



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

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

TELEPHONE: 615-313-4700 FAX: 615-741-4165  
TTY: 1-800-270-1349  
[www.tn.gov/humanservices](http://www.tn.gov/humanservices)

**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

CERTIFIED MAIL RECEIPT #70163010000073892111

January 11, 2018

Robert Hubbs, Owner  
Rising Star Childcare II  
420 West Cedar Street  
Dyersburg, Tennessee 38024-5028

Dear Mr. Hubbs:

The Department of Human Services (DHS) - Audit Services Division Staff conducted an unannounced on-site review of the Child and Adult Care Food Program (CACFP) at Rising Star Childcare II (Sponsor), Application Agreement number 00474, on November 19, 2017. We reviewed the sponsor's records of reimbursement and expenditures for the period of September 2017. 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.

**SERIOUS DEFICIENCY DETERMINATION**

Based on the monitoring review, the Department has determined that Rising Star Childcare II is seriously deficient in its operation of the CACFP. In addition, the Department has identified Robert Hubbs, Owner as responsible for the serious deficiencies in light of their responsibility for the overall management of Rising Star Childcare II's CACFP.

If Rising Star Childcare II 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 Rising Star Childcare II's agreement to participate in the CACFP;
- Propose to disqualify Rising Star Childcare II from future CACFP participation; and
- Propose to disqualify Robert Hubbs, Owner, from future CACFP participation.

In addition, if Rising Star Childcare II voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Rising Star Childcare II, Robert Hubbs, Owner, from future CACFP participation. If disqualified, Rising Star Childcare II, and Robert Hubbs, Owner will be

placed on the National Disqualified List (“NDL”). While on the NDL, Rising Star Childcare II will not be able to participate in the CACFP as an institution or facility. Robert Hubbs, Owner 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 meals served for breakfast, lunch, supper and supplement meals. 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. In addition, we attempted to observe a meal service on September 15, 2017.

Our review of the Sponsor’s records for September 2017 disclosed the following:

### **1. The Sponsor reported the number of free, reduced-price and paid participants incorrectly**

#### **Condition**

Based on our review of available documents and information, we noted that the number of participants reported in the free, reduced-price and paid categories was incorrect.

The Claim for Reimbursement for the test month of September 2017 reported 46 participants in the free category, zero participants in the reduced-price category and two participants in the paid category. However, based on our review of the sponsor’s records, we noted 28 participants in the free category, two participants in the reduced-price category and two participants in the paid category. The differences were based on the following:

- One participant was classified as free but the application did not have any income listed or a families first number listed. This participant was reclassified to paid.
- Two participants were classified as paid, but based on income they qualified for the reduced-price category. These participants were reclassified to reduced-price.
- Nineteen participants were classified as paid but qualified for the free category. These participants were reclassified to free.

There were 48 participants reported in the program and 32 participants were verified.

This is a repeat finding from a previous report dated August 3, 2016.

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 each participant is correctly categorized and reported. The sponsor should ensure that documentation is maintained to support the claim.

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

**This is a Serious Deficiency:**

Condition

The Claim for Reimbursement for September 2017 reported 840 breakfast meals, 543 AM snacks, 535 lunch meals, 455 PM snacks and 455 supper meals served. However, based on our review of the sponsor's records, we noted 1,020 breakfast meals, 1,020 AM snacks and 1,020 lunch meals served prior to any meal disallowances. The sponsor under reported the number of breakfast meals by 180, the number of AM snacks by 477 and the number of lunch meals by 485. The sponsor over reported the PM snacks by 455 and the supper meals by 455.

This is a repeat finding from a previous report dated August 3, 2016.

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 that the claim for reimbursement is completed based on proper supporting documentation and that the meal count agrees with the meal count documentation.

**3. The Sponsor did not keep separate meal count documentation for each meal served**

**This is a Serious Deficiency:**

Condition

While reviewing the Sponsor's meal count records, we noted that the PM snack and supper meal counts were missing. The Sponsor stated that the lunch and supper meals are combined on the form. The AM and PM snacks were combined as well. We are unable to verify the number of lunch meals, AM snacks, PM snacks or the number of supper meals served. As a result, 1,020 lunch meals and 1,020 snacks were disallowed.

