



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

Office of General Counsel

ROY COOPER • Governor
KODY H. KINSLEY • Secretary
JULIE Y. CRONIN • General Counsel

April 16, 2024

VIA EMAIL ONLY

btb@btylerbrookslawyer.com

P.O. Box 10767

Greensboro, NC 27404

Dear Mr. Brooks:

NCDHHS confirms receipt of your communication dated April 15, 2024, on behalf of Ms. Yolanda Hill and Balanced Nutrition, Inc. declining to meet with NCDHHS officials regarding the federal fiscal year (FFY) 2023-2024 compliance review that was scheduled to begin that day without the presence of counsel. The compliance review is a required component of participation in the Child and Adult Care Food Program (CACFP).

Balanced Nutrition, Inc. is currently an active participant in the CACFP, a federal program that provides reimbursement for nutritious meals and snacks to eligible children and adults who are enrolled for care at participating childcare centers, day care homes, and adult day care centers. While Balanced Nutrition, Inc. notified NCDHHS on April 2, 2024 of the intent to terminate from participation in the CACFP effective April 30, 2024, NCDHHS communicated that the scheduled compliance review would still be conducted. The compliance review is retrospective and Balanced Nutrition, Inc. is bound by legal and contractual obligations as a recipient of funds to the rules and regulations of the CACFP.

The following notices have been provided to Balanced Nutrition, Inc. regarding the scheduled, announced compliance review:

- On March 1, 2024, NCDHHS sent an initial notice to Balanced Nutrition, Inc. Board Chair and Owner/CFO announcing the date of the compliance review from April 15, 2024, to April 19, 2024. This letter provided a list of documents requested prior to the review (to be submitted within 7 days of receipt of the notice), as well as documents that would need to be available for the on-site visit. NCDHHS has not received any of the requested documents to date. (See Attachment 1)
- On March 18, 2024, NCDHHS resent the notice to the Owner/CFO of Balanced Nutrition, Inc. (See Attachment 2)
- On April 1, 2024, NCDHHS sent a second notice to the Board Chair and Owner/CFO of Balanced Nutrition, Inc. regarding the scheduled compliance review. (See Attachment 3)

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • OFFICE OF GENERAL COUNSEL

LOCATION: 101 Blair Drive, Adams Building, Raleigh, NC 27603
MAILING ADDRESS: 2001 Mail Service Center, Raleigh, NC 27699-2001
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- On April 9, 2024, during a routine call to confirm the upcoming compliance review, a NCDHHS staff member asked if Ms. Hill had any questions about the review, and Ms. Hill indicated she did not have any questions.

Per the compliance letters, Federal regulations, and the Program Agreement:

- Institutions are required to “[m]aintain all program records, reports, and other documents pertaining to the CACFP at the Institution and participating facilit[ies]. Upon request, make all records pertaining to the Program available to the State, Federal, or other authorized officials for audit or compliance reviews, examinations, excerpts, and transcripts at a reasonable time. Failure to maintain and/or make records available may constitute grounds for denial of a claim for reimbursement and/or termination.”
- Program Agreements are required to include “the right of the State agency, the Department, and other State or Federal officials to make announced or unannounced reviews of their operations during the institution's normal hours of child or adult care operations.”
Institutions are required to “provide access to the Institution’s personnel for the purpose of interviews and discussion related to records, reports, and other documents pertaining to the CACFP at the Institution and participating facilit[ies].”
- “Missing, lost, or incomplete records may lead to a finding of serious deficiency, disallowances of reimbursement, and/or other adverse consequences. Because the necessary records must be presented during the on-site visit, it is your responsibility to ensure that an institution representative with access to all records be available during the specified time period.”

All participating CACFP sponsoring organizations are subject to, and are required to comply with, federal regulations governing the CACFP, including the requirement to make all records pertaining to the Program available to State agency officials for compliance reviews. Failure to participate in the CACFP compliance review process and furnish appropriate records can result in the issuance of a notice of serious deficiency.

The NCDHHS review team will be on-site at Balanced Nutrition, Inc. on Wednesday April 17, 2024, at 12:00 PM to proceed with the scheduled, announced compliance review. We ask that the requested documents be available to streamline the review process. Balanced Nutrition, Inc.’s counsel is welcome to be present to observe this compliance review.

We appreciate your attention to this important matter. Balanced Nutrition, Inc.’s role in this work is vitally important to providing nutritious meals to children in childcare settings across North Carolina.

Please respond no later than 5:00 PM Tuesday, April 16, 2024 confirming Balanced Nutrition, Inc.’s participation in the compliance review beginning on April 17, 2024 at 12:00 PM.

