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

ARIZONA DEPARTMENT OF ECONOMIC)
SECURITY,)
Appellant)

v.)

FNS Docket No. FNS-12-0523

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 Arizona Department of Economic Security (“DES”) seeking to eliminate or reduce 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 (“FFY 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 and 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. § 16(c)(1)(C) of the Act. In accordance with this authority, FNS established a liability amount for DES of \$560,599.00 for FFY 2011. The Appellant and Appellee have agreed that, pursuant to 7 C.F.R. § 283.10, this

7. For FFY 2011, at least 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 FFY 2010 and 2011, Appellee FNS established a liability amount of \$560,559.00 for Appellant for FFY year 2011. On July 10, 2012, Appellant filed a Notice of Appeal, and on August 31, 2012, a Petition of Appeal. Appellant DES presented three calculations to reduce the liability amount. The calculation that resulted in the greatest reduction argued that Appellant had experienced an effective caseload growth of 24.8 percent and was entitled to good cause relief reducing the liability amount to \$276,787.77, or in the alternative, under some of the other calculations, eliminating the entire liability amount.
9. Appellee FNS has determined that for FFY 2011, Appellant DES experienced an increase in SNAP households of 14.88 percent. Appellee also determined that, in accordance with 7 C.F.R § 275.23(f)(3)(iii) and a further equitable reduction, this caseload growth would result in a good cause reduction of \$140,559.00 in the FFY 2011 liability amount. Appellee and Appellant have agreed that good cause relief, based upon a 14.88 percent increase in SNAP households and other effects of caseload growth, in the amount of \$140,559.00, 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.

proceeding should be terminated by entry of this Consent Decision because the parties have agreed to a settlement.

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 all further procedural rights in this appeal, all rights to seek judicial review of the determination by FNS regarding the liability amount assessed against Appellant for FFY 2011, and to seek judicial review of this Consent Decision entered by the Administrative Law Judge presiding over this appeal

Findings of Fact

1. Appellant DES administers the State of Arizona's Supplemental Nutrition Assistance Program.¹
2. For FFY 2010, Appellant's SNAP payment error rate was 6.69 percent.
3. For FFY 2010, the national performance measure for SNAP payment error rates was 3.81 percent.
4. For FFY 2010, at least 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 FFY 2011, Appellant's SNAP payment error rate was 6.34 percent.
6. For FFY 2011, the national performance measure for SNAP payment error rates was 3.80 percent.

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

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, and 7 C.F.R. § 275.23(f), the FFY 2011 liability amount of \$560,559 shall be reduced by \$140,559.00 to \$420,000.00. 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.

THOMAS C. HORNE
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Assistant Attorney General
Attorneys for Appellant
Arizona Department of Economic Security



Michael Knipe, Esq.
Attorney for Appellee
United States Department of Agriculture,
Food and Nutrition Service

Done at Washington, D.C.

this 21st day of December, 2012



Administrative Law Judge