



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

July 23, 2018

Mary Derricks, Owner
Love Child Day Care
810 East Old Hickory Boulevard
Madison, TN 37115-4157

Dear Ms. Derricks,

The Department of Human Services (DHS) - Division of Audit Services staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at Love Child Care Center (Sponsor), Application Agreement number 00-398, on June 21, 2018. 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, provider 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) 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 lunch meal service on April 10, 2018.

Our review of the Sponsor's records for April 2018 disclosed the following:

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

Condition

Based on our review of the Sponsor's records, there were four participants classified in the wrong category.

The differences were based on the following:

- The Sponsor did not have applications on file for two participants claimed as free during the review month. These participants were reclassified as paid.
- There were two participants reported in the paid category that were determined to be categorically eligible for free. These participants were reclassified as free.

This is a repeat finding from a previous report dated October 10, 2016.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17 (b)(8) states, "Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine in accordance with §226.23(e)(1)... Such documentation of enrollment must be updated annually , signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care."

Recommendation

The Sponsor should maintain all information used to determine eligibility, and ensure that each participant is classified and reported accurately based on categorical or income eligibility.

2. The Sponsor did not provide enrollment information for participants

Condition

The Sponsor did not provide enrollment information for seven participants claimed during the test month. The Sponsor did not maintain the CACFP participants' annual enrollment information.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(8) states, "Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with §226.23(e)(1). ..."

The USDA policy memorandum, CACFP 15-2013 Existing Flexibilities in the Child and Adult Care Food Program states, "CACFP regulations require that institutions maintain documentation for participants enrolled to receive care [7 CFR 226.15(e)(2) and (e)(3)]. Documentation of participant's enrollment must include information on normal days and hours of care and the meals the participant normally receives while in care...."

Recommendation

The Sponsor should ensure that all enrollment information is collected and maintained as required.

3. The Sponsor served insufficient quantities of milk during an observed lunch meal

Condition

During our on-site monitoring visit on April 10, 2018, we observed a lunch meal service at Love Child Care Center. The meal served included milk, riblets, green beans, cheesy potatoes, and whole wheat bread. The 2-3 year old participants were served milk in 5 ounce cups half full. These participants did not receive enough milk.

As a result, 8 lunch meals claimed were disallowed. (See Exhibit)

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (c)(2) states, "Institutions and facilities must serve the food components and quantities specified in the following meal patterns for children and adult participants in order to qualify for reimbursement... the minimum amount of four fluid ounces of milk must be served to children ages 1-2 and six fluid ounces should be served to participants ages 3-5..."

Title 7 of the Code of Federal Regulations, Section 226.20(c)(2) states, "Fluid milk, meat and meat alternatives, vegetable, fruits, and grains are required components in the lunch and supper meals."

Recommendation

The Sponsor should ensure that meals served meet the USDA meal serving size requirements.

4. The Sponsor provided a meal that did not meet the USDA meal pattern requirements during an observed meal

Condition

During our on-site monitoring visit on April 10, 2018, we noted that one infant participant was served apple juice as a component.

Criteria

The USDA policy memorandum, CACFP 06-2017, Feeding Infants and Meal Pattern Requirements in the Child and Adult Care Food Program states, "Juice, cheese food, and cheese spread are no longer creditable"

Recommendation

The Sponsor should ensure that CACFP meal patterns are followed for all meals served, and creditable components are served when substitutions are necessary.

Note: Subsequent to our on-site visit, we reviewed the support for claim for reimbursement and noted that the Sponsor did not claim that infant meal for reimbursement.

5. The Sponsor served meals outside of the approved serving time

Condition

During our monitoring on-site visit on April 10, 2018, there were six participants (12-24 months) that were served at 11:00 a.m. The TIPS approved feeding time was 12:00 p.m. - 12:30 p.m.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20...."

Title 7 of the Code of Federal Regulations, Section 226.17(b)(9) states, "Each child care center must maintain daily records of time of service meal counts by type (breakfast, lunch, supper, and snacks) served to enrolled children, and to adults performing labor necessary to the food service."

Recommendation

The Sponsor should ensure that meals are served during the approved feeding times listed in TIPS. Also, through TIPS, the Sponsor should adjust the feeding time as necessary.

Note: Since we observed the meals were served, no disallowance for those meals. Also, based on the Sponsor's records, the lunch meal service time has been updated and approved in TIPS for 11:00 a.m. - 1:00 p.m.

6. The Sponsor's did not maintain infant menus

Condition

During our on-site monitoring visit on April 10, 2018, there were no infant menus posted or available for any infant meals served prior to and during our visit.

