

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Dr. Sheri Stein-Blum, MS, CCC-SLP

Petitioner,

v.

Department of Health and Human Services.

Docket No. C-17-149

ALJ Ruling No. 2017-4

Date: December 20, 2016

**DISMISSAL**

On December 2, 2016, Petitioner filed documents to the Departmental Appeals Board Electronic Filing System (DAB E-File), contesting a debt she purportedly owed to the Indian Health Service Loan Repayment Program. The Civil Remedies Division construed the documents to be a request for hearing, docketed the case, and assigned it to me.

On December 15, 2016, I held a telephone pre-hearing conference in this case. In attendance were Jay Blum, representing Petitioner, and Ann Slacter, Esq. and Michael Wolf, Esq. from the Office of the General Counsel, representing the Department of Health and Human Services (HHS).

I noted that, prior to the conference, HHS had filed a motion to dismiss for lack of jurisdiction, and Petitioner had filed an opposition. I stated that I am able to adjudicate appeals only if I have been given the specific authority to hear those cases. I noted that Petitioner had not cited any legal authority to support her position that her debt dispute with the Indian Health Service Loan Repayment Program fell under the jurisdiction of the Departmental Appeals Board. Although Petitioner cited 45 C.F.R. § 16.3(a) in her brief, she cited only a portion of the regulation. Section 16.3 lists three circumstances that must be present before the Departmental Appeals Board will take an appeal, and the complete text of section 16.3(a) states: “The dispute must arise under a program which uses the

Board for dispute resolution, and must meet any special conditions established for that program. An explanation is contained in appendix A.” Emphasis added. Appendix A sets forth a list of HHS programs “which use the Board for dispute resolution, the types of disputes covered, and any conditions for Board review of final written decisions resulting from those disputes.” Petitioner’s dispute is not among the programs cited.

I advised the parties that, based on my review of the documents filed by Petitioner, it appears a tax refund offset was involved. Therefore, the regulation applicable to Petitioner’s situation is 45 C.F.R. § 31.7(b), which states:

(b) *Review.* Upon the timely submission of evidence by the debtor, the Department shall review the dispute and shall consider its records and any documentation and evidence submitted by the debtor. The Department shall make a determination based on the review of the written record, and shall send a written notice of its decision to the debtor. *There is no administrative appeal of this decision.*

45 C.F.R. § 31.7(b) (emphasis added). Petitioner thus has no right to an administrative appeal under the regulation. If Petitioner so chooses, Petitioner may file an appeal in federal district court, and the court will decide whether it has jurisdiction.

I do not have jurisdiction over Petitioner’s debt dispute. Accordingly, I order that this case be dismissed. The parties may request that an order dismissing a case be vacated pursuant to 42 C.F.R. § 498.72.

\_\_\_\_\_/s/\_\_\_\_\_  
Carolyn Cozad Hughes  
Administrative Law Judge