



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

CERTIFIED MAIL RECEIPT- Due COVID-19 this notice will not be sent via certified mail, please confirm receipt of this notice by email

July 9, 2020

Toni Yates, Chairman of the Board
Ollie Stephenson, Director
Louise's Learning Tree Day Care Center
1126 Chelsea Avenue
Memphis, Tennessee 38107-2164

RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP) Agreement Number 00-397

Dear Ms. Yates,

The Department of Human Services (DHS) - Division of Audit Services staff conducted a limited desk review of the Child and Adult Care Food Program (CACFP) for Louise's Learning Tree Day Care Center (Sponsor), Application Agreement number 00397, during the period of April 24, 2020, through May 27, 2020. Our scope of the review was for reimbursement made to the Sponsor for October 2019, November 2019, December 2019, January 2020, February 2020, March 2020, and April 2020.

Due to the outbreak and the risk that COVID19 poses to the Sponsor and our staff, the review was limited to verification, based on a review of the documents obtained from the Sponsor, via e-mail, mail, or other electronic transmissions of documents. We also obtained confirmation from the feeding sites and Sponsor staff via telephone or e-mail relative to the operation and administration of the CACFP.

The purpose of this review was to determine if the Sponsor complied with USDA regulations set through the COVID-19 period, taking into consideration the waivers granted to the Sponsor's operation. Also, to determine if the Sponsor complied with the applicable *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, provider agreements, and applicable Federal and State regulations.

SERIOUS DEFICIENCY DETERMINATION

Based on the monitoring review, the Department has determined that Louise's Learning Tree Day Care Center is seriously deficient in its operation of the CACFP. In addition, the Department has identified Toni Yates, Chairman of the Board and Ollie Stephenson, Director as responsible for the serious deficiencies in light of their responsibility for the overall management of Louise's Learning Tree Day Care Center's CACFP.

If Louise's Learning Tree Day Care 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 Louise's Learning Tree Day Care Center's agreement to participate in the CACFP;
- Propose to disqualify Louise's Learning Tree Day Care Center from future CACFP participation; and
- Propose to disqualify Toni Yates, Chairman of the Board and Ollie Stephenson, Director from future CACFP participation.

In addition, if Louise's Learning Tree Day Care Center voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Creative Learning Academy and Toni Yates, Chairman of the Board and Ollie Stephenson, Director from future CACFP participation. If disqualified, Louise's Learning Tree Day Care Center, and Toni Yates, Chairman of the Board and Ollie Stephenson, Director and will be placed on the National Disqualified List ("NDL"). While on the NDL, Louise's Learning Tree Day Care Center will not be able to participate in the CACFP as an institution or facility. Toni Yates, Chairman of the Board and Ollie Stephenson, Director 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.

Scope of the review

The initial review period was for February 2020; however, due to certain documents that the Sponsors provided to us that we were unable to authenticate, we expanded our review to include the claims for reimbursement for October 2019 through April 2020.

Except for documents provided for February 2020, the Sponsor failed to provide us with the required documents as required by state and federal regulation. Therefore, we were unable to complete our review to validate the claims for reimbursement.

Conclusion

Our review of the Sponsor's documentation disclosed the following:

1. The Sponsor failed to provide documentation to support claims for reimbursement, in violation of state and federal regulations

This is a Serious Deficiency:

Condition

The Sponsor failed to provide us with the required documents as required by state and federal regulation.

We requested documentation of expense records to support the claims for reimbursement for October 2019 through April 2020. The Sponsor did not provide us with the meal count forms and purchase of food invoices for October 2019, November 2019, December 2019, and January 2020.

On May 26, 2020, we communicated to Louise's Learning Tree Day Care Center personnel requesting supporting documents such as invoices for food purchases part of our review to validate the claims for reimbursement.

On May 27, 2020, the Sponsor replied via email, "Louise's Learning Tree Daycare has ended participation in the CACFP program as of May 18, 2020. No employees remain associated with CACFP or materials. ..."

We again requested the documentation to complete our review. However, the Sponsor failed to respond to three requests, and did not provide the requested documents.

As a result of the Sponsor's failure to provide evidence to support the claims for reimbursement for the review period, we disallowed the cost for 13,250 breakfast meals, 11,951 lunch meals, and 13,238 Supplements; however, we were able to allow the reimbursement for meals determined to be reasonable (see exhibits below).

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10(d) states, "All records to support the claim shall be retained for a period of three years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three year period as long as may be required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. Government Accountability Office for audit or review, at a reasonable time and place."

Recommendation

The Sponsor should retain records for the required period of three years and make them available upon

request to representatives of the State agency for audit or review purposes.

2. The Sponsor provided invoices that did not appear to be legitimate to support food purchases for the meal claims for reimbursement

This is a Serious Deficiency:

Condition

The Sponsor provided us with documents that did not appear legitimate. The documents provided were invoices for purchases from U.S. Foods for February 2020 and March 2020. We contact U.S. Foods to verify the invoices. A representative from U.S. Foods was unable to validate the invoices via customer name, invoice number, or otherwise. Additionally, the Sponsor provided an invoice for April 2020 meal purchases from U.S. Foods, however, it was also confirmed by a representative from U.S. Foods that the Sponsor has not been an active customer since February 25, 2013.

The meal disallowance has been identified in finding 1 above.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.6 (b)(1) (xviii) (C) Performance Standard 3- Program accountability states, "The new institution must have internal controls and other management systems in effect to ensure fiscal accountability and to ensure that the Program will operate in accordance with the requirements..."

