

BEFORE THE MISSISSIPPI EMPLOYEE APPEAL BOARD

KENYA WILLIAMS

VS.

MISSISSIPPI DIVISION OF MEDICAID

FILED

OCT 29 2015

EMPLOYEE APPEALS BOARD

APPELLANT

EAB NO. 15-036

APPELLEE

ORDER OF DISMISSAL

On October 16, 2015, the parties came before Hearing Officer Jeffrey G. Pierce on the Mississippi Division of Medicaid (“DOM”) Motion to Dismiss. The parties presented their respective arguments. The tribunal finds the Motion as well taken for the reasons stated below.

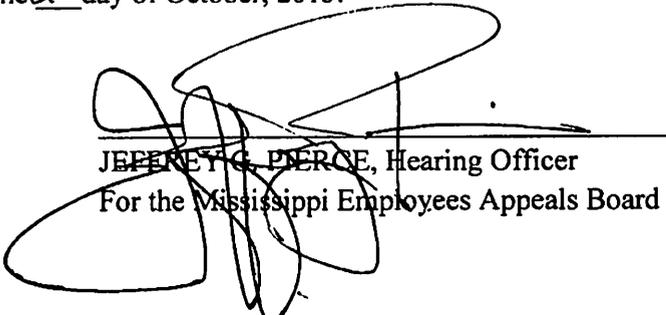
Williams was a probationary employee at the time of her termination on August 24, 2015. She was hired first as a contract employee by DOM on June 16, 2014. She then transitioned into a permanent PIN on September 1, 2014, as a probationary employee for the following twelve (12) months. As a probationary “at-will” employee, Williams could be terminated at any time for any reason or for no reason at all as stated clearly in Section 9.2.4 of the Mississippi State Personnel Board Policies and Procedures Manual (MSPM). Section 10.7.3 of the MSPM further clarifies that probationary employees do not have the right to grieve disciplinary actions except when alleging discrimination or retaliation. Williams does not raise the issue of discrimination in her appeal and when specifically asked, could not provide a single example of discrimination during the hearing on the motion.

The appeal alleges retaliation, although these claims are not clearly stated. In her response to the Motion to Dismiss, Williams fails to clearly articulate the basis for the retaliation claim. Williams could not state grounds for her retaliation claim during oral argument. Williams confesses that she failed to comply with Section 10.7.3(E) of the MSPM, and this serves as a procedural bar to her claim. The record is clear that she failed to report any alleged

improper government action to a “state investigative body” prior to her claims that she was retaliated against. Lastly, Williams articulated no basis for an exception to the “at will” doctrine; those exceptions relating to a violation of public policy related to illegal acts or if a policy handbook expressly gives an employee a property right to continued employment.

As Williams has failed to state a claim for either discrimination or retaliation, her appeal before this tribunal should be dismissed with prejudice.

SO ORDERED, this the 28th day of October, 2015.



JEFFREY C. PIERCE, Hearing Officer
For the Mississippi Employees Appeals Board