



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

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

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**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

CERTIFIED MAIL RECEIPT #70163010000073891770

November 1, 2017

Monique Staples, Director  
Kid's Korner Learning and Development Center  
701 Dodds Avenue  
Chattanooga, Tennessee 37404-3920

**RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP) Agreement Number 00-352 and Demand for Overpayment.**

Dear Mrs. Staples:

The Tennessee Department of Human Services (TDHS) Audit Services staff conducted an on-site unannounced monitoring review of the Child and Adult Care Food Program (CACFP) at Kid's Korner Learning and Development Center (Sponsor), Application Agreement 00-352, on September 21, 2017. We reviewed the Sponsor's records of reimbursements and expenditures for April 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.

**SERIOUS DEFICIENCY DETERMINATION**

Based on the monitoring review, the Department has determined that Kid's Korner Learning and Development Center is seriously deficient in its operation of the CACFP. In addition, the Department has identified Monique Staples, Director as responsible for the serious deficiencies in light of their responsibility for the overall management of Kid's Korner Learning and Development Center's CACFP.

If Kid's Korner Learning and Development Center 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 Kid's Korner Learning and Development Center's, agreement to participate in the CACFP;
- Propose to disqualify Kid's Korner Learning and Development Center from future CACFP participation; and

- Propose to disqualify Monique Staples, Director, from future CACFP participation.

In addition, if Kid's Korner Learning and Development Center voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Kid's Korner Learning and Development Center and Monique Staples, Director from future CACFP participation. If disqualified, Kid's Korner Learning and Development Center, Monique Staples, Director will be placed on the National Disqualified List ("NDL"). While on the NDL, Kid's Korner Learning and Development Center will not be able to participate in the CACFP as an institution or facility. Monique Staples, 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 following paragraphs detail each serious deficiency and additional finding:

#### 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. 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 meal service during our unannounced site visit on August 10, 2017.

Our review of the Sponsor's records for April 2017 disclosed the following:

#### **1. The number of participants reported in the free and paid categories was incorrect**

##### Condition

Based on our review of the Claim for Reimbursement for the test month, we noted that the sponsor reported 71 participants in the free category. However, our review of the Sponsor's records disclosed that there were 56 participants in the free category and nine (9) participants in the paid category.

The differences were based on the following:

- There were eight participants that were classified as free on their applications but did not have the parent's Social Security number (last four digits required). These participants were reclassified as paid.

- There was one participant classified as free, but based on the application should have been classified as paid.
- The Sponsor over-reported the number of free participants by six.

The Sponsor reported 71 participants in the CACFP; however, the documentation provided disclosed there were at total of 65 participants.

This is a repeat finding from the previous report dated February 19, 2013.

Criteria

*Code of Federal Regulations*, Title 7, 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 implement a system of review to ensure that all participants are reported in the correct category and reported in TIPS accurately.

**2. The Sponsor reported incorrect meal counts**

Condition

The Sponsor reported 1,280 breakfast meals, 1,280 lunch meals, and 1,280 supplements served. However, based on our review of the documentation provided, we noted that there were 1,548 breakfast meals, 1,548 lunch meals, and 1,592 supplements served prior to any disallowances.

As a result, the Sponsor underreported 268 breakfast meals, 268 lunch meals, and 312 supplements. (See Exhibit)

This is a repeat finding from the previous report dated February 19, 2013.

Criteria

*Code of Federal Regulations*, Title 7, 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 accurate monthly meal counts and claims for reimbursement are correct, and meals claimed does not exceed attendance.

**3. The Sponsor's documented number of meals served exceeded the reported attendance**

Condition

The Claim for Reimbursement for the test month reported 1,280 attendance days. The meal count

sheets for the test month reported 1,562 attendance days. However, our review of attendance records verified 1,024 total attendance days. Meals served may not exceed the total attendance.

As a result, the 568 breakfast meals, 568 lunch meals, and 568 supplements reported as served were disallowed. (See Exhibit)

Criteria

*Code of Federal Regulations*, Title 7, 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 the reported meal count and attendance records are correct. No meals should be claimed over the number of participants in attendance.

**4. Meals were claimed in excess of an observed meal**

Condition

During our on-site visit on August 10, 2017, we observed a lunch meal service. There were 31 participants served a lunch meal. However, the Sponsor recorded and reported 70 lunch meals served. Meals reported over attendance were disallowed per Finding 3.

As a result, 31 lunch meals were disallowed. (See Exhibit)

Criteria

*Code of Federal Regulations*, Title 7, 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 the reported meal count and attendance records are correct. No meals should be claimed over the number of participants in attendance.

