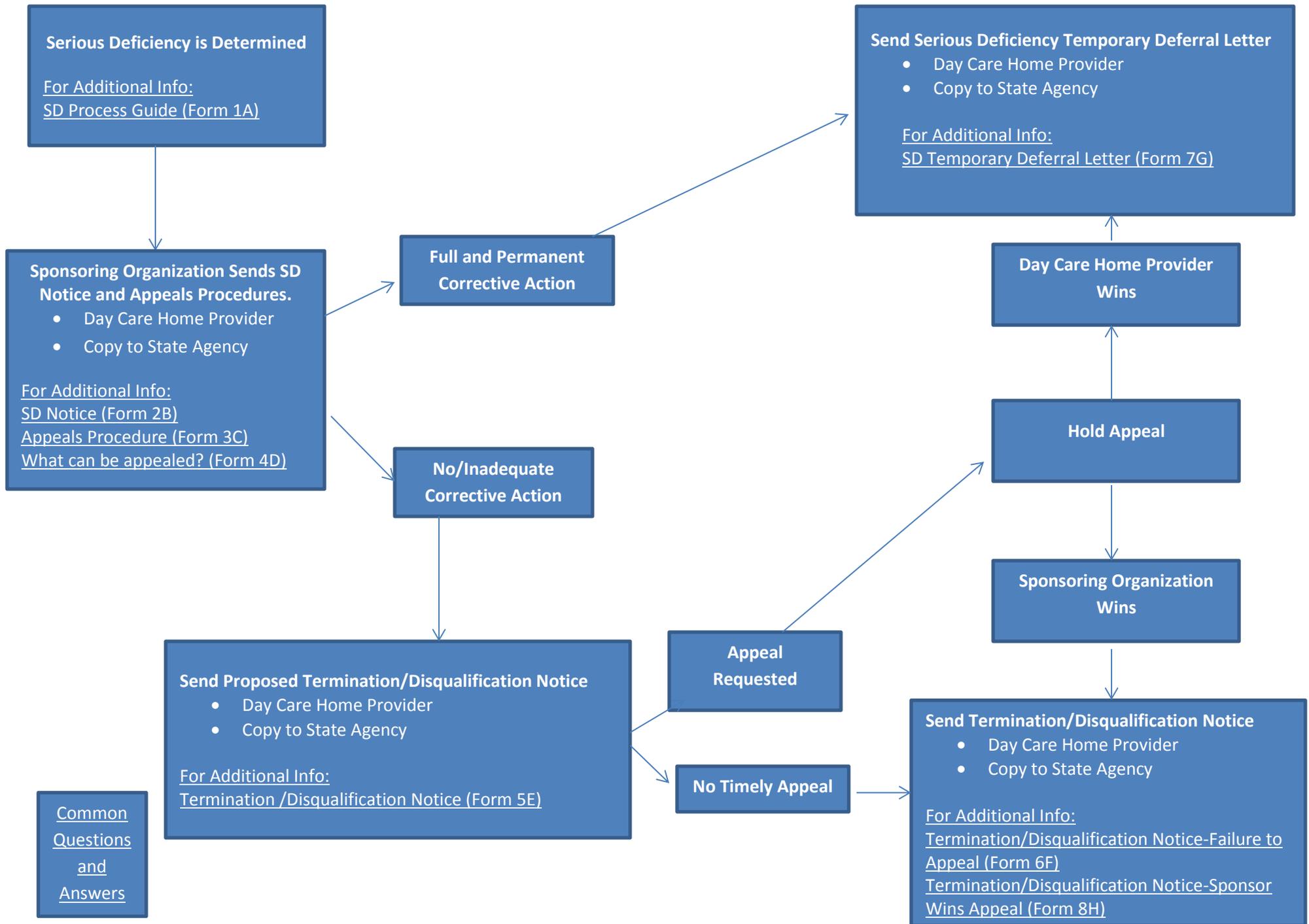


FY 2014-2015 FDCH Serious Deficiency Flow Chart



FY 2014-2015 FDCH Serious Deficiency Flow Chart

SD Process Guide (Form 1A)

Some examples of Serious Deficient Findings:

1. Submission of false information on the application. 7 CFR 226.16(1)(2)(i)

Finding	Sponsor Action	Provider Action
a) A clerical error is discovered on a provider application. The inaccuracies do not affect the ability or amount to claim.	<ul style="list-style-type: none"> Require provider to correct the error. Train provider on importance of providing correct information on all CACFP application materials. 	<ul style="list-style-type: none"> Correct the error on the application. Accurately complete all CACFP records.
b) Provider submits false information on the application that affects the ability or amount to claim.	<ul style="list-style-type: none"> Sponsor denies the application if discovery is made during approval process. Sponsor proceeds with serious deficiency process unless compelling documentation for less severe action. Provide and document training as appropriate. Correct the application information as necessary. Demand payment for overclaims due to the discovery of inaccurate information. Initiate household contacts if necessary to verify the accuracy of the information. Conduct, if appropriate, follow-up visit within 30 days to ensure corrective action is maintained. 	<ul style="list-style-type: none"> Sign corrective action plan and complete by required date. Repays overclaim, if assessed.

