

STATE OF NORTH CAROLINA  
COUNTY OF GRANVILLE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
16 DHR 03217

<p>Sholonda Randolph Petitioner,</p> <p>v.</p> <p>Nc Department Of Health And Human Services Respondent.</p>	<p><b>FINAL DECISION ORDER OF DISMISSAL</b></p>
--	---

THIS MATTER is before the undersigned on Respondent's *Motion to Dismiss* the Petition, and *Motion for Summary Judgment* pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(1) and (6), and Rule 56, respectively, of the N.C. Rules of Civil Procedure.

The motion and its supporting affidavit show that Petitioner was "overpaid" \$8,174.00 in food stamp benefits over a period of 28 months ending in December 2010; that Respondent has recovered \$1,192.00 of that through "monthly reductions" in her benefits from December 2014 to September 2015; and, that Respondent is legally entitled to recover \$6,982.00 by intercepting Petitioner's tax refunds, as it proposes to do.

While Ms. Randolph suggests that the tax interception may be a hardship for her family, viewing all of the evidence of record in the light most favorable to her, taking her asserted facts as true, and drawing all reasonable inferences in her favor, Petitioner has failed to forecast the ability to show that the Respondent substantially prejudiced the Petitioner's rights, or exceeded its authority or jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, or failed to act as required by law or rule. N.C. Gen. Stat. § 150B-23(a); 150B-25.1(a).

There being no genuine dispute as to any material fact, the Respondent is entitled to summary judgment as a matter of law.

Consequently, Petition must be, and hereby is, **DISMISSED**.

**NOTICE**

**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 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 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.

**IT IS SO ORDERED.**

This the 13th day of July, 2016.

---

J Randolph Ward  
Administrative Law Judge