

ABBAS ANGHA,
Appellant,

v.

**Secretary, DEPARTMENT OF HEALTH
AND FAMILY SERVICES,**
Respondent.

**DECISION
AND
ORDER**

Case No. 97-0135-PC

This appeal arises from a letter of appeal received by the Commission on December 3, 1997, which stated, as follows:

On 11/11/96 I was promoted to Psychiatric Care Supervisor. . . . During the first six-month[s], 11/11/97 to 5/10/97 I did no[t] have a PPD session. . . . From 1/2/97 to 6/17/97 . . . I did not have any PPD sessions about my job performance. . . .

On 6/17/97 my PPD was closed and I had PPD sessions with my unit manager for the first time since I was hired (11/10/96). At that meeting my supervisor talked to me about [a] few point[s] that I need[ed] to improve and there was no discussion about my not [receiving a] raise. . . .

In summary I am certain if I had proper PPD sessions 3 months after I was hired I would have been able to meet my supervisor['s] expectation as I did after 6/17/96 PPD and be able to receive proper raise in July of 97. . . . (I was given the copy of discretionary award report on 10/24/97, 4 months after it was signed)

Therefore I request to receive proper raise since 7/6/97.

Respondent filed a motion to dismiss for lack of jurisdiction and the parties have filed written arguments.

The Personnel Commission's jurisdiction over various personnel appeals is based upon §§230.44(1) and 230.45(1), Wis. Stats. Pursuant to §230.44(1)(e), Stats.,

discretionary performance awards are specifically excluded from being appealed under that subsection. *Thorn v. DHSS*, 81-401-PC, 12/18/81.

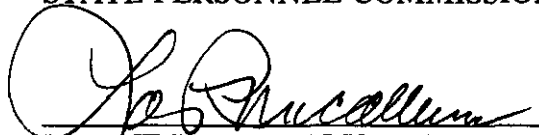
This matter also does not fall within the scope of the Commission's jurisdiction under §230.45(1), Stats., because, in part, it is not before the Commission at the final step of the non-contractual grievance process, nor would it properly fall within the scope of that procedure. Section ER 46.07(1)(c), Wis. Adm. Code.

ORDER

This matter is dismissed for lack of subject matter jurisdiction.

Dated: January 14, 1998

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

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DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

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NOTICE

OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds

for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)
2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8); Wis. Stats.)