



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

January 30, 2018

Danny Smith, Owner
Gingerbread House Child Care
253 West Sam Ridley Parkway
Smyrna, Tennessee 37137-5600

Dear Mr. Smith,

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 Gingerbread House Child Care (Sponsor), Application Agreement number 00-290. Additional information was requested and provided on January 11, 2018. The purpose of this review was to determine if the Sponsor complied with *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 breakfast, lunch, supper, and supplement meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP Sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) 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 observed a meal service during our on-site visit on December 13, 2017.

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

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

Condition

The Claim for Reimbursement for the test month reported 39 participants in the free category, 22 participants in the reduced-price category, and 66 participants in the paid category. However, based on our review of the Sponsor's records, we found that there were 41 participants in the free category, 24 participants in the reduced-price category, and 62 participants in the paid category.

The differences were based on the following:

- There was one participant reported in the paid category that qualified for the free category based on the application. This participant was reclassified as free.
- There was one participant reported in the reduced-price category that qualified for the free category based on the application. This participant was reclassified as free.
- There were three participants in the reduced-price category were reported in the paid category

As a result, the Sponsor underreported the number of participants in the free category by two participants, underreported the number of participants in the reduced-price category by two participants, and overreported the number of participants in the paid category by four participants. (See Exhibit)

This is a repeat finding from a prior report dated October 23, 2015.

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 each participant in the CACFP is classified and reported properly based on categorical or income eligibility.

- 2. The Sponsor did not ensure that menus reflected substitutions that were made for participants with special dietary needs**

Condition

The Sponsor did not ensure that menus reflected the substitutions made for participants with special dietary needs. During our review of the Sponsor's records, we reviewed medical statements provided to the Gingerbread House for meal substitutions. The Sponsor was aware that one child was allergic to peaches, one child had a chicken allergy, and one child was lactose intolerant to all dairy products. However, the menus do not reflect substitutions offered to these children with allergies.

Criteria

The USDA policy memorandum, CACFP 14-2017 Modifications to Accommodate Disabilities in the Child and Adult Care Food Program outlines the requirements for CACFP sponsors to

provide reasonable modifications to Program meals or the meal service to accommodate children or adults (participants) with disabilities

The USDA Monitoring Handbook for State Agencies, page 24, states, "Daily records of menus must contain a listing of the food items served in each meal type to ensure that the CACFP meal pattern requirements were met."

Recommendation

The Sponsor should ensure that posted menus document the substitutions made during each meal service.

3. The Sponsor did not have a written procurement plan or code of standards form

Condition

The Sponsor did not have a procurement plan in writing regarding the purchase of equipment, supplies, or other goods and services. In addition, there was no written code of standards of conduct.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.22 describes the Procurement standards ...

(c) Institutions may use their own procedures for procurement with Program funds to the extent that:

- (1) Procurements by public institutions comply with applicable State or local laws and standards set forth in 7 CFR part 3016;
- (2) Procurements by private nonprofit institutions comply with standards set forth in 7 CFR part 3019; and
- (3) All procurements comply with the procurement requirements in paragraphs (d) through (m) of this section.

(d) Institutions shall maintain a written code of standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Program payments. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (1) The employee, officer or agent;
- (2) Any member of his immediate family;
- (3) His or her partner; or
- (4) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. ..."

Recommendation

The Sponsor should create a written procurement plan and code of standards based on the provided sample USDA procurement plan.

4. The Sponsor did not have the "And Justice for All Poster" displayed

Condition

During our unannounced on-site visit on December 13, 2017, we noted the “And Justice for All” poster was not displayed in a prominent place at the Gingerbread House Child Care.

Note: after we brought this issue to the Sponsor, this issue was resolved by the Sponsor prior to our claim review monitoring on January 11, 2018.

Criteria

Food & Nutrition Service (FNS) Instruction 113-1(IX)(B) states, “Each State agency, local agency, or other subrecipient serving the public must take the actions below to inform the general public, potentially eligible populations, community leaders, grassroots organizations, and referral sources about FNS programs and applicable CR requirements. 1) Prominently display the USDA nondiscrimination poster “And Justice for All,” or an FNS approved substitute, except in family day care homes. If a State agency elects to produce its own posters, either due to unavailability from USDA/FNS or State agency preference, the reproduction must be approximately the same size as the applicable “And Justice for All” poster (11” width and 17” height).”

Recommendation

The Sponsor should ensure that the “And Justice for All” poster is display in a prominent place.

Technical Assistance Provided

The Sponsor requested technical assistance regarding providing and claiming infant meals. A referral was made to DHS Program staff to provide assistance. The Sponsor was also provided with a copy of the “And Justice for All” poster.

Disallowed Meals Cost

None

Corrective Action

Gingerbread House Child Care 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 the 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 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 Services Assistant 3, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

Exhibit

Verification of CACFP Independent Center Claim

Sponsor: Gingerbread House Child Care

Review Month/Year: December 2017

Total Meal Reimbursement Received: \$4,895.63

| Site Meal Service Reconciliation and Monitor Activity | Reported on Claim | Reconciled to Documentation |
|--|--------------------------|------------------------------------|
| Total Number of Days Food Served | 20 | 20 |
| Percentage of Participants in the Free or Reduced-price Category | 48% | 51% |
| Number of AM Supplements Served | 1,602 | 1,602 |
| Number of Lunches Served | 1,891 | 1,891 |
| Number of PM Supplements Served | 1,886 | 1,886 |
| Number of Participants in Free Category | 39 | 41 |
| Number of Participants in Reduced-price Category | 22 | 24 |
| Number of Participants in Paid Category | 66 | 62 |
| Total Number of Participants | 127 | 127 |
| Total Amount of Eligible Food Costs | XXXXXXXX | \$2,813.89 |
| Total Amount of Eligible Food and Non-Food Costs | XXXXXXXX | \$5,372.31 |



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: Gingerbread House Child Care | Agreement No. 00290 | <input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP |
|---|------------------------|--|

Mailing Address: 253 West Sam Ridley Parkway Smyrna, Tennessee 37137-5600

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

| | |
|------------------------------------|--------------------|
| Name and Title: Danny Smith, Owner | Date of Birth: / / |
|------------------------------------|--------------------|

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

| | |
|------------------------------|-----------------------------------|
| Monitoring Report: 1/30/2018 | Corrective Action Plan: 1/30/2018 |
|------------------------------|-----------------------------------|

Section D. Findings

Findings:

1. The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly
2. The Sponsor did not ensure that menus reflected substitutions that were made for participants with special dietary needs
3. The Sponsor did not have a written procurement plan or code of standards form
4. The Sponsor did not have the "And Justice for All Poster" displayed

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

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

The finding will be fully and permanently corrected.

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

Name:

Position Title:

Name:

Position Title:

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

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

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

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

Measure No.2: The Sponsor did not ensure that menus reflected substitutions that were made for participants with special dietary needs

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 have a written procurement plan or code of standards form

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 have the “And Justice for All Poster” displayed

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
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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

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

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

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

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

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