

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

CHARISSA WILSON

FILED

APPELLANT

VS.

OCT 08 2014

NO. 14-030

MISSISSIPPI DIVISION OF MEDICAID

EMPLOYEE APPEALS BOARD

APELLEE

ORDER

This cause came on for hearing on September 4, 2014, in Jackson, Mississippi. The Appellant, Charissa Wilson, appeared pro se, and Abbie Koonce represented the Mississippi Division of Medicaid ("MDOM").

SUMMARY

Charissa Wilson was employed as an Accountant/Auditing Division Director IV with the MDOM. On July 10, 2014, Wilson was terminated for a Group Three, No. Six 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, MDOM alleged that Wilson "recreated a state document and record that is officially generated from the Mississippi Department of Finance and Administration on a monthly basis notifying each state employee of the direct deposit of their earnings, taxes, deductions, net pay, and leave usage. Recreating the state document and record afforded you the opportunity to establish these false check stubs for yourself for the pay periods ranging from February 28, 2011 through December 31, 2013."

Wilson was also charged with the Group Three, No. 19 Offense of "willful violation of MSPB (Mississippi State Personnel Board) policies and procedures, including, but not limited to refusing to cooperate and/or giving a false statement in an investigation of possible violation of MSPB policies and procedures." Specifically, MDOM alleged that Wilson's responses, in a meeting with MDOM Human Resources investigators, were untruthful.

This tribunal finds that there is sufficient evidence that Wilson committed the Group Three, No. 19 offense of refusing to cooperate and/or giving a false statement in an investigation, in that she gave failed to cooperate with the MDOM investigation and she gave false statements during the March 28, 2014, interview with MDOM Human Resources. Therefore Wilson's termination is affirmed.

FINDINGS

On March 6, 2014, MDOM received an allegation from private citizens that one of its employees, Kimsey Whipps, prepared tax returns while she was at work at MDOM, and was selling social security numbers and birthdates of Medicaid beneficiaries. When MDOM investigated the allegations against Whipps it discovered a March 15, 2011, e-mail, from

Wilson to Whipps with a recreated ACE¹ check stub for Wilson with the pay date of 02/29/2011 attached. The e-mail states "Let me know what you think. Check my math." The recreated check stub had incorrect salary information for Wilson, but based on that incorrect salary contained appropriate calculations for year to date gross pay, and tax and employee benefit deductions. In December Wilson e mailed another recreated check stub with the pay date of March 31, 2011 to Whipps. That check stub also contained incorrect salary information, but based on that incorrect salary included appropriate numbers for year to date gross pay and tax and employee benefit deductions. MDOM also found additional check stubs on Wilson's computer with dates for April, 2012, through June of 2012, August of 2012, and April, November and December, of 2013.

On March 28, 2014, Wilson met with and was interviewed by the MDOM Director of Human Resources, Janie Simpson, and MDOM Deputy Administrator of Human Resources, Jennifer Washington. At that time Wilson was allowed to address the allegations against her. During that interview Wilson denied any knowledge of Whipps preparing tax returns at work and denied engaging in non-work related activities at work. When questioned about the ACE pay stubs, Wilson first stated that she had

¹ "ACE" is the Access Channel for Employees where State Employees can access their paystubs and tax forms online.

created the check stub to fax to someone because the stub printed directly from the ACE website would not fax clearly. Wilson then stated that she had created the ACE pay stubs to keep her Microsoft WORD skills sharp, and repeatedly stated "it was a game I was playing with myself." Wilson had no response when asked why she asked Whipps to check her math.

DUE PROCESS

Wilson argued that she did not receive due process because she was placed on administrative leave with pay on March 17, 2014, and her initial hearing with MDOM was March 28, 2014; but she did not receive a pre-termination conference until May 7, 2014.

§7.2. of the Mississippi State Employee Handbook states that "[i]n extraordinary circumstances, the appointing authority or designated representative may immediately suspend an employee with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty (20) working days of the suspension, at which time the appointing authority may make a final decision. "

MDOM met with Wilson on March 28, 2014, that meeting was sufficient to satisfy the hearing requirements of §7.2.

Wilson also argues that MDOM did not give her adequate notice of

the allegations against her when it placed her on administrative leave with pay. In the letter placing Wilson on leave MDOM advised her that she "may have possibly violated agency policy." Although a more detailed explanation would be preferable--since this was an extraordinary action, pursuant to §7.2, and Wilson's placement on administrative leave was related to an allegation which, if true, would have adversely affected the integrity of MDOM's purpose as a state agency the information Wilson received under the circumstances was sufficient. *Truly v. Madison General Hospital*, 673 F 2d. 763 (5th Cir. 1982).

OPINION

MEAB Rule XX provides that "[a]n 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."

Wilson was able to meet her burden of proof with regard to the Group Three, No. Six Offense of "falsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications or other official state documents," There is no definition of the term falsification in the Mississippi State Employee Handbook or in Mississippi law. Therefore we look to the list of examples in the description of the Group Three, No. Six Offense: vouchers, reports, time records, leave

records and employment applications. The enumerated documents all imply intent to defraud. There is no doubt that MDOM found recreated pay stubs and other documents on Wilson's computer, but there is no evidence that Wilson did or attempted to do anything with these documents. MDOM failed to show that Wilson attempted to use the recreated documents or attempted to deceive anyone with the documents. In sum, there was no evidence of intent to defraud. The mere fact that Wilson recreated the documents simply does not amount to falsification.

However, there was sufficient evidence to support the Group Three, No. 19 Offense of refusing to cooperate and/or giving a false statement in an investigation of possible violation of MSPB policies and procedures. After listening to the recording of the March 28, 2014, interview the undersigned Hearing Officer concludes that Wilson clearly failed to cooperate in the investigation of this matter. Although there is no direct evidence that Wilson's information was false, her explanation for the recreation of the check stubs is improbable and contradictory, i.e. why ask Whipps to check her math if it was "just a game?" Wilson repeated these explanations at her pre termination hearing and at the MEAB hearing as a sworn witness.

For the foregoing reasons Wilson's termination from MDOM is

affirmed.

SO ORDERED THIS THE 8th DAY OF October, 2014.

MISSISSIPPI EMPLOYEE APPEALS
BOARD

BY:


INGRID DAVE WILLIAMS
Hearing Officer