

## Serious Deficiency Determinations Process Guide for Family Day Care Home Sponsors

A Family Day Care Home (FDCH) Sponsor in the Child and Adult Care Food Program (CACFP) must initiate action to terminate the agreement of a family day care home provider for cause, if the sponsoring organization determines the provider has committed one or more serious deficiency, as listed in the Code of Federal Regulations (CFR) 226.16.

The Minnesota Department of Education developed this guide to help FDCH sponsors determine how and when to initiate action to terminate the agreement of a provider under these circumstances. The guide includes statements of noncompliance with program regulations, called findings. Sponsors who identify these findings must issue a corrective action plan to the provider, which describes specifically how to correct the finding and includes a timeline for when the action must be taken. If a finding is severe enough, repeated, persists, or if the corrective action is not maintained, the sponsor is required to declare the provider seriously deficient. Factors to consider in declaring a provider seriously deficient include the frequency and severity of the finding, the provider’s training and experience with the program, and the literacy level or English proficiency of the provider. Some special circumstances such as language barriers may require additional training and technical assistance so the provider clearly understands how to permanently correct the finding. Language cannot repeatedly be a reason for noncompliance.

The Serious Deficiencies are listed in the Code of Federal Regulations (CFR) 226.16 and include:

1. [Submission of false information on the application \(7 CFR 226.16\(1\)\(2\)\(i\)\)](#).....page 3
2. [Submission of false claims for reimbursement \(7 CFR 226.16\(1\)\(2\)\(ii\)\)](#) .....page 4
3. [Simultaneous participation under more than one sponsoring organization \(7 CFR 226.16\(1\)\(2\)\(iii\)\)](#) .....page 5
4. [Noncompliance with the program meal pattern \(7 CFR 226.16\(1\)\(2\)\(iv\)\)](#) .....page 6
5. [Failure to keep required records \(7 CFR 226.16\(1\)\(2\)\(v\)\)](#) .....page 8
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\(1\)\(2\)\(vi\)\)](#).....page 15
7. [A determination that the provider has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes: fraud, antitrust violations, embezzlement, theft, forgery, bribery,](#)

	<a href="#"><u>falsification or destruction of records, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the state agency, or the concealment of such a conviction (7 CFR 226.16(1)(2)(vii))</u></a> .....	page 15
8.	<a href="#"><u>Failure to participate in required CACFP training (7 CFR 226.16(1)(2)(viii))</u></a> .....	page 16
9.	<a href="#"><u>Any other circumstances related to nonperformance under the sponsoring organization/provider agreement as specified by the sponsor or state agency. This may include, but not be limited to, continuous submission of late and/or incomplete claims for reimbursement, and failure to comply with civil rights laws (7 CFR 226.16(1)(2)(ix))</u></a> .....	page 17

**MDE has distributed the USDA prototype notices to use when a sponsor proceeds with the serious deficiency process.** These prototypes include required elements that must be included in the notice of serious deficiency process. Copies of the letters sent to providers are to be promptly sent to MDE. If the provider does not take action to fully and permanently correct the serious deficiency within the allotted time, the sponsor organization is to follow the prototype letter for proposed termination and disqualification prior to termination of the provider's agreement with the sponsoring organization. There is one exception. If a provider poses an imminent threat to the health and safety of the children or the public, the provider is immediately suspended from program operations and declared seriously deficient. In the situation where a sponsoring organization rescinds a serious deficiency determination, the reason for rescission is to be included in the documentation sent to MDE.

The Minnesota Department of Education will use this guide to assess the FDCH Sponsor's determination of serious deficiency of their providers during the FDCH Sponsor review. Using this document will enable FDCH Sponsors to consistently apply the serious deficiency process for all Minnesota providers. **If a FDCH Sponsor does not use the guidelines, documentation of the rationale and circumstances of the process are required to justify the actions taken. Documentation of the circumstances and justification must be maintained on file for review.**

Education and training is key to preventing a provider from being declared seriously deficient. A FDCH Sponsor is responsible for providing adequate training and technical assistance for providers to ensure successful participation in the program in accordance with CACFP regulations. Sufficient training is necessary during the pre-approval and 30-day follow-up visit to enable the provider to fully understand the program requirements and demonstrate their ability to carry out the functions to be in program compliance. Training is required annually thereafter and technical assistance can be offered at monitor visits or as needed. Documentation of technical assistance and training to providers is required.