Sincerely,



Raj Premakumar
Deputy General Counsel
North Carolina Department of Health and Human Services

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cc: Julie Cronin, General Counsel

Enclosure(s)

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YVONNE COPELAND • Director, Division of Child and Family Well-Being

March 1, 2024

• **Federal Express**

To: Yolanda Hill, Owner
Balanced Nutrition 9460
122 N. Elm Street, Suite 504
Greensboro, NC 27401

From: Janet Phelps,
Child and Adult Care Food Program Unit

Re: CACFP Compliance Review

Dear Ms, Hill:

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Listed below is the pre-work documentation, due within seven days after receipt of this letter. Please scan the documents and email to me at Janet.Phelps@dhhs.nc.gov. If you cannot email the documents, mail to the following address: P.O. Box 174, Hubert, NC 28539.

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If program violations are found, communication and instructions will be provided. A follow-up visit may be scheduled and/or additional information may be requested to ensure the implementation of corrective action. If you have questions, please contact me at {910}330-0240.

I look forward to seeing you on April 15, 2024.

Sincerely,



Janet Phelps

cc: Renee Matthews-Jones



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March 1, 2024

Federal Express

To: Renee Mathews-Jones, Board Chair
Balanced Nutrition 9460
14 Ponderosa Ct.
Greensboro, NC 27406

From: Janet Phelps,
Child and Adult Care Food Program Unit

Re: CACFP Compliance Review

Dear Ms, Mathews-Jones:

The Community Nutrition Services Section, Division of Child and Family Well Being, is required to review Child and Adult Care Food Program (CACFP) operations of participating institutions. The purpose of the review is to determine program compliance and to provide technical assistance in the area of program management.

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I look forward to seeing you on April 15, 2024.

Sincerely,



Janet Phelps

cc: Yolanda Hill, Owner



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March 18, 2024

Federal Express

To: Yolanda Hill, Owner
Balanced Nutrition 9460
122 N. Elm Street, Suite 504
Greensboro, NC 27401

From: Janet Phelps,
Child and Adult Care Food Program Unit

Re: CACFP Compliance Review

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- 5) Licensing certification
- 6) License or approval letter or alternate approval documentation for each facility
- 7) Contractor's certification for each facility
- 8) Information on owners and principals-facility for each facility
- 9) Certification of single exclusive CACFP agreement-facility for each facility
- 10) Participant Information Form for New Centers (if applicable)
- 11) CAC 16 CAC 17 Food service management contracts or SFA agreement to furnish food with attachments and quote or bid paperwork (if applicable)

Private Nonprofit and For-profit Corporations Only:

- 12) Sponsoring Organization's bylaws
- 13) Board of director's minutes
- 14) Governing board's policy and procedures for oversight of organization

Other Required Documents:

- 15) Serious Deficiency notices issues and documentation to support each action (day care homes only)
- 16) Confidentiality of beneficiary data policy
- 17) Certification of eligibility for Title XIX and/or XX (CAC 1C)
- 18) Tiering policy for classifying day care homes as Tier I or II and all supporting documentation
- 19) Sponsoring Organization's CACFP training documentation for each facility and/or home
- 20) Sponsoring Organization's training documentation for staff with monitoring responsibilities
- 21) Sponsoring Organization's training documentation for key staff
- 22) Monthly program records:
 - Claim for reimbursement (CAC 1, paper or electronic version)-provide all documents to support claim
 - Itemized invoices
 - Itemized receipts
 - Bank statements
 - Timesheets
 - Payroll records
 - Cancelled checks
 - Leases
 - Contracts
 - Meal Count Records
 - Menus
 - Facility and/or home monthly attendance records
 - Cash receipts and disbursement journal or approved comparable document
 - Disbursement checks to facilities and/or homes
- 23) CACFP participant enrollment forms/documentation of enrollment as required by 7 CFR §226

- 24) CACFP Infant feeding consent form for all infants enrolled in each sponsored facility and/or home
- 25) Monitoring reviews for the current fiscal year and preceding three years
- 26) Income eligibility applications for each facility (if applicable)
- 27) CACFP Administrative Review (Appeal) policy (day care home Sponsor only)
- 28) Racial and ethnic data for potential eligible beneficiaries
- 29) Racial and ethnic data for enrolled participants
- 30) List and documentation for providers claiming own children
- 31) Access to program records for the preceding three fiscal years
- 32) Have available all State agency memoranda, a copy of the CACFP federal regulations, and the FNS Instruction 796-2, Rev.4
- 33) Any other records that may support the claim for reimbursement

Providing all the above-listed documents and any other documents that support claims will be critical in the compliance review process. Missing, lost, or incomplete records may lead to a finding of serious deficiency, disallowances of reimbursement, and/or other adverse consequences. Because the necessary records must be presented during the on-site scheduled for April 15, 2024, it is your responsibility to ensure that an institution representative with access to all records will be available during that time period. Additionally, if you have an accountant, the accountant must be available during the time of the onsite review.

During the review:

- Documents will be reviewed
- Meal preparation and services will be observed
- Technical assistance will be provided

If program violations are found, communication and instructions will be provided. A follow-up visit may be scheduled and/or additional information may be requested to ensure the implementation of corrective action. If you have questions, please contact me at {910}330-0240.

I look forward to seeing you on April 15, 2024.

Sincerely,



Janet Phelps

cc: Renee Matthews-Jones