



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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

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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

May 9, 2018

Doris Wise, Owner
The Pumpkin Patch
1811 Old Troy Road
Union City, Tennessee 38261-5565

Dear Ms. Wise,

The Department of Human Services (DHS) - Audit Services Division Staff conducted an unannounced on-site review of the Child and Adult Care Food Program (CACFP) at The Pumpkin Patch, Application Agreement number 00534, on March 29, 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 Sponsors report the number of meals served through the DHS Tennessee Information Payment System (TIPS) to seek reimbursement. We inspected meal count sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we observed a meal service on February 20, 2018.

The Sponsor had two sites operating during the month of February 2018. The Pumpkin Patch Daycare & Learning Center 0001 was selected as the sample site. Applications from The Pumpkin Patch Daycare & Learning Center 0002 were also reviewed in order to meet the required valid statistical sample.

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

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

Condition

The claim for reimbursement for the test month reported 92 participants in the free category, two (2) participants in the reduced-price category and five (5) participants in the paid category. However, based on our review of the Sponsor's records, we noted 85 participants in the free category, two (2) participants in the reduced-price category, and 11 participants in the paid category. The differences were based on the following:

The Pumpkin Patch Daycare & Learning Center 0001

- There were three participants reported in the free category, but the applications on file did not have the last four digits of the parent's social security number. These participants were reclassified to the paid category.
- There was one participant reported in the free category, but according to the application on file, the participant should have been reported in the reduced-price category. This participant was reclassified to the reduced-price category.
- There were two participants reported in the reduced-price category, but the participants were correctly categorized as free on the applications. These participants were reported incorrectly and were reclassified to the free category.
- There was one participant reported in the free category, but the participant was correctly categorized as reduced-price on the application. This participant was reported incorrectly and was reclassified to the reduced-price category.
- The Sponsor over reported the number of participants in the free category by one.

The Pumpkin Patch Daycare & Learning Center 0002

- There were three participants reported in the free category, but the applications on file did not have the last four digits of the parent's social security number. These participants were reclassified to the paid category.

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..."

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) ... 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 ensure that participants in the CACFP are classified and reported according to income eligibility and applications are properly completed. Applications should be maintained on file and updated annually.

This is a repeat finding from the monitoring report dated January 18, 2018.

2. The Sponsor served cereals that exceeded the allowable sugar amounts established by the USDA

Condition

In accordance with the revised meal pattern requirements, effective October 2017; breakfast cereals must contain no more than six grams of sugar per dry ounce. The following menus listed cereals with sugar amounts which exceeded the allowable amount:

Date	Meal with deficient cereal	Menu Item
02/05/18	Breakfast meal	Frosted Flakes
02/07/18	Breakfast meal	Apple Jacks
02/12/18	Breakfast meal	Frosted Flakes
02/14/18	Breakfast meal	Apple Jacks
02/22/18	Breakfast meal	Apple Jacks
02/26/18	Breakfast meal	Frosted Flakes
02/28/18	Breakfast meal	Apple Jacks

There were no meals disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal patterns.

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..."

Recommendation

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

3. The Sponsor did not provide documentation to support the requirement that one whole grain-rich grain is served each day

Condition

In accordance with the revised meal pattern requirements, effective October 2017; at least one serving of grain per day is whole grain-rich. The following deficiencies were identified:

The menus for the following dates did not list any whole grain product as being served: 02/01/18, 02/05/18, 02/06/18, 02/08/18, 02/12/18, 02/13/18 02/14/18, 02/15/18, 02/20/18, 02/21/18, 02/22/18, 02/26/18, 02/27/18, 02/28/18

There were no meals disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal patterns.

Criteria

Title 7 of the code of Federal Regulations, Section 226.20 (a)(4)(A) 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 meet the meal patterns established by the USDA.

4. The Sponsor served grain-based desserts

Condition

In accordance with the revised meal pattern requirements, effective October 1, 2017; Grain based desserts do not count towards meeting the grains requirement. Our review of the Sponsor's menu showed the following deficiencies:

