



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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NASHVILLE, TENNESSEE 37243-1403

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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

Certified Mail – Return Receipt #7016356000084443135

March 6, 2020

Deborah Brown, Owner
Deb's Enrichment Center
846 Loeb Street
Memphis, Tennessee 38111-7519

RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP) Agreement Number 00-245

Dear Ms. Brown,

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 Deb's Enrichment Center (Sponsor), Application Agreement number 00245, on January 22, 2020. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations (CFR)* applicable parts, provider agreement, and applicable Federal and State regulations.

SERIOUS DEFICIENCY DETERMINATION

Based on the monitoring review, the Department has determined that Deb's Enrichment Center is seriously deficient in its operation of the CACFP. In addition, the Department has identified Deborah Brown, Owner as responsible for the serious deficiencies in light of their responsibility for the overall management of Deb's Enrichment Center's CACFP.

If Deb's Enrichment Center does not fully and permanently correct all of the serious deficiencies and submit documentation of the corrective action by the due date, the Department will:

- Propose to terminate Deb's Enrichment Center's agreement to participate in the CACFP;
- Propose to disqualify Deb's Enrichment Center from future CACFP participation; and
- Propose to disqualify Deborah Brown, Owner from future CACFP participation.

In addition, if Deb's Enrichment Center voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Deb's Enrichment Center and Deborah Brown, Owner from future CACFP participation. If disqualified, Deb's Enrichment Center, and Deborah Brown, Owner and will be placed on the National Disqualified List ("NDL"). While on the NDL, Deb's Enrichment Center will not be able to participate in the CACFP as an institution or facility. Deborah Brown, Owner will not be able to serve as a principal in any institution or facility or as a day care home provider in the CACFP.

Institutions and individuals remain on the NDL until the United States Department of Agriculture's Food and Nutrition Service, in consultation with the Department, determines that the serious deficiencies have been corrected, or until seven years after their disqualification. However, if any debt relating to the serious deficiencies has not been repaid, they will remain on the list until the debt has been repaid.

The authorization for this action is found in Paragraph 1.e. of your FY 2016 CACFP Provider Agreement and in the CACFP regulations at 7 C.F.R. § 226.6(c)(3). You may not appeal a finding of serious deficiency.

SERIOUS DEFICIENCIES, ADDITIONAL FINDINGS AND REQUIRED CORRECTIVE ACTION

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) for 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 lunch meal service on November 18, 2019.

Our review of the Sponsor's records for November 2019 disclosed the following:

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

This is a Serious Deficiency:

Condition

Based on our review of the Claim for Reimbursement for November 2019, we noted that the Sponsor reported 48 participants in the free category, 0 participants in the reduced-price category, and 0 participants in the paid category. However, based on our review of the records available, we noted that there were 30 participants in the free category, 0 participants in the reduced-price category, and 14 participants in the paid category.

The differences were based on the following:

- There were 13 participants reported in the free category who did not have applications or application information on file for the review period of November 2019. These participants were reclassified as paid.
- There was one participant reported in the free category, however, the application on file did not have the signature or date of the determining official. This participant was reclassified as paid.
- The Sponsor over reported the total number of free participants by 4.

There were 48 participants reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we noted that there were 44 participants enrolled in the program.

This is a repeat finding from a previous SD report dated February 19, 2019.

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 226.15(e)(2) states, "...All types of centers, except for emergency shelters and at-risk afterschool care centers, must maintain information used to determine eligibility for free or reduced-price meals in accordance with §226.23(e)(1). For child care centers, 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."

Title 7 of the Code of Federal Regulations, Section 226.17(b)(8) states, in part, "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)..."

Recommendation

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

2. The Sponsor reported meal counts incorrectly

Condition

During our on-site visit on November 18, 2019, we requested meal count documentation from the first operating day of the month through the date of our visit, and the Sponsor provided the documentation. We also requested and were provided meal counts during our Sponsor review on January 22, 2020, for the entire review month.

The meal counts provided revealed discrepancies. Since the Sponsor claimed meals based on the month meal count sheet, we used the meal counts provided during the Sponsor visit on January 22, 2020 to reconcile meal counts. The differences resulted in the following:

Based on our review of the Claim for Reimbursement for November 2019, the Sponsor claimed 864 breakfast meals, 433 lunch meals, 431 supper meals, and 864 supplements. However, based on our review of available documents, we noted that there were supporting documents for 817 breakfast meals, 416 lunch meals, 425 supper meals, and 843 supplements, prior to any meal disallowances.

As a result, 47 breakfast meals, 17 lunch meals, 6 supper meals, and 21 supplements claimed for reimbursement were disallowed.

This is a repeat finding from a previous SD report dated February 19, 2019.

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 claims for reimbursement are completed correctly and based on accurate supporting documents.

