

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MICHAEL PFAFF, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0154

Case Type: PA

DECISION NO. 40427-A

Appearances:

Michael Pfaff, N911 Pfaff Road, Mauston, Wisconsin, appearing on his own behalf.

Nicole M. Porter, Attorney, 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.

ORDER DENYING PETITION FOR REHEARING

On September 27, 2024, the Wisconsin Employment Relations Commission issued a Decision and Order Dismissing Appeal, granting the State of Wisconsin Department of Health Services' (DHS) Motion to Dismiss the appeal in this matter. On October 5, 2024, Pfaff filed a Petition for Rehearing pursuant to Wis. Stat. § 227.49 asserting that the Commission had made an error of law in its September 27, 2024, Decision and Order. The DHS filed a response opposing the Petition on October 17, 2024.

Having considered the matter, the Commission concludes that it did not make an error of law in its September 27, 2024, Decision and Order Dismissing Appeal when it concluded that it did not have jurisdiction to review the merits of the appeal in this matter.¹

NOW, THEREFORE, it is

¹ Pfaff is frustrated by the fact that DHS advised him that he could file an appeal with the Commission and then DHS turned around and successfully argued that the Commission lacked jurisdiction to consider the merits of the appeal. However, by advising Pfaff that he could file an appeal if he disagreed with DHS' view, DHS acted correctly. Pfaff had a right to disagree with DHS' view on jurisdiction and he exercised that right by filing an appeal with the Commission. It is the Commission's role to decide if it has jurisdiction to review the merits of the matter. In this instance, the Commission concluded that DHS was correct when it argued that the Commission lacked the right to review the merits of Pfaff's concerns.

ORDERED

The Petition for Rehearing is denied.

Issued at the City of Madison, Wisconsin this 5th day of November 2024.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Commissioner