



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

JAMES K. POLK BUILDING  
505 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243  
TELEPHONE: 615-313-4700 FAX: 615-741-4165  
TTY: 1-800-270-1349  
[www.tn.gov/humanservices](http://www.tn.gov/humanservices)

**BILL LEE**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

May 23, 2019

Alfred Anderson, Owner  
Lambs and Ivy, LLC  
1185 Macon View Drive  
Cordova, Tennessee 38018-0627

Dear Mr. Anderson:

The Department of Human Services Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Lambs and Ivy, LLC (Sponsor) Agreement number 00377 on April 10, 2019. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

Background

CACFP Sponsors utilize meal count sheets to record the number of meals served for 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 January 17, 2019.

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

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

Condition

Based on our review of the Claim for Reimbursement for the test month, we noted the Sponsor reported 35 participants in the free category, 12 participants in the reduced-price category, and 115 participants in the paid category. However, based on our review of the records available,

we noted that there were 32 participants in the free category, 12 participants in the reduced-price category and 113 participants in the paid category.

The Sponsor over reported the total number of participants. There were 162 participants reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we found there were 157 participants enrolled in the program during the review period. The Sponsor over reported the number of participants in the free category by three and over reported the number of participants in the paid category by two. (See Exhibit)

#### 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 ensure the number of participants reported on the claim for reimbursement is reported accurately and based on categorical or income eligibility for those in attendance during the claim period.

### **2. The Sponsor reported an incorrect number of meals from an observed meal service**

#### Condition

On January 17, 2019, we conducted a on-site vsiet to observe a lunch meal service at Lambs and Ivy, LLC. We observed 114 lunch meals being served during the approved meal service time. The Sponsor, however, reported 115 lunch meals.

The Sponsor over reported one lunch meal. (See Exhibit)

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.10 (c)* states in part "...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 the meals reported agrees with the actual meals served during the approved meal service time.

### **3. The Sponsor provided menus that did not meet USDA meal requirements**

#### Condition

The p.m. supplement menu provided for January 9, 2019, did not meet USDA meal requirements. The menu listed veggie straws and orange slices for participants ages 1-5 years old. The veggie straws are not creditable. They are considered snack chips as detailed on the label provided by the Sponsor.

As a result, 112 supplements claimed for reimbursement were disallowed.

#### 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 ..."

The USDA Crediting Handbook for the Child and Adult Care Food Program, page 33, states, "Snack chips such as banana, fruit, vegetable, and potato chips may not be credited as a fruit or vegetable. However, 100% dried fruits or vegetables are creditable based on the volume served..."

*This is a repeat finding from a previous report dated September 16, 2016.*

#### Recommendation

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

### **4. The Sponsor did not serve a whole grain-rich component once per day as required**

#### Condition

None of the menus that the Sponsor provided for January 8, 2019, listed a whole grain-rich grain as required. Additionally, the Sponsor did not provide labels as proof that the grains listed were whole-grain rich.

In accordance with the revised meal pattern requirements effective October 1, 2017; at least one serving of grain per day must be whole grain-rich. The following menus did meet the requirement that at least one serving of grain per day must be whole grain-rich.

Due to the new CACFP meal pattern requirements and emphasis on providing technical assistance during the implementation process, there were no meals disallowed.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(a)(b)* states "At least one serving per day, across all eating occasions of bread, cereals, and grains, must be whole grain-rich. Whole grain-rich foods contain at least 50 percent whole grains and the remaining grains in

the food are enriched, and must meet the whole grain-rich criteria specified in FNS guidance.”

#### Recommendation

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

### **5. The Sponsor provided menus that contained grain-based desserts as a component**

#### Condition

The Sponsor’s supplement menu on January 9, 2019, listed vanilla wafers and apple slices. Vanilla wafers are a grain based dessert. Effective October 1, 2017, grain based desserts are not allowable.

Due to the new CACFP meal pattern requirements and emphasis on providing technical assistance during the implementation process, there were no meals disallowed.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(iii)* states, “Grain-based desserts do not count towards meeting the grains requirement.”

#### Recommendation

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

### **6. The Sponsor did not provide enrollment information for participants**

#### Condition

During our monitoring visit on April 10, 2019, there were 64 participants on the attendance roster for whom the provider did not provide enrollment information.

#### 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)...”

The USDA policy memorandum, CACFP 15-2013 Existing Flexibilities in the Child and Adult Care Food Program states, “CACFP regulations require that institutions maintain documentation for participants enrolled to receive care [7 CFR 226.15(e)(2) and (e)(3)]. Documentation of participant’s enrollment must include information on normal days and hours of care and the meals the participant normally receives while in care...”

#### Recommendation

The Sponsor should ensure that all enrollment information is collected and maintained as required.

...

