

STATE OF NORTH CAROLINA
COUNTY OF PASQUOTANK

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 DHR 04011

<p>Clinton A Brooks Petitioner,</p> <p>v.</p> <p>Health and Human Services Respondent.</p>	<p>FINAL DECISION SUMMARY JUDGMENT FOR RESPONDENT</p>
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Upon consideration of Respondent's Motion for Summary Judgment pursuant to N.C.G.S. § 1A-1, Rule 56 of the N.C. Rules of Civil Procedure and § 150B-34(e), and 26 NCAC 03 .0101, including the affidavit of Glana Surles, Petitioner's response thereto, Respondent's Reply to Support Motion for Summary Judgment, Petitioner's Reply by Email, and for good cause shown, the Undersigned hereby **GRANTS** Respondent's Motion as follows:

APPEARANCES

For Petitioner: Clinton A. Brooks, *Pro Se*
Elizabeth City, North Carolina

For Respondent: Milind K. Dongre
Assistant Attorney General
North Carolina Department of Justice
Raleigh, North Carolina

ISSUE

Whether there are genuine issues of material fact regarding Petitioner's qualification for an undue hardship waiver of Respondent's estate recovery claim against the estate of Rosie L. Brooks, and if Respondent is entitled to summary judgment as a matter of law?

APPLICABLE STATUTES AND RULES

N.C.G.S. §§ 28-1-1(3) and 29-2(4)
N.C.G.S. §§ 108-25(b), 108-54, 108A-75, and 150B-23 *et seq.*
42 U.S.C. § 1396p
N.C.G.S. § 1A-1, Rule 56 of N.C. Rules of Civil Procedure
North Carolina Medicaid State Plan

FINDINGS OF FACT

Procedural Background

1. Pursuant to federal and state mandates, Respondent made a Medicaid estate recovery claim against the Estate of Rosie L. Brooks seeking monetary recovery of Medicaid benefits paid on behalf of Ms. Brooks, a Medicaid recipient.

2. By letter dated October 10, 2022, Respondent notified Petitioner that it was denying Petitioner's request for an undue hardship waiver of Respondent's estate recovery claim against the estate of Rosie L. Brooks for the following reason: "There is not sufficient documentation to substantiate that you are an heir as defined in G.S. § 28-1-1(3) or a lineal descendant as defined in G.S. § 29-2(4)."

3. On October 24, 2022, Petitioner Clinton A. Brooks filed a Petition for a Contested Case Hearing with the North Carolina Office of Administrative Hearings contesting Respondent's denial of his request for an undue hardship waiver. Petitioner declared that he could prove he is an heir to Ms. Brooks' estate and by law, is Ms. Brooks' child, and should be allowed to reside in Ms. Brooks' home the rest of his life. Petitioner listed \$38,707.41 as the amount in controversy.

Undisputed Facts

4. Rosie L. Brooks was a Medicaid recipient before her death on October 12, 2020.

5. Respondent North Carolina Department of Health and Human Services, Division of Health Benefits ("DHB or Department") is the state agency responsible for administering the Medicaid program in the State of North Carolina.

6. The Department seeks to recover \$38,707.41 from Ms. Brooks' estate which the Department paid for personal care services for Ms. Brooks under the North Carolina Medicaid Program. Glana Surles' Affidavit; Exh. A., Statement of Medicaid Expenditures.

7. The medical services provided to Ms. Brooks were recoverable under N.C.G.S. § 108A-70.5. In applying for such services, Ms. Brooks had signed a document acknowledging that "the estate may be subject to Estate Recovery after you die for the cost of Personal Care Services paid for by Medicaid." Surles' Affidavit; Exh.B., Estate Recovery Notice.

8. On or about March 1, 2021, Respondent sent a blank Undue Hardship Waiver Application to Petitioner. Section E of that Application provided that "[i]n order to qualify for a waive, the applicant must be a lineal descendant, brother or sister, lineal descendant of brother or sister, or heir of the deceased Medicaid beneficiary." Surles' affidavit; Exh. C, Section E of Waiver. The application stated that the term "lineal descendant" is defined as provided by N.C.G.S. § 29-2(4) as "the children of a person and successive generations of children of such children." The application also referred to

N.C.G.S. § 28-1-1(3) which defines “heir.” Surles’ Affidavit; Exh C., Section E of Waiver Application.

9. The Waiver Application also set forth certain “Required Documentation Showing Relationship to Medicaid Beneficiary” which must be submitted to Respondent, including a birth certificate, will or obituary. Pages 5-7 of the application lists certain documentation which the applicant must submit to Respondent to verify household income and assets.

