

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

---

MALANG NJIE, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0182

Case Type: PA

DECISION NO. 41294

---

**Appearances:**

Malang Njie, 1034 Bultman Road, Madison, Wisconsin, appearing on his own behalf.

David Makovec, Legal Counsel, 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 June 12, 2025, Malang Njie filed an appeal with the Wisconsin Employment Relations Commission asserting that the State of Wisconsin Department of Health Services (DHS) had acted improperly as to a vacation benefit. On July 28, 2025, DHS filed a motion to dismiss the appeal asserting that the Commission lacks subject matter jurisdiction to review the matter. Njie filed a response to the motion on August 8, 2025. and the matter became ripe for Commission consideration.

Having considered the matter, the Commission is satisfied that 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 3<sup>rd</sup> day of February 2026.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

Peter G. Davis, Chairman

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

Wisconsin Stat. § 230.45(1)(c), gives the Commission authority to serve as the final step arbiter in the state employee grievance procedure relating to conditions of employment, established under Wis. Stat. § 230.04(14).

Wisconsin Admin. Code § ER 46.03 outlines the grievance procedure for employees to appeal conditions of employment. However, Wis. Admin. Code § ER 46.03(2), provides that “[a]n employee may not use this chapter to grieve: (k) Any matter related to wages, hours of work, and fringe benefits.” Because vacation benefits are a “fringe benefit”, the matter Njie raises cannot be grieved. Because the issue cannot be grieved, it follows that the Commission lacks subject matter jurisdiction under the grievance procedure to review the matter. Therefore, the appeal is dismissed.

Issued at the City of Madison, Wisconsin, this 3<sup>rd</sup> day of February 2026.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

Peter G. Davis, Chairman