

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JESSICA A. WILSON,

Appellant,

v.

Case No. 5D18-1312

DEPARTMENT OF CHILDREN AND FAMILIES,

Appellee.

_____ /

Opinion filed November 30, 2018

Administrative Appeal from
the Department of Children
and Families.

Jessica A. Wilson, Palm Coast, pro se.

Jane Almy-Loewinger, of Department of
Children and Families, Daytona Beach, for
Appellee.

PER CURIAM.

Jessica A. Wilson appeals the final order issued by the Department of Children and Families (“DCF”) dismissing her request for a hearing to challenge DCF’s notice of its intended action to recoup \$876 in food assistance benefits that it claimed it had overpaid to Wilson. The hearing officer concluded that Wilson had failed to comply with Florida Administrative Code Rule 65-2.046 because she did not request this hearing within ninety calendar days of DCF’s notice to her.

Our review of the record clearly shows that DCF mailed its notice to take this adverse action against Wilson to an incorrect address in Brooksville, Florida. DCF's own internal records that predate the notice indicate that at the time, Wilson was residing in Palm Coast, Florida. Section 120.68(7)(c), Florida Statutes (2017), provides, in pertinent part, that the court shall remand a case to the agency for further proceedings or set aside agency action when it finds that the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure. Because we hold that such an error occurred here, we reverse the final order of dismissal and remand with directions for DCF to hold the requested hearing.¹

REVERSED and REMANDED with directions.

WALLIS, LAMBERT, and GROSSHANS, JJ., concur.

¹ We take no position on the merits of the claim.