

Issue: Compliance – Grievance Procedure (30-Day Rule and Other Issue); Ruling Date: February 12, 2016; Ruling No. 2016-4304; Agency: Department of the Treasury; Outcome: Agency Not in Compliance.



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

COMPLIANCE RULING

In the matter of the Department of the Treasury
Ruling Number 2016-4304
February 12, 2016

The grievant has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) on whether her January 29, 2016 grievance with the Department of the Treasury (the “agency”) was timely initiated.

FACTS

The grievant is employed by the agency as an Administrative and Office Specialist II. She alleges that on or about January 1, 2016, she learned that she lost health insurance benefits due to the alleged mishandling of her “disability paperwork” by her supervisor. According to the grievant, this was the second time she had improperly lost benefits. On January 29, 2016, the grievant initiated a grievance challenging the loss of her health insurance benefits and her “lowered evaluation,” which she received on January 12, 2016. On February 8, 2016, the agency subsequently advised the grievant that although it would allow her claims regarding her performance evaluation to proceed through the management steps, it was administratively closing her other claims. The grievant has appealed the agency’s action to EDR.

DISCUSSION

The grievant challenges the agency’s decision to administratively close what the agency labels as “Issue 1” of her grievance. In its letter to the grievant explaining its decision, the agency noted three reasons for its action: the conduct had previously been challenged in a grievance dated November 9, 2015; the grievance was untimely; and the relief requested regarding an accounting of time and leave was already available and her health benefits were currently in effect.


As an initial matter, there appears to be some confusion regarding what the agency has responded to as conduct the grievant is challenging in “Issue 1” of her grievance. A plain reading of the issues identified on the Grievance Form A indicates that the grievant is challenging the loss of health insurance benefits, and that she alleges this loss occurred due to her supervisor’s actions. The grievance further claims that the supervisor’s actions were the result of retaliation for an earlier grievance involving the supervisor. In contrast, the agency characterizes the issue raised by the grievant as “[a]ssignment of a new supervisor due to

retaliation.” Although the grievant asks for a new supervisor in the “Relief” portion of the Grievance Form A, the management actions or inactions giving rise to the grievance as described on the Grievance Form A concern the loss of health insurance and her supervisor’s related actions. Thus, the question to be addressed in this ruling is whether the grievant’s claims in this regard were duplicative, untimely, or otherwise properly subject to administrative closure.

Focusing on the loss of health insurance, rather than the relief requested by the grievant, it is clear that “Issue 1” of the grievance was properly raised and may not be administratively closed. The agency has not shown that the grievant had previously challenged the loss of health insurance, which the grievant apparently learned about on January 1, 2016, or that her claim regarding that loss was not initiated within 30 calendar days. Thus, having reviewed the Grievance Form A and the agency’s response, EDR finds no basis to support the agency’s closure of the issue for alleged noncompliance with the grievance procedure.

Accordingly, for the reasons set forth above, EDR concludes that the “Issue 1” (as labeled by the agency) of the January 29, 2016 grievance was properly initiated and must be allowed to proceed. This ruling does not address the merits of the claims presented in the grievance and only decides that the grievance was timely filed. The grievance must therefore be returned to the appropriate step-respondent for a response and proceed through the remainder of the grievance process.

EDR’s rulings on matters of compliance are final and nonappealable.¹



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¹ Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).