Criteria

*Title 7 of the Code of Federal Regulations, Section 226.17 (9)* states, “Each child care center must maintain daily records of time of service meal counts by type (breakfast, lunch, supper, and snacks) served to enrolled children, and to adults performing labor necessary to the food service.”

Recommendation

The Sponsor should maintain separate meal count records for each meal served. The Sponsor should ensure no meal counts are combined.

**4. The Sponsor reported incorrect participant days**

Condition

The Claim for Reimbursement for September 2017 reported 960 participant days. However, based on our review of the Sponsor’s records, we noted 625 participant days.

This is a repeat finding from a previous report dated August 3, 2016.

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 attendance is recorded and reported correctly. The Sponsor should ensure appropriate documentation is kept to support the claim.

**5. The number of meals claimed exceeded the validated participant days**

Condition

Based on our review of the Sponsor’s meal counts and attendance records, we noted that the Sponsor claimed more meals than what the attendance records showed. The number of meals claimed should have not exceeded the number of participants of 625. Therefore, 395 breakfast meals were disallowed.

Criteria

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

Recommendation

The Sponsor should ensure the number of meals served does not exceed the attendance on any day. The Sponsor should ensure the proper documentation is on file to support the claim.

**6. The Sponsor did not provide evidence that sufficient quantities of milk claimed for meals served were purchased**

## Condition

Based on the number of meals served with milk as a required component, after prior disallowances, the Sponsor required 3,110 ounces of milk. However, the Sponsor could only document the purchase of 1,152 ounces of milk, resulting in a shortage of 1,958 ounces of milk.

As a result, 337 breakfast meals were disallowed.

This is a repeat finding from a previous report dated August 3, 2016.

## Criteria

*Title 7 of the Code of Federal Regulations, Section 226.17(b)(4)* states, in part, “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. ...”

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(1)* states, in part, “Fluid milk, vegetables or fruit, or portions of both, and grains are required components of the breakfast meal.”

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(2)* states, “Fluid milk, meat and meat alternatives, vegetable, fruits, and grains are required components in the lunch and supper meals.”

## Recommendation

The Sponsor should maintain a month-end inventory for each month and all receipts for food purchases in order to provide evidence that the required amount of milk was purchased and served.

### **7. The Sponsor did not provide a CN label for fish sticks**

## Condition

The Sponsor served fish sticks on September 12<sup>th</sup>, 22<sup>nd</sup> and 26<sup>th</sup>. We requested the CN label for the fish sticks, but the Sponsor could not provide one. Therefore, we were unable to determine the protein content of the fish sticks. These meals were previously disallowed in Finding 3.

## 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 Foods in the Child and Adult Care Food Program, page 62, states, “When crediting such products as chili-macs, pizzas, pot pies, sloppy Joes, and raviolis toward the meat/meat alternate component, the amount of meat/meat alternate per serving (not the total portion size) is the determining factor for crediting purposes. Because of the uncertainty of the actual amount of meat/meat alternate contained in these products, they should not be used unless (1) they are CN-labeled; or (2) you obtain a Product Formulation Statement signed by an official of the manufacturer (not a sales person) that shows how the crediting has been determined. Remember that only a CN-labeled product carries a warranty that protects against financial audit claims. See the sample formulation statement on page 73 with required information and documentation.”

### Recommendation

The Sponsor should implement the following:

- The Sponsor should keep copies of commercially prepared food CN labels or Product Formulation Statements on file and follow the recommended serving sizes/equivalents listed on the label.
- The Sponsor should ensure all meals prepared meet the meal patterns established by the USDA, and menus should be reviewed to ensure they contain all required meal components to be eligible as reimbursable.

### **8. There were participants with missing enrollment information**

#### Condition

There were 27 participants that did not have enrollment information on file.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.15 (e)(2)* states “Documentation of the enrollment of each participant at centers (except for outside-school-hours care centers, emergency shelters, and at-risk afterschool care centers). 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.”