2. Submission of false claims for reimbursement. 7 CFR 226.16 (1)(2)(ii)

Finding	Sponsor Action	Provider Action
<p>a) Meals claimed for fictitious or non-existent children.</p> <p>b) Meals claimed for children who are no longer enrolled in care and the last day of enrollment (attendance) was in previous month.</p> <p>c) Other situations where severity and frequency of inaccurate recordkeeping is indicative of a false claim per sponsoring organizations assessment of the situation.</p>	<ul style="list-style-type: none"> Substantiate the findings by conducting household contacts or using other methods to verify attendance. Proceed with Serious Deficiency process, including full and careful documentation of the circumstances leading sponsor to believe that a false or fraudulent claim was submitted. The period for corrective action should almost always be much shorter than the 30-day maximum as the types of acceptable corrective action are limited to demonstration that the sponsor has: <ul style="list-style-type: none"> Made an administrative error; or Confused two providers with similar or identical names; Received inaccurate information from the parents. Additionally, the sponsor must: <ul style="list-style-type: none"> Deny the invalid claim, or Demand repayment (if the claim in question has already been paid). Proceed to Proposed Termination and Disqualification if provider does not successfully demonstrate one of the acceptable corrective actions as listed above. Submit revised claims to MDE. 	<ul style="list-style-type: none"> Demonstrate to sponsor that: <ul style="list-style-type: none"> An administrative error has been made; The sponsor has confused two providers with similar or identical names; or The information submitted by the parents for the household contacts was in fact, false. If unable to demonstrate any of these, the provider will be disqualified from program participation and must repay any overclaims.

3. Simultaneous participation under more than one sponsoring organization. 7 CFR 226.16(1)(2)(iii)

Finding	Sponsor Action	Provider Action
Reimbursement for meals under more than one sponsor.	<ul style="list-style-type: none"> Proceed with Serious Deficiency process, including full and careful documentation of the circumstances leading sponsor to believe that provider is participating under more than one sponsoring organization. The period for corrective action should almost always be much shorter than the 30-day maximum as the types of acceptable corrective action are limited to demonstration that the sponsor has: <ul style="list-style-type: none"> Made an administrative error; or Confused two providers with similar or identical names. Additionally, the sponsor must: <ul style="list-style-type: none"> Deny the invalid claim, or Demand repayment (if the claim in question has already been paid). Proceed to Proposed Termination and Disqualification if provider does not successfully demonstrate one of the two acceptable corrective actions as listed above. Submit revised claims to MDE. 	<ul style="list-style-type: none"> Demonstrate to sponsor that an administrative error has been made or that the sponsor has confused two providers with similar or identical names. If unable to demonstrate either of these, provider will be disqualified from program participation and must repay any overclaims.

FY 2014-2015 FDCH Serious Deficiency Flow Chart

4. Non-compliance with meal pattern. 7 CFR 226.16 (1)(2)(iv)

Finding	Sponsor Action	Provider Action
<p>a) Meal observed at monitoring visit is missing components.</p>	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Ask provider "Is there anything else you are planning to serve?" Document question and answer. • Disallow meal that is missing component(s). • Provide and document technical assistance on meal pattern requirements. • Conduct next visit as unannounced at mealtime. <p>Second Occurrence within 12 months:</p> <ul style="list-style-type: none"> • Ask provider "Is there anything else you are planning to serve?" Document question and answer. Disallow meal that is missing component(s). • Document finding and issue corrective action plan. • Provide and document technical assistance on meal pattern requirements. • Conduct next visit as unannounced at mealtime. <p>Third Occurrence within 12 months:</p> <ul style="list-style-type: none"> • Ask provider "Is there anything else you are planning to serve?" Document question and answer. • Disallow meal that is missing component(s). • Provide and document technical assistance on meal pattern requirements. • Proceed with serious deficiency process unless sponsor can document reason to delay process, such as, provider's length of program experience and literacy/language proficiency. 	<ul style="list-style-type: none"> • Serve meals that contain all CACFP meal pattern components. • Request assistance when needed. • Sign corrective action plan and complete by specified date when issued by sponsor.
<p>b) At meal observed during monitoring visit, portions served are not sufficient to meet meal pattern portion requirements.</p>	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Document portion issue and technical assistance provided on meal pattern requirements, including portion sizes. • Conduct next visit as unannounced at mealtime. <p>Second Occurrence within 12 months:</p> <ul style="list-style-type: none"> • Document portion issue and technical assistance provided on meal pattern requirements, including portion sizes. 	<ul style="list-style-type: none"> • Measure portions until familiar with appropriate amounts. • Offer food to children at least twice if full portion not accepted initially or if portion taken the first time

	<ul style="list-style-type: none"> • Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. • Conduct next visit as unannounced at mealtime. <p>Third Occurrence within 12 months:</p> <ul style="list-style-type: none"> • Document portion issue and technical assistance provided on meal pattern requirements, including portion sizes. • Proceed with serious deficiency process unless sponsor can document compelling reason to delay process. 	<p>is too small.</p> <ul style="list-style-type: none"> • Request assistance with portion sizes when needed. • Sign corrective action plan and complete by specified date when issued by sponsor.
<p>c) Meal observed at monitoring visit is missing a required meal component because a non-creditable food is served in place of a required meal component.</p> <p>Example: Provider serves commercially prepared combination infant foods.</p>	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Disallow meals with non-creditable foods served as a required meal component. • Provide and document technical assistance on creditable foods. • Conduct next visit as unannounced at mealtime. <p>Second Occurrence within 12 months:</p> <ul style="list-style-type: none"> • Disallow meals with non-creditable foods served as a required meal component. • Provide and document technical assistance on creditable foods. • Document finding and issue corrective action plan. • Conduct next visit as unannounced at mealtime. <p>Third Occurrence within 12 months:</p> <ul style="list-style-type: none"> • Disallow meals with non-creditable foods served as a required meal component. • Provide and document technical assistance on creditable foods. • Proceed with serious deficiency process unless sponsor can document compelling reason to delay process. 	<ul style="list-style-type: none"> • Serve meals that comply with CACFP meal pattern requirements. • Request assistance when needed. • Sign corrective action plan and complete by specified date when issued by sponsor.