The guide lists each serious deficiency and examples of findings, sponsor action and provider action. The examples listed are not exhaustive.

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

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

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

<b>Finding</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<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"> <li>• Substantiate the findings by conducting household contacts or using other methods to verify attendance.</li> <li>• 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"> <li>– Made an administrative error; or</li> <li>– Confused two providers with similar or identical names;</li> <li>– Received inaccurate information from the parents.</li> </ul> </li> <li>• Additionally, the sponsor must:               <ul style="list-style-type: none"> <li>– Deny the invalid claim, or</li> <li>– Demand repayment (if the claim in question has already been paid).</li> </ul> </li> <li>• Proceed to Proposed Termination and Disqualification if provider does not successfully demonstrate one of the acceptable corrective actions as listed above.</li> <li>• Submit revised claims to MDE.</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate to sponsor that:               <ul style="list-style-type: none"> <li>– An administrative error has been made;</li> <li>– The sponsor has confused two providers with similar or identical names; or</li> <li>– The information submitted by the parents for the household contacts was in fact, false.</li> </ul> </li> <li>• If unable to demonstrate any of these, the provider will be disqualified from program participation and must repay any overclaims.</li> </ul>

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

<b>Finding</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<p>Reimbursement for meals under more than one sponsor.</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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"> <li>– Made an administrative error; or</li> <li>– Confused two providers with similar or identical names.</li> </ul> </li> <li>• Additionally, the sponsor must:               <ul style="list-style-type: none"> <li>– Deny the invalid claim, or</li> <li>– Demand repayment (if the claim in question has already been paid).</li> </ul> </li> <li>• Proceed to Proposed Termination and Disqualification if provider does not successfully demonstrate one of the two acceptable corrective actions as listed above.</li> <li>• Submit revised claims to MDE.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> </ul>

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

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

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

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

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

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

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

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

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

<p>immediately to serious deficiency process as indicated under #2 Submission of False Claims for Reimbursement.</p>	<p><b>Second Occurrence within 24 months:</b></p> <ul style="list-style-type: none"><li>• Proceed to serious deficiency process.</li></ul>	
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**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"> <li>• Provider appears incoherent and unaware of children and their safety.</li> <li>• Children are left unsupervised.</li> <li>• Children show signs of being abused.</li> </ul>	<ul style="list-style-type: none"> <li>• Contact local authority. Take action that is consistent with the recommendations or requirements of the health/safety licensing authority. Thoroughly document circumstances and communication. <b>In most situations, this will mean suspension of participation in CACFP, including Program payments</b> and proposed termination unless the health/safety regulatory authority informs the sponsor that suspension would be contrary to their recommendations or requirements.</li> <li>• <b>Other actions that could be taken in lieu of suspension include: requiring corrective action</b> such mandatory training on a food safety issue or increased monitoring.</li> </ul>	<ul style="list-style-type: none"> <li>• Follow sponsor directions as outlined in suspension notice.</li> </ul>
<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"> <li>• 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.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• Follow sponsor directions as outlined in suspension notice.</li> </ul>

**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)**

<b>Finding</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<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"> <li>• Confirm the nature of conviction.</li> <li>• 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"> <li>– Made an administrative error; or</li> <li>– Confused two providers with similar or identical names.</li> </ul> </li> <li>• Additionally, the sponsor must recover payment of any overclaims and submit revised claims to MDE.</li> <li>• Proceed to Proposed Termination and Disqualification if provider does not successfully demonstrate one of the two acceptable corrective actions as listed above.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> </ul>

