

STATE OF NORTH CAROLINA
COUNTY OF WILSON

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
14 DHR 01941

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| <p>Shelia Harris Petitioner,</p> <p>v.</p> <p>WALTER B JONES ADATC Respondent.</p> | <p>FINAL DECISION by SUMMARY JUDGMENT</p> |
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THIS MATTER comes forward upon reconsideration of Respondent's Motion for Summary Judgment and Amended Motion for Summary Judgment. A hearing was held on the motion in Farmville, North Carolina on July 23, 2014 at which time the original motion was denied based upon the Petitioner asserting potential matters could result in settlement and the parties agreeing to go forward to enter into settlement discussions. Upon review of the Undersigned's cases as a result of a change of case management systems at the Office of Administrative Hearings, it was revealed that a settlement has not been reached and no further evidence has come forward.

BASED ON Respondent's motion, Petitioner's response, and all other matters in the record, and for good cause shown, the Undersigned **GRANTS** Respondent's Motion and makes the following:

FINDINGS OF FACT

1. Petitioner received care at Walter B. Jones between December 30, 2011 and January 19, 2012. Following her stays, Petitioner was billed a total of \$10,140.00 for the stays based on an established daily rate of \$507.00.
2. Petitioner did not make any voluntary payments on the \$10,140.00 owed.
3. On February 18, 2014 Respondent intercepted a total of \$431.00 from Petitioner's taxes for the outstanding 2011-12 bills.
4. Petitioner's Petition in the instant matter contests the February 2014 interception of \$431.00 from her taxes.
5. Petitioner does not deny the hospital stays or total amount of the bill.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the parties and subject matter of this contested case.
2. All persons admitted to Department of Health and Human Services institutions like Walter B. Jones, ADATC, are required to pay the actual cost of their care and treatment. N.C. Gen. Stat. § 143-117 (2014).
3. Pursuant to N.C. Gen. Stat. § 105A, Respondent must submit debts owed to it to the Department of Revenue if the debt owed is more than fifty dollars.
4. Summary judgment is designed to eliminate formal trials where material facts are not disputed and only questions of law are involved. Summary judgment should be used cautiously, with due regard to its purposes and a cautious observance of its requirements and never as a tool to deprive any party of a trial when genuinely disputed factual issues exist. See Brown v. Greene, 98 N.C. App. 377, 390 S.E.2d 695 (1990). The standard of review is whether there is a genuine issue of material fact and whether the movant is entitled to judgment as a matter of law. See Kessing v. National Mortgage Corp., 278 N.C. 523, 534, 180 S.E.2d 823, 830 (1971). To entitle one to summary judgment, the movant must conclusively establish a legal bar to the nonmovant's claim or complete defense to that claim. See Virginia Elec. and Power Co. v. Tillett, 80 N.C. App. 383, 385, 343 S.E.2d 188, 190-91, cert denied, 317 N.C. 715, 347 S.E.2d 457 (1986).
5. There is no genuine issue of material fact in this case, and the movant is entitled to judgment as a matter of law.

SUMMARY JUDGMENT

IT IS, THEREFORE, the decision of the undersigned that summary judgment under Rule 56, Rules of Civil Procedure, applicable to contested cases under 26 NCAC 03.0101, be entered in favor of Respondent because there is no genuine issue as to any material fact. Respondent properly intercepted the outstanding \$431.00 from Petitioner's taxes in February 2014.

NOTICE

THIS IS A FINAL DECISION issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statutes Chapter 150B, Article 4, any party wishing to appeal the Final Decision of the Administrative Law Judge may commence such appeal by filing 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 copy of the Administrative Law Judge's Final Decision. This Final Decision was served on the parties as indicated 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 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.

This the 7th day of July, 2016.

Augustus B Elkins II
Administrative Law Judge