

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 NEAL W. CORCORAN, *
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 Appellant, *
 *
 v. *
 *
 Secretary, DEPARTMENT OF HEALTH *
 & SOCIAL SERVICES, *
 *
 Respondent. *
 *
 Case Nos. 79-147-PC *
 79-199-PC *
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 * * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

These are appeals brought pursuant to s. 230.45(1)(c), Stats., of the denial of non-contractual grievances at the third step. The respondent has objected to jurisdiction of the Commission over the subject matter of the appeal and the parties have submitted written arguments.

OPINION

The respondent objects to jurisdiction on two grounds. The first ground is based on the language of s. 230.45(1)(c), Stats., which provides that the Commission shall:

"Serve as final step arbiter in a state employe grievance procedure relating to conditions of employment, subject to rules of the secretary providing the minimum requirements and scope of such grievance procedure."

The respondent argues that since no such rules have been promulgated by the secretary the Commission is without power to process grievances at the final step. The respondent also argues as a second objection that the pre-existing Administrative Procedures Manual (APM), providing

standards for a uniform non-contractual grievance procedure, is invalid because it was not promulgated as an administrative rule.

In the opinion of the Commission, there would not be a basis for jurisdiction regardless of whether it agreed with the respondent's arguments, and therefore it will dismiss these appeals on the narrower grounds without reaching the objections made by the respondent.

The APM which is in existence by its terms limits appeals at the fourth step to grievances which allege that the agency has violated a personnel rule or civil service statute or a function where the director of the State Bureau of Personnel has delegated his authority to the appointing authority. See APM, Subject: Non-contractual Employee Grievance Procedures, effective 8/24/66, revised 10/1/74, s. I. D. 1. i.

In his grievances the appellant complains about not being allowed by his supervisor to attend certain meetings or sessions held outside the prison. The Commission would not require that the appellant allege a specific violation of the Personnel Rules of the Civil Service Statutes or that there was a delegated function of the Division of Personnel, so long as the grievance involved a transaction in connection with which such an allegation could be made. However, decisions as to attendance at such sessions do not involve personnel transactions at all. The Commission cannot conceive how under even a very liberal approach this appeal could be construed as even having the possibility of alleging a violation of the Personnel Rules or the Civil Service Code or as involving a delegated function from the Division of Personnel. Compare, Sheda v. Carballo,

Wis. Pers. Bd., No 76-91, 114 (6/13/77), where it was determined that management's decision as to the arrangement of office furniture, although it had an impact on appellant's conditions of employment, was not a personnel decision. Likewise in this case, the decision whether to send an employe to a meeting undoubtedly has an impact on his or her conditions of employment. However it involves neither a transfer, promotion, or other transaction governed by Subchapter II of Chapter 230 or the Personnel Rules. It does not even involve a personnel transaction. Pursuant to the aforesaid APM, it is not appealable at the forth step.

ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated Feb. 15, 1980

STATE PERSONNEL COMMISSION

Charlotte M. Higbee
Charlotte M. Higbee
Commissioner