



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

Certified Mail - Return Receipt # 70163010000073891800

November 17, 2017

Tracy Boyd, Chairman of the Board
Conchita Howard, Owner/Director
4 the Kids, Incorporated
1061 Henry Place Boulevard
Clarksville, Tennessee 37042

RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP) Agreement Number 00-130 and Demand for Overpayment.

Dear Ms. Boyd and Ms. Howard:

The Department of Human Services - DHS Audit Services Division staff conducted an on-site unannounced monitoring review of the Child and Adult Care Food Program (CACFP) at 4 the Kids, Inc. (Sponsor), Application Agreement 00-130, on September 28, 2017. 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, application agreement, and applicable Federal and State regulations.

Background

CACFP sponsors utilize meal count sheets to record the number of meals served for 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 TDHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through the TDHS Tennessee Information Payment System (TIPS) to seek reimbursement. DHS Program Monitors visited the Sponsor premises on September 28, 2017, to review the records supporting the Claim for Reimbursement for July 2017.

SERIOUS DEFICIENCY DETERMINATION

Based on the monitoring review, the Department has determined that 4 the Kids, Incorporated is seriously deficient in its operation of the CACFP. In addition, the Department has identified Tracy Boyd, Chairman

of the Board and Conchita Howard, Owner/Director, as responsible for the serious deficiencies in light of their responsibility for the overall management of 4 the Kids, Incorporated's CACFP.

If 4 the Kids, Incorporated 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 4 the Kids, Incorporated's, agreement to participate in the CACFP;
- Propose to disqualify 4 the Kids, Incorporated from future CACFP participation; and
- Propose to disqualify Tracy Boyd, Chairman of the Board and Conchita Howard, Owner/Director, from future CACFP participation.

In addition, if 4 the Kids, Incorporated voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify 4 the Kids, Incorporated, Tracy Boyd, Chairman of the Board and Conchita Howard, Owner/Director, from future CACFP participation. If disqualified, 4 the Kids, Incorporated, Tracy Boyd, Chairman of the Board and Conchita Howard, Owner/Director, will be placed on the National Disqualified List ("NDL"). While on the NDL, 4 the Kids, Incorporated will not be able to participate in the CACFP as an institution or facility. Tracy Boyd, Chairman of the Board and Conchita Howard, Owner/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

The attempted review of the Sponsor's records for July 2017 disclosed the following:

Records/Sponsor was not on site or available for review for July 2017

This is a Serious Deficiency:

Condition

The Sponsor was not at the office during our attempted on-site, unannounced review on September 28, 2017. DHS personnel attempted to monitor the Sponsor of 4 the Kids, Inc. and proceeded to contact the Sponsor via telephone and email. We never received a response to the voicemail or email that was sent. A certified letter was sent on October 5, 2017. The Sponsor did not contact DHS staff after leaving a voicemail, sending an email, nor sending a certified letter. Since the Sponsor did not provide us the records requested for July 2017, which include participant income eligibility forms, enrollment addendums, meal counts, attendance, annual training records, monitoring records, specific food purchase receipts, milk purchase receipts, the health department inspection report, and any other

records necessary to complete our review, we determined that the reimbursement for meals for July 2017 is disallowed.

Criteria

Title 7 of the *Code of Federal Regulations*, Section 226.10 (d) states:

“All records to support the claim shall be retained for a period of three years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three year period as long as may be required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. Government Accountability Office for audit or review, at a reasonable time and place.”

As a result of the Sponsor’s failure to provide records supporting the Claim for Reimbursement for July 2017, the total amount claimed for reimbursement is disallowed.

Recommendation

The Sponsor should ensure that all required documentation to support the Claim for Reimbursement for the CACFP is available for review.

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 claim cost of \$75,487.85.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$75,487.85, which the institution owes the Department. **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 4 the Kids, Inc. is seriously deficient in its operation of the CACFP and that Tracy Boyd, Chairman of the Board and Conchita Howard, Owner/Director are responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate 4 the Kids, Inc.'s CACFP agreement, or propose to disqualify 4 the Kids, Inc. 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.

4 the Kids, Inc. may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by 4 the Kids, Inc. 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:

4 the Kids, Inc. must complete the following actions within 30 days from the date of this report:

- Login to the Tennessee Information Payment System (TIPS) and revise the claim submitted for the center for July 2017, which contains the reconciled claim data from the enclosed exhibit.
- Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$75,487.85 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 Jackie Yokley, Audit Director 2, at 615-837-5035 or Jackie.D.Yokley@tn.gov.

Sincerely,



Allette Vayda
Director, CACFP & SFSP

EXHIBIT

Verification of CACFP Sponsor Claim

Name of Sponsor: 4 the Kids, Inc.

Review Month/Year: July 2017

Total Meal Reimbursement Received: \$75,487.85

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled Meals to Meal Count Sheets
Number of Days that CACFP Food Service was operated	26	0
Number of Homes	66	0
Total Attendance	717	0
Number of Breakfasts served	6,258	0
Number of A.M. Supplements Served	1,925	0
Number of Lunches Served	10,987	0
Number of P.M. Supplements Served	11,787	0
Number of Suppers Served	9,047	0
Number of Evening Snacks Served	1,239	0
Total Amount of Eligible Food Costs	XXXXXXXX	0
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	0



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November 17, 2017

Tracy Boyd, Chairman of the Board
4 the Kids, Incorporated
1061 Henry Place Boulevard
Clarksville, Tennessee 37042

Notice of payment due to findings disclosed in the monitoring report dated November 17, 2017, for Child and Adult Care Food Program (CACFP).

Institution Name:	4 the Kids, Inc.
Institution Address:	1061 Henry Place Boulevard Clarksville, Tennessee 37042
Agreement Number:	00-130
Amount Due:	\$75,487.85
Due Date:	December 17, 2017

Based on the monitoring report issued on November 14, 2017, 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 for disallowed meals cost.

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount of \$75,487.85 by the due date to:

**Tennessee Department of Human Services
Fiscal Services 11th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243-1403**

Please note that the unallowed 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 the 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, Community and Social Services - Food Programs - CACFP & SFSP at (615) 313-3769 or Allette.Vayda@tn.gov.
Thank you for your attention

**CORRECTIVE ACTION PLAN
CHILD AND ADULT CARE FOOD PROGRAM (CACFP)
TENNESSEE DEPARTMENT OF HUMAN SERVICES (TDHS)**

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 Date of Birth on the first page; enter your name, title and date of signature on the last page. Sign your name in ink. **Please return ALL pages of the completed Corrective Action Plan form.**

Section A. Institution Information	
Name of Institution 4 the Kids, Inc	CACFP Agreement No. 00-130
Mailing Address: 1061 Henry Place Boulevard Clarksville, Tennessee 37042	
Section B. Responsible Principal(s) and/or Individual(s)	
Name and Title:	Date of Birth (s):
Tracy Boyd, Board Chairman Conchita Howard, Owner/Director	
Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan	
SD Report:	Corrective Action Plan:
November 17, 2017	November 17, 2017
Section D. Findings	
Findings:	
<p>1. Records/Sponsor was not on site or available for review for July 2017</p>	

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

Measure No. 1: Records/Sponsor was not on site or available for review for July 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:

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.

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 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

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continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

**Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov**

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.