

**IOWA DEPARTMENT OF EDUCATION**  
**\_\_\_\_\_ D.o.E. App. Dec. \_\_\_\_\_**

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*In re Termination from Child and Adult Care Food Program (CACFP)*

Cindy Holt,	:	17DOE002
Appellant,	:	
v.	:	<b>DECISION</b>
Community Family & Youth Services,	:	[Admin. Doc. 5048]
Appellee.	:	

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The Appellant, Cindy Holt, filed an appeal from a determination that her child care home is seriously deficient for the reasons specified herein. Ms. Holt's daughter, Amanda Holt, also filed an appeal, but for reasons discussed herein, Amanda Holt has no adverse action to appeal, and she is dropped as a party to this action.

This matter was heard telephonically on September 23, 2016, before Administrative Law Judge Carol J. Greta, designated hearing officer on behalf of Ryan M. Wise, Director of the Iowa Department of Education. This decision is being issued within 60 days of the receipt of the appeal.

Notice was sent to the Appellant by certified mail, which was not returned as undelivered. Neither Cindy Holt nor anyone on her behalf appeared at this hearing. The Appellee, Community, Family & Youth Services ["the sponsor"], an entity of Polk County, was represented by CACFP specialist Gracy Kirkman and program director Betty Devine. Only Ms. Kirkman testified for the sponsor. Suzanne Secor Parker appeared on behalf of the State Agency pursuant to 7 CFR § 226.6(f)(5)(vi), and testified briefly. Community, Family & Youth Services submitted Exhibits A – I, which were admitted into the record and which are as follows:

- A April 28, 2016 notice of serious deficiency sent to Cindy Holt
- B Enrollment verification forms
- C Attendance and meal records for April 2016
- D Attendance and meal records for May 2016
- E Attendance and meal records for June 2016
- F Attendance and meal records for July 2016
- G August 11, 2016 proposed termination and proposed disqualification sent to Cindy Holt
- H Attendance and meal records for August 2016
- I Appeal request from Cindy Holt and Amanda Holt

7 CFR § 226.6(f)(5)(vi) requires that a hearing be held even if an appellant fails to appear unless the hearing officer agrees to reschedule the hearing. No request to reschedule this hearing was received. The evidentiary hearing was held with the Appellant, Cindy Holt, in default.

### ***FINDINGS OF FACT***

Cindy Holt runs a child daycare home in Pleasant Hill, Polk County, Iowa, and has been a participant in the Child and Adult Care Food Program (CACFP). When the initial notice of serious deficiency was sent to Ms. Holt on April 28, 2016, she held a category B child care license, indicating that she was the sole person on the registration. (Kirkman Testimony) On June 7, 2016, Ms. Holt's registration changed to category C-2, indicating that she had a co-provider of child care. Her co-provider was her daughter, Amanda Holt. However, none of the notices discussed herein were sent to Amanda Holt. Accordingly, Amanda Holt cannot be disqualified at this point under the CACFP. Because no notice of any adverse action was ever provided to Amanda Holt, she has nothing to appeal; Amanda Holt is dismissed as an appellant. The sponsor may choose to provide appropriate notice to Amanda Holt, triggering her appeal rights, but this action concerns only Cindy Holt.

CACFP is a federal program that provides reimbursement for meals and snacks provided by providers to children in daycare homes and centers. The program is administered by the United States Department of Agriculture (USDA) through the Iowa Department of Education's Bureau of Nutrition and Health Services (State Agency).

The participation of providers in CACFP is supervised by a sponsor, in this case Community, Family & Youth Services. To participate in CACFP in Iowa, the 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.

A CACFP provider, such as Ms. Holt, is required to keep contemporaneous (daily) detailed, accurate records of the attendance of the children in care and meals/snacks served to each individual child in the care of the provider. 7 CFR § 226.16(d)(4)(i). The sponsor must give a daycare home that does not adhere to these requirements notice of any deficiency and the opportunity to take corrective action. 7 CFR § 226.16(l)(3).

As a result of a parent audit done on Ms. Holt's claims for February of 2016, Community, Family & Youth Services reviewed Ms. Holt's claims for the month of April. (Exhibit C) The sponsor made the following findings:

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- The parent of child L.C. informed the sponsor that her child's last day under Ms. Holt's care was April 1, 2016; however, Ms. Holt continued to claim meals/snacks served to L.C. through April 27, 2016.
- The parent of A.G. and O.G. reported to Community, Family & Youth Services that April 9, 2016 was the last day of those children in Ms. Holt's care, but she claimed meals/snacks served to them through April 25 2016.
- Per parent report, N.G.'s last day in Ms. Holt's care was February 26, 2016; Ms. Holt claimed food served to N.G. through April 25, 2016.

