



Administrative Policies and Procedures: 7.03

Subject: Summer Food Service Program Appeal Process

Approved by: Petrina Jones-Jesz

Approval Date: 7/23/15

Effective Date: 8/1/15

Authority: TCA §§ 4-3-101 et seq., 7 CFR §§ 225.9, 7 CFR §§ 225.13

Application: DHS Appeals and Hearing Office, Summer Food Service Program (SFSP) staff, and SFSP Sponsors

Policy Statement:

The Department of Human Services (DHS) shall provide administrative review procedures to Summer Food Service Program (SFSP) Sponsors each year and any time a Sponsor requests a review for a DHS action subject to an administrative review.

Purpose:

To provide guidelines for the appeal process for SFSP Sponsors that is clearly explained and communicated.

Procedures:

A. Notice of Action The Department shall notify the Sponsor in writing of the grounds upon which the Department has based an adverse action.

The Department's notice of action letter shall be sent by certified mail, return receipt requested, and shall also state whether the Sponsor has the right to appeal the Department's action.

B. Appealable Actions A potential or participating Sponsor may file an appeal for any of the following reasons under the Summer Food Service Program (SFSP):

1. A denial of an application for participation;
2. A denial of a sponsor's request for an advance payment;
3. A denial of a sponsor's claim for reimbursement, except for late submission claims filed more than 60 days after the last day of the month covered by the claim;
4. The Department's refusal to forward to Food and Nutrition Services (FNS) an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim;

5. A claim against a sponsor for remittance of a payment;
6. The termination of the sponsor or a site;
7. Denial or revocation of a food service management company's application for registration; or
8. A denial of a sponsor's application for a site.

C. Filing an Appeal

1. The time period allowed for filing the appeal is **ten (10) calendar days** from the date on which the notice of action, sent by certified mail return receipt requested, is received by the Sponsor.
2. All appeal requests must be filed in writing and must be submitted to the:

**Tennessee Department of Human Services
Division of Appeals and Hearings, Clerk's Office**

PO Box 198996 Nashville, TN 37219-8996

Fax: (615) 248-7013 or (866) 355-6136

E-mail: AppealsClerksOffice.DHS@tn.gov

3. The appellant is allowed to refute the charges contained in the notice of action either in person or by filing written documentation with the Hearing Officer.
4. To be considered, written documentation must be:
 - a) Submitted by the appellant within seven (7) calendar days of submitting the appeal,
 - b) Clearly identify the TDHS action being appealed, and
 - c) Include a photocopy of the notice of action issued by the TDHS.

Note: Appellants are encouraged to use the Consolidated Appeal Request when filing the appeal to help ensure the purpose for the appeal is clear.

5. An appellant is allowed the opportunity to review information upon which the action described in the notice of action was based.

D. DHS Appeal Response

1. If the appeal letter does not specifically request a hearing, a review of written documentation in lieu of a hearing/desk review will occur.
2. If the appellant requested a hearing in the appeal letter, the appellant shall be given at least five (5) calendar days advance written notice by certified mail, return receipt requested, of the date, time, and place of hearing.
3. If the appellant requested a hearing in the appeal letter, the hearing will be conducted within fourteen (14) calendar days of the receipt of the appeal. However, the hearing will not be held before the appellant's written documentation is received.
4. If the institution or sponsor is a legally created entity, then the institution or sponsoring agency must be represented by an attorney. Otherwise, the individual representing the entity will have limited participation in the hearing.
5. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the Hearing Officer, unless the Hearing Officer agrees to reschedule the hearing.

- 6. A representative of the TDHS shall be allowed to attend the hearing to respond to the appellant’s testimony and written information and to answer questions from the review official. The Hearing Officer shall be independent of the original decision-making process.
- 7. Within five (5) working days after receiving the written documentation, and where a hearing was not requested in the appeal letter, the Hearing Officer, based on a full review of the administrative record, will inform the appellant, by certified mail, return receipt requested, of the official’s determination.
- 8. Within five (5) working days after the hearing has been held, when a hearing was requested in the appeal letter, the hearing official , based on a full review of the administrative record, will inform the appellant, by certified mail, return receipt requested, of the official’s determination

E. Activity during the appeal process

- 1. The TDHS/SFSP’s administrative action will remain in effect during the appeal process.
- 2. Participating sponsors and sites may continue to operate during an appeal of a termination, unless the action is based on imminent dangers to the health or welfare of children. This reason shall be specified in the notice of action.
- 3. Reimbursement shall be paid for meals served during the appeal process if the administrative review determination overturns the TDHS/SFSP’s administrative action that was appealed.

F. Determination and processing of appeals

- 1. The Hearing Officer will make a determination based on information provided by DHS and the appellant, and on program regulations.
- 2. The determination made by the Hearing Officer is the final and will become the Final Order and set forth the time limits for seeking judicial review.
- 3. The maximum time limit for processing appeals is nineteen (19) calendar days.

Forms

HS-3058 Consolidated Appeal Request

Collateral Documents

Notice of action letter

Summer Food Service Program Sponsor Appeal Procedures; Revised February 21, 2014

Retention of Records

- [SW15 Annual Report Working Papers](#)
- [SW 16 Temporary Records](#)
- [SW 17 Working Papers](#)
- [SW21 Grants](#)
- [SW12 Contracts](#)
- [SW20 Fiscal Administrative Documents](#)

Glossary:

Term

Definition

Appellant

For the purposes of this policy, provider means potential or participating Summer Food Service Sponsor.

Sponsor

A Provider