on the following:

- There were four participants reported in the free category who did not have an application on file. These participants were reclassified to paid.
- There were nine participants reported in the free category, but the applications on file did not have a determining official's signature and/or date. These nine participants were reclassified as paid.
- There were four participants reported in the free category and two participants reported in the reduced-price category whose applications did not list the last four digits of the adult's Social Security number. These six participants were reclassified to paid.
- There were five participants reported in the free category, but the applications on file did not have the last four digits of the adult's Social Security number or the signature and/or date of the determining official. These five participants were reclassified as paid.
- There was one participant reported in the reduced-price category that was determined to be eligible for free. This participant was reclassified to free.
- There was one participant correctly classified on the application as reduced-price who was reported in the paid category. This is a reporting error, and the participant was reclassified to reduced-price.
- The Sponsor under reported the total number of paid participants by one.

There were 64 participants reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we noted that there were 65 participants enrolled in the program.

This is a repeat finding from a previous report dated October 30, 2017.

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 childcare 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 maintain all information used to determine eligibility and ensure that each participant is classified and reported accurately based on categorical or income eligibility.

2. The Sponsor reported meal counts incorrectly

Condition

Based on our review of the Claim for Reimbursement for November 2019, the Sponsor claimed 956 breakfast meals, 987 lunch meals, and 936 supplements for reimbursement. However, based on our review of available documents, we noted that there were supporting documents for 956 breakfast meals, 987 lunch meals, and 947 supplements, prior to any meal disallowances.

As a result, 11 supplements were underreported.

This is a repeat finding from a previous report dated October 30, 2017.

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.

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

Condition

Based on our review of the documentation provided by the Sponsor for November 2019, the menus provided did not meet the USDA meal pattern requirements. The menus provided had deficiencies as follows:

Date	Menu Deficiency	Disallowed Meals
11/06/19	Menu: Veggie Straws, 100% Orange Tangerine Juice Deficiency: Missing second component, veggie straws are not creditable	58 Supplements
11/13/19	Menu: Veggie Straws, 100% Orange Tangerine Juice Deficiency: Missing second component, veggie straws are not creditable	60 Supplements
11/20/19	Menu: Veggie Straws, 100% Orange Tangerine Juice Deficiency: Missing second component, veggie straws are not creditable	63 Supplements

As a result, 181 supplements claimed for reimbursement were disallowed.

This is a repeat finding from a previous report dated October 30, 2017.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, "Each childcare 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," Lunch and supper. Fluid milk, meat and meat alternates, vegetables, fruits, and grains are required components in the lunch and supper meal."

Title 7 of the Code of Federal Regulations, Section 226.20 (c) (3) states, "*Snack*. 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..."

The USDA Crediting Handbook for the Child and Adult Care Food Program, page 33, states, "Snack chips such as banana, fruit, vegetable, and potato chips may not be credited as a fruit or vegetable. However, 100% dried fruits or vegetables are creditable based on the volume served..."

The USDA Crediting Handbook for the Child and Adult Care Food Program, page 62, concerning the crediting of commercial frozen or canned products states, "the amount of meat/meat alternate per serving (not the total portion size) is the determining factor for crediting purposes. 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 the sales person) 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 meet the meal patterns established by the USDA.

4. The Sponsor reported the number of attendance days incorrectly

Condition

Based on our review of the Claim for Reimbursement for November 2019, the Sponsor reported 987 participant days. However, based on the available documentation, we noted that there were 956 participant days.

This is a report finding from a previous report dated October 30, 2017.

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 are accurate and made based on supporting documentation.

5. The Sponsor did not serve a whole grain-rich component once per day as required

Condition

Based on our review of the menus provided, the Sponsor did not document a whole grain component was served once per day as required on 11/01/19, 11/06/19, 11/08/19, 11/13/19, 11/15/19, 11/20/19, and 11/22/19.

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

Criteria

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.”

Condition

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

6. The Sponsor did not provide enrollment information for participants

Condition

During our monitoring visit on January 29, 2020 we reviewed enrollment information which had the following deficiencies:

- There were three participants on the attendance roster for whom the provider did not provide enrollment information.
- There was one participant with an enrollment form on file without a signature or date.

Enrollment information must be maintained and updated on an annual basis.

This is a repeat finding from a previous report dated October 30, 2017.

Criteria

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

Recommendation

The Sponsor should ensure that all enrollment information is collected as required and updated annually.