Date	Meal with grain-based dessert listed as a component	Menu Item
02/01/18	Breakfast meal	Pop tarts
02/02/18	Supplement meal	Fudge Rounds
02/05/18	Supplement meal	Oatmeal creme pies
02/06/18	Breakfast meal	Nutri-grain bars
02/06/18	Supplement meal	Oatmeal creme pies
02/07/18	Supplement meal	Nutter butter peanut butter cookies
02/08/18	Breakfast meal	Pop tarts
02/09/18	Supplement meal	Fudge Rounds
02/12/18	Supplement meal	Oatmeal creme pies
02/13/18	Breakfast meal	Nutri-grain bars
02/13/18	Supplement meal	Oatmeal creme pies
02/14/18	Supplement meal	Nutter butter peanut butter cookies
02/15/18	Breakfast meal	Pop tarts
02/16/18	Supplement meal	Fudge Rounds
02/19/18	Supplement meal	Oatmeal creme pies
02/20/18	Breakfast meal	Nutri-grain bar
02/20/18	Supplement meal	Oatmeal creme pies
02/21/18	Breakfast meal	Pop tarts
02/22/18	Supplement meal	Nutter butter peanut butter cookies
02/23/18	Supplement meal	Fudge Rounds
02/26/18	Supplement meal	Oatmeal creme pies
02/27/18	Breakfast meal	Nutri-grain bars
02/27/18	Supplement meal	Oatmeal creme pies
02/28/18	Supplement meal	Nutter butter peanut butter cookies

There were no meals disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal patterns.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (a)(4)(B)(iii) states, "Desserts. Grain based desserts do not count towards meeting the grains requirement."

Recommendation

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

5. The Sponsor did not provide a written compensation policy

Condition

The Sponsor did not provide a compensation policy for employees paid with CACFP funds.

Criteria

FNS instruction 796-2 Revision 4, Financial Management –Child and Adult Care Food Program p. 44 (VII I 23 c (1)) states, "Institutions must establish and maintain a written compensation policy for every element of compensation charged to the Program. At a minimum, the written compensation policy must apply to any individual group of individuals employed by the institution and identify: (a) rates of pay; (b) hours of work, including breaks, and meal periods; and (c) the institutions policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay and payroll tax withholding. The timing and frequency of the institution's payments to its employees will follow a routine schedule as directed by its human resource policy..."

Recommendation

The Sponsor should maintain written compensation policy for employees paid with CACFP funds.

6. The Sponsor did not provide time distribution reports for employees paid with CACFP funds who have additional duties outside of the program

Condition

The Sponsor did not provide time distribution reports for the purpose of establishing the portion of the cost to be charged to the food service account as labor costs for employees who work in other programs. As a result, the labor costs for employees with duties outside of the CACFP program could not be accurately determined or calculated in the Sponsor's total expenses.

Criteria

FNS instruction 796-2 Revision 4, Financial Management –Child and Adult Care Food Program p.45 (VII I 23 c (3)) states, "Time distribution reports. To establish the portion of costs that may be claimed for reimbursement or charged to the institution's nonprofit food

service account as Program labor, a daily log or other time distribution method must be used... (b) The portion of the labor costs charged to the institution's nonprofit food service account must be allocated based on the hours worked for Program and non-program activities and within the Program for administrative and operation cost labor..."

Recommendation

The Sponsor should maintain time distribution reports for employees paid with CACFP funds.

7. It could not be determined if the monitoring requirements were met during the required facility monitoring reviews

Condition

The Sponsor conducted monitoring of the two sponsored sites; however, the standard DHS issued monitored guide with all monitoring components was not utilized as required. It could not be determined if the reviews were announced or unannounced or the details of the meal observations. The monitoring documentation provided only included the date, meal observed and the Sponsor's signature.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.16(d) (4) (iii) states, "Frequency and type of required facility reviews. Sponsoring organizations must review each facility three times each year, except as described in paragraph (d) (4) (iv)... In addition: (A) At least two of the three reviews must be unannounced; (B) At least one unannounced review must include observation of a meal service; (C) At least one review must be made during each new facility's first four weeks of Program operations; and (D) Not more than six months may elapse between reviews."

Recommendation

The Sponsor should ensure monitoring is completed as specified by the USDA.

This is a repeat finding from the monitoring report dated January 18, 2018.

Note: Our observation of the meal service on February 20, 2017, revealed a menu deficiency concerning a grain based dessert being served which is no longer allowed effective October 1, 2017. No meals were disallowed due to the one year grace period for Sponsors to conform to the revised meal patterns as detailed in finding 4 above.

Technical Assistance

Technical assistance was provided to the Sponsor concerning meal patterns effective October 2017, infant menus, and monitoring requirements.

Disallowed Costs

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern CACFP resulted in a total disallowed cost of \$497.09.

