



**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
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www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

December 18, 2017

Shelley Matthews, Owner/Director
Ms. Carol's Playschool, LLC
5053 North Lee Highway
Cleveland, Tennessee 37312-4430

Dear Ms. Matthews:

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at Ms. Carol's Playschool, LLC (Sponsor), Application Agreement number 00-425, on October 27, 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 supplements 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) system to seek reimbursement. We inspected meal counts sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we conducted an unannounced on-site visit on September 29, 2017, and observed an afternoon supplement service.

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

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

Condition

The Claim for Reimbursement for the test month reported 43 participants in the free category, 12 participants in the reduced-price category, and 56 participants in the paid

category. However, based on our review of the Sponsor's records, we found there were 46 participants in the free category, 10 participants in the reduced-price category, and 55 participants in the paid category.

The differences were based on the following:

- There was one participant classified as paid, but based on the application was reclassified to free.
- There were two participants classified as reduced-price, but were income eligible for the free category based on the application. These two participants were reclassified as free.

The total number of participants reported and confirmed in the program was 111.

This is a repeat finding from the previous report dated March 31, 2016.

Criteria

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

Recommendation

The Sponsor should implement 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 1,057 breakfast meals, 1,380 lunch meals, and 1,380 supplements served. However, we verified 1,057 breakfast meals, 1,383 lunch meals, and 679 supplements were documented prior to any disallowances.

As a result, the Sponsor under reported three lunch meals and over reported 701 supplements served. (See Exhibit)

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 the number of meals submitted for reimbursement is correct.

3. The Sponsor did not provide a menu for meals served on one day

Condition

The Sponsor did not provide a menu for September 1, 2017. As a result, 48 breakfasts, 60 lunches, and 60 supplements claimed for that date were disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15(e) states, "Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained: ... (10) Copies of menus, and any other food service records required by the State agency."

Recommendation

The Sponsor should ensure that menus are available for every day meals were served, and that the menus accurately reflect all meals served.

4. The Sponsor did not provide evidence that sufficient quantities of milk were purchased for claimed meals served

Condition

Based on the number of meals served with milk as a required component, the Sponsor should have purchased 11,932 ounces of milk and/or nutritionally equivalent fluid milk substitutes. However, the Sponsor provided documents showing 9,216 ounces of creditable milk, resulting in a milk shortage of 2,716 ounces.

As a result, 447 breakfast meals were disallowed. (See Exhibit)

This is a repeat finding from the previous report dated March 31, 2016.

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: (1) *Fluid milk*. Fluid milk must be served as a beverage or on cereal, or a combination of both, as follows: (i) *Children 1 year old*. Children one year of age must be served unflavored whole milk. (ii) *Children 2 through 5 years old*. Children two through five years old must be served either unflavored low-fat (1 percent) or unflavored fat-free (skim) milk. (iii) *Children 6 years old and older*. Children six years old and older must be served unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk."

Title 7 of the Code of Federal Regulations, Section 226.20(c) requires that for each child at breakfast and lunch, the following quantities of milk are to be served: "Ages 1-2: 4 fluid ounces. Ages 3-5: 6 fluid ounces. Ages 6-12: 8 fluid ounces."

Recommendation

The Sponsor should ensure that proper documents are maintained to show that sufficient quantities of milk were purchased and served to children to be reimbursable.

5. The Sponsor served milk substitutes that were not nutritionally sufficient.

Condition

Based on our review of the requests for service of milk substitutes to participants, and the labels of the substitutes used by the Sponsor, we found that milk substitutes were not nutritionally equivalent to cow's milk as required by the USDA.

The milk substitutes were not included in the available milk totals reported in finding 4.

Criteria

The USDA Memo CCFP 17-2016 states, "Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, Vitamin D, and other nutrients found in cow's milk. The nutrient standards for non-dairy beverages are outlined in the CACFP regulations at *Title 7 of the Code of Federal Regulations, Section 226.20(g)(3)*."

Recommendation

The Sponsor should compare nutrition labels from milk substitutes to Program nutrition requirements to ensure adequate milk substitutes are provided when requested for participants.

6. The Sponsor incorrectly reported the number of attendance days

Condition

The Claim for Reimbursement for the test month reported 1,423 attendance days. However, our review of attendance records verified 1,439 total attendance days.

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 the attendance days are reported correctly.

7. The Sponsor failed to provide documentation that key staff attended training before operation of the current program began

Condition

Training documentation provided by the Sponsor showed that civil rights training had been completed within the last 12 months, but there was no documentation provided showing that key staff attended training to cover program duties and responsibilities.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.16(d) states, "At a minimum, Program assistance must include: ... (2) Training on Program duties and responsibilities to key staff from all sponsored facilities prior to the beginning of Program operations. At a minimum, such training must include instruction, appropriate to the level of staff experience and duties, on the Program's meal patterns, meal counts, claims submission and review procedures, recordkeeping requirements, and reimbursement system. Attendance by key staff, as defined by the State agency, is mandatory."

Recommendation

The Sponsor should ensure key staff are trained in CACFP duties and responsibilities before the beginning of each program year, and maintain such records in order to provide evidence that training was completed as required.

8. The Sponsor did not have documentation of menus and meal counts for infants

Condition

The Sponsor did not provide menus and meal count sheets to document participation in the CACFP for infants enrolled in the center. All children that are enrolled and receive service must be allowed to participate and must be accounted for in the Claim for Reimbursement.