FY 2014-2015 FDCH Serious Deficiency Flow Chart

5. Failure to keep required records. 7 CFR 226.16 (1)(2)(v)

Finding	Sponsor Action	Provider Action
a) Meal count and/or menu records not available on site.	<p>First Occurrence:</p> <ul style="list-style-type: none"> Disallow all meals for which records are not available. Provide and document technical assistance on recordkeeping requirements. Document finding and issue corrective action plan. Conduct next visit as unannounced. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Disallow all meals for which records are not available. Provide and document technical assistance on recordkeeping requirements. Proceed with serious deficiency process unless sponsor documents compelling reason for alternate action. 	<ul style="list-style-type: none"> Review sponsor/provider agreement and have records available on site during all normal operating hours. Sign corrective action plan and complete by specified date when issued by sponsor.
b) Meal count and/or menu records are not completed or available for one day prior to the monitoring visit.	<p>First Occurrence:</p> <ul style="list-style-type: none"> Disallow all meals for which records are not available. Provide and document technical assistance on recordkeeping requirements. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Disallow all meals for which records are not available. Provide and document technical assistance on recordkeeping requirements. Conduct the next visit as an unannounced visit. 	<ul style="list-style-type: none"> Complete meal count and menu records by end of day. If records are not completed by end of day, do not record them at a later date.
c) Meal count and/or menu records are not completed or available for a period of two or more days prior to the monitoring visit.	<p>First Occurrence:</p> <ul style="list-style-type: none"> Disallow all meals for which records are not available. Provide and document technical assistance on recordkeeping requirements. Document finding and issue corrective action plan. Conduct the next visit as an unannounced visit. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Disallow all meals for which records are not available. Provide and document technical assistance on 	<ul style="list-style-type: none"> Complete meal count and menu records by end of day. If records are not completed by end of day, do not record them at a later date. Sign corrective action plan and complete by specified date.

	<p>recordkeeping requirements.</p> <ul style="list-style-type: none"> Proceed with serious deficiency process unless sponsor documents compelling reason for alternate action. 	
d) Foods observed at the monitoring visit do not match the foods listed on claim.	<p>First Occurrence:</p> <ul style="list-style-type: none"> Disallow meal. Provide and document technical assistance on keeping daily and accurate records. Conduct next monitoring visit unannounced at mealtime. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Disallow meal. Provide and document technical assistance on keeping daily and accurate records. Document finding and issue corrective action plan or proceed with serious deficiency process if sponsor determines it is appropriate. 	<p>First Occurrence:</p> <ul style="list-style-type: none"> Review CACFP requirements for keeping daily and accurate records. Request assistance if needed. Provide plan to prevent the same problem in the future. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Sign corrective action plan and complete by specified date when issued by sponsor.
e) Children observed at meal visit do not match those claimed.	<p>First Occurrence:</p> <ul style="list-style-type: none"> Disallow meal for children not recorded during visit. Provide and document technical assistance on keeping daily and accurate records. Assess compliance on next monitoring visit. Conduct household contacts, if appropriate. Require parent sign-in/out forms, if appropriate. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Disallow meal for children not recorded during visit. Provide and document technical assistance on keeping daily and accurate records. Document finding and issue corrective action plan or proceed with serious deficiency process if sponsor determines it is appropriate. 	<p>First Occurrence:</p> <ul style="list-style-type: none"> Provide plan to prevent the same problem in the future. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Sign corrective action plan and complete by specified date when issued by sponsor.
f) Significantly lower number of children or no children present at visit for a	<ul style="list-style-type: none"> Conduct and document five-day reconciliation using child enrollment forms. Conduct household contacts, if appropriate. Require parent sign-in/out forms, if appropriate. 	<ul style="list-style-type: none"> Provide explanation for the unusual day/meal service and observation by sponsor. Sign corrective action plan and

FY 2014-2015 FDCH Serious Deficiency Flow Chart

meal that is usually claimed.	<ul style="list-style-type: none"> • Conduct next visit as unannounced during same time of day period to evaluate pattern if provider continues claiming the meal service. • Submit revised claims to MDE. • Issue finding and corrective action plan if inaccurate claiming is substantiated. • Proceed with serious deficiency process if findings are substantiated for false claim or provider fails to maintain accurate claims or corrective action plan. 	complete by specified date when issued by sponsor.
g) Meal not served on visit, but is served every other day.	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Conduct and document five-day reconciliation using child enrollment forms noting usual meals for each child. • Conduct household contacts, if appropriate. • Require parent sign-in/out forms, if appropriate. • Revoke shift, dinner and/or weekend claiming if appropriate. • Document finding and issue corrective action plan if inaccurate recordkeeping is substantiated. • Provide and document technical assistance. • Submit revised claims to MDE. • Conduct next visit unannounced at mealtime. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Proceed with serious deficiency process. 	<ul style="list-style-type: none"> • Provide plan to prevent the same problem in the future. • Sign corrective action plan and complete by specified date when issued by sponsor.
h) Assistant in charge did not have access to CACFP records.	<ul style="list-style-type: none"> • Disallow all meals for which records are not available. • Provide and document technical assistance on recordkeeping requirements including providing access to CACFP records when assistant and/or helper are on duty. • Document finding and issue corrective action plan. 	<ul style="list-style-type: none"> • Assistants must have access to all records including computer programs. • Sign corrective action plan and complete by specified date.
i) Meal count records observed to be completed for future meals or dates.	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Provide and document technical assistance on keeping daily and accurate records. Document on monitoring form that meal counts were recorded prior to meal service. • Require removal of meal counts recorded prior to meal 	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Never record meal counts in advance.

	<p>service.</p> <ul style="list-style-type: none"> • Conduct next visit as unannounced visit. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Provide and document technical assistance on keeping daily and accurate records. • Require removal of meal counts recorded prior to meal service. • Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. • Proceed with serious deficiency process if provider does not maintain corrective action plan. 	<p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Sign corrective action plan and complete by specified date when issued by sponsor.
j) The in/out times on the enrollment forms do not match what was observed or usually claimed.	<ul style="list-style-type: none"> • Determine and document reason for discrepancy. • Require update of enrollment forms if schedules have consistently changed or conduct household contacts if appropriate. • Evaluate if further follow-up is required. 	<ul style="list-style-type: none"> • Obtain updated enrollment information at least annually. Child enrollment forms are to reflect each child's typical schedule. If schedule is erratic check 'varies' box. Indicate child's school hours as appropriate. • Follow sponsor instructions for updating enrollment information.
k) Child enrollment forms are not retained at the day care home or are missing required information.	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Determine and document reason for missing and/or incomplete child enrollment forms. • Provide and document technical assistance on enrollment information requirements. • Disallow all meals claimed for children who do not have current required enrollment information at sponsor organization. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Disallow all meals claimed for children who do not have current required enrollment information at sponsor organization. • Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. 	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Update child enrollment forms at least annually following sponsor directions. • Retain child enrollment forms on site. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Sign corrective action plan and complete by specified date.

