

**UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE**

MARYLAND DEPARTMENT OF	)	
HUMAN RESOURCES,	)	
	)	
Appellant	)	
	)	
	)	FNS Docket No. 12-0521
v.	)	
	)	
	)	Consent Decision
UNITED STATES DEPARTMENT	)	
OF AGRICULTURE,	)	
FOOD AND NUTRITION SERVICE,	)	
	)	
Appellee.	)	

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 2011. 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 \$62,111 for Federal fiscal year 2011. 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.<sup>1</sup>
2. For Federal fiscal year 2010, Appellant's SNAP payment error rate was 7.68 percent.
3. For Federal fiscal year 2010, the national performance measure for SNAP payment error rate rates was 3.81 percent.
4. 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.
5. In accordance with Section 16(c)(1)(C) of the Act, Appellee FNS established a liability amount of \$1,474,999.00 for Appellant for Federal fiscal year 2010. On June 22, 2011, Appellant filed a Notice of Appeal and on December 12, 2011, the Administrative Law Judge entered a Consent Decision reducing Appellant's Federal fiscal year 2010 liability amount of \$1,474,999.00 by \$526,474.17 to \$948,524.83.
6. For Federal fiscal year 2011, Appellant's SNAP payment error rate was 6.06 percent.
7. For Federal fiscal year 2011, the national performance measure for SNAP payment error rate rates was 3.80 percent.

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

8. For Federal fiscal year 2011, 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.
9. As a result of Appellant DHR's error rates in 2010 and 2011, Appellee FNS established a liability amount of \$62,111.00 for Appellant for Federal fiscal year 2011. On July 9, 2012, Appellant filed a Notice of Appeal and on August 27, 2012, a Petition of Appeal arguing that it had experienced caseload growth of 54.7 percent between Federal fiscal years 2009 and 2011 and was entitled to good cause relief of the entire liability amount.
10. Appellee FNS has determined that for Federal fiscal year 2011, Appellant DHR experienced an increase in SNAP households of 30.95 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 \$32,319.21 in the Federal fiscal year 2011 liability amount. Appellee and Appellant have agreed that good cause relief, based upon a 30.95 percent increase in SNAP households, in the amount of \$32,319.21, 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 2011 liability amount of \$62,111.00 shall be reduced by \$32,319.21 to \$29,791.79. 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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Kimberly M. Shearin, Esq.  
Attorney for Appellant  
Maryland Department of Human Resources

  
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Attorney for Appellee  
United States Department of Agriculture,  
Food and Nutrition Service

Done at Washington, D.C.

this 9<sup>th</sup> day of October, 2012

  
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Administrative Law Judge