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

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

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

<b>Finding</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<p>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>	<p><b>First Occurrence:</b></p> <ul style="list-style-type: none"> <li>• Educate provider on regulation and sponsor procedures concerning prior notification.</li> <li>• Document technical assistance provided.</li> <li>• Disallow meals claimed for meal service during time of attempted visit.</li> </ul> <p><b>Second Occurrence within 24 months:</b></p> <ul style="list-style-type: none"> <li>• Educate provider on regulation and sponsor procedures concerning prior notification.</li> <li>• Document technical assistance provided.</li> <li>• Disallow meals claimed for meal service during time of attempted visit. Conduct next visit as unannounced.</li> <li>• Conduct and document five-day reconciliation using child enrollment forms.</li> <li>• Conduct household contacts, if appropriate.</li> <li>• Require parent sign-in/out forms, if appropriate</li> <li>• 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.</li> <li>• Proceed with serious deficiency process if provider does not maintain corrective action plan.</li> </ul>	<p><b>First Occurrence:</b></p> <ul style="list-style-type: none"> <li>• Notify sponsor if meals will be served away from child care home.</li> </ul> <p><b>Second Occurrence within 24 months:</b></p> <ul style="list-style-type: none"> <li>• Sign corrective action plan and complete by specified date when issued by sponsor.</li> </ul>
<p>b) Assistant not present when number of children present is over capacity or  Children present exceed number allowed for age</p>	<p><b>First Occurrence:</b></p> <ul style="list-style-type: none"> <li>• Disallow all meals that are claimed in excess of license capacity of the home.</li> <li>• Submit revised claims to MDE if substantiated that provider claims more than license capacity allows.</li> <li>• Provide and document technical assistance on CACFP and license capacity compliance.</li> <li>• Report over-capacity observed during monitoring visit to</li> </ul>	<p><b>First Occurrence:</b></p> <ul style="list-style-type: none"> <li>• Always comply with licensing authority capacity requirements.</li> <li>• Obtain variance from licensing authority if operating outside of license capacity listed on license.</li> </ul>

<p>category.</p>	<p>licensing authority. Document contact with licensing authority.</p> <p><b>Second Occurrence within 24 months:</b></p> <ul style="list-style-type: none"> <li>• Disallow all meals claimed in excess of license capacity.</li> <li>• Report over-capacity observed during monitoring visit to licensing authority. Document overcapacity and contact with licensing authority.</li> <li>• Provide and document technical assistance on CACFP and license capacity compliance.</li> </ul> <p><b>Third Occurrence within 24 months:</b></p> <ul style="list-style-type: none"> <li>• Disallow all meals claimed in excess of license capacity.</li> <li>• Contact licensing authority to determine preferred action to take.</li> <li>• Document contact with licensing authority.</li> <li>• Provide and document technical assistance on CACFP and license capacity compliance.</li> <li>• 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.</li> </ul>	<p>Provide a copy to sponsor.</p> <ul style="list-style-type: none"> <li>• Accurately report usual times assistant is present if it affects license capacity.</li> </ul> <p><b>Second Occurrence within 24 months:</b></p> <ul style="list-style-type: none"> <li>• Contact licensing and/or sponsor for assistance.</li> </ul> <p><b>Third Occurrence within 24 months:</b></p> <ul style="list-style-type: none"> <li>• Sign corrective action plan and complete by specified date when issued by sponsor.</li> </ul>
<p>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>	<p><b>First Occurrence:</b></p> <ul style="list-style-type: none"> <li>• Provide and document technical assistance on completing split shift records.</li> <li>• Disallow any meals exceeding license capacity.</li> <li>• Submit revised claims to MDE.</li> <li>• 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.</li> <li>• Document finding and issue corrective action plan to ensure compliance with license capacity per Department of Human Services or other authority</li> </ul>	<ul style="list-style-type: none"> <li>• Carefully follow sponsor procedures for documenting split shifts.</li> <li>• Contact sponsor for assistance.</li> <li>• Sign corrective action plan and complete by specified date when issued by sponsor.</li> </ul>

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

	<ul style="list-style-type: none"> <li>• Proceed with Serious Deficiency process if provider fails to comply with requirement.</li> </ul>	date when issued by sponsor.
f) Provider did not notify sponsor of changes in license such as: revocations, suspension, reduction, relocation.	<ul style="list-style-type: none"> <li>• Deduct meals retroactive to discrepancy and provide technical assistance.</li> <li>• Proceed with Serious Deficiency process. If finding is for health and safety, suspend immediately and confer with regulatory agency.</li> </ul>	<ul style="list-style-type: none"> <li>• Notify sponsor of changes in license capacity, address, name, etc.</li> <li>• Submit valid license immediately.</li> <li>• Sign corrective action plan and complete by specified date as required by Serious Deficiency notice.</li> </ul>