As a result, 16 breakfast meals, 16 lunch meals, and 16 supplement meals claimed were disallowed. (See Exhibit)

Criteria

FNS Instruction 796-2, Revised 4, states, "Menu records that identify the meal components served to participants must be maintained. Menu records must be updated to reflect changes to planned menus so that the menu records reflect the actual meal components and foods service to participants."

The USDA Monitoring Handbook for State Agencies, page 29, states, "Institutions must serve meals according to the posted menus and document substitutions...."

Recommendation

The Sponsor should ensure the menu is posted for each meal served.

7. The Sponsor did not serve a whole grain-rich component once per day as required

Condition

Based on our review of the menus provided by the Sponsor, a whole grain-rich component was not served once per day for several days in April 2018.

There were no meals disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal pattern requirements effective October 1, 2017.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(a)(b) states, "At least one serving per day, across all eating occasions of bread, cereals, and grains, must be whole grain-rich. Whole grain-rich foods contain at least 50 percent whole grains and the remaining grains in the food are enriched, and must meet the whole grain-rich criteria specified in FNS guidance."

Recommendation

The Sponsor should ensure menus reflect that all meals served meet the meal patterns established by the USDA.

8. The Sponsor provided menus that served juice twice per day

Condition

The Sponsor served apple juice as a component for the breakfast meal and pm supplement on April 4th and 11th, 2018.

There were no meals disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal pattern requirements effective October 1, 2017.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (a)(3)(i) states, "... Fruit juice or vegetable juice may only be served at one meal, including snack, per day."

Recommendation

The Sponsor should ensure menus meet the meal patterns established by the USDA.

9. The Sponsor served a breakfast cereal that contained more than six grams of sugar

Condition

Frosted flakes cereal was served for breakfast on April 13, 2018. Frosted Flakes has 33 grams of sugar per 100 grams of dry cereal.

There were no meals disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal pattern requirements effective October 1, 2017.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(ii) states, "... Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal)."

Recommendation

The Sponsor should ensure that all cereals served meet the meal pattern requirements set by the USDA.

Technical Assistance Provided

During our on-site monitoring visit on April 10, 2018, the Sponsor requested technical assistance regarding new meal patterns, breakfast items, juice requirements, infant menus, meal service times, enrollment information and milk requirements. Additional information was provided by monitoring staff to the Sponsor via email on April 17, 2018 and June 25, 2018.

Disallowed Meals Cost

The disallowed meals cost associated with the findings above is below the DHS threshold for repayment.

Corrective Action

Love Child Care 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 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 of Operations
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 of Operations, Child and Adult Care Food Programs
Debra Pasta, Program Manager, Child and Adult Care Food Program
Elke Moore, Administrative Services Assistant 3, 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
Comptroller of the Treasury, State of Tennessee

EXHIBIT

Verification of CACFP Independent Center Claim

Name of Agency: Love Child Care Center

Review Month/Year: April 2018

Total Meal Reimbursement Received: \$4,738.71

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Total Attendance	1,364	1,364
Percentage of Free or Reduced-price Category	60%	60%
Number of Breakfasts Served	1,364	1,348
Number of Lunches Served	1,060	1,036
Number of Supplements Served	1,350	1,334
Number of Participants in Free Category	45	45
Number of Participants in Reduced-Price Category	4	4
Number of Participants in Paid Category	32	32
Total Number of Participants	81	81
Total Amount of Eligible Food Costs	XXXXXXXX	\$1,500.26
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$4,617.12



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: Love Child Day Care	Agreement No. 00398	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 810 East Old Hickory Blvd Madison, Tennessee 37115-4157

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

Name and Title: Mary Derricks, Owner	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 7/23/2018	Corrective Action Plan: 7/23/2018
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Section D. Findings

Findings:

1. The Sponsor incorrectly reported the number of participants in the free and paid categories
2. The Sponsor did not provide enrollment information for participants
3. The Sponsor served insufficient quantities of milk during an observed lunch meal
4. The Sponsor provided a meal that did not meet the USDA meal pattern requirements during an observed meal
5. The Sponsor served meals outside of the approved serving time
6. The Sponsor's did not maintain infant menus
7. The Sponsor did not serve a whole grain-rich component once per day as required
8. The Sponsor provided menus that served juice twice per day
9. The Sponsor served a breakfast cereal that contained more than six grams of sugar

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 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 did not provide enrollment information for participants

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 served insufficient quantities of milk during an observed lunch 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:

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 provided a meal that did not meet the USDA meal pattern requirements during 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:

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 meals outside of the approved serving time

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's did not maintain infant menus

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 did not serve a whole grain-rich component once per day as required

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 provided menus that served juice twice per 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. 9: The Sponsor served a breakfast cereal that contained more than six grams of sugar

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 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.