



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

February 25, 2020

Brandy Dutton, Board Chair
Little Pow Wow, Incorporated
DBA: Boone's Creek Childcare
1806 Old Gray Station Road
Johnson City, Tennessee 37615-4614

Dear Ms. Dutton,

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 Little Pow Wow, Incorporated (Sponsor), Application Agreement number 00-392, on January 15, 2020. Additional information was requested and provided on January 16, 2020. 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.

Based on our review of the Sponsor's records and information provided, the Sponsor had two (2) feeding sites operating during November 2019. Boone's Creek Daycare Center (Boone's Creek) was selected as the sample site. CACFP applications and meal counts were reviewed at Sundale Daycare Center to meet the sampling criteria and to calculate milk inventory as milk is purchased together for both sites. Invoices were also reviewed at the two sites due to expenditures being combined for both centers.

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 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 November 13, 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, reduced-price, and paid categories incorrectly

Condition

Based on our review of the Claim for Reimbursement for November 2019, we noted that the Sponsor reported 66 participants in the free category, 21 participants in the reduced-price category, and 107 participants in the paid category. However, based on our review of the records available, we noted that there were 63 participants in the free category, 18 participants in the reduced-price category, and 112 participants in the paid category.

The differences were based on the following:

Boone's Creek– sample site

Based on our review of the claim for Boone's Creek for November 2019, we noted the sponsor reported 25 participants in the free category, 11 participants in the reduced-price category, and 60 participants in the paid category. However, based on our review of the records available, we noted that there were 20 participants in the free category, ten (10) participants in the reduced-price category, and 66 participants in the paid category.

The differences were based on the following:

- There were four (4) participants reported in the free category and one (1) participant reported in the reduced-price category that did not have a current CACFP application on file. These five (5) participants were reclassified as paid.
- The number of participants reported in the free category was overreported by one (1) participant and the number of participants reported in the paid category was underreported by one (1) participant.

As a result, the Sponsor overreported the number of participants in the free category by five (5), reduced-price category by one (1), and underreported the paid category by six (6) participants. (See Exhibit B)

Sundale Daycare Center

Based on our review of the claim for Sundale Daycare Center for November 2019, we noted that the sponsor reported 41 participants in the free category, 10 participants in the reduced-price category, and 47 participants in the paid category. However, based on our review of the records available, we noted that there were 43 participants in the free category, eight (8) participants in the reduced-price category, and 46 participants in the paid category.

The differences were based on the following:

- There was one (1) participant reported in the free category that did not have a current

CACFP application on file. This participant was reclassified as paid.

- The number of participants reported in the free category was underreported by three (3) participants, the reduced-price category was overreported by two (2) participants and the paid category was overreported by two (2) participants.

There were 98 participants reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we noted that there were 97 participants enrolled in the program.

As a result, the Sponsor underreported the number of participants in the free category by two (2) participants, overreported the number of participants in reduced-price category by two (2) participants, and overreported the number of participants in the paid category by one (1) participant.

(See Exhibit C)

This is a repeat finding from a previous report dated November 21, 2017.

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 that each participant is classified and reported accurately based on categorical or income eligibility.

2. The Sponsor reported meal counts incorrectly

Condition

Based on our review of the Claim for Reimbursement for November 2019, the Sponsor claimed 2,199 breakfast meals, 3,206 lunch meals and 3,135 supplements. However, based on our review of available documents, we noted supporting documentation for 2,200 breakfast meals, 3,206 lunch meals and 3,134 supplements, prior to any meal disallowances.

The differences were based on the following:

Boone's Creek– sample site

Based on our review of the Claim for Reimbursement for Boone's Creek for November 2019, the Sponsor reported claimed 1,079 breakfast meals, 1,610 lunch meals, and 1,578 supplements. However, based on our review of the available documents, we noted that there was support for 1,079 breakfast meals, 1,610 lunch meals and 1,577 supplements, prior to any disallowances.

As a result, one (1) supplement claimed for reimbursement was overreported. (See Exhibit B)

Sundale Daycare Center -

Based on our review of the Claim for Reimbursement for Sundale Daycare Center for November 2019, the Sponsor claimed 1,120 breakfast meals, 1,596 lunch meals and 1,557 supplements served. However, based on our review of the available documents, we noted that there was for 1,121 breakfast meals, 1,596 lunch meals and 1,557 supplements, prior to any disallowances.

As a result, one (1) breakfast claimed for reimbursement was underreported. (See Exhibit C)

This is a repeat finding from a previous report dated November 21, 2017.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10(c) states, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim...."

Recommendation

The Sponsor should ensure that claims for reimbursement are completed correctly and based on accurate supporting documents.

3. 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 1,610 participant days for Boone's Creek. However, we noted that there were 1,595 participant days.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10(c) states, "...In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim."

