

STATE OF TENNESSEE DEPARTMENT OF HUMAN SERVICES CITIZENS PLAZA BUILDING

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BILL HASLAM

DANIELLE W. BARNES

GOVERNOR

COMMISSIONER

June 9, 2017

Wendi Parker, Owner Westside Learning Center 531 Vanosdale Road Knoxville, Tennessee 37909

Dear Ms. Parker:

The Tennessee Department of Human Services Audit Services (TDHS) staff conducted an on-site unannounced monitoring review of the Child and Adult Care Food Program (CACFP) at Westside Learning Center (Sponsor), Application Agreement 00-567, on April 26, 2017. We reviewed the Sponsor's records of reimbursements and expenditures for March 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 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 and observed a meal service during our site visit on March 31, 2017.

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

1. The number of participants reported in the free, reduced-price and paid categories was incorrect

Condition

The Claim for Reimbursement for the test month reported 18 participants in the free category, 13 participants in the reduced-price category and 45 participants in the paid category. However, based on our review of the Sponsor's records, we found that there were

16 participants in the free category, 11 participants in the reduced-price category and 43 participants in the paid category.

As a result, the Sponsor over reported the free category by two, the reduced-price category by two and the paid category by two. The adjustment in the free, reduced-price and paid categories affected the claiming percentages. (See Exhibit)

This is a repeat finding from the previous report dated February 21, 2014.

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

Based on our review of available documents and information, we noted that the Sponsor reported incorrect meals counts on the Claim for Reimbursement form.

The Sponsor reported 687 breakfasts, 927 lunches and 1,219 supplements served. However, we verified 681 breakfasts, 937 lunches and 1,220 supplements were served (prior to any disallowances).

As a result, the Sponsor over reported 6 breakfasts, and underreported 10 lunches and 1 supplement. (See Exhibit)

This is a repeat finding from the previous report dated February 21, 2014.

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 accurate monthly meal counts and claims for reimbursement are correct.

3. One infant menu did not meet USDA requirements

Condition

Our review of the infant menus disclosed the following:

• The lunch menu for A. R. did not show a vegetable served on March 1, 8, 15, and 29, 2017. The menu shows the infant was served 6-8 ounces of breastmilk/formula and 1-4 teaspoons of ham.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (b)(5)(iii)(B) states the requirements for an infant lunch ages 8 to 11 months are, "6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; 2 to 4 tablespoons of iron-fortified dry infant cereal; and/or 1 to 4 tablespoons of meat, fish, poultry, egg yolk, or cooked dry beans or peas; or 1/2 to 2 ounces (weight) of cheese; or 1 to 4 ounces (volume) of cottage cheese; or 1 to 4 ounces (weight) of cheese food or cheese spread; and 1 to 4 tablespoons of fruit or vegetable."

As a result, 4 lunches were disallowed. (See Exhibit)

Recommendation

The Sponsor should ensure that infant menus follow USDA requirements.

4. There was one infant menu that did not have the specific names of components

The infant menu for E. B. did not have the specific name of the fruit that was served for breakfast on March 7, 14, 21, and 28, 2017 and supplements on March 2, 9, 16, 23, and 30, 2017. The receipts did show the specific names of the fruit purchased, but the Sponsor should document the specific type of fruit that is served on the menus.

Criteria

The Tennessee <u>Child and Adult Care Food Program Policies and Procedures Manual</u>, page 24, states, "it is recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services."

Recommendation

The Sponsor should ensure that infant menus are item specific and follow USDA requirements.

5. The number of attendance days reported was incorrect

Condition

The Claim for Reimbursement for the test month reported 1,343 attendance days. However, based on our review, we found that there were 1,315 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 reported attendance records are correct.

Disallowed Meals Cost

No costs will be disallowed because the amount to be disallowed falls below the TDHS threshold.

Corrective Action

Westside Learning Center must complete the following actions within 30 days from the date of this report:

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

We appreciate the assistance provided during this review. If you have any questions, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or Jackie.D.Yokley@tn.gov.

