

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 DHR 16040

BILLY J. WILLIAMSON,
Petitioner,

v.

NORTH CAROLINA DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
Respondent.

**ORDER GRANTING SUMMARY
JUDGMENT FOR RESPONDENT**

Upon consideration of Respondent's Motion for Summary Judgment pursuant to N.C. Gen. Stat. § 1A-1, Rule 56, N.C. Gen. Stat. § 105A-1, and 26 NCAC 3 .0115, and Petitioner's mother's response thereto, and for good cause shown, the undersigned hereby **GRANTS** Respondent's Motion as follows:

FINDINGS OF FACT

1. Billy J. Williamson. ("Petitioner") was treated at Walter B. Jones ADATC for a total of eleven (11) days, from February 9, 2012 through February 20, 2012. The daily cost of care was \$507.00 with the total cost of care for Petitioner being \$5,577.00.

2. Petitioner's ability to pay ("ATP") was determined to be \$154.00 per day. ATP is calculated based on information provided by Petitioner.

3. On May 2, 2012, June 2, 2012, July 2, 2012, and August 2, 2012, Respondent billed Petitioner the ATP amount owed or \$154.00. No payments were received from Petitioner and the statements were not returned.

4. N.C. Gen. Stat. § 143-118 states that "if the obligor defaults in the payment of compromise account or any installment, then the full actual cost of care shall be assessed against the person admitted." Since Petitioner failed to make any payments to Respondent for the ATP rate of \$154.00, Petitioner is required to pay the full actual cost of care he received at Walter B Jones, ADATC.

5. On September 2, 2012, October 8, 2012 and November 2, 2012, Respondent billed Petitioner for the full actual cost of the care he received at Walter B Jones ADATC, in the amount of \$5577.00. Respondent received no payments from Petitioner, and the September, October, and November 2012 statements were not returned to Respondent as undeliverable.

6. Respondent mailed all aforementioned demand statements to the address listed on the contested case petition: 2033 Harrellsonville Road, Whiteville, NC 28472.

7. On July 9, 2013, \$5577.00 remained unpaid and owed by Petitioner for the services Petitioner received at Walter B Jones ADATC in February 2012.

8. On July 9, 2013, Respondent intercepted Petitioner's state income tax refund, in the amount of \$585.86, and sent such amount to the North Carolina Department of Health and Human Services ("DHHS") to be applied to Petitioner's debt.

9. On August 12, 2013, Petitioner's mother filed a petition for a contested case hearing at the Office of Administrative Hearings on Petitioner's behalf contesting the tax intercept of Petitioner's state income tax refund.

CONCLUSIONS OF LAW

1. Pursuant to N.C. Gen. Stat. § 1A-1, Rule 56 of the North Carolina Rules of Civil Procedure, N.C. Gen. Stat. § 105A-1, N.C. Gen. Stat. § 150B-35, and 26 NCAC 3 .0115, the undersigned has authority to grant Summary Judgment.

2. Chapter 105A of the North Carolina General Statutes authorizes Respondent to claim all or a portion of an individual's North Carolina income tax refund to satisfy all or portion of a debt owed to it by such individual.

3. Pursuant to N.C. Gen. Stat. § 105A-8, "a decision made after a hearing under this section must determine whether a debt is owed to the State agency and the amount of the debt."

4. Respondent has proven the requirements of N.C. Gen. Stat. § 105A-8 that Petitioner owed a debt to Respondent for \$5577.00 before Respondent intercepted \$585.86 of Petitioner's 2012 income tax refund, and paid that amount on Petitioner's debt due Respondent.

5. No genuine issue of material fact remains in this case, and Respondent is entitled to judgment as a matter of law.

DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby **GRANTS** Summary Judgment for Respondent, and **DISMISSES** this case with prejudice. This is a final decision under the authority of N.C. Gen. Stat. § 150B-34.

NOTICE

Under the provisions of N.C. Gen. Stat. § 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 Wake County or in the Superior Court of the county in which the party resides. 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 26 N.C. Admin. Code 03.012, and the Rules of Civil Procedure, N.C. Gen. Stat. § 1A-1, Article 2, this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on 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 the Superior Court within 30 days of receipt of the Petitioner 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.

This the 11th day of December, 2013.

Melissa Owens Lassiter
Administrative Law Judge