Date: May 1, 2010
Reference: # CACFP ADC 2010-08
To: Child and Adult Care Food Program-Adult Day Care (CACFP ADC) Contractors
Subject: Revision to CACFP ADC Handbook
Effective Date: Various

Purpose

REPLACE CACFP ADC Handbook Item 4320, Adding, Deleting or Making Changes to Facilities

ADD CACFP ADC Handbook Items:
- 4322, Denials
- 4323, Resuming Facility Participation
- 4324, Open Enrollment
- 4325, Transfers

Summary of Changes

- **Transfer Policy**: TDA is implementing a sponsored facility transfer policy to limit the number of times a facility can transfer from one sponsor to another during a program year. This transfer policy does not limit the facility from terminating its agreement with the sponsor and applying directly with the Texas Department of Agriculture (TDA).

- **Additional Documentation**: Sponsoring organizations must collect additional documentation from unaffiliated facilities when adding them under their sponsorship. The additional documentation includes:
  - Articles of Incorporation, Assumed Name Certificate or Certificate of Formation;
  - IRS 501(c)3 (if applicable);
  - Organizational chart; and
  - Governing Body Awareness see CACFP ADC Handbook item 2140.

This additional information is to provide the sponsor and TDA the ability to identify responsible individuals within the facility’s organization, as well as an assurance that the facility is aware of the responsibilities and liabilities that come with participation in the CACFP. This is in line with the documentation requirements for organizations that contract directly with TDA.

Implementation

**Transfer Policy**: Program Year (PY) 2011 (10/1/10-9/30/11) with first possible transfer to another sponsor being effective PY2012 (10/1/11-9/30/12). Sponsors must have new agreements (Form 1653) for all sponsored facilities by January 1, 2011.

This Policy Remains in Effect Until Further Notice
Implementation continued

Additional Documentation: Sponsors must have on file the additional documentation for any unaffiliated facilities they are submitting for approval with signature dates on Form H1653 of June 2010 or later. Sponsors must have the additional documentation on file for all currently participating facilities by October 1, 2011 and must ensure they obtain the documentation for facilities they are adding prior to submitting the facilities for approval.

Procedure

Replace CACFP ADC Handbook Item 4320 with the following:

Sponsoring organizations (sponsors) must inform facilities that are not part of the same legal entity that they are eligible to apply for participation in the CACFP as an independent center.

Sponsoring organizations must use the following process to make additions, deletions or changes to facilities. Sponsors must submit Form H1605, Changes in Adult Day Care Facility Participation, to their F&N Community Operations office no later than the 25th day of the month for the request to be effective for that month. If the 25th of the month is a non-workday, Form H1605, with supporting documentation, must be received no later than the preceding workday.

If Form H1605, with supporting documentation, is received after the 25th day but before the last day of the month, the requested addition, deletion or change will not be effective until the following month. If you provide evidence showing that you mailed Form H1605 with supporting documentation on or before the 21st day of the month, thereby providing proof that you mailed the documents in sufficient time to have reached TDA by the due date under normal circumstances, the requested addition, deletion or change will be effective the month of submission.

NOTE: FND accepts a postmark affixed by the U.S. Postal Service or equivalent documentation from a private postal service showing when the item was mailed as proof of submission.

- When submitting Form H1605 to ADD a facility, sponsoring organizations will need to submit the following:
  - Form H1520, Sponsoring Organization Monitoring Staff Information;
  - Form H1522, Eligibility of For-Profit Adult Day Care Centers;
  - Form H1548, Application/Management Plan Change, amending the sponsoring organization’s budget since the addition will change a sponsoring organization’s budget.
  - Form H1651, Application Between Contracting Organization and Adult Day Care Center;
  - Form H1653, Permanent Agreement Between Sponsoring Organization and Adult Day Care Facility (required only when adding an unaffiliated facility); and
  - A copy of the facility’s license/certification to provide day care services.

continued
The sponsor must also obtain from an unaffiliated facility and maintain in the facility file a copy of the following:
- Articles of Incorporation, Assumed Name Certificate or Certificate of Formation;
- IRS 501(c)3 (if applicable);
- Organizational chart; and
- Governing Body Awareness (see CACFP ADC Handbook item 2140).

