

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF CORRECTIONS,

Petitioner,

vs.

Case No. 17-2944

NANCY E. MILLS,

Respondent.

FINAL ORDER

This matter has come before the State of Florida, Department of Corrections ("Department") pursuant to Section 120.57(1)(k) and (l), Florida Statutes. After reviewing this matter and being fully advised in the premises, the Department adopts the Recommended Order from the Division of Administrative Hearing and makes the following findings:

FINDINGS OF FACT

1. In a letter dated April 20, 2017, Petitioner informed Respondent that Respondent was overpaid by \$494.01.
2. The amount of overpayment was recouped on April 28, 2017 and May 12, 2017.
3. Due to the overpayment, an excess amount of funds were withheld for federal income tax. The excess withholding will be recouped by Respondent in her tax return for this year.
4. Petitioner provided Respondent with a letter explaining the overpayment, as requested, so that Respondent could show it

to any of the agencies from which she receives benefits based on her income.

5. Therefore, because Petitioner did not purposely overpay Respondent and because the amount of the overpayment has already been recouped and because Respondent will be made whole when she receives the difference in federal income tax withholding in her next tax return, Petitioner has already provided the full relief available to Respondent and no further relief is needed.


#### **CONCLUSIONS OF LAW**

6. The Department has jurisdiction over this matter pursuant to Section 120.57(1)(k) and (l), Florida Statutes.
7. Respondent had the burden of proving entitlement to affirmative relief, which she did not meet as she did not establish that she had suffered an injury as a result of Petitioner's overpayment error or that she was likely to suffer future injury of sufficient immediacy to convey standing. Rather the future injury of concern to Respondent is speculative, at best, and remote in time.
8. The record does not establish a basis on which affirmative relief should be awarded to Respondent.

9. Petitioner took immediate steps to rectify its overpayment error and to mitigate any potential injury that might flow from the error.

WHEREFORE, it is hereby ordered and adjudged that this matter is dismissed with prejudice.

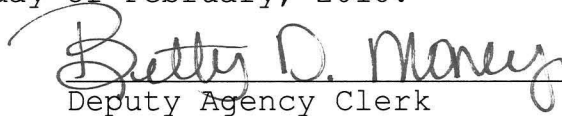
**DONE AND ORDERED** this 8<sup>th</sup> day of February, 2018, in Tallahassee, Florida.

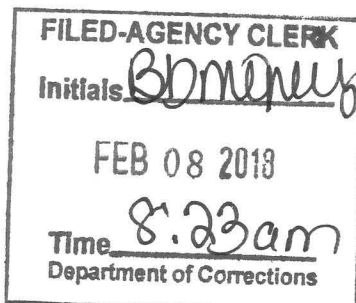
  
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JULIE L. JONES, Secretary  
Florida Department of Corrections  
501 South Calhoun Street  
Tallahassee, Florida 32399-2500

Notice of Right to Appeal

This Final Order constitutes final agency action. Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal in accordance with Florida Rules of Appellate Procedure 9.110 and 9.190, with the Clerk of the Department in the Office of General Counsel, 501 South Calhoun Street, Tallahassee, Florida 32399; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees either in the First District Court of Appeal or in such other appellate district as Petitioner reside or as otherwise provided by law. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the Clerk of the Department.

Filed in the official records of the Florida Department of Corrections on this 8<sup>th</sup> day of February, 2018.

  
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Betty D. Money  
Deputy Agency Clerk



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing "Final Order" has been furnished this 8<sup>th</sup> day of February, 2018, by U.S. Mail or e-mail or e-filing to:

Nancy Mills  
191 Nursery Road  
Monticello, Florida 32344

W. David Atkins, Administrative Law Judge  
Division of Administrative Hearings  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060

  
Deputy Agency Clerk