**5. Menus did not meet USDA component requirements**

**This is a Serious Deficiency:**

Condition

The menu posted for the review period included meals that were missing components. Additionally, the menu contains several homemade items, commercially processed foods, and frozen foods. The Sponsor was unable to provide recipes, Child Nutrition (CN) labels, or manufacturer product formulation statements to determine whether these components met USDS requirements. Our review of the menu disclosed the following:

Date	Meal	Details	Meals Disallowed
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8/1	Lunch Snack	Spaghetti, pears, green beans, cornbread, milk - No recipe for spaghetti sauce Snack: Vanilla wafers - Missing second component	-62 lunches -64 snacks
8/2	Breakfast Lunch Snack	Breakfast: Milk - Missing grain and fruit/vegetable components Lunch: Taco salad, Fritos, applesauce, milk - No recipe for taco salad Snack: Cheese Its - Missing second component	-62 breakfasts -62 lunches -64 snacks
8/3	Snack	Snack: Graham crackers - Missing second component	-64 snacks
8/4	Snack	Snack: Animal cookies - Missing second component	-64 snacks
8/7	Snack	Snack: Oatmeal cookies - Missing second component	-64 snacks
8/8	Snack	Snack: Vanilla wafers - Missing second component	-64 snacks
8/9	Lunch Snack	Lunch: Fish sticks, green beans, bread, mac/cheese, oranges, milk - No CN label for fish sticks Snack: Cheese Its - Missing second component	-62 lunches -64 snacks
8/10	Lunch Snack	Lunch: Items listed on menu not served; observed substitution of ravioli mixed with canned spaghetti and meatball, corn, cantaloupe, bread, milk - No CN label for ravioli / canned spaghetti Snack: Graham crackers - Missing second component	-31 lunches -64 snacks
8/11	Snack	Snack: Animal cookies - Missing second component	-64 snacks
8/14	Breakfast Lunch Snack	Breakfast: Fruit Loops, toast, milk - Missing fruit/veg Lunch: Boneless chicken, rolls, carrots, broccoli and grapes - Missing milk Snack: Oatmeal cookies - Missing second component	-32 breakfasts -32 lunches -34 snacks
8/15	Snack	Snack: Vanilla wafers - Missing second component	-34 snacks
8/16	Snack	Snack: Cheese-Its - Missing second component	-34 snacks
8/17	Lunch Snack	Lunch: Ravioli, corn, peaches, mashed potatoes, bread, milk - No CN label for ravioli Snack: Cheese-Its - Missing second component	-32 lunches -34 snacks
8/18	Lunch Snack	Lunch: Homemade chili, ½ cheese toast, milk - No recipe for chili Snack: Animal cookies - Missing second component	-32 lunches -34 snacks
8/22	Snack	Snack: Vanilla wafers - Missing second component	-35 snacks
8/23	Lunch Snack	Lunch: Chicken Pot Pie, rolls, bananas, milk - No recipe for chicken pot pie Snack: Cheese-Its - Missing second component	-33 lunches -35 snacks

8/24	Breakfast	Breakfast: Scrambled eggs, rice, light bread, milk - Missing fruit/veg component	-33 breakfasts
	Lunch	Lunch: Ham, cabbage, sweet potatoes, fruit cocktail - Missing grain and milk components	-33 lunches
	Snack	Snack: Graham crackers - Missing second component	-35 snacks
8/25	Snack	Snack: Animal crackers - Missing second component	-35 snacks
8/28	Lunch	Lunch: Chicken and dressing, mac/cheese, peaches, milk - Missing 2 <sup>nd</sup> fruit/veg component	-31 lunches
	Snack	Snack: Oatmeal cookies - Missing second component	-33 lunches
8/29	Lunch	Lunch: Spaghetti, pears, green beans, cornbread, milk - No recipe for spaghetti sauce	-33 lunches
	Snack	Snack: Vanilla wafers - Missing second component	-35 snacks
8/30	Lunch	Lunch: Taco salad, Fritos, applesauce, milk - No recipe for taco salad	-33 lunches
	Snack	Snack: Cheese-Its - Missing second component	-35 snacks
8/31	Snack	Graham crackers - Missing second component	-35 snacks

This is a repeat finding from the previous report dated February 19, 2013.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.20(a)* states, "... each meal served in the Program must contain, at a minimum, the indicated food components: ..."

The USDA Crediting Foods in the Child and Adult Care Food Program, Revised 2014, page 62, states, in part, "When crediting such products as chili-macs, pizzas, pot pies, sloppy Joes, and ravioli toward the meat/meat alternate component, 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 a sales person) that shows how the crediting has been determined. ..."

#### Recommendation

The Sponsor should ensure that menus reflect and contain all required meal components. The Sponsor should also keep copies of CN labels or product analysis sheets on file for commercially prepared foods and recipes for homemade food items.

#### **Technical Assistance Provided**

During our visit on August 10, 2017, we discussed the meal pattern revisions effective October 1, 2017, and followed up that conversation with an email providing four USDA flyers with helpful information regarding those changes.

During our visit on September 21, 2017, we discussed the current and future meal patterns, infant meal patterns and infant claiming, infant menu forms, accurate record keeping, and instituting a second glance process to ensure documents are complete and correct.

On September 22, 2017, an email was sent to the Sponsor that provided a link to the “USDA Infant Feeding Guide” and emailed the USDA meal pattern flyers previously provided at the Sponsor’s request. The email included contact information for a Program Specialist with the Department of Human Services Food Program who could provide further technical assistance.