FY 2014-2015 FDCH Serious Deficiency Flow Chart

	<ul style="list-style-type: none"> Proceed with serious deficiency process if provider refuses to comply with enrollment requirements. 	
<p>l) Meals claimed for children whose parents indicate not in attendance for those days or meals.</p> <p>If severity and/or frequency of inaccurate records is indicative of fraudulent claiming, proceed immediately to serious deficiency process as indicated under #2 Submission of False Claims for Reimbursement.</p>	<ul style="list-style-type: none"> Conduct household contacts. Disallow all meals not verified by parents unless other documentation substantiates parent error. Provide and document technical assistance on accurate and daily recordkeeping requirements. Conduct five or more day reconciliation at all monitoring visits. Collect updated child enrollment forms more frequently than annually if appropriate. Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. Submit revised claims to MDE online or if beyond 90-day adjustment timeline for CLiCS, submit via paper. Proceed with serious deficiency process if discrepancies are significant, repetitive or substantiated as intentional. 	<ul style="list-style-type: none"> Claim meals for children only when they have participated in the meal service and were served a meal that contained all required components. Record meal counts during every meal service if unable to be accurate when recorded by end of every day. Sign corrective action plan and complete by specified date when issued by sponsor.
<p>m) Meals claimed consistently for children on a pattern different than that confirmed and validated by the parent.</p> <p>If severity and/or frequency of inaccurate records is indicative of fraudulent claiming, proceed</p>	<p>First Occurrence:</p> <ul style="list-style-type: none"> Conduct household contacts. Disallow all meals not verified by parents unless other documentation substantiates parent error. Provide and document technical assistance on accurate and daily recordkeeping requirements. Document finding and issue corrective action plan for first occurrence if a consistent pattern of inaccurate claiming is not a significant portion of the monthly claim. If first occurrence is indicative of fraudulent claiming, proceed immediately to serious deficiency process as indicated under #2 Submission of False Claims for Reimbursement. 	<ul style="list-style-type: none"> Claim meals for children only when they have participated in the meal service and were served a meal that contained all required components. Record meal counts during every meal service if unable to be accurate when recorded by end of every day. Sign corrective action plan and complete by specified date when issued by sponsor.
<p>immediately to serious deficiency process as indicated under #2 Submission of False Claims for Reimbursement.</p>	<p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> Proceed to serious deficiency process. 	

FY 2014-2015 FDCH Serious Deficiency Flow Chart

6. Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety. 7 CFR 226.16 (1)(2)(vi)

Finding	Sponsor Action	Provider Action
<p>a) During a home visit, a sponsor representative discovers conditions or conduct they believe pose an imminent threat to the health or safety of the children in care.</p> <p>Examples are:</p> <ul style="list-style-type: none"> • Provider appears incoherent and unaware of children and their safety. • Children are left unsupervised. • Children show signs of being abused. 	<ul style="list-style-type: none"> • Contact local authority. Take action that is consistent with the recommendations or requirements of the health/safety licensing authority. Thoroughly document circumstances and communication. In most situations, this will mean suspension of participation in CACFP, including Program payments and proposed termination unless the health/safety regulatory authority informs the sponsor that suspension would be contrary to their recommendations or requirements. • Other actions that could be taken in lieu of suspension include: requiring corrective action such mandatory training on a food safety issue or increased monitoring. 	<ul style="list-style-type: none"> • Follow sponsor directions as outlined in suspension notice.
<p>b) The sponsor becomes aware another regulatory agency has cited a home for conditions that pose an imminent threat to the health or safety of children or the public.</p>	<ul style="list-style-type: none"> • Document communication with other agencies regarding the threats to the health or safety of children. Suspend the provider's CACFP participation immediately, even though it is prior to any formal action to revoke the home's licensure or approval, unless the health/safety regulatory authority informs the sponsor that suspension would be contrary to their recommendations or requirements. • Using the USDA prototype suspension letters, follow steps in the process of suspending providers including: suspend CACFP participation, including CACFP payments; propose to terminate the home's agreement for cause; propose to disqualify the home and the provider; and outline the procedure for appealing the suspension, proposed termination and proposed disqualification. 	<ul style="list-style-type: none"> • Follow sponsor directions as outlined in suspension notice.

7. A determination that the day care home/provider has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. 7 CFR 226.16(1)(2)(vii)

Finding	Sponsor Action	Provider Action
<p>Provider/day care home has a conviction during the last seven years that indicates a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice or any other activity indicating a lack of business integrity or the concealment of such a conviction.</p>	<ul style="list-style-type: none"> • Confirm the nature of conviction. • Proceed with Serious Deficiency process including full and careful documentation of the circumstances leading sponsor to believe that provider lacks business integrity. The period for corrective action should almost always be much shorter than the 30-day maximum as the types of acceptable corrective action are limited to demonstration that the sponsor has: <ul style="list-style-type: none"> – Made an administrative error; or – Confused two providers with similar or identical names. • Additionally, the sponsor must recover payment of any overclaims and submit revised claims to MDE. • Proceed to Proposed Termination and Disqualification if provider does not successfully demonstrate one of the two acceptable corrective actions as listed above. 	<ul style="list-style-type: none"> • Demonstrate to sponsor that an administrative error has been made or that the sponsor has confused two providers with similar or identical names. If unable to demonstrate either of these, provider will be disqualified from program participation and must repay any overclaims.