3. The Sponsor provided infant menus that did not meet the USDA meal pattern requirements

Condition

During our review of the infant menus provided by the Sponsor, we found the following deficiencies:

Infant: JB, 6 months

Date	Menu Deficiency	Deficient Meal
11/1, 11/4, 11/5, 11/6, 11/7, 11/8, 11/12,11/13, 11/14, 11/15, 11/18, 11/19, 11/20, 11/21, 11/22, 11/25, 11/26, 11/27	Missing Component: Fruit/Vegetable Menu also listed fruit juice, a non-creditable component for infants	Supplements

Infant: JG, 8 months

Date	Menu Deficiency	Deficient Meal
11/1, 11/4, 11/5, 11/6, 11/7, 11/8, 11/12,11/13, 11/14, 11/15, 11/18, 11/19, 11/20, 11/21, 11/22, 11/25, 11/26, 11/27	Missing Component: Fruit/Vegetable Menu also listed fruit juice, non-creditable component for infants	Supplements

Infant: KP, 11 months

Date	Menu Deficiency	Deficient Meal
11/1, 11/4, 11/5, 11/6, 11/7, 11/8, 11/12, 11/13, 11/14, 11/15, 11/18, 11/19, 11/20, 11/21, 11/22, 11/25, 11/26, 11/27	Missing Component: Fruit/Vegetable Menu also listed fruit juice, non-creditable component for infants	Supplements

Technical assistance on infant meal patterns in lieu of meals disallowance.

This is a repeat finding from a previous SD report dated February 19, 2019.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(b)(4)(ii) states, "... (B) Snack. Two to 4 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to 1/2 slice bread; or 0-2 crackers; or 0-4 tablespoons infant cereal or ready-to-eat cereals; and 0 to 2 tablespoons of vegetable or fruit, or portions of both. Fruit juices and vegetable juices must not be served. A serving of grains must be whole grain-rich, enriched meal, or enriched flour."

Recommendation

The Sponsor should ensure each meal served meets the meal pattern requirements established by the USDA.

4. The Sponsor reported the number of attendance days incorrectly

Condition

Based on our review of the Claim for Reimbursement for November 2019, the Sponsor reported 864 participant days. However, we found that there were 792 participant days. We requested sign-in/sign-out sheets for the review period to reconcile the attendance while on site at our Sponsor visit January 22, 2020. There were 4 participants without sign-in/sign-out documentation and their attendance days were disallowed.

This is a repeat finding from a previous SD report dated February 19, 2019.

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 all participants are recorded as present only for their actual days of attendance.

5. The Sponsor claimed breakfast meals and supplements that exceeded attendance

Condition

Based on the meal count documentation, the number of verified breakfast meals exceeded the verified attendance by 25, and supplements exceeded the verified attendance by 51. The number of meals claimed for reimbursement must not exceed the verified attendance of 792.

As a result, 25 breakfast meals and 51 supplements claimed for reimbursement were disallowed.

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 claims for reimbursement are completed correctly and based on accurate supporting documents.

6. The Sponsor claimed more meals for reimbursement than we observed

Condition

During our on-site visit on November 18, 2019, we observed a lunch meal service. We observed 21 lunch meals served. However, the Sponsor claimed 22 lunch meals.

As a result, one (1) lunch meal claimed for reimbursement was disallowed.

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 all claims for reimbursement are completed correctly and based on accurate supporting documents.

7. The Sponsor did not provide enrollment information for 13 participants

Condition

During our on-site monitoring visit on January 22, 2020, we request the enrollment information for the participants. The Sponsor did not provide enrollment information for 13 participants.

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)... 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."

This is a repeat finding from a previous SD report dated February 19, 2019.

Recommendation

The Sponsor should ensure enrollment information is maintained as required and updated annually.

8. The compensation policies provided by the Sponsor did not detail the payment schedule.

Condition

The Sponsor provided payroll documentation for staff paid with CACFP funds; however written compensation policies provided did not list the payment schedule. The written compensation policy is a requirement for any employee paid with CACFP funds and must include: rate of pay, hours of work, (including breaks and meal periods), payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay, and payroll tax withholding.

Criteria

FNS instruction 796-2 Revision 4, Financial Management –Child and Adult Care Food Program (VIII I) (23)(c)(1) on page 44 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 ensure compensation policies are completed in their entirety.

9. The Sponsor served meals outside of the approved meal service time

Condition

During our lunch meal observation on November 18, 2019, we observed the Sponsor serving meals outside of the approved meal service time. The approved lunch meal service time listed in TIPS is from 11:00 a.m. until 12:00 p.m. The Sponsor started the meal service at 10:30 a.m.

Note: No meals were disallowed due to the monitor's presence and observation of creditable components.

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 enroll children, and to adults performing labor necessary to the foodservice."

Recommendation

The Sponsor should ensure all meals are served during the approved meal service time and update TIPS accordingly.

Technical Assistance Provided

The Sponsor was provided technical assistance regarding sign-in/sign-out sheets, maintaining CN labels on site, and meal pattern requirements. We also forwarded a request to a Program Specialist for additional training.

OVERPAYMENT-RIGHT TO APPEAL

Disallowed Meals Cost

Based on the review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$1,721.19.

