

**NORTH CAROLINA**  
**COUNTY OF WAKE**

**OFFICE OF ADMINISTRATIVE HEARINGS**  
**15 UNC 02692**

**Bernardine Fox,** )  
 )  
 **Petitioner,** )  
 )  
 **v.** )  
 )  
 **UNC Hospitals,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

**ORDER FOR  
SUMMARY JUDGMENT**

THIS MATTER comes on pursuant to a Motion to Dismiss or Alternative Motion for Summary Judgment filed by Respondent, UNC Hospitals, on August 5, 2015.

**UNDISPUTED FINDINGS OF FACT**

An Order for Pre-Hearing Statements was issued on June 11, 2015, requiring the parties to file pre-hearing statements within 30 days. Respondent timely filed its pre-hearing statement. Petitioner has failed to file a pre-hearing statement.

Respondent served Petitioner with Requests for Admission on June 30, 2015. Up to and including the date of Respondent's Motion, Petitioner failed to respond to Respondent's discovery requests.

Based on Petitioner's failure to respond to Respondent's Requests for Admission, Petitioner has admitted that she presently owes Respondent \$104.00 on Patient Account Number 489148924 and \$2,642.64 on Patient Account Number 490007572, representing medical care rendered to her on February 19, 2013 and May 9, 2013 respectively.

On March 4, 2015, Respondent notified Petitioner that it had received \$262.00 as a result of an interception of her North Carolina income tax refund leaving balances of \$0.00 on Patient Account Number 489148924 and \$2,484.64 on Patient Account Number 490007572.

**CONCLUSIONS OF LAW**

The N.C. Office of Administrative Hearings has jurisdiction over the parties and subject matter of this contested case pursuant to N.C. Gen. State § 150B-23 *et seq.*

Petitioner failed to comply with the Order for Pre-Hearing Statements. By failing to file a pre-hearing statement, Petitioner's contested case is subject to sanctions up to and including dismissal. 26 N.C.A.C. 3 .0114.

Petitioner failed to respond to Respondent's Requests for Admission. By failing to respond to Respondent's Requests for Admission, Petitioner has admitted the truth of each and every request, and thus all matters set out in the Requests for Admission are conclusively established. Rule 36 of the North Carolina Rules of Civil Procedure and 26 N.C.A.C. 3 .0101.

### **FINAL DECISION**

NOW THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the undersigned determines that there is no genuine issue of material fact, and the Respondent is entitled to judgment as a matter of law. Pursuant to Rule 56 of the North Carolina Rules of Civil Procedure, Summary Judgment in favor of the Respondent is hereby **GRANTED**.

### **NOTICE**

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

Pursuant to the provisions of NORTH CAROLINA GENERAL STATUTES Chapter § 150B-45, 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 Wake County or 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 party seeking review 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.A.C. 03.0102 and the North Carolina 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.** Pursuant to N. C. G. S. §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 24<sup>th</sup> day of August, 2015.

---

Philip E. Berger, Jr.  
Administrative Law Judge