8. Failure to participate in required CACFP training. 7 CFR 226.16(1)(2)(viii)

Finding	Sponsor Action	Provider Action
<p>Provider does not complete annual training requirement within designated time frame.</p>	<ul style="list-style-type: none"> • Issue finding with corrective action plan for provider to complete training within 28 calendar days. • If provider does not complete corrective action plan, issue Serious Deficiency notice with corrective action plan requiring the provider to complete the annual training requirement for the previous fiscal year within 21 calendar days. • If provider does not complete the annual training, continue with the serious deficiency process. 	<ul style="list-style-type: none"> • Participate in training provided by sponsor within sponsor designated time frame or before September 30 every year. • If unable to attend training sessions, contact sponsor to learn how to meet requirement. • Sign corrective action plan and complete by specified date.

FY 2014-2015 FDCH Serious Deficiency Flow Chart

9. Any other circumstances related to nonperformance under the sponsoring organization/provider agreement. 7 CFR 226.16 (1)(2)(ix)

Finding	Sponsor Action	Provider Action
a) The provider and children are not at the licensed site when an unannounced home visit is attempted and the provider has not provided prior notification.	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Educate provider on regulation and sponsor procedures concerning prior notification. • Document technical assistance provided. • Disallow meals claimed for meal service during time of attempted visit. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Educate provider on regulation and sponsor procedures concerning prior notification. • Document technical assistance provided. • Disallow meals claimed for meal service during time of attempted visit. Conduct next visit as unannounced. • Conduct and document five-day reconciliation using child enrollment forms. • Conduct household contacts, if appropriate. • Require parent sign-in/out forms, if appropriate • Document finding and issue corrective action plan if provider continues to claim during unsuccessful attempted visits without giving prior notification unless sponsor documents compelling reason to delay issuance. • Proceed with serious deficiency process if provider does not maintain corrective action plan. 	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Notify sponsor if meals will be served away from child care home. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Sign corrective action plan and complete by specified date when issued by sponsor.
b) Assistant not present when number of children present is over capacity or Children present exceed number allowed for age	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Disallow all meals that are claimed in excess of license capacity of the home. • Submit revised claims to MDE if substantiated that provider claims more than license capacity allows. • Provide and document technical assistance on CACFP and license capacity compliance. • Report over-capacity observed during monitoring visit to 	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Always comply with licensing authority capacity requirements. • Obtain variance from licensing authority if operating outside of license capacity listed on license.

category.	<p>licensing authority. Document contact with licensing authority.</p> <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Disallow all meals claimed in excess of license capacity. • Report over-capacity observed during monitoring visit to licensing authority. Document overcapacity and contact with licensing authority. • Provide and document technical assistance on CACFP and license capacity compliance. <p>Third Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Disallow all meals claimed in excess of license capacity. • Contact licensing authority to determine preferred action to take. • Document contact with licensing authority. • Provide and document technical assistance on CACFP and license capacity compliance. • Use sponsor discretion to determine if this provider is to be issued a finding and corrective action or declaration of serious deficiency, unless this action is contraindicated based on contact with licensing authority. 	<p>Provide a copy to sponsor.</p> <ul style="list-style-type: none"> • Accurately report usual times assistant is present if it affects license capacity. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Contact licensing and/or sponsor for assistance. <p>Third Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Sign corrective action plan and complete by specified date when issued by sponsor.
c) Documentation of split shifts is not complete or accurate. For example, children listed on one shift are present, but not recorded, during another meal shift.	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Provide and document technical assistance on completing split shift records. • Disallow any meals exceeding license capacity. • Submit revised claims to MDE. • Conduct next visit unannounced observing all shifts at mealtime to confirm the split shift schedules of children in care. Provide compelling documentation if all shifts of the meal service are not observed. • Document finding and issue corrective action plan to ensure compliance with license capacity per Department of Human Services or other authority 	<ul style="list-style-type: none"> • Carefully follow sponsor procedures for documenting split shifts. • Contact sponsor for assistance. • Sign corrective action plan and complete by specified date when issued by sponsor.

FY 2014-2015 FDCH Serious Deficiency Flow Chart

	<p>license.</p> <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Document finding and issue corrective action plan. • Revoke split shift claiming privilege. 	
d) Provider does not allow monitor, or other USDA or MDE representatives, to conduct visit.	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Educate provider on regulation and responsibility to allow CACFP representatives to enter the licensed site to conduct monitoring visits during normal hours of operation. • Document technical assistance provided. • Disallow all meals during the current month including the day of the attempted visit. • Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Proceed with serious deficiency process if provider does not maintain corrective action plan. 	<ul style="list-style-type: none"> • Allow monitor to complete visit during usual operating hours even if no children are present. • Notify sponsor if not operating during normal hours and will not be available for a sponsor visit. • Sign corrective action plan and complete by specified date when issued by sponsor.
e) Children in attendance have not been enrolled for CACFP benefits (this includes infants being excluded because the provider does not want to offer formula).	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Educate provider that the CACFP must be offered to all children receiving care and that at least one iron-fortified infant formula must be offered. If a parent refuses the CACFP and its benefits, a decline must be signed by the parent. • Verify that all children have a current and complete child enrollment form on file before meals are reimbursed for the child. • Submit revised claims to MDE if any meals were claimed without child enrollment form documentation. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. <p>Third Occurrence within 24 months:</p>	<ul style="list-style-type: none"> • Offer CACFP and its benefits to all children receiving care. • Collect and retain annual enrollment documentation. • Collect a decline of benefits statement from any parent/household refusing CACFP and its benefits. • Do not claim for reimbursement meals that are supplied by parents/households. • Request assistance when needed. • Sign corrective action plan and complete by specified