#### Recommendation

The Sponsor should ensure each participant has enrollment information on file and the enrollment information is updated annually.

### **9. The Sponsor did not provide documentation of CACFP training**

#### Condition

The Sponsor did not provide documentation to show that the CACFP training was provided to staff. The Sponsor stated that training was conducted in June 2017. The Sponsor was able to provide documentation of the Civil Rights training but was unable to provide documentation of CACFP training.

This is a repeat finding from a previous report dated August 3, 2016.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.15 (e)* states “Each institution must annually train staff on all program duties and responsibilities before beginning operation of the CACFP. This training must emphasize food service procedures and record keeping requirements. Institutions must keep a written record to document the location and date of each training session, the names of the staff present and the topics covered.”

### Recommendation

The Sponsor should record the required information at each training session and then keep the records for the appropriate timeframe.

## **10. The Sponsor did not provide evidence of a sound financial system**

### Condition

The Sponsor did not provide documentation of the bank statement and general ledger for the test month to compare receipts for expenses charged to the food program. The owner was out of the state at the time of the review. The owner would email the bank statement upon her return on November 23, 2017. The Sponsor did not provide the bank statement.

### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.10 (d) states, "... 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 US Government Accountability Office for audit or review, at a reasonable time and place."*

### Recommendation

The Sponsor should maintain all financial documents for the required time frame and make the documents available for review upon request.

## **11. The Sponsor did not maintain an inventory of food and non-food items**

### Condition

The Sponsor did not maintain an inventory of food and non-food items purchased with CACFP funds. This is necessary in order to complete a year-end reconciliation.

### Recommendation

The Sponsor should maintain an inventory list and keep it on file.

## **12. The site served outside of approved meal service time**

### Condition

A site visit was attempted on September 15, 2017. Upon arrival, we noted that the feeding site served the AM snack before the approved meal service time. We were unable to observe the AM snack being served. We notified the feeding site staff that the AM snack would not be allowed and should not be claimed for reimbursement.

### 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 the application in accordance with the meal pattern requirements..."*

### Recommendation

The Sponsor should ensure the meals are served as approved in the application and at the correct times.

### **Technical Assistance Provided**

The Program Monitor provided technical assistance regarding keeping and separate meal counts for each type of meal served.

### **OVERPAYMENT-RIGHT TO APPEAL**

#### **Disallowed Costs**

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern CACFP resulted in a total disallowed cost of \$4,865.00.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$4,865.00, which the institution owes the Department. **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](http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/historical_rates.htm)

### **SUMMARY**

The Department has determined that Rising Star Childcare II is seriously deficient in its operation of the CACFP and that Robert Hubbs, Owner is responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Rising Star Childcare II's CACFP agreement, or propose to disqualify Rising Star Childcare II 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.

Rising Star Childcare II may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Rising Star Childcare II 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:

Rising Star Childcare II 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 September 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 \$4,865.00 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 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](mailto:Sean.Baker@tn.gov).

Sincerely,



Allette Vayda  
Director, CACFP & SFSP

Enclosures

**EXHIBIT A****Verification of CACFP Independent Center Claim****Name of Agency: Rising Star Childcare II****Review Month/Year: September 2017****Total Meal Reimbursement Received: \$5,337.50**

<b>Program Area</b>	<b>Reported on Claim</b>	<b>Reconciled By Monitoring Review</b>
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	960	625
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	94%
Number of Breakfast meals Served	840	288
Number of AM snacks Served	543	0
Number of Lunch meals Served	535	0
Number of PM snacks Served	455	0
Number of Supper meals Served	455	0
Number of Participants in Free Category	46	28
Number of Participants in Reduced-Price Category	0	2
Number of Participants in Paid Category	2	2
Total Number of Participants	48	32
Total Amount of Eligible Food Costs	XXXXXXXX	\$342.84
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$808.21



**STATE OF TENNESSEE**  
**DEPARTMENT OF HUMAN SERVICES**  
 CITIZENS PLAZA BUILDING  
 400 DEADERICK STREET  
 NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165  
 TTY: 1-800-270-1349  
 www.tn.gov/humanservices