Recommendation

The Sponsor's management should ensure that only legitimate receipts and invoices are used to support CACFP transactions and the claim for reimbursement must be based on actual meals served.

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 \$80,415.02

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 Louise's Learning Tree Day Care Center is seriously deficient in its operation of the CACFP and that Toni Yates, Chairman of the Board and Ollie Stephenson, Director are responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Louise's Learning Tree Day Care Center's CACFP agreement, 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.

Louise's Learning Tree Day Care Center may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Louise's Learning Tree Day Care Center 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 October 2019, November 2019, December 2019, January 2020, February 2020, March 2020, and April 2020, which contains the verified claim data from the enclosed exhibit.
- Since 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

Allette Vayda
Director of Operations- Food Programs

Exhibit

cc: Louise Stephenson, Executive Director, Louise's Learning Tree Day Care Center
Ollie Stephenson, Director, Louise's Learning Tree Day Care Center
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 A

Verification of CACFP Independent Center Claim

Center: Louise's Learning Tree Day Care Center

Review Month/Year: October 2019

Total Reimbursement: \$ 17,514.68

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	23	23
Total Attendance	2,865	230*
Number of Breakfasts Served	2,865	230*
Number of Lunches Served	2,619	230*
Number of Supplements Served	2,862	230*
Number of Participants in Free Category	125	10*
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	0
Total Number of Participants	125	10*

*Allowance of meals was based on the number of children at the center documented by DHS Program Evaluators/Licensing

Exhibit B

Verification of CACFP Independent Center Claim

Center: Louise's Learning Tree Day Care Center

Review Month/Year: November 2019

Total Reimbursement: \$ 14,469.66

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	19	19
Total Attendance	2,365	190*
Number of Breakfasts Served	2,365	190*
Number of Lunches Served	2,165	190*
Number of Supplements Served	2,363	190*
Number of Participants in Free Category	125	10*
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	0
Total Number of Participants	125	10*

*Allowance of meals was based on the number of children at the center documented by DHS Program Evaluators/Licensing

Exhibit C

Verification of CACFP Independent Center Claim

Center: Louise's Learning Tree Day Care Center

Review Month/Year: December 2019

Total Reimbursement: \$ 15,273.10

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	20	20
Total Attendance	2,490	200*
Number of Breakfasts Served	2,490	200*
Number of Lunches Served	2,290	200*
Number of Supplements Served	2,488	200*
Number of Participants in Free Category	125	10*
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	0
Total Number of Participants	125	10*

*Allowance of meals was based on the number of children at the center documented by DHS Program Evaluators/Licensing

Exhibit D

Verification of CACFP Independent Center Claim

Center: Louise's Learning Tree Day Care Center

Review Month/Year: January 2020

Total Reimbursement: \$ 15,856.74

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Total Attendance	2,615	210*
Number of Breakfasts Served	2,615	210*
Number of Lunches Served	2,355	210*
Number of Supplements Served	2,612	210*
Number of Participants in Free Category	125	10*
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	0
Total Number of Participants	125	10*

*Allowance of meals was based on the number of children at the center documented by DHS Program Evaluators/Licensing

Exhibit E

Verification of CACFP Independent Center Claim

Center: Louise's Learning Tree Day Care Center

Review Month/Year: February 2020

Total Reimbursement: \$ 4,170.54

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	20	20
Total Attendance	793	200*
Number of Breakfasts Served	793	200*
Number of Lunches Served	539	195*
Number of Supplements Served	793	200*
Number of Participants in Free Category	125	10*
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	0
Total Number of Participants	125	10*

*Allowance of meals was based on the number of children at the center documented by DHS Program Evaluators/Licensing and the monitor's observation of meal service

Exhibit F

Verification of CACFP Independent Center Claim
Center: Louise's Learning Tree Day Care Center
Review Month/Year: March 2020
Total Reimbursement: \$ 13,408.64

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	22	22
Total Attendance	2,168	220*
Number of Breakfasts Served	2,168	220*
Number of Lunches Served	2,024	220*
Number of Supplements Served	2,167	220*
Number of Participants in Free Category	127	10*
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	0
Total Number of Participants	127	10*

*Allowance of meals was based on the number of children at the center documented by DHS Program Evaluators/Licensing

Exhibit G**Verification of CACFP Independent Center Claim****Center: Louise's Learning Tree Day Care Center****Review Month/Year: April 2020****Total Reimbursement: \$ 9,087.55**

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	21	21
Total Attendance	1,414	210*
Number of Breakfasts Served	1,414	210*
Number of Lunches Served	1,414	210*
Number of Supplements Served	1,413	210*
Number of Participants in Free Category	127	10*
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	0
Total Number of Participants	127	10*

*Allowance of meals was based on the number of children at the center documented by DHS Program Evaluators/Licensing



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BILL LEE
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DANIELLE W. BARNES
COMMISSIONER

July 9, 2020

Toni Yates, Chairman of the Board
Louise's Learning Tree Day Care Center
1126 Chelsea Avenue
Memphis, Tennessee 38107-2164

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.

Institution Name:	Louise's Learning Tree Day Care Center
Institution Address:	1126 Chelsea Avenue Memphis, Tennessee 38107-2164
Agreement Numbers:	00397
Amount Due:	\$80,415.02
Due Date:	August 10, 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:

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

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