7. The Sponsor did not provide documentation of CACFP training for key staff

Condition

The Sponsor did not provide documentation of CACFP training for key staff.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15(e) states, "...At a minimum, the following records shall be collected and maintained... (12) Information on training session date(s) and location(s), as well as topics presented and names of participants..."

Title 7 of the Code of Federal Regulations, Section 226.17(b)(10) states, "...Each child care center must require key staff, as defined by the State Agency, to attend Program training prior to the center's participation in the Program, and at least annually thereafter, on content areas established by the State Agency."

Recommendation

Sponsor should maintain documentation of CACFP training including training topics and a roster.

8. The Sponsor did not have an adequate financial management system in place

Condition

The Sponsor did not have an adequate financial management system in place. The Sponsor did not provide documentation of a general ledger for the review month and all financial transaction related to the food program were not captured on the bank statement provided.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.7(b) states, "...State agencies or FNSRO's, where applicable, shall also have a system in place for monitoring and reviewing the institutions' documentation of their nonprofit status to ensure that all Program reimbursement funds are used: (1) Solely for the conduct of the food service operation; or (2) to improve such food service operations, principally for the benefit of the participants."

Recommendation

Sponsor should maintain an adequate financial management system.

Note: Our observation of the supplement meal service on November 25, 2019 revealed no deficiencies.

Technical Assistance Provided

Technical assistance was provided regarding the completion of income eligibility applications and the new meal pattern requirements effective October 2017. Additionally, a request was forwarded to Program specialists for further training assistance.

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 \$ 1,990.17.

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 Hands Up Preschool is seriously deficient in its operation of the CACFP and that Paul Taylor, Board Chairman and Deb Heard, Executive Director are responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Hands Up Preschool'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.

Hands Up Preschool may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Hands Up Preschool 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: Deb Heard, Executive Director, Hands Up Preschool
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

Verification of CACFP Independent Center Claim

Name of Agency: Hands Up Preschool

Review Month/Year: November 2019

Total Meal Reimbursement Received: \$ 5,168.10

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	17	17
Total Attendance	987	956
Number of Breakfasts Served	956	956
Number of Lunches Served	987	987
Number of Supplements Served	936	766
Number of Participants in Free Category	48	27
Number of Participants in Reduced-Price Category	4	2
Number of Participants in Paid Category	12	36
Total Number of Participants	64	65



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DANIELLE W. BARNES
COMMISSIONER

March 11, 2020

Paul Taylor, Board Chairman
Deb Heard, Executive Director
Hands Up Preschool
185 Greenfield Drive
Jackson, Tennessee 38305-2721

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 exhibit.

Institution Name:	Hands Up Preschool
Institution Address:	185 Greenfield Drive Jackson, Tennessee 38305-2721
Agreement Numbers:	00306
Amount Due:	\$1,990.17
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:

Department of Human Services
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: Hands Up Preschool	Agreement No. 00306	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 185 Greenfield Drive, Jackson, Tennessee 38305-2721

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

Name and Title: Paul Taylor, Chairman of the Board Deb Heard, Executive Director	Date of Birth: 10/07/1983 Date of Birth:
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: March 11, 2020	Corrective Action Plan: March 11, 2020
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Section D. Findings

Findings:

1. The Sponsor reported participants in the free, reduced-price and paid categories incorrectly
2. The Sponsor reported meal counts incorrectly
3. The Sponsor provided menus that did not meet USDA meal pattern requirements
4. The Sponsor reported the number of attendance days incorrectly
5. The Sponsor did not serve a whole grain-rich component once per day as required
6. The Sponsor did not provide enrollment information for participants
7. The Sponsor did not provide documentation of CACFP training for key staff
8. The Sponsor did not have an adequate financial system in place

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 participants in the free, reduced-price and paid categories incorrectly

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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

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

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

Measure No.2: The Sponsor reported meal counts incorrectly

The finding will be fully and permanently corrected.

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

Name: _____ Position Title: _____

Name: _____ Position Title: _____

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

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

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

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

Measure No. 3: The Sponsor provided menus that did not meet 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 reported the number of attendance days 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. 5: The Sponsor did not serve a whole grain-rich component once per day as required

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 did not provide enrollment information for 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:

DHS staff should check the "Forms" section of the intranet to ensure the use of current versions. Forms may not be altered without prior approval.

Distribution: OIG and CACFP/SFSP as appropriate

RDA: 2341

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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. 7: The Sponsor did not provide documentation of CACFP training for key staff

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. 8: The Sponsor did not have an adequate financial system in place

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.