	<p>license.</p> <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Document finding and issue corrective action plan. • Revoke split shift claiming privilege. 	
d) Provider does not allow monitor, or other USDA or MDE representatives, to conduct visit.	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Educate provider on regulation and responsibility to allow CACFP representatives to enter the licensed site to conduct monitoring visits during normal hours of operation. • Document technical assistance provided. • Disallow all meals during the current month including the day of the attempted visit. • Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Proceed with serious deficiency process if provider does not maintain corrective action plan. 	<ul style="list-style-type: none"> • Allow monitor to complete visit during usual operating hours even if no children are present. • Notify sponsor if not operating during normal hours and will not be available for a sponsor visit. • Sign corrective action plan and complete by specified date when issued by sponsor.
e) Children in attendance have not been enrolled for CACFP benefits (this includes infants being excluded because the provider does not want to offer formula).	<p>First Occurrence:</p> <ul style="list-style-type: none"> • Educate provider that the CACFP must be offered to all children receiving care and that at least one iron-fortified infant formula must be offered. If a parent refuses the CACFP and its benefits, a decline must be signed by the parent. • Verify that all children have a current and complete child enrollment form on file before meals are reimbursed for the child. • Submit revised claims to MDE if any meals were claimed without child enrollment form documentation. <p>Second Occurrence within 24 months:</p> <ul style="list-style-type: none"> • Document finding and issue corrective action plan unless sponsor documents compelling reason to delay issuance. <p>Third Occurrence within 24 months:</p>	<ul style="list-style-type: none"> • Offer CACFP and its benefits to all children receiving care. • Collect and retain annual enrollment documentation. • Collect a decline of benefits statement from any parent/household refusing CACFP and its benefits. • Do not claim for reimbursement meals that are supplied by parents/households. • Request assistance when needed. • Sign corrective action plan and complete by specified

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Serious Deficiency Notification Requirements

If the sponsor determines that a day care home has committed one or more of the serious deficiencies listed in 7CFR (226.16) (l) (1) (2) the sponsor must immediately:

1. Provide the day care home written notice of the serious deficiency (ies),
2. Offer the provider and opportunity to take corrective action, and
3. Send a copy of the serious deficiency notice to the Ohio Department of Education.

The notice must specify:

1. The serious deficiency (ies),
2. The actions to be taken by the provider to correct the serious deficiency (ies),
3. The time allotted to correct the serious deficiency (ies) – as soon as possible but not exceed 30 days,
4. That the serious deficiency determination is not appealable,
5. That failure to fully and permanently correct the serious deficiency (ies) within the allotted time will result in the sponsor's proposed termination of the day care home's agreement and the proposed disqualification of the day care home and its principals, and
6. That the day care home's voluntary termination of its agreement with the sponsor after having been notified that it is serious deficient will result in the day care home's formal termination and placement on the National CACFP Disqualified List.

The notice must be sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile or by email. If the notice is undeliverable, it is considered to be received five days after being sent to the addressee's last known mailing address, facsimile number or email address. 7CFR (226.2)

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Serious Deficiency Form 2B

Prototype Serious Deficiency Notice (provider)

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7CFR (226.2) (definition of "notice") in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns the [brief description of the basis for the serious deficiency determination- review, audit, etc. and date] of your operation of the Child and Adult Care Food Program (CACFP).

SERIOUS DEFICIENCY DETERMINATION

Based on the [review/audit/etc.], we have determined that you are seriously deficient in your operation of the CACFP. If you do not full and permanently correct all of the serious deficiencies and submit documentation of the corrective action by the due date, we will:

- Propose to terminate you agreement to participate in the CACFP for cause, and
- Propose to disqualify you from future CACFP participation.

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the Stage agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16 (1) of the CACFP regulations (7 CFR 226.16(1)).

SERIOUS DEFICIENCIES AND REQUIRED CORRECTIVE ACTION

The following paragraphs detail each serious deficiency and the corrective action required.

[Insert discussion of serious deficiencies and required corrective action. Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regs at 7CFR 226.16(1)(2) (if the serious deficiency is not specifically listed, cite 7 CFR 226.16(1)(2)(vii) "any other circumstance related to non-performance under the sponsoring organization-day care home agreement").]

SUMMARY

We have determined that you are seriously deficient in your operation of the CACFP. You must provide us documentation that shows you have taken the required corrective action for each of the serious deficiencies

FY 2014-2015 FDCH Serious Deficiency Flow Chart

cited in this letter. The documentation must be received (not just postmarked) by [corrective action deadline; may establish different deadlines for different serious deficiencies].

If we do not receive the documentation of your corrective action by the due date, or if we determine that the actions taken do not fully and permanently correct all of the serious deficiencies, we will propose to terminate your CACFP agreement for cause and will propose to disqualify you.

You may not appeal the serious deficiency determination. However, if we propose to terminate your agreement for cause or propose to disqualify you, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

You may continue to participate in the CACFP during the corrective action period. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

[Insert if applicable: “If we receive the documentation of your corrective action by the due date and determine that it fully and permanently corrects all of the serious deficiencies, then we will conduct an unannounced follow-up review to verify the adequacy of the corrective action.”] If we find in [insert if applicable: “the follow-up review or”] any subsequent review that any of these serious deficiencies have not been fully and permanently corrected, we will immediately propose to terminate your agreement for cause and propose to disqualify you without any further opportunity for corrective action.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Appeals Procedure Form 3C

(Sponsoring Organization Name)

Hearing Procedures

Family Day Care Homes

The following hearing procedures established in accordance with Section 226.16 and 226.18 of the Child and Adult Care Food Program regulations, as amended by Section 243(c)(5)(D) of Public Law 106-224, shall apply to any family day care home provider requesting a review of the Intent to Terminate Notice from participation in the Child and Adult Care Food Program. The grounds for termination include, but are not limited to the following:

- 1) Failure to meet the requirements of 7 CFR Part 226.18;
- 2) Submission of false claim information;
- 3) Failure to maintain adequate records, including, but not limited to:
 - i. Daily dated Menu and Production Records;
 - ii. Daily dated meal counts; and
 - iii. Daily dated attendance/sign-in sheets;
- 4) The claiming of meal payments for meals not served to participants;
- 5) Service of a significant number of meals which did not include required meal components or required quantities of all meal components;
- 6) Observation of no children in attendance after repeated unannounced visits; and
- 7) Failure to allow access to the home facility to conduct required monitoring and/or training and technical assistance.
- 8)

A day care home provider desiring to appeal an adverse decision made by their sponsoring organization shall be informed of the appeals procedure upon enrolling in the Program and upon delivery of a Notification of Intent to Terminate. The following actions are reasons for provider appeals or requests for hearing by providers:

- 1) A denial or notice of intent to deny a provider's application for renewal of participation in the Child and Adult Care Food Program (CACFP);
- 2) Notice of intent to terminate the participation of a provider;
- 3) Suspension of a provider's participation in the Program;
- 4) A denial of all or a part of a provider's Claim for Reimbursement;
- 5) Demand for the remittance of an overpayment; or
- 6) Any other action of the sponsor affecting the participation of a provider in the Program or the provider's Claim for Reimbursement.

The family day care home provider shall be advised in writing of the grounds on which the sponsoring organization based the Notice of Intent to Terminate. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the provider has the right to appeal the action.

A written request for review (appeal) shall be filed by the family day care home provider within 15 calendar days from the date the family day care home provider **received** the notice of action.

FY 2014-2015 FDCH Serious Deficiency Flow Chart

What Can be Appealed (Form 4D)

702 KAR 6:100. Appeal procedures for nutrition and health services programs.

RELATES TO: KRS 156.070(5), 156.160(1)(f), 7 C.F.R. 210.18(q), 215.11, 220.13(f)(2), 225.13, 226.6(k), 42 U.S.C. 1761, 1766(e), 1772

STATUTORY AUTHORITY: KRS 156.070(5), 7 C.F.R. 210.18(q), 225.13

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(5) requires the Kentucky Board of Education to promulgate administrative regulations governing the operation of programs within the Department of Education. 7 C.F.R. 210.18(q) and 225.13 require the board to establish an impartial and fair appeals procedure for the federal nutrition program. This administrative regulation establishes the appeals procedure for a sponsor of a federal nutrition program.

Section 1. Actions that May be Appealed.

(2) A sponsor of the Child and Adult Care Food Program, including an independent center or sponsoring organization on behalf of a facility under its jurisdiction, and responsible principals and responsible individuals, may appeal the following adverse actions:

- (a) Denial of a new or renewing institution's application for participation;
- (b) Denial of an application submitted by a sponsoring organization on behalf of a facility or site;
- (c) Notice of proposed termination of participation of an institution or facility or site;
- (d) Suspension of an institution's agreement;
- (e) Denial of an institution's application for start-up payments;
- (f) Denial of an advance payment;
- (g) Denial of all or part of a claim for reimbursement;
- (h) Notice of proposed disqualification of a responsible principal or a responsible individual;
- (i) Recovery of all or part of an advance in excess of the claim for the applicable period;
- (j) Decision by the Department of Education not to forward to Food and Nutrition Service (FNS) an exception request by an institution for payment of a late claim, or a request for an upward adjustment to a claim;
- (k) Demand for the remittance of an overpayment; or
- (l) Any other action of the Department of Education affecting the participation of an institution in the program or the institution's claim for reimbursement.

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Proposed Termination Notice (Form 5E)

Prototype Letter: Notice of Proposed Termination and Proposed Disqualification

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or as required by 7CFR 226.2 (definition of “notice”) in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP).

We received the documentation you sent us detailing the actions you have taken to correct these serious deficiencies on [date], before the corrective action deadline. [Insert if applicable: “We conducted a follow-up review on [date] to verify the adequacy of the corrective actions.”]

Based on our review of the documentation [insert if applicable: “and the follow-up review”], we have determined that you have not fully and permanently corrected the serious deficiencies that were cited in the Serious Deficiency Notice.

PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION

As a result, we are:

- Proposing to terminate your agreement to participate in the CACFP for cause effective [date]’ and
- Proposing to disqualify you from future CACFP participation effective [date].

[The effective date for the termination/disqualification must be after the deadline for requesting an appeal. In addition, the effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until debt has been repaid.

These actions are being taken pursuant to section 226.16(1) of the CACFP regulations (7 CFR 226.16(1)).

STATUS OF SERIOUS DEFICIENCIES

The following paragraphs detail each serious deficiency and its status based on our review of the corrective action documentation [insert if applicable: “and the [date] follow-up review”].

[Insert discussion of each serious deficiency and the reasons why corrective action was inadequate (the corrective action may be adequate for some items and not for others; make sure you specify the status of the corrective action for each serious deficiency).

Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regs at 7 CFR 226.16(1) (2) (if the serious deficiency is not specifically listed, cite 7 CFR 226.16(1)(2)(vii) “any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).]

APPEAL OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATIONS

FY 2014-2015 FDCH Serious Deficiency Flow Chart

You may appeal the proposed termination of your agreement for cause and your proposed disqualification. A copy of the appeal procedures is enclosed. If any of you decide to appeal the proposed actions, make sure you follow the appeal procedures exactly because the failure to do so could result in the denial of your request for an appeal.

SUMMARY

You have not fully and permanently corrected the serious deficiencies identified in the Serious Deficiency Notice. For this reason, we are proposing to terminate your CACFP agreement for cause and proposing to disqualify you.

If you appeal the proposed termination and the proposed disqualification, the proposed actions will not take effect until the hearing official issues a decision on the appeals. If you don't make a timely request for an appeal, your agreement will be terminated for cause on [date]. If you do not appeal your proposed disqualification, you will be disqualified from future CACFP participation effective [date] and placed on the National Disqualified List.