You must submit Form H1651 and Form H1653 (unaffiliated facilities) for each facility you intend to sponsor. The original Form H1651 and Form H1653 must have signatures that are clearly discernable as originals, representing both the facility and you.

When enrolling a facility or making changes to the facility’s participation (i.e., changes in meal service times), sponsors may fax completed Forms H1651, H1653 and H1605 as long as the following conditions are met:

- Forms that are faxed must be signed with original signatures by both the sponsor and facility representatives. Using “signature on file” is not sufficient to demonstrate that the sponsor representative and/or facility representative signed the forms, certified that the information contained is true and correct, and agreed to all terms and conditions.
- Forms must be legible and come through the fax in their entirety. Faxing copies is discouraged as copies tend to be harder to read and, if copied incorrectly, can cut off parts of the text. A faxed form that cannot be read will be considered incomplete or incorrect and will delay approval and reimbursement.
- Sponsors must keep the originals of faxed documents in their program files and available for review upon request.
- Sponsors must adhere to record keeping requirements.
- Sponsors should follow up faxed submissions with a phone call to verify receipt of faxed documents. A fax confirmation will not suffice as proof that the fax was received.

These documents must be provided, upon request, to FND. In addition, the completeness and accuracy of these documents will be evaluated during Administrative and Site Reviews.

- When submitting Form H1605 to **DELETE** a current facility, sponsoring organizations will need to submit the following:
  - Form H1520, **Sponsoring Organization Monitoring Staff Information**; and
  - Form H1548, **Application/Management Plan Change**, amending the sponsoring organization’s budget since the deletion will change a sponsoring organization’s budget.
- When submitting Form H1605 to **CHANGE** a current facility’s application, sponsoring organizations will need to submit the following:
  - Form H1651, **Application Between Contracting Organization and Adult Day Care Center**, to make the amended changes; and
  - Form H1548, **Application /Management Plan Change**, to report any changes to the sponsoring organization’s budget if there were any changes to the facility’s budget.
Procedure continued

FND will not approve a facility’s participation, and you may not claim reimbursement for meals served at a facility, before the latest of the following dates:

- Effective date of the facility's license;
- Date of the pre-approval visit;
- Beginning effective date on the agreement (Form H1653 – unaffiliated facilities);
- Latest date that Form H1651 (applies to affiliated facilities only) or Form H1653 (applies to unaffiliated facilities) is signed by the facility or you;
- Date of participation that FND assigns (Form H1605); or
- First day of the month in which an approvable application (Form H1651 – applies to affiliated facilities only) or agreement (Form H1653 – applies to unaffiliated facilities only) is received by FND, if received no later then the 25th day of the month.

Example: The beginning effective date on the agreement (Form H1653) is February 21, 2010; the facility's license is effective March 1, 2010, the pre-approval visit was conducted March 10, 2010 and the approvable application or agreement was received by TDA on March 25, 2010. The earliest the facility could begin claiming would be March 10, 2010.

Example: The beginning effective date on the agreement (Form H1653) is February 21, 2010; the facility's license is effective March 1, 2010, the pre-approval visit was conducted March 10, 2010 and the approvable application or agreement was received by TDA on March 26, 2010. The earliest the facility could begin claiming would be April 1, 2010.

Example: The beginning effective date on the agreement (Form H1653) is March 1, 2010; the facility's license is effective March 1, 2010, the pre-approval visit was conducted March 1, 2010 and the approvable application or agreement was received by TDA on March 25, 2010. The facility could begin claiming be March 1, 2010.