**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

January 11, 2018

Robert Hubbs, Owner  
 Rising Star Childcare II  
 420 West Cedar Street  
 Dyersburg, Tennessee 38024-5028

**Notice of payment due to findings disclosed in the monitoring report dated January 11, 2018, for Child and Adult Care Food Program (CACFP)**

Institution Name:	Rising Star Childcare II
Institution Address:	420 West Cedar Street, Dyersburg, Tennessee 38024-5028
Agreement Numbers:	00474
Amount Due:	\$4,865.00
Due Date:	February 6, 2018

Based on the monitoring report issued 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 Rising Star Childcare II to reimburse the Department of Human Services unallowed cost noted in the report.

Please remit a check or money order payable to the **Tennessee Department of Human Services** in the amount of \$4,865.00 by the due date to:

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

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



## **APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES**

### **Appeal Procedures**

1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

- (a) Annually to all institutions;
- (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
- (c) Any other time upon request.

2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:

- (viii) The information submitted on the application was false;
- (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
- (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

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

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

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

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

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

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

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 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.

**CORRECTIVE ACTION PLAN  
CHILD AND ADULT CARE FOOD PROGRAM (CACFP)  
TENNESSEE DEPARTMENT OF HUMAN SERVICES (TDHS)**

**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 Date of Birth on the first page; enter your name, title and date of signature on the last page. Sign your name in ink. Please return ALL pages of the completed Corrective Action Plan form.

<b>Section A. Institution Information</b>	
<b>Name of Institution</b> Rising Star Childcare II	<b>CACFP Agreement No.</b> 00-474
<b>Mailing Address:</b> 420 West Cedar Street Dyersburg, Tennessee 38024	
<b>Section B. Responsible Principal(s) and/or Individual(s)</b>	
<b>Name and Title:</b> Robert Hubbs, Owner	<b>Date of Birth (s):</b>
<b>Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan</b>	
<b>SD Report:</b> January 11, 2018	<b>Corrective Action Plan:</b> January 11, 2018
<b>Section D. Findings</b>	
<b>Findings:</b>	
<ol style="list-style-type: none"> <li>1. The Sponsor reported the number of free, reduced-price and paid participants incorrectly</li> <li>2. The sponsor reported incorrect meal counts</li> <li>3. The Sponsor did not keep separate meal count documentation for each meal served</li> <li>4. The Sponsor reported incorrect participant days</li> <li>5. The number of meals claimed exceeded the validated participant days</li> <li>6. The Sponsor did not provide evidence that sufficient quantities of milk claimed for meals served were purchased</li> <li>7. The Sponsor did not provide a CN label for fish sticks</li> <li>8. There were participants with missing enrollment information</li> <li>9. The Sponsor did not provide documentation of CACFP training</li> <li>10. The Sponsor did not provide evidence of a sound financial system</li> <li>11. The Sponsor did not maintain an inventory of food and non-food items</li> <li>12. The site served outside of approved meal service time</li> </ol>	

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

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

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No.2: 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:

---

---

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 3: The Sponsor did not keep separate meal count documentation for each meal served**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 4: The Sponsor reported incorrect participant days**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 5: The number of meals claimed exceeded the validated participant days**

The finding will be fully and permanently corrected.  
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 6: The Sponsor did not provide evidence that sufficient quantities of milk claimed for meals served were purchased**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

Name: \_\_\_\_\_

Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 7: The Sponsor did not provide a CN label for fish sticks**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 8: There were participants with missing enrollment information**

The finding will be fully and permanently corrected.  
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 9: The Sponsor did not provide documentation of CACFP training**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 10: The Sponsor did not provide evidence of a sound financial system**

The finding will be fully and permanently corrected.  
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 11: The Sponsor did not maintain an inventory of food and non-food items**

The finding will be fully and permanently corrected.  
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

**Measure No. 12: The site served outside of approved meal service time**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

Name: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

---

---

---

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

---

---

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

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

---

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame.

\_\_\_\_\_  
Printed Name of Authorized Institution Official

\_\_\_\_\_  
Position

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date