

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JOSEPH APPENFELDT, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0194

Case Type: PA

DECISION NO. 41415

Appearances:

Sean Heiser, 1616 E Road 2, Edgerton, Wisconsin, appearing on behalf of Joseph Appenfeldt.

Nicole M. Porter, Legal Counsel, 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 December 26, 2025, Joseph Appenfeldt filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for five days without just cause by the State of Wisconsin Department of Health Services. The appeal was assigned to Commission Examiner Anfin J. Wise.

An in-person hearing was held in Madison on March 10, 2026, by Examiner Wise. The Appellant submitted additional exhibits on March 13, 2026. The Respondent also submitted additional exhibits on March 16, 2026. On March 20, 2026, the parties submitted written closing arguments, whereupon the record was closed.

On March 26, 2026, Examiner Wise issued a Proposed Decision and Order affirming the five-day suspension of Appenfeldt by the DHS. No objections to the Proposed Decision were filed by the parties, and the matter became ripe for Commission consideration on April 1, 2026.

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

FINDINGS OF FACT

1. Joseph Appenfeldt (Appenfeldt) is employed by the State of Wisconsin Department of Health Services (DHS) as a Nurse Clinician 2 at Mendota Mental Health Institute (MMHI) and had permanent status in class at the time of his five-day suspension.

2. The DHS is a state agency responsible for the operation of various treatment facilities including MMHI, a mental health institute located in Madison, Wisconsin.

3. On October 5, 2025, Appenfeldt was scheduled to work at 7:00 a.m. and did not notify MMHI of his absence until about 7:30 a.m., in violation of DHS work rules and policies.

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 suspend Joseph Appenfeldt for five days.

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

ORDER

The five-day suspension of Joseph Appenfeldt by the State of Wisconsin Department of Health Services is affirmed.

Issued at Madison, Wisconsin, this 20th day of April 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.

Joseph Appenfeldt had permanent status in class at the time of his five-day suspension and his appeal alleges that five-day suspension was not based on just cause.

The State has the burden of proof to establish that Appenfeldt was guilty of the alleged misconduct and that 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).

It is undisputed that Appenfeldt was scheduled to work at 7:00 a.m. on October 5, 2025, and notified MMHI at approximately 7:30 a.m. that he was going to be absent that day. DHS's policy and procedure on attendance requires employees to notify the employer as early as possible if they are unable to report to work at their scheduled time, but no later than sixty minutes prior to the start of their shift. Appenfeldt admitted being aware of the policy. Therefore, there is no question that his late notification and absence on October 5, 2025, was a violation of DHS work rules and policies, and constituted workplace misconduct warranting discipline.

At the hearing, Appenfeldt claimed that he was experiencing a medical issue that is covered by FMLA, and therefore his late call-in and absence should be excused. However, the record established that Appenfeldt was not authorized to use FMLA. In fact, he did not submit a request for FMLA approval until after he was under investigation for his October 5 absence. While the Commission is sympathetic to his medical issues, his explanation does not mitigate his violation of DHS's attendance policy.

Turning now to a just cause consideration of the level of discipline Appenfeldt received. The Commission finds that Appenfeldt's misconduct does provide just cause for imposition of formal progressive discipline. Based on Appenfeldt's prior disciplinary history, a five-day suspension is the next step in the progressive disciplinary schedule. Therefore, the five-day suspension is affirmed.

Issued at Madison, Wisconsin, this 20th day of April 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis
Peter G. Davis, Chairman