*This is a repeat finding from a previous report dated September 16, 2016.*

## **7. The Sponsor reported the number of attendance days incorrectly**

### Condition

The Claim for Reimbursement for the test month reported 2,642 attendance days. However, our review verified 2,750 attendance 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 attendance is reported accurately and based on supporting documentation.

## **8. The Sponsor reported the number of days of operation incorrectly**

### Condition

The Sponsor reported 20 days of operation. However, our review of the Sponsor records verified 21 days of operation.

### 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 the number of operation days is reported correctly.

## **Technical Assistance Provided**

Technical assistance was provided on the new meal pattern requirements. The Sponsor was also referred to a DHS program specialist for further assistance regarding meal pattern changes.

## **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 \$151.77.

## **Corrective Action**

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

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for January 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](mailto: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, 15<sup>th</sup> Floor  
 505 Deaderick Street  
 Nashville, Tennessee 37243  
[Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)  
 (615) 313-3769

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim is completed within 30 days from the date of this report. If the revised claim is not completed by the 30-day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program  
 Fiscal Services  
 James K. Polk Building, 16<sup>th</sup> 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:

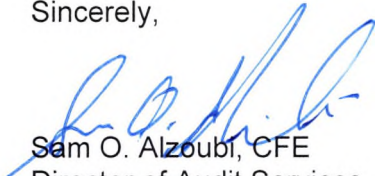
Tennessee Department of Human Services  
 Appeals and Hearings Division, Clerk's Office  
 P.O. Box 198996  
 Nashville, TN 37219

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.

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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](mailto:Sean.Baker@tn.gov).

Sincerely,



Sam O. Alzoubi, CFE  
Director of Audit Services

Exhibit

cc: Patricia Gale, Director, Lambs and Ivy, LLC  
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**

**Verification of CACFP Independent Center Claim**

**Name of Agency: Lambs and Ivy, LLC**

**Review Month/Year: January 2019**

**Total Meal Reimbursement Received: \$ 5,046.99**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	20	21
Total Attendance	2,642	2,750
Percentage of Free or Reduced-price Category	XXXXXX	28%
Number of Breakfasts Served	1,637	1,637
Number of Lunches Served	2,258	2,257
Number of Supplements Served	2,612	2,500
Number of Participants in Free Category	35	32
Number of Participants in Reduced-Price Category	12	12
Number of Participants in Paid Category	115	113
Total Number of Participants	162	157
Total Amount of Eligible Food Costs	XXXXXXXX	\$4,543.40
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$6,878.58





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DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING  
400 DEADERICK STREET  
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**BILL LEE**  
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**DANIELLE W. BARNES**  
COMMISSIONER

May 23, 2019

Alfred Anderson, Owner  
Lambs and Ivy, LLC  
1185 Macon View Drive  
Cordova, Tennessee 38018-0627

**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 to participating in the CACFP, log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for March 2019, which contains the verified claim data from the enclosed exhibits.

Institution Name:	Lambs and Ivy, LLC
Institution Address:	1185 Macon View Drive Cordova, Tennessee 38018-0627
Agreement Numbers:	00377
Amount Due:	\$151.77
Due Date:	<b>June 24, 2019</b>

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  
James K. Polk Building, 16<sup>th</sup> Floor  
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](mailto:Allette.Vayda@tn.gov).

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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: Lambs and Ivy, LLC	Agreement No. 00377	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 1185 Macon View Drive Cordova, Tennessee 38018-0627

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

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

Monitoring Report: 5/23/2019	Corrective Action Plan: 5/23/2019
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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 an incorrect number of meals from an observed meal service
3. The Sponsor provided menus that did not meet USDA meal requirements
4. The Sponsor did not serve a whole grain-rich component once per day as required
5. The Sponsor provided menus that contained grain-based desserts as a component
6. The Sponsor did not provide enrollment information for participants
7. The Sponsor reported the number of attendance days incorrectly
8. The Sponsor reported the number of days of operation incorrectly

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**

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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:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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**Measure No.2: The Sponsor reported an incorrect number of meals from an observed meal service**

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:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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**Measure No. 3: The Sponsor provided menus that did not meet USDA meal 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:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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**Measure No. 4: The Sponsor did not serve a whole grain-rich component once per day as required**

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:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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**Measure No. 5: The Sponsor provided menus that contained grain-based desserts as a component**

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:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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**Measure No.6: The Sponsor did not provide enrollment information for 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: \_\_\_\_\_  
*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  
HS-3187 (Rev. 11-16) Page 7 of 11



Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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**Measure No. 7: 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:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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**Measure No. 8: The Sponsor reported number of days of operation 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:

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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?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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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:

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I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: \_\_\_\_\_

Date: / /

Signature of Authorized TDHS Official: \_\_\_\_\_

Date: / /

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## **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 16<sup>th</sup> 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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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](mailto: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.