



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING  
400 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-1403

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**BILL HASLAM**

GOVERNOR

**DANIELLE W. BARNES**

COMMISSIONER

August 24, 2017

Brian McLaughlin, Executive Director  
YMCA of Memphis and the Mid-South  
6373 Quail Hollow Road, Suite 201  
Memphis, Tennessee 38120-1405

Dear Mr. McLaughlin:

The Department of Human Services (DHS) Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at YMCA of Memphis and the Mid-South (Sponsor), Application Agreement number 00601, on June 20, 2017. We reviewed the Sponsor's records of reimbursements and expenditures for April, 2017. The purpose of this review was to determine if the sponsoring organization 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) to seek 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 and observed meal services on April 27, 2017 at the sample sites.

The Sponsor had nine feeding sites operating during the test month of April 2017. Two feeding sites, Millington Elementary School and EA Harrold Elementary School, were selected as the sample sites.

Our review of the Sponsor's records for the test month of April 2017 disclosed the following:

**1. The sponsor reported incorrect meal counts.**

Condition

The claim for reimbursement for the test month showed 29,864 suppers served prior to any meal disallowances. However, based on our review of the Sponsor's meal count sheets, we found that there were 29,868 suppers served. The differences were based on the following:

**Millington Elementary School**

The sponsor reported 540 suppers served at Millington Elementary School. However, the records provided by the sponsor indicated that 543 suppers were served.

**EA Harrold Elementary School**

The sponsor reported 361 suppers served at EA Harrold Elementary School 0014. However, the records provided by the sponsor indicated that 362 suppers were served.

As a result of our review, we noted that the Sponsor under reported 4 suppers.

Criteria

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

In addition, the Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 41) states that "All independent child care centers, outside-school-hours centers, and sponsoring organizations of child care centers must submit to the TDHS accurate monthly reports on the number of meals served."

Recommendation

The Sponsor should ensure that claims for reimbursement are accurate and based on the proper supporting documents, such as meal count sheets.

**2. Menus did not contain all required components.**

Condition

A supper meal consists of one serving of meat or meat alternate, two servings of fruit and/or vegetables, one serving of bread/grains, and one serving of fluid milk. The menus for April 2017 did not list milk as being served for the sample sites, Millington Elementary and EA Harrold. The menus listed the following:

**Millington Elementary School**

<b>Date</b>	<b>Deficient or Missing Component</b>	<b>Disallowed Meals (# and type)</b>
04/11/17	Missing component- A second fruit/vegetable Menu lists: Oven roasted BBQ chicken slider, BBQ sauce	30 Suppers

	packet, seasonal fruit	
04/13/17	Missing Component: A second fruit/vegetable Menu Lists: Teriyaki glazed chicken slider, seasonal fruit	28 Suppers
04/18/17	Missing Component- A second fruit/vegetable Menu Lists: Honey mustard chicken slider, seasonal fruit	18 Suppers
04/24/17	Missing Component: A second fruit/vegetable Menu Lists: Whole grain salsa Fresca rumbles, roasted sunflower seeds, string cheese, baby carrots	30 Suppers

### EA Harold School

Date	Deficient or Missing Component	Disallowed Meals (# and type)
04/11/17	Missing component- A second fruit/vegetable Menu lists: Oven roasted barbecue chicken slider, barbecue sauce packet, seasonal fruit	20 Suppers
04/13/17	Missing Component- A second fruit/vegetable Menu lists: Teriyaki glazed chicken slider, seasonal fruit	18 Suppers
04/18/17	Missing Component- A second fruit/vegetable Menu Lists: Honey mustard chicken slider, seasonal fruit	20 Suppers

As a result of our review, we determined that 164 suppers are 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 ..."*

In addition, the Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 23) states that "An institution must maintain menus that meet the following requirements: a. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified."

#### Recommendation

The Sponsor should ensure that menus are reviewed to ensure they reflect the meal served and contain all required meal components.

### **3. Coolers were not kept at the appropriate temperature.**

#### Condition

During the site visits to Millington Elementary and EA Harold Elementary on April 27, 2017, the temperatures inside the storage coolers exceeded 40 degrees Fahrenheit. 15 suppers were observed at Millington Elementary and 19 suppers were observed at EA Harold Elementary. As a result, the cost reimbursements for those 34 suppers were disallowed.

#### Criteria

*Title 7 of the Code of Federal Regulations Section 226.20(l) states, "(l) Sanitation. Institutions shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions shall ensure that adequate facilities are available to store food or hold meals."*

*Title 7 of the Code of Federal Regulations Section 226.20 (k)(i) states "The United States Food and Drug Administration guidelines state a refrigerator should have a temperature of 40 degrees Fahrenheit or less (4 degrees Centigrade) and a freezer should have a temperature of 0 degrees Fahrenheit or less (-18 Centigrade) for the safe storage of food."*

#### Recommendation

The sponsor should ensure that the temperature inside the cooler does not exceed 40 degrees Fahrenheit.

#### **4. The Sponsor's reported attendance claim did not agree with the reconciled attendance.**

#### Condition

The claim for reimbursement for the test month of April 2017 reported 35,972 attendance days. However, the attendance records provided by the sponsor supported 35,997 attendance days. The difference is based on the following:

Millington Elementary reported 582 attendance days. However, based on attendance records 607 attendance days were reconciled.

#### Criteria

7 CFR 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 an accurate daily attendance is taken and the supporting documentation is kept on file.

#### **5. The Sponsor's monitoring review guide was not completed in its entirety for one site**

#### Condition

The Sponsor's monitor review documents for April 4, 2017, did not have a five-day reconciliation completed for Millington Elementary.

