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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-1206**

Evon Dickens,  
Appellant,

vs.

Lucinda Jesson, Minnesota Commissioner of Human Services,  
Respondent,

Hennepin County Human Services and Public Health Department,  
Respondent.

**Filed April 7, 2014  
Reversed  
Smith, Judge**

Hennepin County District Court  
File No. 27-CV-12-13365

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Considered and decided by Connolly, Presiding Judge; Chutich, Judge; and Smith,  
Judge.

## UNPUBLISHED OPINION

SMITH, Judge

We reverse the district court's affirmance of the commissioner's order upholding two overpayment-of-food-support determinations because the commissioner's order is arbitrary and capricious.

### FACTS

In November 2011, appellant Evon Dickens received a letter from the Minnesota Department of Human Services (DHS) advising her that she had an outstanding debt of \$1,373 for overpaid food-support benefits. The letter stated that, unless Dickens took certain actions, DHS would submit the debt to a federal collections program. Dickens sought further information and was told that the alleged overpayments occurred between October 1995 and October 1996.<sup>1</sup> On January 20, 2012, Dickens appealed the determinations.

At a hearing before an administrative law judge (ALJ), Dickens testified that she did not apply for or receive food-support benefits in 1995 or 1996, and she speculated as to how the claims arose.<sup>2</sup> Respondent Hennepin County Human Services and Public Health Department (the agency) argued that Dickens's appeal was untimely and submitted evidence in support of its claim that it notified Dickens of the alleged overpayments in 1997. Dickens, however, testified that the November 2011 letter was

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<sup>1</sup> The alleged overpayments include two distinct claims: one for \$106 due to agency error and one for \$1,267 due to Dickens's failure to report income.

<sup>2</sup> It is undisputed that Dickens was ineligible for food-support benefits during the timeframe of the alleged overpayments.

the first notice she received regarding the alleged overpayments. Accordingly, in her answer to the claims, Dickens asserted that the overpayment claims were barred by the statute of limitations.

The ALJ concluded that Dickens's "appeal must be deemed timely" because the agency did not "prove mailing [notice in 1997] by a fair preponderance of the evidence." However, in another section of her recommendation, the ALJ found that in 1997 the agency mailed multiple notices to Dickens's home address. Based on this finding, the ALJ implicitly concluded that the claims were not time-barred and ultimately recommended affirming the agency's determinations.

Respondent commissioner of human services adopted the ALJ's recommendation and Dickens appealed to the district court. Following a hearing, the district court affirmed the commissioner's order. The district court's decision rejects Dickens's statute-of-limitations argument without mentioning the ALJ's conclusion that Dickens's appeal is timely.

## **D E C I S I O N**

Minnesota law authorizes the district court to review decisions made by the commissioner of human services. Minn. Stat. § 256.045, subd. 7 (2012). A party may appeal the resulting district court decision to this court. *Id.*, subd. 9 (2012). On appeal, we "review[] the commissioner's order independently, giving no deference to the district court's review." *Zahler v. Minn. Dep't of Human Servs.*, 624 N.W.2d 297, 301 (Minn. App. 2001), *review denied* (Minn. June 19, 2001). The commissioner's decision enjoys a presumption of correctness, and we defer to the commissioner's expertise in the agency's

field. *In re Review of 2005 Annual Automatic Adjustment of Charges for All Elec. & Gas Utils.*, 768 N.W.2d 112, 119 (Minn. 2009). The party challenging the commissioner’s decision bears the burden of proving that relief is warranted under the Minnesota Administrative Procedures Act (MAPA). *Id.* at 118. Under the MAPA, we may affirm the commissioner’s decision, remand the case for further proceedings, or reverse or modify the decision if the petitioner’s substantial rights may have been prejudiced because the findings, inferences, conclusions, or decision are affected by an error of law, unsupported by substantial evidence, or arbitrary and capricious. Minn. Stat. § 14.69 (2012). An agency’s decision is arbitrary and capricious when the agency “entirely failed to consider an important aspect of the problem.” *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm’rs*, 713 N.W.2d 817, 832 (Minn. 2006).

On appeal, Dickens argues that, because the agency did not prove mailing notice in 1997, the ALJ erred by implicitly concluding that the agency established the overpayments within the statute of limitations. The ALJ’s implicit statute-of-limitations conclusion and explicit conclusion that Dickens’s appeal was timely both hinge on whether the agency established the overpayment claim in 1997 or in 2011. We analyze each conclusion in turn.

#### *Statute of Limitations*

The parties dispute whether the claims at issue were established in 1997 or 2011. *See* 7 C.F.R. § 273.18(e)(3) (2011) (a claim is considered established “as of the date of the initial demand letter or written notification”). In 1997, the agency was required to establish overpayment-of-food-support claims “due in whole or in part to client error

. . . for a period of six years from the date of any resultant overpayment.” Minn. Stat. § 393.07, subd. 10(e) (1996). In 2011, new overpayment-of-food-support claims were “limited to 12 months prior to the month of discovery due to agency error” and “six years prior to the month of discovery due to client error or an intentional program violation.” Minn. Stat. § 393.07, subd. 10(e) (Supp. 2011). If not established until 2011, the claims at issue are time-barred.

### *Timeliness of Appeal*

When an agency claims that a person was incorrectly paid under the federal Food Stamp Act, the person may appeal to the state agency within 30 days of “receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice” if the person shows good cause. Minn. Stat. § 256.045, subd. 3(a)(1), (10) (2010); *see also* Minn. Stat. § 256.045, subd. 3(a) (1996). Under Minnesota law, “mail properly addressed and sent with postage prepaid” is presumed “duly received by the addressee.” *Nafstad v. Merchant*, 303 Minn. 569, 570, 228 N.W.2d 548, 550 (1975). It is undisputed that Dickens did not appeal the determinations until January 2012. Therefore, the timeliness of the appeal turns on whether the agency first mailed Dickens notice in 1997 or November 2011.<sup>3</sup> Despite the presumption of receipt, when an alleged addressee denies receiving mail, the burden is on the alleged sender to prove mailing by a fair preponderance of the evidence. *Id.* at 571, 228 N.W.2d at 550.

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<sup>3</sup> We note that the parties do not challenge the ALJ’s application of the 90-day appeal period.

Here, Dickens denied receiving notice until November 2011 and the ALJ explicitly concluded that because the agency *did not* “prove mailing [notice in 1997] by a fair preponderance of the evidence,” Dickens’s “appeal must be deemed timely.”

Having examined the ALJ’s implicit statute-of-limitations conclusion and explicit timeliness conclusion, we find that the ALJ failed to consider an important aspect of the problem: the agency’s claims and Dickens’s appeal cannot *both* be timely. Either the agency mailed Dickens notice in 1997 and Dickens’s appeal is untimely, or the agency did *not* mail Dickens notice in 1997 and the agency’s claims are time-barred. The ALJ’s failure to consider this aspect of the problem renders the commissioner’s decision arbitrary and capricious, *see Citizens Advocating Responsible Dev.*, 713 N.W.2d at 832, and warrants reversal under the MAPA, *see* Minn. Stat. § 14.69(f). The agency’s overpayment determination is set aside.

**Reversed.**