Sincerely,

Director of Audit Services

Exhibit

cc: Allette Vayda, Director, Child and Adult Care Food Programs
Constance Moore, Program Specialist, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Westside Learning Center Review Month/Year: March 2017

Total Meal Reimbursement Received: \$2,454.37

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled Meals to Meal Counts Sheets		
Number of Days that CACFP Food Service was operated	23	23		
Total Attendance	1,343	1,315		
Percentage of Participants in the Free or Reduced-price Category	XXXXXX	39%		
Number of Breakfasts Served	687	681		
Number of Lunches Served	927	933		
Number of Supplements Served	1,219	1,220		
Number of Participants in Free Category	18	16		
Number of Participants in Reduced- Price Category	13	11		
Number of Participants in Paid Category	45	43		
Total Number of Participants	76	70		
Total Amount of Eligible Food Costs	xxxxxxx	\$2,259.34		
Total Amount of Eligible Food and Non-Food Costs	xxxxxxx	\$2,856.28		



Tennessee Department of Human Services

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: Westside	Learning Center	Agreement No. 00567	☐ SFSP ☑ CACFP		
Mailing Address: 531 Vanosdale Road Kr	noxville, Tennessee 3	7909			
Section B. Responsible Principal(s) an	d/or Individual(s)				
Name and Title: Wendi Parker, Owner			Date of Birth: / /		
Section C. Dates of Issuance of Monito	oring Report/Correct	ive Action Plan			
Monitoring Report: 06/09/2017	Corrective Act	Corrective Action Plan: 06/09/2017			

Section D. Findings

Findings:

- The number of participants reported in the free, reduced-price and paid categories was incorrect.
- 2. The Sponsor reported incorrect meal counts.
- 3. One infant menu did not meet USDA requirements.
- 4. There was one infant menu that did not have the specific names of components.
- 5. The number of attendance days reported was incorrect.

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

Measure No. 1: The number of participants reported in the free, reduced-price and paid categories was incorrect.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding

The finding will be fully and permanently corrected.

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:

Handbook, training, etc.)? Ple	ease describe below:
easure No.2: The Sponsor	reported incorrect meal counts.
he finding will be fully and per dentify the name(s) and positions fully and permanently correct	on title(s) of the employee(s) who will be responsible for ensuring that the finding
ame:	Position Title:
ame:	Position Title:
Describe below the step-by-s	step procedures that will be implemented to correct the finding:
	addressing the finding be implemented? Provide a timeline below for s (i.e., will the procedures be done daily, weekly, monthly, or annually, and wher
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Where will the Corrective Action I	Plan documentation be retained? Please identify below:
-	
How will new and current staff be Handbook, training, etc.)? Please	informed of the new policies and procedures to address the finding (e.g., e describe below:
Measure No. 3: One infant men	u did not meet USDA requirements.
The finding will be fully and perma dentify the name(s) and position t	nently corrected. itle(s) of the employee(s) who will be responsible for ensuring that the finding
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Where will the Corrective Action Pla	n documentation be retained? Please identify below:
How will new and current staff be inf Handbook, training, etc.)? Please do	formed of the new policies and procedures to address the finding (e.g., escribe below:
Measure No. 4: There was one infar	nt menu that did not have the specific names of components.
The finding will be fully and permanen	
Name:	Position Title:
Name:	Position Title:
Describe below the step-by-step pro	cedures 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 whe 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 number of attendance days reported was incorrect.

The finding will be fully and permanently corrected.

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:

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding

How will new and current staff be informed of the new policies and procedures to Handbook, training, etc.)? Please describe below:	address t	he f	inding (e.g.,
		,	
I certify by my signature below that I am authorized by the institution to sign this d representative of the institution, I fully understand the corrective measures identificing implement these measures within the required time frame. I also understand that permanently correct the findings in my institution's CACFP or SFSP will result in it program, and the placement of the institution and its responsible principals on the maintained by the U.S. Department of Agriculture.	ed above failure to s termina	and full ation	d agree to fully y and i from the
Printed Name of Authorized Institution Official:	Positio	n:	
Signature of Authorized Institution Official:	Date:	1	1
Signature of Authorized TDHS Official:	Date:	1	1

APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

Appeal Procedures

- 1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:
 - (a) Annually to all institutions;
 - (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
 - (c) Any other time upon request.
- 2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.
 - (a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:
 - (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
 - (ii) Determination of serious deficiency.
 - (iii) State agency determination that corrective action is inadequate.
 - (iv) Disqualification and placement on State agency list and National disqualified list.
 - (v) Termination.
 - (vi) State agency or FNS decision regarding removal from the National disqualified list.
 - (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.
 - (b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:
 - (viii) The information submitted on the application was false;
 - (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
 - (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;
- (c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.
- 3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.
- 4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.
- 5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.
- 6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.
- 7. To be considered for a fair hearing or for a review of written information in lieu of a fair

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.

is in accorda	at to the best of my knowledge and nee with the terms of existing Agre r neglectful reporting herein. I furth ant as established by the Federal Re	ement(s); i recognize or certify that claims	that I will be IVI submitted for I	ny responsibile for any mads served in proprie	tary conters #	nest the require	ments for
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