Recommendation

The Sponsor should ensure that all participants are recorded as present only for their actual days of attendance.

4. The Sponsor reported lunch and pm supplement meals served that exceed attendance

Boone's Creek– sample site

Condition

Based on our review of the attendance and meal count records provided by the Sponsor for November 2019, we noted that the Sponsor claimed meals served in excess of the reconciled attendance on the following days:

Date	Meal	Attendance	Meal Count	Number Meals Disallowed
11/5/19	Lunch	87	89	2
11/7/19	Lunch	87	88	1
11/8/19	Lunch	87	92	5
11/14/19	Lunch	87	88	1
11/18/19	Lunch	88	90	2
11/19/19	Lunch	85	90	5
11/19/19	Pm Supplement	85	90	5
11/21/19	Lunch	82	87	5
11/21/19	Pm Supplement	82	86	4
11/27/19	Lunch	72	74	2

As a result, 23 lunch meals and nine (9) 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 that the number of meals claimed for reimbursement does not exceed the reconciled attendance.

Note: Our observation of the lunch meal service on November 13, 2019 revealed no deficiencies.

Technical Assistance Provided

During our monitoring visit on January 13, 2020, the Sponsor requested and received technical assistance regarding income eligibility forms and clarification on medical statements for substitutions for milk.

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 \$431.90.

Corrective Action

The Sponsor should 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 November 2019, which contains the verified claim data from the enclosed exhibits. ***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 you have questions relative to the corrective action plan please contact:

Allette Vayda, Director of Operations
Child and Adult Care Food Program
James K. Polk Building, 15th Floor
505 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 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
James K. Polk Building, 16th Floor
505 Deaderick Street
Nashville, Tennessee 37243

In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the amount of disallowed cost identified in this 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, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

If the Institution decides to appeal the amount of disallowed administrative and meal 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: Crystal Orloff, Director, Little Pow Wow, Inc. Boone's Creek Daycare Center
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 A

Verification of CACFP Affiliated Center Claim

Name of Agency: Little Pow Wow, Inc.

Review Month/Year: November 2019

Total Meal Reimbursement Received: \$9,486.55

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	19	19
Total Attendance	3,207	3,192
Percentage of Free or Reduced-price Category	45%	42%
Number of Breakfasts Served	2,199	2,200
Number of Lunches Served	3,206	3,183
Number of Supplements Served	3,135	3,125
Number of Participants in Free Category	66	63
Number of Participants in Reduced-Price Category	21	18
Number of Participants in Paid Category	107	112
Total Number of Participants	194	193

Exhibit B

Verification of Sponsored Center Claim

Sample Site- Boone's Creek

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total CACFP Food Service Days	19	19
Total Attendance	1,610	1,595
Percentage of Free or Reduced-price Category	38%	31%
Number of Participants in Free Category	25	20
Number of Participants in Reduced-Price Category	11	10
Number of Participants in Paid Category	60	66
Total Number of Participants	96	96
Number of Breakfasts Served	1,079	1,079
Number of Lunches Served	1,610	1,610
Number of Supplements Served	1,578	1,577

EXHIBIT C

Verification of Sponsored Center Claim

Sundale Daycare Center

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Number of Participants in Free Category	41	43
Number of Participants in Reduced-Price Category	10	8
Number of Participants in Paid Category	47	46
Total Number of Participants	98	97
Number of Breakfast served	1,120	1,121
Number of Lunches Served	1,596	1,596
Number of Supplements Served	1,557	1,557

CACFP applications were reviewed at this site to meet sampling criteria



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February 25, 2020

Brandy Dutton, Board Chair
Little Pow Wow, Incorporated
1806 Old Gray Station Road
Johnson City, Tennessee 37615-4614

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 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 exhibits.

Institution Name:	Little Pow Wow, Incorporated
Institution Address:	1806 Old Gray Station Road Johnson City, Tennessee 37615
Agreement Numbers:	00-392
Amount Due:	\$431.90
Due Date:	March 26, 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 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: Little Pow Wow, Incorporated	Agreement No. 00392	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 1806 Old Gray Station Road Johnson City, TN 37615

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

Name and Title: Brandy Dutton, Board Chair	Date of Birth: 6/16/75
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: February 25, 2020	Corrective Action Plan: March 26, 2020
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Section D. Findings

Findings:

1. The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly
2. The Sponsor reported meal counts incorrectly
3. The Sponsor reported the number of attendance days incorrectly
4. The Sponsor reported lunch and pm supplement meals served that exceed attendance

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

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

The finding will be fully and permanently corrected.

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

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:

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 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. 4: The Sponsor reported lunch and pm supplement meals served that exceed 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:

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

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

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;

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair

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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
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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
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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.