On April 28, 2016, Community, Family & Youth Services sent a Serious Deficiency Notice to Ms. Holt, citing the submission of false claims for reimbursement of meals and snacks served to children in April, 2016. (Exhibit A) Specifically, the sponsor found that Ms. Holt was submitting claims for meals or snacks that she had not actually served to children. Ms. Holt was given the opportunity to correct the deficiency. The corrections pertinent to this action are as follows:

- Ensure that parents sign the CACFP in/out sheet weekly to document that children were in attendance and served the meals claimed. This corrective action was to be taken for the months of May, June, and July. Ms. Holt was informed that each month would be verified by the sponsor for accuracy.
- Repay the overpayment of \$587.20.<sup>1</sup>
- Enter correct meal times and days for each child in care.
- Turn in the "Dinner/Weekend/Holiday" sheet only for children actually being served a meal indicated, and ensure that parents are aware of what they are signing.

(Exhibit A; Kirkman Testimony)

The in/out sheets for the months of May, June, and July were compared to the claims submitted by Ms. Holt for those months. The accuracy check showed several inconsistencies. 18 days in May disclosed discrepancies between the parent-recorded times and what Ms. Holt reported. For instance, just as one example, on May 6, 2016, the parent of M.L. reported that her child was in Ms. Holt's care from 8:00 a.m. to 5:00 p.m., while Ms. Holt claimed that the child was with her until 6:00 p.m. (Exhibit D)

Times were inconsistent for seven days in June and 20 days in July. (Exhibits E & F) In July, Ms. Holt claimed that she fed eight children on July 4, 2016. CACFP does not reimburse providers for holidays, and there was no paperwork from parents showing that any children were in Ms. Holt's care on that holiday. (Exhibit F; Kirkman Testimony) Several parents reported to the sponsor that Ms. Holt's daycare was closed July 4 – 8, but Ms. Holt submitted claims for July

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<sup>1</sup> This overpayment has been recouped in full.

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4 – 7, 2016. (*Id.*) Ms. Holt also submitted a claim for reimbursement for August 2, 2016, but admitted to the sponsor that she was closed that day. (Exhibit H; Kirkman Testimony)

More troubling, however, was the fact that Ms. Secor Parker of the State Agency received a call on August 3, 2016 from a parent who used Ms. Holt's daycare. The parent reported that the parent was told by Ms. Holt to report false times on the in/out documentation, and that although the parent was providing all of the food for the parent's child, Ms. Holt was claiming meals/snacks served to the child. (Secor Parker Testimony) This was consistent with what other parents told Ms. Kirkman when she called the parents. That is, the parents admitted putting down more time than their children were actually in Ms. Holt's care, and that they did so at the direction of Ms. Holt. (Kirkman Testimony)

On August 11, 2016, Community, Family & Youth Services sent to Cindy Holt the notice of proposed termination from CACFP and proposed disqualification from the program because she had not fully and permanently corrected the serious deficiency of filing false claims. Ms. Holt filed a timely appeal.

### **CONCLUSIONS OF LAW, ANALYSIS**

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

The regulations at 7 CFR § 226.16 enumerate reasons why a daycare home provider 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 submission of false claims for reimbursement. 7 CFR § 226.16(D)(2)(ii).

Termination from CACFP must also result in the placement of the day care home and any responsible principals and responsible individuals on the National disqualified list. 7 CFR § 226.16(D)(2)(ii)(D). The National disqualified list is maintained by the U.S. Department of Agriculture. 7 CFR § 226.2. As stated earlier, Amanda Holt is not deemed to be a responsible principal or responsible individual because her name does not appear on any of the notices provided by the sponsor to Cindy Holt.

Community, Family & Youth Services has shown that Ms. Holt submitted several false claims for reimbursement of meals/snacks. The sponsor also has shown that Ms. Holt did not fully and permanently correct this serious deficiency.

CACFP is funded by public monies; therefore, a 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

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action. Put another way, the sponsor has a duty, no matter how unpleasant at times that duty may be, to hold its providers accountable on behalf of the public.

It is appropriate in this case to order the termination of Cindy Holt from the Child and Adult Care Food Program and place her name on the National disqualified list. Ms. Holt is referred to the State Agency for any details regarding the consequences of her name being placed on the National disqualified list.

**DECISION**

For the foregoing reasons, the termination of Cindy Holt from the Child and Adult Care Food Program and placement of her name on the National disqualified list is hereby **ordered**.

Entered this 23<sup>rd</sup> day of September, 2016.



Carol J. Greta  
Administrative Law Judge

It is so ordered.

9/23/16

/s/ Ryan M. Wise

\_\_\_\_\_  
Date

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Ryan M. Wise, Director  
Iowa Department of Education

cc: Appellant  
Appellee  
Ann Feilmann, Suzanne Secor Parker – Iowa Department of Education  
Nicole Proesch – Iowa Department of Education