The procedures for submitting an appeal regarding the amount of overpayment are enclosed. Please note that the appeal must be in writing and must be received by our Department no later than fifteen (15) calendar days from your receipt of this letter. 7 C.F.R. § 226.6(k). The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

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

In accordance with the CACFP regulations at 7 C.F.R. § 226.14(a), in part, the State agency must assess interest 30 days from the initial request for repayment. For information about applied interest rates please visit the following website:

http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/historical_rates.htm

SUMMARY

The Department has determined that Deb's Enrichment Center is seriously deficient in its operation of the CACFP and that Deborah Brown, Owner are responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Deb's Enrichment Center's CACFP agreement, or propose to Deb's Enrichment Center and the responsible individuals, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

Deb's Enrichment Center may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Fifteenth Avenue Baptist Church for the corrective action period. As always, you must submit claims within sixty (60) calendar days of the last day of the month covered by the claim. The Department will deny any portion of a claim we determine is invalid. If the Department denies payment of any portion of a claim submitted for the corrective action period, that action would be appealable.

To provide for the full and permanent correction of the serious deficiencies and findings, please complete the following actions within thirty (30) days of your receipt of this notice:

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for November 2019, which contains the verified claim data from the enclosed exhibit. ***Please note that, if the claim is revised***, TIPS will automatically deduct the overpayment from your next CACFP claim for reimbursement. **OR**
- If you are no longer participating in the CACFP program, remit a check payable to the ***Tennessee Department of Human Services*** in the amount noted in the report 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 the Department does not receive the corrective action plan by the deadline date, or the Department determines that the corrective action plan does not provide for the full and permanent correction of the serious deficiencies and findings, the Department will propose to terminate the Institution's CACFP Provider Agreement and to disqualify you and the Institution from future CACFP participation by issuing a Notice of Proposed Termination and Disqualification.

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,



Allette Vayda
Director of Operations- Food Programs

Exhibit

cc: Sean Baker, Audit Director 2
Sam Alzoubi, Director of Audit Services
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: Deb's Enrichment Center

Review Month/Year: November 2019

Total Meal Reimbursement Received: \$5,553.36

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	18	18
Total Attendance	864	792
Percentage of Free or Reduced-price Category	XXXXXX	68%
Number of Breakfasts Served	864	792
Number of Lunches Served	433	415
Number of Suppers Served	431	425
Number of Supplements Served	864	792
Number of Participants in Free Category	48	30
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	14
Total Number of Participants	48	44



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March 6, 2020

Deborah Brown, Owner
Deb's Enrichment Center
846 Loeb Street
Memphis, Tennessee 38111-7519

Note: If you are no longer participating in the CACFP, remit a check payable to the Tennessee Department of Human Services in the amounts disallowed in this report to the address below. Please return the attached billing notice with your check.

If you plan to continue participating in the CACFP, log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for November 2019, which contains the verified claim data from the enclosed exhibit.

Institution Name:	Deb's Enrichment Center
Institution Address:	846 Loeb Street Memphis, Tennessee 38111-7519
Agreement Numbers:	00245
Amount Due:	\$1,721.19
Due Date:	April 7, 2020

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 16th Floor
James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Tennessee Department of Human Services

Please note that the disallowed meal 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



Tennessee Department of Human Services
Corrective Action Plan for Monitoring Findings

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.
Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: Deb's Enrichment Center	Agreement No. 00245	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 846 Loeb Street Memphis, Tennessee 38111-7519

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

Name and Title: Deborah Brown, Owner	Date of Birth: 07/05/1966
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Notice of Serious Deficiency: 3/6/2020	Corrective Action Plan: 3/6/2020
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Section D. Findings

Findings:

1. The Sponsor reported the number of participants in the free and paid categories incorrectly
2. The Sponsor reported meal counts incorrectly
3. The Sponsor provided infant menus that did not meet the USDA meal pattern requirements
4. The Sponsor reported the number of attendance days incorrectly
5. The Sponsor's breakfast meals and supplements exceeded attendance
6. The Sponsor reported an incorrect number of meals from an observed meal service
7. The Sponsor did not provide enrollment information for participants
8. The compensation policies provided by the Sponsor did not detail the payment schedule.
9. The Sponsor served meals outside of the approved meal service time

DHS staff should check the "Forms" section of the intranet to ensure the use of current versions. Forms may not be altered without prior approval.

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 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 reported meal counts 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:

DHS staff should check the "Forms" section of the intranet to ensure the use of current versions. Forms may not be altered without prior approval.

Distribution: OIG and CACFP/SFSP as appropriate

RDA: 2341

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 provided infant menus that did not meet the USDA meal pattern requirements

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 reported the number of attendance days 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. 5: The Sponsor claimed breakfast meals and supplements that exceeded attendance

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 claimed more meals for reimbursement than we observed

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:

DHS staff should check the "Forms" section of the intranet to ensure the use of current versions. Forms may not be altered without prior approval.

Distribution: OIG and CACFP/SFSP as appropriate

RDA: 2341

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 provide enrollment information for 13 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:

DHS staff should check the "Forms" section of the intranet to ensure the use of current versions. Forms may not be altered without prior approval.

Distribution: OIG and CACFP/SFSP as appropriate

RDA: 2341

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 compensation policies provided by the Sponsor did not detail the payment schedule

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 meals outside of the approved meal service 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:

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: / /

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

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.