

Issue: Qualification – Benefits (other issue); Ruling Date: February 22, 2016; Ruling No. 2016-4286; Agency: Department for Aging and Rehabilitative Services; Outcome: Not Qualified.



**COMMONWEALTH of VIRGINIA**  
**Department of Human Resource Management**  
**Office of Employment Dispute Resolution**

**QUALIFICATION RULING**

In the matter of the Department of Aging and Rehabilitative Services  
Ruling Number 2016-4286  
February 22, 2016

The grievant has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) of the Department of Human Resource Management (“DHRM”) on whether her November 9, 2015 grievance with the Department of Aging and Rehabilitative Services (the “agency”) qualifies for a hearing. For the reasons discussed below, this grievance is not qualified for a hearing.

FACTS

The grievant received approval from the agency to use unconditional leave without pay (“LWOP”) for personal reasons between July 20 and August 31, 2015. The agency notified the grievant on or about July 1 that her employment benefits, including her health insurance, would be impacted while she was on LWOP. Among other things, the letter provided to the grievant stated that the agency would not pay any portion of her health insurance or life insurance premiums, and that she would be responsible for paying the full premiums during her period of LWOP. On or about October 26, after the grievant had returned to work, the agency requested payment from the grievant for the cost of her health insurance and life insurance premiums while she was on LWOP. The grievant filed a grievance on November 9 disputing the agency’s decision to seek payment from her for her full premiums and arguing that she intended to waive her healthcare and life insurance coverage while she was on LWOP. The grievant further disputes that she received proper notice of the procedure by which she could waive coverage, and requests as relief that the agency amend “future documents for employees requesting LWOP that provide[] clear and concise directions for waiving insurance coverages” and “[a]dherence by [human resources] to federal and state Insurance regulations . . . .” After proceeding through the management resolution steps, the grievance was not qualified for a hearing by the agency head. The grievant now appeals that decision to EDR.

DISCUSSION

Although state employees with access to the grievance procedure may generally grieve anything related to their employment, only certain grievances qualify for a hearing.<sup>1</sup> Furthermore, EDR has recognized that, even if a grievance challenges a management action that might qualify for a hearing, there are some cases when qualification is inappropriate. For example, during the resolution steps, an issue may have become moot, either because the agency granted the specific relief requested by the grievant or an interim event prevents a hearing officer from being able to grant any meaningful relief. Additionally, qualification may be inappropriate

---

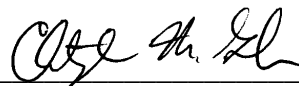
<sup>1</sup> See *Grievance Procedure Manual* §§ 4.1 (a), (b).

when the hearing officer does not have the authority to grant the relief requested by the grievant and no other effectual relief is available.

While this ruling was pending with EDR, the agency determined that the grievant would not be responsible for the cost to maintain her healthcare and insurance coverage while she was on LWOP. At a hearing on this matter, the hearing officer would have the authority to “order the agency to reapply the policy from the point at which it became tainted,” or, if “written policy require[d] a particular result without the exercise of agency discretion,” the hearing officer could “order the agency to implement those particular policy mandates.”<sup>2</sup> In this case, then, the potential relief available to the grievant would be an order that the agency should bear the cost of maintaining the grievant’s healthcare and insurance coverage while she was on LWOP. As a result, a hearing officer would be unable to provide the grievant with any additional relief beyond that which has already been granted to her by the agency. Accordingly, there is no reason for this issue to proceed to a hearing. It would be pointless to hold a grievance hearing to determine whether the agency misapplied policy with regard to the grievant’s healthcare coverage while she was on LWOP where, as here, the agency has cured the alleged error. This issue is, therefore, not qualified and will not proceed further.<sup>3</sup>

With regard to the grievant’s additional arguments regarding “[a]mendment to future documents” advising employees of waiving coverage while on LWOP and “[a]dherence . . . to federal and state Insurance regulations,” the *Grievance Procedure Manual* provides that claims relating solely to the “[c]ontents of statutes, ordinances, personnel policies, procedures, rules, and regulations” do not qualify for a hearing.<sup>4</sup> To the extent these claims relate specifically to the grievant and the agency’s management of her benefits while on LWOP, that alleged error has been addressed and is not susceptible to further relief through the grievance process for the reasons discussed above. Even assuming the grievant’s challenge to the agency’s policies and practices with regard to informing other employees about their healthcare coverage while on LWOP could qualify for a hearing, a hearing officer would not have the authority to order the agency to make any revisions or modifications to its “policies, procedures, rules, or regulations . . .”<sup>5</sup> As with the grievant’s challenge to her healthcare premiums, a hearing officer would be unable to order any relief with regard to these claims and no other effectual relief is available through the grievance process with respect to these issues. Accordingly, the grievance is not qualified for a hearing.

EDR’s qualification rulings are final and nonappealable.<sup>6</sup>



Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

---

<sup>2</sup> *Rules for Conducting Grievance Hearings* § VI(C)(1).

<sup>3</sup> This ruling does not mean that EDR deems the alleged conduct at issue, if true, to be appropriate, only that the grievance does not qualify for a hearing as the grievance procedure is unable to provide the grievant with any further relief.

<sup>4</sup> *Grievance Procedure Manual* § 4.1(c).

<sup>5</sup> *Id.* § 5.9(b); see *Rules for Conducting Grievance Hearings* § VI(C)(1).

<sup>6</sup> Va. Code § 2.2-1202.1(5).