Criteria

The USDA Memo Code CACFP 14-2015 (v.2) states, in part, "Centers and day care homes participating in CACFP, must offer Program meals to all eligible children enrolled in their center or day care home. ..."

Recommendation

The Sponsor must allow all eligible children to participate in the food program, including infants, and must document their participation.

Note: Our observation of the lunch meal service on September 29, 2017 resulted in no deficiencies.

Technical Assistance Provided

Technical assistance was provided during our monitoring visit on October 27, 2017. We discussed the meal pattern revisions effective October 1, 2017 focusing on compliance with revised infant meal patterns and correctly claiming infants.

Technical assistance was provided on October 31, 2017, regarding milk and determining creditable milk substitutions.

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 \$844.27.

Corrective Action

Ms. Carol's Playschool 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(s) submitted for September, 2017, which contains the verified claim data from the enclosed exhibit.
- Remit a check payable to the **Tennessee Department of Human Services** in the amount of \$844.27 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 a corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director
Child and Adult Care Food Program
8th Floor Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov
(615)313-3769

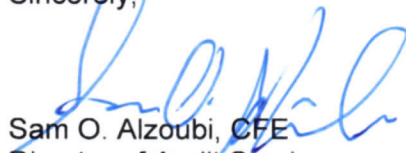
Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim within 30 business days from the date of this report. If the revised claim is not completed by the 30 business - day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program
Fiscal Services
11th Floor, Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243

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

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,



Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

cc: Allette Vayda, Director, Child and Adult Care Food Programs
Debra Pasta, Program Manager, 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
Elke Moore, Administrative Service Assistant 3, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT**Verification of CACFP Independent Center Claim****Name of Agency: Ms. Carol's Playschool, LLC****Review Month/Year: September 2017****Total Meal Reimbursement Received: \$3,995.05**

| Site Meal Service Activity and Monitor Reconciliation | Reported on Claim | Reconciled to Provided Documents |
|------------------------------------------------------------------|--------------------------|-----------------------------------------|
| Number of Days that CACFP Food Service was operated | 20 | 20 |
| Total Attendance | 1,423 | 1,439 |
| Percentage of Participants in the Free or Reduced-price Category | XXXXXX | 50% |
| Number of Breakfasts Served | 1,057 | 562 |
| Number of Lunches Served | 1,380 | 1,323 |
| Number of Supplements Served | 1,380 | 619 |
| Number of Participants in Free Category | 43 | 46 |
| Number of Participants in Reduced-Price Category | 12 | 10 |
| Number of Participants in Paid Category | 56 | 55 |
| Total Number of Participants | 111 | 111 |
| Total Amount of Eligible Food Costs | XXXXXXXX | \$2,860.30 |
| Total Amount of Eligible Food and Non-Food Costs | XXXXXXXX | \$4,003.32 |



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COMMISSIONER

December 18, 2017

Shelley Matthews, Owner/Director
Ms. Carol's Playschool, LLC
5053 North Lee Highway
Cleveland, Tennessee 37312-4430

Notice of payment due to findings disclosed in the monitoring report dated December 18, 2017 for Child and Adult Care Food Program (CACFP).

| | |
|----------------------|-----------------------------------------------------------|
| Institution Name: | Ms. Carol's Playschool, LLC |
| Institution Address: | 5053 North Lee Highway Cleveland, Tennessee 37312-4430 |
| Agreement Numbers: | 00-393 |
| Amount Due: | \$844.27 |
| Due Date: | January 18, 2018 |

Based on the monitoring report issued by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services - Food Programs - CACFP & SFSP management has agreed with the findings which requires 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 \$844.27 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 disallowed 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, 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 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: Ms. Carol's Playschool | Agreement No. 00425 | <input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP |
|-----------------------------------------------------|------------------------|----------------------------------------------------------------------------|

Mailing Address: 5053 North Lee Highway Cleveland, Tennessee 37312-4430

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

| | |
|--------------------------------------------------|--------------------|
| Name and Title: Shelley Matthews, Owner/Director | Date of Birth: / / |
|--------------------------------------------------|--------------------|

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

| | |
|-------------------------------|------------------------------------|
| Monitoring Report: 12/18/2017 | Corrective Action Plan: 12/18/2017 |
|-------------------------------|------------------------------------|

Section D. Findings

Findings:

1. The Sponsor incorrectly reported the number of participants in the free, reduced-price and paid categories
2. The Sponsor reported incorrect meal counts
3. The Sponsor did not provide a menu for meals served on one day
4. The Sponsor did not provide evidence that sufficient quantities of milk were purchased for claimed meals served
5. The Sponsor served milk substitutes that were not nutritionally sufficient.
6. The Sponsor incorrectly reported the number of attendance days
7. The Sponsor failed to provide documentation that key staff attended training before operation of the current program began
8. The Sponsor did not have documentation of menus and meal counts for infants

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

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 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:

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 did not provide a menu for meals served on one day

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 did not provide evidence that sufficient quantities of milk were purchased for claimed meals served

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 served milk substitutes that were not nutritionally sufficient.

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 incorrectly reported the number of attendance days

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. 7: The Sponsor failed to provide documentation that key staff attended training before operation of the current program began

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 documentation of menus and meal counts for infants

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: / /

Signature of Authorized TDHS Official: _____

Date: / /

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

- (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

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

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

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

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.