Corrective Action

The Sponsor must complete the following actions within 30 days from the date of this report:

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for February 2018, which contains the verified claim data from the enclosed exhibits. A copy of the claim form is attached for your use;
- Remit a check payable to the **Tennessee Department of Human Services** in the amount of \$497.09 for recovery of the amounts disallowed in this report. **Please return the attached billing notice with your check**; and
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

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

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim is completed within 30 days from the date of this report. If the revised claim is not completed by the 30-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 overpayment identified by the monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerks Office
P.O. Box 198996
Nashville, Tennessee 37219

If the Institution decides to appeal the amount of disallowed administrative and meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

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

Exhibits

cc: Allette Vayda, Director of Operations, 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
Comptroller of the Treasury, State of Tennessee

EXHIBIT A**Verification of CACFP Sponsor of Affiliated Centers Claim****Name of Sponsor: The Pumpkin Patch****Review Month/Year: February 2018****Total Meal Reimbursement Received: \$9,073.75**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	1,594	1,594
Percentage of Participants in the Free or Reduced-price Category	XXXXXX	89%
Number of Breakfasts Served	1,594	1,594
Number of Lunches Served	1,568	1,568
Number of Supplements Served	1,477	1,477
Number of Participants in Free Category	92	85
Number of Participants in Reduced-Price Category	2	2
Number of Participants in Paid Category	5	11
Total Number of Participants	99	98
Total Amount of Eligible Food Costs	XXXXXXXX	\$4,512.27
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$5,744.51

EXHIBIT B**Verification of Affiliated Sponsored Center Data****Name of Sponsor: The Pumpkin Patch****Site Name: The Pumpkin Patch Daycare & Learning Center 0001****Review Month/Year: February 2018**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	924	916
Percentage of Participants in the Free or Reduced-price Category	XXXXXX	86%
Number of Breakfasts Served	924	924
Number of Lunches Served	913	913
Number of Supplements Served	846	846
Number of Participants in Free Category	51	47
Number of Participants in Reduced-Price Category	2	2
Number of Participants in Paid Category	5	8
Total Number of Participants	58	57

EXHIBIT C**Verification of Affiliated Sponsored Center Data****Name of Sponsor: The Pumpkin Patch****Site Name: The Pumpkin Patch Daycare & Learning Center 0002****Review Month/Year: February 2018**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	NA	NA
Total Attendance	NA	NA
Percentage of Participants in the Free or Reduced-price Category	XXXXXX	93%
Number of Breakfasts Served	NA	NA
Number of Lunches Served	NA	NA
Number of Supplements Served	NA	NA
Number of Participants in Free Category	41	38
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	3
Total Number of Participants	41	41



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BILL HASLAM

GOVERNOR

DANIELLE W. BARNES

COMMISSIONER

May 9, 2018

Doris Wise, Owner
The Pumpkin Patch
1811 Old Troy Road
Union City, Tennessee 38261-5565

Notice of payment due to findings disclosed in the monitoring report dated May 9, 2018 for Child and Adult Care Food Program (CACFP)

Institution Name:	The Pumpkin Patch
Institution Address:	1811 Old Troy Road Union City, Tennessee 38261-5565
Agreement Numbers:	00-534
Amount Due:	\$497.09
Due Date:	June 11, 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 require your institution to reimburse the Department of Human Services the disallowed cost noted in the report

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount noted above by the due date to:

**Fiscal Services 11th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243-1403
Tennessee Department of Human Services**

Please note that the disallowed meals cost/overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 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 of Operations 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: The Pumpkin Patch	Agreement No. 00534	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 1811 Old Troy Road Union City, Tennessee 38261-5565

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

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

Monitoring Report: 5/9/2018	Corrective Action Plan: 5/9/2018
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Section D. Findings

Findings:

1. The number of participants in the free and paid categories was reported incorrectly
2. The Sponsor served cereals that exceeded the allowable sugar amounts established by the USDA
3. The Sponsor did not provide documentation to support the requirement that one whole grain-rich grain is served each day
4. The Sponsor served grain-based desserts
5. The Sponsor did not provide a written compensation policy
6. The Sponsor did not provide time distribution reports for employees paid with CACFP funds who have additional duties outside of the program
7. It could not be determined if the monitoring requirements were met during the required facility monitoring reviews

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 in the free and paid categories was reported 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 served cereals that exceeded the allowable sugar amounts established by the USDA

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 documentation to support the requirement that one whole grain-rich grain is served each 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 served grain-based desserts

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 did not provide a written compensation policy

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 did not provide time distribution reports for employees paid with CACFP funds who have additional duties outside of the program

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: It could not be determined if the monitoring requirements were met during the required facility monitoring reviews

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: / /

- (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

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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.