

November 18, 2008

Lisa Gilman

RE: Lisa Gilman v. Department of Social and Health Services (DSHS)  
Allocation Review No. ALLO-08-069

Dear Ms. Gilman:

On October 3, 2008, we sent a letter to you and Ellen Andrews at DSHS, addressing the timeliness of your Director's review request, and asking the parties to respond. In a letter dated October 22, 2008 and sent via email, Ms. Andrews indicated that the allocation determination, dated August 19, 2008, was deposited in the mail from the Human Resource Office on that date. You did not submit a response.

WAC 357-13-080(1) requires employees to request a Director's review within thirty calendar days "of being provided the results of a position review or the notice of reallocation."

WAC 357-04-105(1) provides, in part, the following:

. . . when the civil service rules require an . . . employee . . . to receive notice, the notice must be provided by personal delivery, United States mail, or by telephone facsimile transmission with same-day mailing of copies unless the specific rule requiring notice allows for alternative methods of providing notice such as electronic mail ("e-mail"), state mail service, commercial parcel delivery or campus mail service.

WAC 357-04-105(2) then provides, in part, the following:

. . . service of notice upon parties will be regarded as completed when personal delivery has been accomplished; or upon deposit in the United States mail, properly stamped and addressed; or upon production by telephone facsimile transmission of confirmation of transmission. When a specific rule allows alternative methods of service, service upon parties will be regarded as completed when it is actually received by the party to which notice is being provided.

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Based on Ms. Andrew's response that the allocation determination was mailed from the Human Resource Office on the same date as the one listed on the determination, you were provided (served with) the allocation decision on August 19, 2008. Since your request was received on September 22, 2008, more than 30 days later, it was untimely. Therefore, the matter is closed.

Either party may appeal the Director's determination on timeliness to the Personnel Resources Board (Board) by filing written exceptions to the Director's determination in accordance with Chapter 357-52 WAC. Please refer to the Collective Bargaining Agreement regarding appeal rights to the Personnel Resources Board.

WAC 357-52-015 states that an appeal must be received in writing at the office of the board within thirty (30) calendar days after service of the Director's determination. The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Teresa Parsons, SPHR  
Director's Review Program Supervisor  
Legal Affairs Division

c: Ellen Andrews, DSHS