



DATE: DEC 14 1993

IN THE MATTER OF MR. MARTIN J. SAWMA

CASE NO.: 93-JSA-1

ORDER OF DISMISSAL
FOR LACK OF JURISDICTION

On October 9, 1992, Mr. Martin J. Sawma submitted a Notice of Administrative Appeal appealing an administrative decision by New York State Social Services Commissioner, Mary Jo Bane, of September 10th - 15th, 1992. Mr. Sawma states that this decision affects wage rates and working conditions under the joint federal-state "Job Opportunities and Basic Skills Training" (JOBS) program, and as such, this Office has jurisdiction under 42 U.S.C. § 684(d)(2) & (f) and the regulations at 45 C.F.R. § 251.5(b).

Ms. Mary Jo Barnhart, Assistant Secretary for Children and Families, U.S. Department of Health and Human Services, stated in her letter dated November 6, 1993, that the Federal government does not have jurisdiction over the New York State JOBS program for home relief recipients.

On June 4, 1993, the undersigned ordered the parties to show cause why the matter should not be dismissed for lack of jurisdiction. On June 25, Counsel, 1993, John P. Bailly, Jr., Deputy Bureau of Economic Security Law, New York State Department of Social Services, filed a response to the Order to Show Cause. On June 28, 1993, Mr. Sawma filed a response to the Order to Show Cause.

After consideration of the applicable law and the responses filed by the parties, I have determined that the U.S. Department of Labor does not have jurisdiction over this matter. Mr. Sawma is a Home Relief recipient who was assigned to participate in the New York State's Public Works Project pursuant to New York State Law governing New York's Job Opportunities and Basic Skills Training (JOBS) program. Although New York's JOBS program has a similar title to that of the Federal JOBS program, New York's program is State administered and State funded form of aid to persons not eligible for the Federal government JOBS program for recipients of Aid to Families with Dependent Children (AFDC). New York's JOBS program is not required to adhere to Federal JOBS principles nor to be Federally approved and it operates without Federal oversight. The New York State Home Relief program is a general assistance program over which the Federal government has no jurisdiction. Mr. Sawma incorrectly argues that he is covered by the Federal jobs program. Forty-two U.S.C. § 684(d)(2) and (f) apply to AFDC recipients participating in work-related JOBS programs, Community Work Experience Programs and programs under section 1115 of the Social Security Act who raise complaints with respect to ". . . working conditions and workers' compensation, and wage rates . . ." under the State's fair hearing process. Mr. Sawma is a Home Relief recipient assigned to participate in the

State's Public Works Project not an AFDC recipient participating in the Federal JOBS program. As such, Mr. Sawma is not covered by the Federal statute and Federal jurisdiction does not attach to Mr. Sawma's claims.

Accordingly, it is hereby ORDERED that this case be DISMISSED.

JOHN M. VITTON
Deputy Chief Judge

Washington, DC
JMV/rpf/mb