

FILED

SEP 27 2012

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

EMPLOYEE APPEALS BOARD

LISA NELSON-TRICE

APPELLANT

VS.

NO.12-012

**MISSISSIPPI DIVISION OF
MEDICAID**

RESPONDENT

FULL BOARD ORDER

This cause came on for consideration before the Mississippi Employee Appeals Board, En Banc. The Board, after review of the file and the briefs, finds that this matter should be affirmed.

Lisa Nelson-Trice was terminated from the Mississippi Division of Medicaid on February 16, 2012. Nelson-Trice was terminated for a Group III Offense of "falsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications or other official state documents." Specifically, Nelson Trice was accused of falsifying the employment application, for her position, by certifying that she had received a bachelor's degree from Union University.

Nelson-Trice appealed her termination to the Mississippi Employee Appeals Board. The hearing before the MEAB was held on June 22, 2012. Following the hearing the Hearing Officer issued an Order, finding as follows:

Trice stated on her July 26, 2011, Application that she had a bachelor's degree, Trice's representation in this regard, while incorrect, was not made with the intent to deceive or mislead MDOM so Trice could receive a promotion to the position of Medicaid Specialist II. Falsification of records, within the meaning of the *Mississippi State Personnel Board Policy and Procedure Manual*, means that an employee intentionally stated something that was untrue, i.e., that the employee lied. Trice's statement, while incorrect, was not a lie, but an incorrect misstatement of fact. For this reason, her statement was not a falsification of a state record.

Consequently, Nelson-Trice was reinstated to her position with the MDOM, and awarded back pay and benefits.

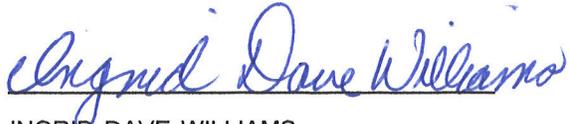
On July 6, 2012, MDOM filed a request for review by the MEAB, en banc.

The MDOM argument is summed up in the assertion that the Hearing Officer's findings constitute error and are contrary to the law. As the MDOM notes in its brief the rules state that "the appealing party shall have the burden of proving that the reasons stated in the notice of the agency's final decision are not true or are not sufficient grounds for the action taken." In fact, the Hearing Officer found both that Nelson-Trice proved that the reasons for the agency's final decision were not true and that those reasons were not sufficient grounds for the action taken. The Hearing Officer found that "Trice's representation on her Application for the Medicaid Specialist II position that she had a bachelor's degree, while incorrect, was not made with the intent to deceive the MDOM, but rather was a mistaken statement of an incorrect fact," and thus pursuant to the Hearing Officer's correct analysis was not "'false' within the context . . . of (Nelson-Trice's) case." Additionally, the Hearing Officer found that Nelson-Trice met the qualifications for the Medicaid Specialist II position without a bachelors degree. Thus it is clear that the reasons for terminating Nelson-Trice were not sufficient since she did in fact qualify for the position from which she was terminated.

IT IS THEREFORE ORDERED AND ADJUDGED that the Order of Hearing Officer, Michael Watts, be affirmed.

SO ORDERED THIS THE 27th DAY OF September 2012.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY: 

INGRID DAVE WILLIAMS

Hearing Officer