You may continue to participate in the CACFP until [termination/disqualification effective date] or, if you appeal the proposed actions, until the hearing official issues a decision on the appeal. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

Enclosure

Appeal Procedures

cc: State agency

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Termination/Disqualification Notice-Provider fails to Appeal (Form 6F)

Prototype Letter: Notice of Termination and Disqualification (following failure to appeal) (provider)

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns our [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You received the Notice of Proposed Termination & Proposed Disqualification on [date received]. You had until [insert deadline for requesting appeal] to submit any requests for appeal of the proposed actions. No request for appeals was submitted by that deadline.

TERMINATION AND DISQUALIFICATION

Because the time to request an appeal has now expired, we are:

- Terminating your agreement to participate in the CACFP for cause effective [date], and
- Disqualifying you from future CACFP participation effective [date].

[The effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Upon disqualification, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16(1) of the CACFP regulations (7 CFR 226.16(1)).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of its agreement for cause or the disqualification. You may continue to participate in the CACFP

FY 2014-2015 FDCH Serious Deficiency Flow Chart

until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Temporary Deferral Letter-Provider Wins Appeal (Form 7G)

Prototype Letter: Temporary Deferment of Serious Deficiency, Proposed Termination and Proposed Disqualification (after provider wins appeal) (provider)

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery services (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of "notice") in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns or [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [date of hearing official's decision], the hearing official issued a decision on the appeal in that decision, the hearing official overturned both of our proposed actions.

SERIOUS DEFICIENCY DETERMINATION TEMPORARILY DEFERRED

As a result, we have temporarily deferred our serious deficiency determination as of [date of hearing official's decision] (the date of the hearing official's decision). We are also temporarily deferred the proposed termination of your agreement for cause and your proposed disqualification as of the same date.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Termination and Disqualification Notice (Form 8H)

Prototype Letter: Notice of Termination and Disqualification (after sponsor wins appeal) (provider)

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]

Date:

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns our [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficiency in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [date of hearing official’s decision], the hearing official issued a decision on the appeal. In that decision, the hearing official upheld both of our proposed actions.

TERMINATION AND DISQUALIFICATION

As a result, we are:

- Terminating your agreement to participate in the CACFP for cause effective [date], and
- Disqualifying you from future CACFP participation effective [date].

[The effective date for the disqualifications should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Upon disqualification, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16(1) of the CACFP regulations (7 CFR 226.16(1)).

SUMMARY

FY 2014-2015 FDCH Serious Deficiency Flow Chart

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of its agreement for cause or the disqualification. You may continue to participate in the CACFP until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Questions and Answers

FCC Serious Deficiency Process

- 1. Question:** Does termination of provider's agreement by a sponsor "for convenience" require the sponsoring organization to offer an administrative review (right to appeal)?

Answer: No. Termination for convenience by the sponsor means that the sponsor has terminated the agreement for reasons unrelated to the provider's performance under the agreement. There are a number of circumstances under which a sponsoring organization could legitimately determine that it had to terminate a provider's agreement for convenience. For example, if a sponsoring organization operated the Program in 200 homes in 4 countries, but 2 of the homes were located in the most remote county and were farthest from the sponsor's offices, the sponsor might conclude that it was no longer cost-effective to sponsor these providers. Therefore, in order to maintain the sponsoring organization's financial viability the sponsoring organization could legitimately terminate the provider's agreement "for convenience". To offer a provider and administrative review in the instance would substitute a review officer's judgment for that of the sponsoring organization regarding the decisions necessary to manage the CACFP consistent with the requirement that the sponsor be financially viable.

Because termination for convenience is not based on the "fault" of the other party, providers who have had their Program agreement terminated for convenience are not placed on the National Disqualified List. In addition, if a provider's agreement is terminated for convenience by its sponsor, the provider may participate in the Program under another sponsor, and their participation would not be subject to the provider transfer limits established by the State agency.

- 2. Question:** If a day care home loses its license, must the sponsor declare the home seriously deficient?

Answer: If a home loses its license, it is ineligible to participate. As long as the home notifies the sponsor that it has lost its license and is not claiming meals, there is no need for the sponsor to declare the home seriously deficient. However, a home that loses its license and continues to submit claims for Program reimbursement is seriously deficient.

- 3. Questions:** If a provider is found to have submitted a claim for a child not enrolled in her care, can she be allowed to continue program participation as a corrective action?

Answer: As a general rule, a child must be enrolled for care in order to be claimed for CACFP reimbursement. If the sponsor "found" the problem, the sponsor must follow the seriously deficient steps outlined in 333.16 (1) (3). When "false" claims are uncovered, the seriously deficient process must be initiated (e.g., a notice of serious deficiency must be sent, an overclaim must be assessed, an opportunity to provide corrective action must be given, etc.) When a provider is declared seriously deficient, he/she is still eligible to participate during this time and all valid claims must continue to be paid.

- 4. Question:** During a review, the sponsor issues a finding that is not a serious deficiency, but that requires the home to take corrective action. Can the provider self-terminate at this point, without any action by the sponsor?

FY 2014-2015 FDCH Serious Deficiency Flow Chart

Answer: Yes, the provider can terminate its agreement with the sponsor “for convenience” at any time, provided that the sponsor has not discovered a serious deficiency in the provider’s Program operations, or has not declared the provider seriously deficient.

5. **Question:** Are these accurate statements? There is no second chance for providers who have submitted a deliberately untrue claim. The only corrective action for these providers is the opportunity for the provider to submit information that shows the sponsor has something confused or has made an administrative error. No matter how repentant the provider is, a sponsor may not keep the provider on the program, even with additional monitoring. These providers must be declared seriously deficient and terminated with placement on the NDL.

Answer: Your statements are correct. The seriously deficient process must continue to move forward in any instance where a provider is unable to provide a satisfactory answer to a sponsor’s finding/request for corrective action. This process would include the need to issue a notice of proposed termination and right to appeal and if the sponsor wins the appeal, the issuance of a notice of termination and placement on the NDL.