#### Criteria

7 CFR 226.16(d)(4)(ii) states "Reconciliation of meal counts. Reviews must examine the meal counts recorded by the facility for five consecutive days during the current and/or prior claiming period. For each day examined, reviewers must use enrollment and attendance records (except in those outside-school-hours care centers, at-risk afterschool care centers, and emergency shelters where enrollment records are not required) to determine the number of participants in care during each meal service and attempt to reconcile those numbers to the numbers of breakfasts, lunches, suppers, and/or snacks recorded in the facility's meal count for that day. Based on that comparison, reviewers must determine whether the meal counts were accurate. If there is a discrepancy between the number of participants enrolled or in attendance on the day of review and prior meal counting patterns, the reviewer must attempt to reconcile the difference and determine whether the establishment of an overclaim is necessary."

### Recommendation

The sponsor should ensure that monitoring guides are completed accurately, and that a five-day reconciliation is performed as required.

### **Disallowed Costs**

Based on our 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 \$657.66.

### **Corrective Action**

Management of the YMCA of Memphis and the Mid-South must complete the following actions within 30 days from the date of this report:

- Login to the Tennessee Information Payment System (TIPS) and revise the claim submitted for April 2017, which contains the verified claim data from the enclosed exhibit. A copy of the claim form is attached for your use;
- Remit a check payable to the ***Tennessee Department of Human Services*** in the amount of \$657.66 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  
Child and Adult Care Food Program  
8th Floor Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243  
[Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)

Please note that the overpayment is subject to an interest charge. The interest charge will be waived if your revised claim is received by our office within 30 business days from the date of this report. If the revised claim is not received by the 30 business-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  
11th Floor, Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243

In accordance with the federal regulation found at 7 *CFR Part 226.6 (k)*, your institution may appeal the overpayment identified by the 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 meals 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 Jackie Yokley, Audit Director 2, at 615-837-5035 or [Jackie.D.Yokley@tn.gov](mailto:Jackie.D.Yokley@tn.gov).

Sincerely,

  
Sam O. Alzoubi, CFE  
Director of Audit Services

Exhibit

Cc: Ted Farris, Chairman of the Board, YMCA of Memphis and the Mid-South  
Becky Kelly, Program Director, YMCA of Memphis and the Mid-South  
Allette Vayda, Director, Child and Adult Care Food Programs  
Elke Moore, Administrative Services Assistant 3  
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 After-School Snack Program**

**Sponsor: YMCA of Memphis and the Mid-South**

**Review Month/Year: April 2017**

**Total Meal Reimbursement Received: \$101,238.96**

<b>Site Meal Service Activity and Monitor Reconciliation</b>	<b>Reported on Claim</b>	<b>Reconciled Meals to Meal Counts Sheets</b>
Total Number of Days Food Served	19	19
Total Attendance for all sites	35,972	35,997
Number of Suppers Served	29,864	29,670
Total Amount of Eligible Food Costs	XXXXXXXX	\$87,974.40
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$87,974.40

**Exhibit B**

**Sample Site: Millington Elementary School 0013**

<b>Site Meal Service Activity and Monitor Reconciliation</b>	<b>Reported on Claim</b>	<b>Reconciled Meals to Meal Counts Sheets</b>
Total Number of Days Food Served	19	19
Total Attendance	582	607
Number of Suppers Served	540	422

**Exhibit C**

**Sample Site: EA Harrold Elementary School 0014**

<b>Site Meal Service Activity and Monitor Reconciliation</b>	<b>Reported on Claim</b>	<b>Reconciled Meals to Meal Counts Sheets</b>
Total Number of Days Food Served	19	19
Total Attendance	390	390
Number of Suppers Served	361	285



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COMMISSIONER

August 24, 2017

Brian McLaughlin, Executive Director  
YMCA of Memphis and the Mid-South  
6373 Quail Hollow Road, Suite 201  
Memphis, Tennessee 38120

***Notice of payment due to findings disclosed in the monitoring dated August 24, 2017, for  
Child and Adult Care Food Program (CACFP).***

Institution Name:	YMCA of Memphis and the Mid-South
Institution Address:	6373 Quail Hollow Road, Suite 201, Memphis, Tennessee 38120
Agreement Numbers:	00601
Amount Due:	\$657.66
Due Date:	September 26, 2017

Based on the monitoring report issued on *August 24, 2017*, by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services-Food Programs- CACFP & SFSP management has agreed with the findings which requires YMCA of Memphis and the Mid-South to reimburse the Department of Human Services unallowed cost in the amount of \$657.66.

Please remit a check or money order payable to the ***Tennessee Department of Human Services*** in the amount of \$657.66 by the due date to:

**Fiscal Services 11<sup>th</sup> Floor  
Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243-1403  
Tennessee Department of Human Services**

Please note that the unallowed 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, Community and Social Services- Food Programs- CACFP & SFSP at (615) 313-3769 or [Allette.Vayda@tn.gov](mailto: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: YMCA of Memphis and the Mid-South	Agreement No. 00601	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 6373 Quail Hollow Road Suite 201 Memphis, Tennessee 38120-1405

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

Name and Title: Brian McLaughlin, Executive Director	Date of Birth: / /
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## Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 8/24/2017	Corrective Action Plan: 8/24/2017
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## Section D. Findings

Findings:

1. The Sponsor reported incorrect meal counts.
2. Menus did not contain all required components.
3. Coolers were not kept at the appropriate temperature.
4. The Sponsor's reported attendance claim did not agree with the reconciled attendance.
5. The Sponsor's monitoring review guide was not completed in its entirety for one site.

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 incorrect meal counts.**

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: Menus did not contain all required components.**

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: Coolers were not kept at the appropriate temperature.**

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’s reported attendance claim did not agree with the reconciled 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:

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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’s monitoring review guide was not completed in its entirety for one site.**

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: / /

## **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

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

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.