

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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GINA MEITNER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0087

Case Type: PA

DECISION NO. 38485

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**Appearances:**

Gina Meitner, 1750 Ludden Drive, Cross Plains, Wisconsin, appearing on her own behalf.

Cara Larson, Wisconsin Department of Administration, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Health Services.

**DECISION AND ORDER GRANTING MOTION TO DISMISS**

On May 11, 2020, Gina Meitner filed an appeal with the Wisconsin Employment Relations Commission seeking reimbursement from her Employer, the State of Wisconsin Department of Health Services (DHS), for 72 hours of leave time Meitner used after she was directed by her Employer to self-quarantine for 14 days after she returned from a vacation. On September 3, 2020, DHS filed a motion to dismiss the appeal asserting that the Commission lacks subject matter jurisdiction to hear the appeal. On September 9, 2020, Meitner filed a response opposing the motion, whereupon the matter became ripe for Commission consideration.

Having considered the matter, the Commission concludes the motion to dismiss should be granted.

NOW, THEREFORE, it is:

**ORDERED**

The motion to dismiss is granted, and the appeal is dismissed.

Issued at the City of Madison, Wisconsin, this 7<sup>th</sup> day of October, 2020.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND  
ORDER GRANTING MOTION TO DISMISS**

This case relates to Meitner's 14 day quarantine for possible exposure to COVID-19. Meitner was in California on vacation from March 4 to March 10, 2020. She returned to Madison on March 11, 2020. On March 13, 2020, Meitner returned to her job as a nurse at Mendota Mental Health Institute where she read a COVID-19 email that had been issued to all state employees on March 12, 2020. That email, which was entitled "Guidance for State Employees Regarding Travel, Events or Gatherings and Student Internships" provided in pertinent part: "Employees who travel personally . . . to a state that has sustained community transmission, as determined by the CDC . . . will not be allowed to return to their workplace for 14 calendar days after you return." After reading that email, Meitner notified the Employee Health department about her travel to California. That day, at the end of her shift, Meitner was directed to go home and self-quarantine for 14 days because she had traveled to a state (California) that had "sustained community transmission, as determined by the CDC" and she had potentially been exposed to COVID-19 in that state.

Meitner self-quarantined, as directed, and was off work for 14 days. That time off from work was not considered paid work time, so Meitner used a total of 72 hours of her own paid leave time to cover her time off from work. Specifically, she used 32 hours of sick leave, 28 hours of vacation, 4 hours of personal holiday pay and 8 hours of Saturday legal holiday leave. She seeks reimbursement for those hours.

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Meitner's appeal asks the Commission to exercise its jurisdiction under Wis. Stat. § 230.45(1)(c) to act in this instance as the "final step arbiter" in the state employee grievance procedure. That section provides that the Commission shall "serve as final step arbiter in the state employee grievance procedure established under s. 230.04(14)". Wisconsin Stat. § 230.04(14) provides that "the administrator [of the Division of Personnel Management] shall establish, by rule, the scope and minimum requirements of a state employee grievance procedure relating to conditions of employment." The administrative rules promulgated by the administrator, found in Wis. Admin. Code Ch. ER 46, establish limitations on the scope of the grievance procedure.

Wisconsin Admin. Code § ER 46.03(1), provides "an employee may grieve issues which affect his or her conditions of employment . . ." The phrase "conditions of employment" is not defined in this chapter. Wisconsin Admin. Code § ER 46.03(2) then goes on to identify 13 situations where the "employee may not use this chapter to grieve." The last item on that list is "(k) Any matter related to wages, hours of work, and **fringe benefits**." Emphasis added. Although the term "fringe benefits" is not defined in that section, in the labor relations field the term "fringe benefits" typically includes such things as health insurance, retirement, paid sick leave, paid vacation, paid time off, family and medical leave, etc.

In this case, Meitner is clearly grieving a matter related to "fringe benefits" within the meaning of Wis. Admin. Code § ER 46.03 (2)(k) because she seeks reimbursement by the state for the 72 hours of personal paid leave time she used to cover her COVID-19 related quarantine.

Since Wis. Admin. Code § ER 46.03(2)(k) precludes grievances related to “fringe benefits”, and that is what Meitner is grieving here, Meitner’s grievance does not involve a “condition of employment” within the meaning of Wis. Admin. Code § ER 46.03(1). That, in turn, means that the Commission does not have jurisdiction to review her grievance.

Given that finding, the Commission need not address DHS’s remaining argument that the Commission lacks jurisdiction under Wis. Stat. § 230.44(1) to hear Meitner’s appeal.

The appeal has therefore been dismissed.

Issued at the City of Madison, Wisconsin, this 7th day of October, 2020.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman