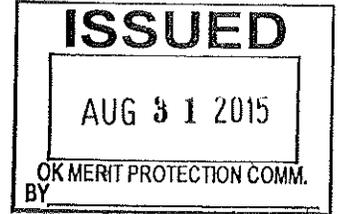


OKLAHOMA MERIT PROTECTION COMMISSION

STATE OF OKLAHOMA



JANET K. WALKER, )
Appellant )
vs. )
DEPARTMENT OF HUMAN SERVICES, )
Appellee. )

CASE NO. MPC 15-032

ORDER OF CLARIFICATION

Hearing on this matter was held before the undersigned duly appointed Administrative Law Judge on May 26, 2015 and July 14, 2015 at the Merit Protection Commission offices in Oklahoma City, Oklahoma. Appellant, Janet Walker, appeared in person and was represented by Ty Walker. Appellee, Department of Human Services (hereinafter referred to as "DHS" or "Appellee"), appeared by and through its counsel, Richard Resetaritz, Assistant General Counsel, and table representative, David Leewright, Administrative Field Analyst. Final Order was issued by the undersigned on July 30, 2015 in which the undersigned Administrative Law Judge stated, in pertinent part:

Appellant's discipline is reduced from discharge to five (5) work days suspension without pay. Appellant is reinstated to her former grade and pay with backpay and benefits, less any other income received; ...

Appellant has filed a Request for Clarification of Judgment requesting that approximately \$11,000 designated for various health care insurance providers during the period of her discharge be given to her instead. Appellant argues that since she did not have insurance coverage during the period of her discharge, she was unable to purchase needed medication and services; because of this she suffered "immense pain"; and she cannot now recoup services not provided prior to her reinstatement.

Merit Rule 455:10-9-2(f)(1) states, in pertinent part:

(B) Upon a finding that just cause did not exist for the adverse action, a presiding official may order the reinstatement of the employee, with or without back pay and other benefits. ...

(C) Upon a finding that just cause existed for the adverse action, but did not justify the severity of the discipline imposed, a presiding official may order reduction of the discipline or other corrective action. ...

It is well established law in Oklahoma that the Merit Protection Commission's authority does not extend to an award of damages. The \$11,000 Appellant is seeking is not "back pay", and if paid to her would amount to monetary damages. Payment of such damages would be contrary to Oklahoma law and contrary to the Final Order issued in this case awarding Appellant back pay and benefits. An award of "benefits" requires reinstatement of benefits as if Appellant had not had any break in service with Appellee. Reinstatement requires payment for coverage during the period of discharge. If Appellant chooses not to continue her benefits and to waive reinstatement of back benefits, she is not entitled to receive the \$11,000 which otherwise would pay for such back benefits.

***IT IS THEREFORE ORDERED THAT*** the \$11,000 designated for various health care insurance providers may not be disbursed to Appellant. The Final Order requires back pay to Appellant, less other earnings, as her only monetary award.

DATED this 31<sup>st</sup> day of August, 2015.



Annita M. Bridges, OBA # 1119  
Administrative Law Judge  
OKLAHOMA MERIT PROTECTION COMMISSION  
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