## **OVERPAYMENT-RIGHT TO APPEAL**

### **Disallowed Meals Cost**

Based on our 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 \$5,030.38.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$5,030.38, 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](http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/historical_rates.htm)

## **SUMMARY**

The Department has determined that Kid’s Korner Learning and Development Center is seriously deficient in its operation of the CACFP and that Monique Staples, Director is responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Kid’s Korner Learning and Development Center’s CACFP agreement, or propose to disqualify Kid’s Korner Learning and Development Center 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.

Kid’s Korner Learning and Development Center may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Kid’s Korner Learning and Development Center 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:

Kid's Korner Learning and Development Center 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 August 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 \$5,030.38 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](mailto: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](mailto:Jackie.D.Yokley@tn.gov).

Sincerely,



Allette Vayda  
Director, CACFP & SFSP

Enclosures



**EXHIBIT**

**Verification of CACFP Independent Center Claim**

**Name of Agency: Kid’s Korner Learning and Development Center**

**Review Month/Year: August 2017**

**Total Meal Reimbursement Received: \$7,798.40**

<b>Site Meal Service Activity and Monitor Reconciliation</b>	<b>Reported on Claim</b>	<b>Reconciled Meals to Attendance Sheets<sup>1</sup></b>
Number of Days that CACFP Food Service was operated	22	22
Total Attendance	1,280	1,024
Percentage of Participants in the Free or Reduced-price Category	XXXXXX	86%
Number of Breakfasts Served	1,280	853
Number of Lunches Served	1,280	473
Number of Supplements Served	1,280	0
Number of Participants in Free Category	71	56
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	9
Total Number of Participants	71	65
Total Amount of Eligible Food Costs	XXXXXXXX	\$1,520.50
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$1,536.12

<sup>1</sup> Attendance sheets were used to tally meals because meal count totals exceeded the daily attendance totals.



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**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

November 1, 2017

Monique Staples, Director  
Kid's Korner Learning and Development Center  
701 Dodds Avenue  
Chattanooga, Tennessee 37404-3920

**Notice of payment due to findings disclosed in the monitoring report dated November 1, 2017, for  
Child and Adult Care Food Program (CACFP).**

Institution Name:	Kid's Korner Learning and Development Center
Institution Address:	701 Dodds Avenue
Agreement Numbers:	00-352
Amount Due:	\$5,030.38
Due Date:	December 1, 2017

Based on the monitoring report issued on November 1, 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 Kid's Korner Learning and Development Center to reimburse the Department of Human Services disallowed meals cost in the amount of \$5,030.38.

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount of \$5,030.38 by the due date to:

**Fiscal Services 11<sup>th</sup> Floor  
Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243-1403  
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 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) 313-4749 or [Allette.Vayda@tn.gov](mailto: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.**

<b>Section A. Institution Information</b>	
<b>Name of Institution</b> Kid's Korner Learning and Development Center	<b>CACFP Agreement No.</b> 00-352
<b>Mailing Address:</b> 701 Dodds Avenue Chattanooga, Tennessee 37404	
<b>Section B. Responsible Principal(s) and/or Individual(s)</b>	
<b>Name and Title:</b> Monique Staples, Director	<b>Date of Birth (s):</b>
<b>Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan</b>	
<b>SD Report:</b> November 1, 2017	<b>Corrective Action Plan:</b> November 1, 2017
<b>Section D. Findings</b>	
<b>Findings:</b>	
<ol style="list-style-type: none"> <li>1. <b>The number of participants reported in the free and paid categories was incorrect</b></li> <li>2. <b>The Sponsor reported incorrect meal counts</b></li> <li>3. <b>The Sponsor's documented number of meals served exceeded the reported attendance</b></li> <li>4. <b>Meals were claimed in excess of an observed meal</b></li> <li>5. <b>Menus did not meet USDA component requirements</b></li> <li>6. Enrollment addendum forms were not maintained for all participants</li> <li>7. There were meals served outside of approved meal service times</li> <li>8. One FDH claimed meals in excess of the approved capacity</li> <li>9. The Sponsor allowed two providers to operate during the same shift and serve the same meal</li> <li>10. The Sponsor did not have approval from DHS to use CACFP funds for personal expenditures</li> </ol>	

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

**Measure No. 1: The number of participants reported in the free and paid categories was incorrect**

The finding will be fully and permanently corrected.

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

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

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

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

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

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

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**Measure No.2: The Sponsor reported incorrect meal counts**

The finding will be fully and permanently corrected.

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

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

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

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

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



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**Measure No. 3: The Sponsor's documented number of meals served exceeded the reported attendance**

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

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

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

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

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

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**Measure No. 4: Meals were claimed in excess of an observed meal**

The finding will be fully and permanently corrected.

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

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

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

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

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

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**Measure No. 5: Menus did not meet USDA component requirements**

The finding will be fully and permanently corrected.

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

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

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

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

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

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I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame.

\_\_\_\_\_  
Printed Name of Authorized Institution Official

\_\_\_\_\_  
Position

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

### **Appeal Procedures**

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

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

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

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

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

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

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

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

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

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

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

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16<sup>th</sup> calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair



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hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

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

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

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

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

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