

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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LISA BLACK, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HUMAN SERVICES, Respondent.

Case ID: 2.0190

Case Type: PA

DECISION NO. 41306

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Appearances:

Lisa Black, 2921 North 39th Street Milwaukee, Wisconsin, appearing on her own behalf.

Nicole Porter, Attorney, Department of Administration, 101 East 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**

On November 28, 2025, Lisa Black filed an appeal with the Wisconsin Employment Relations Commission asserting she had been given a written reprimand in lieu of a three-day suspension without just cause by the State of Wisconsin Department of Health Services (DHS). The appeal was assigned to Commission Examiner Katherine Scott Lisiecki and then reassigned to Examiner Cara Larson.

A Zoom hearing was held on January 23, 2026, by Examiner Larson. The parties made oral arguments at the conclusion of the hearing. On February 13, 2026, Examiner Larson issued a Proposed Decision and Order affirming the reprimand in lieu of a three-day suspension issued to Lisa Black by the DHS. No objections to the Proposed Decision were filed by the parties by the given deadline, and the matter became ripe for Commission consideration on -February 19, 2026.

Being fully advised on the premises, the Commission makes and issues the following:

**FINDINGS OF FACT**

1. Lisa Black (Black) is employed by the State of Wisconsin Department of Health Services (DHS) as a Human Services Program Coordinator-Senior within the Division of Medicaid Services, Milwaukee Enrollment Services unit.

2. DHS is a state agency of the State of Wisconsin and maintains written attendance and discipline policies applicable to Black.

3. When Black called in sick on August 12, August 26, and September 15, 2025, she was over the 64-hour sick leave threshold at the time of those absences, and she did not provide medical verification excusing those absences. Her unverified absences after exceeding the threshold constituted violations of the DHS attendance policy.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

### **CONCLUSIONS OF LAW**

1. The Wisconsin Employment Relations Commission has jurisdiction to review this appeal pursuant to Wis. Stat. § 230.44 (1)(c).

2. The State of Wisconsin Department of Health Services had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to issue Lisa Black a written reprimand in lieu of a three-day suspension.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

### **ORDER**

The written reprimand in lieu of a three-day suspension issued to Lisa Black by the State of Wisconsin Department of Health Services is affirmed.

Issued at Madison, Wisconsin, this 5<sup>th</sup> day of March 2026.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

**Electronically signed by: Peter G. Davis**

Peter G. Davis, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**

Section 230.34(1)(a), Stats., provides in pertinent part the following as to certain employees of the State of Wisconsin:

An employee with permanent status in class ... may be removed, suspended without pay, discharged, reduced in base pay or demoted only for just cause.

Section 230.44(1)(c), Stats., provides that a State employee with permanent status in class:

may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission . . . if the appeal alleges that the decision was not based on just cause.

Lisa Black had permanent status in class at the time of her suspension, and her appeal alleged that the written reprimand in lieu of a three day suspension was not based on just cause.

The State has the burden of proof to establish that Black was guilty of the alleged misconduct and whether the misconduct constitutes just cause for the discipline imposed. *Reinke v. Personnel Bd.*, 53 Wis.2d 123 (1971); *Safransky v. Personnel Bd.*, 62 Wis.2d 464 (1974).

The material facts in this case are largely undisputed. Black acknowledged that she called in sick on August 12, August 26, and September 15, 2025, that she was over the 64-hour sick leave threshold at the time of those absences, and that she did not provide medical verification excusing those absences. The key issue is whether DHS was required to retroactively apply medical documentation for earlier absences to bring Black's sick leave usage below the 64-hour threshold.

DHS maintains an attendance policy that allows employees to use up to 64 hours of sick leave (or approved alternate leave) within a rolling twelve-month period without medical verification. Once an employee exceeds 64 hours, medical verification is required for additional sick leave usage. Without such verification, additional absences are considered unauthorized and subject to discipline. The policy does not allow medical verification to be applied retroactively to absences that were properly counted when they occurred.

The attendance policy is accessible to employees, and Black acknowledged that she knew about it, had access to it, and was required to follow it.

Both supervisory and human resources witnesses credibly testified that DHS does not retroactively excuse absences counted for the 64-hour threshold after the 64-hour threshold is exceeded, and that they are unaware of any instances in which such retroactive adjustments were permitted. Their testimony was consistent with the written policy and how it applied to Black.

Black argues that because she later provided medical documentation for absences counted within the 64-hour threshold, those absences should have been removed from the attendance

tracker, thereby preventing her from exceeding the 64-hour threshold. This argument is not persuasive. When those absences occurred, Black was under the threshold, medical verification was not required, and the absences were properly counted. The policy does not require DHS to revisit and recalculate an employee's attendance history once the threshold is crossed.

Black also claims that she was confused by being asked to provide medical documentation during the grievance process that was ultimately not used to excuse earlier absences. The record shows she was given an opportunity to present mitigating information, and DHS considered it in its disciplinary decision. Considering mitigation but not accepting it does not make the discipline improper.

Turning now to a just cause consideration of the level of discipline Black received. DHS established that Black had prior attendance-related discipline, including a revised three-day suspension dated June 25, 2025. A five-day suspension would represent the next level of progressive discipline. However, Black was issued a written reprimand in lieu of a three-day suspension, which is a lesser sanction. Therefore, the written reprimand in lieu of a three-day suspension is affirmed.

Issued at Madison, Wisconsin, this 5<sup>th</sup> day of March 2026.

#### **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

**Electronically signed by: Peter G. Davis**

Peter G. Davis, Chairman