

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Wills</i>	DATE <i>5/14/09</i>
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DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOG NUMBER <i>100644</i>		[] Prepare reply for the Director's signature DATE DUE _____	
2. DATE SIGNED BY DIRECTOR <i>Mrs. Emma Schubert</i>		[] Prepare reply for appropriate signature DATE DUE _____	
		[] FOIA DATE DUE _____	
		<input checked="" type="checkbox"/> Necessary Action	

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

RECEIVED

MAY 14 2009

STATE OF SOUTH CAROLINA
State Budget and Control Board

OFFICE OF HUMAN RESOURCES

Department of Health & Human Services
OFFICE OF THE DIRECTOR

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(803) 737-0900

SAMUEL L. WILKINS
DIRECTOR

May 13, 2009

CERTIFIED MAIL

Ms. Gloria Wright
8309 Old Percival Road
Columbia, South Carolina 29223

Dear Ms. Wright:

As required by the State Employee Grievance Procedure Act, I enclose the final decision concerning your appeal against the South Carolina Department of Health and Human Services.

This concludes the processing of your appeal.

Sincerely,

Samuel L. Wilkins
Samuel L. Wilkins
Director

Enclosure

c: Ms. Deidra Singleton
Ms. Emma Forkner

FAX
(803) 737-0968

APPEAL BEFORE THE STATE HUMAN RESOURCES DIRECTOR

Gloria Wright v. South Carolina Department of Health and Human Services (DHHS)

FINAL DECISION

This matter came before me in the appeal of Gloria Wright ["Appellant"] under the State Employee Grievance Procedure Act (Act) to determine whether or not the action is "grievable to the committee or a mediator-arbitrator." Both Appellant and DHHS ["Respondent"] were given the opportunity to present information concerning the appeal. As such, both Appellant and Respondent submitted various documents included in the record on appeal and, subsequently, a review of the record on appeal has been conducted. According to the record, Appellant is appealing her termination.

ISSUE

Based on the record presented, the following issue is presented to me on appeal:
Whether Appellant failed to exhaust administrative remedies with Respondent in accordance with the requirements of the Act.

STATEMENT OF EVENTS

Based on the record presented to me by both Appellant and Respondent, the following information is presented:

1. Appellant's employment with Respondent was terminated effective April 20, 2009;
2. Appellant initiated an appeal to the State Human Resources Director which was received on April 20, 2009; and
3. Respondent states that Appellant has not filed an internal grievance regarding her termination.

RELEVANT LAW

Section 8-17-350 of the S.C. Code of Laws or 1976, as amended, states in part: "When an appeal is filed, the State Human Resources Director shall assemble all records, reports, and documentation of the earlier proceedings on the grievance and review the case to ascertain that there has been full compliance with established grievance policies, procedures, and regulations within the agency involved and shall determine whether or not the action is grievable to the committee or a mediator-arbitrator."

Section 8-17-330 of the S. C. Code of Laws of 1976, as amended, states in part: "A covered employee has the right to appeal to the State Human Resources Director an adverse employment action involving the issues specified in this section after all administrative remedies to secure relief within the agency have been exhausted." In addition, section 8-17-330 also states in part: "all grievances of agency actions affecting a covered employee must be initiated internally by such employee within fourteen calendar days of the effective date of the action..."

Respondent's Employee Grievance Procedure, states in part: "[a] covered employee who has a grievance or complaint which cannot be resolved through informal means and desires to file a grievance must submit the grievance in writing to the Agency's Director of Human Resources within fourteen (14) calendar days of the effective date of the action."


ANALYSIS

The record indicates Appellant's employment was terminated effective April 20, 2009. The record submitted by both parties is void of a written grievance filed by Appellant with Respondent. The Act requires that all administrative remedies be exhausted prior to appealing an action to the State Human Resources Director. "Where an adequate administrative remedy is available to determine a question of fact, one must pursue the administrative remedy or be precluded from seeking relief in the courts." Hyde v. South Carolina Dept. of Mental Health, 314 S.C. 207, 442 S.E.2d 582 (1994).

DECISION

Since Appellant did not file a grievance with Respondent, Appellant failed to exhaust administrative remedies; therefore, the State Human Resources Director has determined that the appeal must be denied.

This concludes the processing of the appeal.


Samuel L. Wilkins
State Human Resources Director

Columbia, South Carolina
May 13, 2009