10. Petitioner submitted a waiver application due to undue hardship in response to Respondent’s recovery of Medicaid monies paid for Ms. Brooks’ medical services. However, Petitioner did not include a birth certificate, will, or obituary to prove his relationship to Ms. Brooks. Petitioner also failed to include other required documents such as bank statements and wage and tax documents with his waiver application to Respondent.

11. Ms. Surles has received applications from non-lineal descendants and non-heirs in the past and without exception has denied those applications on that basis.

12. In his Prehearing Statement, Petitioner acknowledged that Rosie L. Brooks is his stepmother. In responding to Respondent’s Motion, Petitioner acknowledged that he does not understand the Medicaid laws upon which Respondent relies. He did not present any documentation, such as a Will, obituary, or birth certificate to prove he is a lineal descendant or heir to Rosie L. Brooks.

13. Petitioner is a stepchild of Ms. Rosie L. Brooks.

CONCLUSIONS OF LAW

1. This contested case is subject to dismissal pursuant to N.C.G.S. § 1A-1, Rule 56 of the North Carolina Rules of Civil Procedure, and N.C.G.S. § 150B-34.

2. To the extent that the findings of fact contain conclusions of law, or that the conclusions of law are findings of fact, they should be so considered without regard to the given labels. *Charlotte v. Heath*, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); *Peters v. Pennington*, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011).

3. Orders granting summary judgment under Rule 56, do not normally contain detailed findings of fact. However, if the findings of fact are actually the trial court’s summation of the undisputed facts which support the judgment, findings of fact and COL do not render a summary judgment void or voidable. *Noel Williams Masonry, Inc. v. Vision Contractors*, 103 N.C. App. 597, 406 S.E.2d 605 (1991) However, to provide context for her decision, the Undersigned relies on the uncontroverted and undisputed facts as set forth above. *See, e.g., Hyde Ins. Agency, Inc.*, 26 N.C. App. at 142, 215 S.E.2d at 165 (“[I]t is helpful to the parties and the courts for the trial judge to articulate a summary of the material facts which [s]he considers are not at issue and which justify entry of judgment.”)

4. Pursuant to N.C. Gen. Stat. § 108A-70.5, Respondent is authorized to pursue recovery of medical expenses, paid by Respondent on behalf of Medicaid recipients, from the estate of those recipients.

5. Respondent may only grant undue hardship waivers in conformance with the strict requirements of the North Carolina Medicaid State Plan ("the Plan"), including the requirement that "[o]nly a qualified undue hardship applicant may be granted a claim for undue hardship." The Plan defines "qualified undue hardship applicant" by reference to N.C.G.S. § 29-2(4) and "heir" by reference to N.C.G.S. § 29-2(3) and § 28A-1-1(3).

6. N.C.G.S. § 28A-1-1(3) defines the term "heir" as "any person entitled to take real or personal property upon intestacy under Chapter 29 of the N.C. General Statutes. N.C.G.S. § 29-2(3) defines the term "heir" as "any person entitled to take real or personal property upon intestacy under the provisions of this Chapter." These terms do not include stepchildren.

7. N.C.G.S. § 29-2(4)(4) defines the term "lineal descendants" of a person as "all children of such person and successive generations of children of such children."

8. In this case, Petitioner failed to present any evidence in either its undue hardship waiver application submitted to Respondent, or in its documents submitted to the Office of Administrative Hearings, proving that he is either any heir or a lineal descendant of the decedent, Rosie L. Brooks.

9. There is no genuine issue of material fact that Petitioner did not qualify for an undue hardship waiver based on the application he submitted to Respondent.

10. Respondent did not deprive Petitioner of property or otherwise substantially prejudice Petitioner's rights and act erroneously when it denied Petitioner's request for an undue hardship waiver of Medicaid estate recovery, and therefore, Respondent is entitled to summary judgment as a matter of law.

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, and pursuant to N.C.G.S. 1A-1, Rule 56 of the North Carolina Rules of Civil Procedure and N.C.G.S. § 150B-34, the Undersigned hereby **GRANTS** Respondent's Motion for Summary Judgment and **DISMISSES** this contested case.

NOTICE OF APPEAL

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statute § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the

county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.**

In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties as indicated by the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

SO ORDERED, this the 27th day of February, 2023.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service.

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Petitioner

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This the 27th day of February, 2023.



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