

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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OALJ/OHC  
2011 DEC 14 AM 11: 51  
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ARIZONA DEPARTMENT OF )  
ECONOMIC SECURITY, )  
Appellant )  
v. )  
UNITED STATES DEPARTMENT )  
OF AGRICULTURE, )  
FOOD AND NUTRITION SERVICE, )  
Appellee. )

FNS Docket No. 11-0300  
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 Arizona Department of Economic Security (“DES”) 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 2010. 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 DES of \$1,095,515.00 for Federal fiscal year 2010. 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 DES 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 DES administers the State of Arizona's Supplemental Nutrition Assistance Program.<sup>1</sup>
2. For Federal fiscal year 2009, Appellant's SNAP payment error rate was 5.99 percent.
3. For Federal fiscal year 2009, the national performance measure for SNAP payment error rates was 4.36 percent.
4. 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.
5. For Federal fiscal year 2010, Appellant's SNAP payment error rate was 6.69 percent.
6. For Federal fiscal year 2010, the national average SNAP payment error rate was 3.81 percent.

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<sup>1</sup> The state of Arizona refers to its Supplemental Nutrition Assistance Program as the Nutrition Assistance program.

7. For Federal fiscal year 2010, 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 DES's error rates in 2009 and 2010, Appellee FNS established a liability amount of \$1,095,515.00 for Appellant for Federal fiscal year 2010. On June 30, 2011, Appellant filed a Notice of Appeal and on August 19, 2011, a Petition of Appeal arguing that it had experienced caseload growth of 29 percent and was entitled to good cause relief of the entire liability amount.
9. Appellee FNS has determined that for Federal fiscal year 2010, Appellant DES experienced an increase in SNAP households of 28.90 percent. Appellee also determined that, in accordance with 7 C.F.R. § 275.23(f)(3)(iii), this caseload growth would result in a good cause reduction of \$656,189.13 in the Federal fiscal year 2010 liability amount. Appellee and Appellant have agreed that good cause relief, based upon a 28.90 percent increase in SNAP households, in the amount of \$656,189.13, 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 16(c)(8)(H) of the Act, 7 U.S.C. § 2025(c)(8)(H) and 7 C.F.R. § 275.23(f), the Federal fiscal year

2010 liability amount of \$1,095,515.00 shall be reduced by \$656,189.13 to \$439,325.87. 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.

  
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Anna Bronnenkant, Esq.  
Attorney for Appellant  
Arizona Department of Economic Security

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

Done at Washington, D.C.

this 14<sup>th</sup> day of December, 2011

  
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Administrative Law Judge