

**IOWA DEPARTMENT
OF EDUCATION**
(Cite as 25 D.o.E. App. Dec. 21)

<i>In re Termination from CACFP</i>	:	
Terri Al-Hameed,	:	
Appellant,	:	DECISION
vs.	:	
Mid-Iowa Community Action, Inc.,	:	[Admin. Doc. 4661]
Appellee.	:	

This matter was heard telephonically on December 6, 2007, before Carol J. Greta, J.D., designated administrative law judge, presiding on behalf of Judy A. Jeffrey, Director of the Iowa Department of Education. The Appellant, Terri Al-Hameed, personally participated. The Appellee, Mid-Iowa Community Action, Inc., was represented by employee Kristine Polich. Monitoring the hearing, but not otherwise participating, were Rod Bakken, Suzanne Secor Parker and Robin Searles of the Iowa Department of Education, which is the designated State Agency (SA) to administer the program at issue herein.

Hearing was held pursuant to this agency's administrative rules in 281 Iowa Administrative Code 6. The Iowa Department of Education has jurisdiction over the hearing pursuant to the federal regulation found at 7 C.F.R. 226.6(k).

**I.
FINDINGS OF FACT**

Terri Al-Hameed runs a child daycare home in Fort Dodge. She has participated for the past 10 years in the Child and Adult Care Food Program (CACFP), which is administered by the United States Department of Agriculture through the Iowa Department of Education's Bureau of Nutrition Programs. The CACFP is a federal program that provides reimbursement for meals and snacks provided to children in daycare homes and centers.

Daycare homes such as Ms. Al-Hameed's must be supervised by a sponsoring organization, in this case Mid-Iowa Community Action ["MICA"]. To participate in CACFP in Iowa, the home provider must possess a certification of registration from the Iowa Department of Human Services, and must sign an agreement that provides for the terms and conditions of program participation. Exhibit H is the agreement between Ms. Al-Hameed and MICA. Two of the provisions in that agreement are as follows:

- The sponsor must offer at least seven (7) training sessions¹ on CACFP-related topics each federal fiscal year, "FFY" (October 1 – September 30). [§A, ¶14]
- The home provider shall "[a]nnually attend the number of hours of CACFP related training as approved by the Sponsor. The minimum requirement is 1.5 hours during the FFY." [§B, ¶15]

MICA fulfilled its obligation to offer seven training sessions during FFY 07.² All such opportunities were free to home providers and were offered during the evening hours. Two were offered in Fort Dodge, the trainings on April 17 and September 17; two others were offered in communities less than 30 miles from Fort Dodge. Ms. Al-Hameed at all times pertinent herein possessed a valid driver license and a reliable motor vehicle.

The exhibits submitted on behalf of MICA demonstrate that MICA frequently reminds its home providers of the free trainings. MICA took the following steps to make Ms. Al-Hameed aware of the trainings (all dates occurred in 2007):

- Mailed a flyer to Ms. Al-Hameed and all other home providers in January and February to promote four training opportunities to be held in March and April. [Exhibit A]
- Included in its May newsletter (mailed to Ms. Al-Hameed and all other home providers) a reminder of the training requirement. [Exhibit B]
- Included in its June newsletter (again, mailed to Ms. Al-Hameed and all other home providers) a listing of training opportunities to be offered in August and September. [Exhibit C]
- Mailed a letter dated July 2 to all home providers, including Ms. Al-Hameed, who had not yet attended a CACFP training for FFY 2007; included in the letter was a list of three upcoming opportunities offered by MICA. [Exhibit D]
- Mailed a flyer on August 9 to Ms. Al-Hameed and other home providers with the reminder of the deadline of September 30, 2007 and the list of the trainings offered in August and September by MICA. [Exhibit E]
- Personally discussed with Ms. Al-Hameed during the site visits to her home on February 20 and April 25 that she had not fulfilled her training obligation. [Exhibits F and G]

On or about October 1, 2007, MICA provided a written Notice of Seriously Deficient Practice to Ms. Al-Hameed. The seriously deficient practice in the Notice to her was Ms. Al-Hameed's alleged failure to complete her mandatory 1.5 hours of training during the federal fiscal year ending September 30, 2007 [FFY 07]. The Notice also

¹ Applicable state and federal laws require that each sponsor offer at least one (1) CACFP-related training each FFY for every 30 home providers it sponsors. MICA sponsors approximately 130 home providers.