Add the following to your CACFP-ADC Handbook:

4322  Denials

Form H1651 or Form H1653 will be denied and returned to you if:

- The facility is already participating with another sponsor.
- The facility is requesting a transfer, but you do not attach a transfer approval letter from FND.
- The facility, responsible principal(s) and/or responsible individual(s) has been declared seriously deficient and is on the National Disqualified List, or debarred from participating in the CACFP.
- The facility is currently participating in the program and signs either form prior to June 1 or after September 30.
The facility signed Forms H1651 and H1653 with multiple sponsors between June 1 and September 30. The sponsor whose Form H1653 shows the earliest sign date of both the facility and the sponsor representative has the legally binding application and agreement.

You failed to submit a valid copy of the facility’s license or certification.

**4323 Resuming Facility Participation**

If an otherwise eligible facility whose agreement has been terminated wishes to resume their participation in the same Program Year, the facility must participate with you, unless:

- The facility has "good cause" for a transfer and FND approves the facility to transfer to another sponsor.
- The facility signs an agreement for the next program year during the open enrollment period (June 1 through September 30 of each program year).
- The facility applies to participate directly with TDA.

You must submit the same items as required in Item 4320, *Adding, Deleting or Making Changes to Facilities*, as you would if adding a new facility.

**4324 Open Enrollment**

Facilities may select a new sponsor, without our prior approval, between June 1 and September 30 of each program year. Agreements (Form H1653) signed during the open enrollment period are effective October 1 of the following program year. A new facility can sign an agreement with a sponsor at any time during the program year. If the agreement is signed between June 1 and September 30, the new facility may choose another sponsor before the end of the open enrollment period to be effective October 1 of the following program year. If a facility signs Form H1653 with more than one sponsor during open enrollment, the Form H1653 that was signed earliest by both the sponsor representative and the facility is legally binding. Once a facility has selected a sponsor, the facility may not transfer to another sponsor without prior approval from FND.

**EXCEPTION:** A facility may terminate its agreement with the sponsor and apply to participate with TDA at anytime during the year.

**4325 Transfers**

Prior to open enrollment, you may not recruit nor enter into a sponsorship agreement for the next program year with facilities that are currently participating or had participated with a sponsor in the CACFP in the current Program Year. Facilities that show good cause for transferring from a sponsor may, with prior approval from FND, enter into an agreement with another sponsor at any time during the program year.
If a facility wants to transfer to another sponsor, they must:

- Request in writing, and receive, prior approval for the transfer from FND.
- Demonstrate good cause for the transfer request.

Submit a letter to their current sponsor stating the intention to terminate their agreement and the effective date of termination.

"Good cause" for transferring from the sponsorship of one sponsor to another during the program year is limited to the following conditions:

- Deny a facility access to the program.
- Reduce the level of benefit a facility receives under the program (for example, the sponsor will not allow facilities to claim suppers or weekend meals because they do not want to monitor these meal services).
- Any other good cause as determined by TDA.

It is the facility's responsibility to demonstrate that such conditions exist.

**EXAMPLE:** A facility moved to an area where the current sponsor does not provide service.

When approving a transfer based on good cause, FND will specify the earliest dates on which a new agreement may be signed or become effective. Transfers may be approved any time throughout the program year when there is good cause. The approval granted by FND to transfer is only effective one time. A facility may not use the same transfer letter to transfer between multiple sponsors. You must attach the approval to transfer letter to the facility's application.

Occasionally, a sponsor will cease participation in the CACFP prior to the end of the program year. When this happens, FND notifies the facilities that they are approved to transfer to another sponsor. No sponsor may execute an agreement with a facility that has been approved for transfer prior to the date of notification.

If you are enrolling a facility that was previously under the sponsorship of a sponsor who terminated during the same program year, you must attach the termination letter/approval to transfer letter to the facility's application.

Any costs you incur while recruiting a current or former sponsor's facilities, prior to June 1 or prior to the date that FND has approved a facility's transfer, are unallowable. At a minimum, your records must include:

- Itemized accounts, including the source of non-Program revenue, of recruiting costs.
- The first date of contact with the facility.

Failure to properly request these changes may delay the processing of your claim or result in a reduced reimbursement.

If you have any questions please contact your Community Operations office.