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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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MARYLAND DEPARTMENT OF)
HUMAN RESOURCES,)
))
Appellant))
))
v.))
))
))
UNITED STATES DEPARTMENT)
OF AGRICULTURE,)
FOOD AND NUTRITION SERVICE,)
))
Appellee.)

FNS Docket No. 10-0363

Consent Decision

This proceeding was instituted pursuant to Section 16(c)(8)(D)(i) of the Food and Nutrition Act of 2008 ("Act"), 7 U.S.C. § 2025(c)(8)(D)(i), by a Notice of Appeal filed by the Maryland Department of Human Resources ("DHR") seeking to eliminate the Supplemental Nutrition Assistance Program ("SNAP") payment error rate liability amount assessed by the United States Department of Agriculture, Food and Nutrition Service ("FNS"), for Federal fiscal year 2009. The Act provides a two year liability system for excessive payment error rates. Under this system, a liability amount is established for a State agency when, for the second or subsequent consecutive Federal fiscal year, FNS determines that there is a 95 percent statistical probability that a State's payment error rate exceeds 105 percent of the national performance measure for payment error rates. Food and Nutrition Act § 16(c)(1)(C), 7 U.S.C. § 2025(c)(1)(C). In accordance with this authority, FNS established a liability amount for DHR of \$742,238.00 for Federal fiscal year 2009. The Appellant and Appellee have agreed that,

pursuant to 7 C.F.R. § 283.10, this proceeding should be terminated by entry of this Consent Decision.

For the purposes of this Consent Decision, Appellant DHR and Appellee FNS stipulate that the Secretary of the United States Department of Agriculture has jurisdiction in this matter and further stipulate to the Findings of Fact set forth below. Additionally, the Appellant waives oral hearing and further procedure; all rights to seek judicial review and otherwise challenge or contest the validity of this decision; and consents and agrees to the entry of this Consent Decision.

Findings of Fact

1. Appellant DHR administers the State of Maryland's Supplemental Nutrition Assistance Program.¹
2. For Federal fiscal year 2008, Appellant's SNAP payment error rate was 6.94 percent.
3. For Federal fiscal year 2008, the national performance measure for SNAP payment error rates was 5.01 percent.
4. For Federal fiscal year 2008, a 95 percent statistical probability existed that the payment error rate of Appellant exceeded 105 percent of the national performance measure for SNAP payment error rates.
5. For Federal fiscal year 2009, Appellant's SNAP payment error rate was 7.11 percent.
6. For Federal fiscal year 2009, the national average SNAP payment error rate was 4.36 percent.

¹ The state of Maryland refers to its Supplemental Nutrition Assistance Program as the Food Supplement Program.

7. For Federal fiscal year 2009, a 95 percent statistical probability existed that the payment error rate of Appellant exceeded 105 percent of the national performance measure for SNAP payment error rates.
8. As a result of Appellant DHR's error rates in 2008 and 2009, Appellee FNS established a liability amount of \$742,238.00 for Appellant for Federal fiscal year 2009. On June 30, 2010, Appellant filed a Notice of Appeal and on August 24, 2010, a Petition of Appeal arguing that it had experienced caseload growth of 42.9 percent and was entitled to good cause relief of the entire liability amount.
9. Appellee FNS has determined that for Federal fiscal year 2009, Appellant DHR experienced an increase in SNAP households of 27.08 percent. Appellee also determined that, in accordance with 7 C.F.R. § 275.23(f)(3)(iii),² this caseload growth would result in a good cause reduction of \$318,674.55 in the Federal fiscal year 2009 liability amount. Appellee and Appellant have agreed that good cause relief, based upon a 27.08 percent increase in SNAP households, in the amount of \$318,674.55, is appropriate in this matter.

Conclusion

The parties having admitted the jurisdictional facts and having agreed to the entry of this Consent Decision, the Consent Decision will be entered.


Order


Pursuant to 7 C.F.R. § 283.10 and the authority provided to the Administrative Law Judge to waive, in whole or in part, the liability amount for good cause under Section

² The 2010 edition of the Code of Federal Regulations does not contain this rule, which was finalized on June 11, 2010. Please refer to Supplemental Nutrition Assistance Program: Quality Control Provisions, 75 Fed. Reg. 33,441 (June 11, 2010).

16(c)(8)(H) of the Act, 7 U.S.C. § 2025(c)(8)(H) and 7 C.F.R. § 275.23(f),³ the Federal fiscal year 2009 liability amount of \$742,238.00 shall be reduced by \$318,674.55 to \$423,563.45. The provisions of this Consent Decision shall become final and effective 30 days after the date of service of this decision and is not subject to further administrative or judicial review.


Copies of this Consent Decision shall be served upon the parties.


Kimberly M. Shearin, Esq.
Attorney for Appellant
Maryland Department of Human Resources


Kevin F. Meckus, Esq.
Attorney for Appellee
United States Department of Agriculture,
Food and Nutrition Service

Done at Washington, D.C.

this 5th day of November, 2010


Administrative Law Judge

³ See *supra* note 2.