² MICA is one of 23 home sponsors in Iowa; MICA covers a geographic territory of ten (10) counties. While each sponsor provides training opportunities within its territory as a convenience to that sponsor's home providers, a home provider is not limited to taking advantage of trainings offered by the provider's sponsor. That is, Ms. Al-Hameed could have attended a training offered anywhere in the State of Iowa.

informed Ms. Al-Hameed of the Corrective Action Plan required to demonstrate full and permanent compliance with CACFP rules. She was given 30 days to submit proof of completion of the mandatory training. That is, her original deadline of September 30 was extended to October 31, 2007.

Ms. Al-Hameed signed the acknowledgement of the Corrective Action Plan. In her affidavit of appeal to this agency, she states that she signed up for the training to be offered in Webster City on October 23, but that training was cancelled due to low numbers of participants. She also testified that she usually attends a training in August, but that this past August she had personal family matters occur that prevented her from attending the August workshop. She does not dispute that she failed to fulfill her obligation to attend 1.5 hours of CACFP approved training during FFY 07 (as extended to October 31, 2007 by MICA).

The only issue on appeal is whether Ms. Al-Hameed failed to fully and permanently correct her serious deficiency within the allotted time of an additional 30 days. As explained below, this agency concludes that Ms. Al-Hameed failed to fully and permanently correct the serious deficiency regarding her annual training obligation.

II. CONCLUSIONS OF LAW

CACFP is a program created by the Agricultural Risk Protection Act, 42 U.S.C. § 1766. That Act and its regulations dictate the minimum terms of the participation agreement between the sponsor and the home provider.

The regulations at 7 C.F.R. § 226.16 enumerate reasons why a daycare home may be terminated from CACFP. Being cited as "seriously deficient" and not correcting the deficiency is one cause for termination. A serious deficiency includes the provider's failure to participate in training. 7 C.F.R. § 226.16(l)(2)(viii). Offering an opportunity to take corrective action is mandated in rule 226.16(l)(3). This procedure ensures that no provider is terminated without being given a second chance.³ The procedures were followed correctly by the sponsor.

The regulations governing the CACFP are quite strict. While a termination from CACFP may seem harsh to Ms. Al-Hameed, the rationale for the strictness of the regulations is simple. CACFP is funded by public monies; therefore, a home provider is required to be accountable to the public for how s/he operates. When such accountability is lacking, the public trust is gone, and the sponsor is required to take appropriate action. Ultimately, "[e]ach sponsoring organization shall accept final administration and financial responsibility for food service operations in all child day care facilities under its jurisdiction." 7 C.F.R. § 226.16(c). Each sponsor has a duty to hold its home providers accountable on behalf of the public.

Ms. Al-Hameed does not deny that she failed to attend the mandatory 1.5 hour training during FFY 07. She claims that the fault is not hers, but is that of MICA for failing to

³ There is an exception not at issue here. 7 C.F.R. section 226.16(l)(4) states that a provider must be suspended from the program immediately (with appeal rights) for an imminent threat to the health or safety of children in the provider's setting.

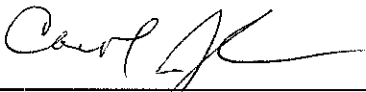
offer a training at the eleventh hour. MICA met its obligation under the federal law as a sponsor by offering several free trainings. There is nothing in the governing statute or regulations that requires a sponsor to offer a "make-up" training for home providers who fail to attend a 1.5 hour training in the FFY. MICA followed the directives of CACFP Memo HP-90-5 from the U.S. Department of Agriculture in giving Ms. Al-Hameed 30 calendar days to make up the training requirement. Ms. Al-Hameed did not meet her obligation.

The evidence presented here amply supports a finding that Ms. Al-Hameed failed to permanently and completely correct the seriously deficient practices of failure to participate in training.

III.
DECISION

For the foregoing reasons, the proposed termination of Terri Al-Hameed from the Child and Adult Care Food Program is hereby **affirmed**.


12-7-07
Date



Carol J. Greta, J.D.
Administrative Law Judge

It is so ordered.

12/7/07
Date



Judy A. Jeffrey, Director
Iowa Department of Education