

EMPLOYEE MANUAL

Topic: Personnel Policies
Subtopic: Discipline and Grievance
Section: 2.6
Pages: 1-5

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Policy

The Division of Medicaid (DOM) has established disciplinary and grievance policies and procedures, in accordance with the procedures set forth by the Mississippi State Personnel Board (MSPB). These policies are fair, prompt, and legally sufficient. All disciplinary actions shall be taken in accordance with these policies. Please see the [Mississippi State Employee Handbook](#) for a discussion of these policies and procedures.

Procedures

Guidelines for employee corrective and disciplinary action to be taken by the agency are outlined in Chapter 7 of the [Mississippi State Employee Handbook](#).

Mississippi Code Annotated § 25-9-127 provides that no employee of any department, agency or institution under the State Personnel System, who is subject to the policies and procedures prescribed by MSPB, may be dismissed or otherwise adversely affected as to compensation or employment status except for inefficiency or other good cause. Before such disciplinary action, a State Service employee must be provided written notice and a hearing within the department, agency or institution as provided in the policies and procedures promulgated by MSPB complying with due process of law.

This provision does not apply to the following persons:

- Employees separated from employment due to a curtailment of funds or a reduction in force approved by the MSPB; or
- Employees dismissed or otherwise adversely affected as to compensation or employment status during the probationary period of state service of twelve (12) months; or
- Employees dismissed or otherwise adversely affected as to compensation or employment status, as an executive officer or other Non-State Service employees of any state agency who serves at the will and pleasure of the Governor, board, commission or other appointing authority.

Final application of any disciplinary action is at the discretion of the Executive Director.

Corrective Action

When it is determined that an employee's behavior is unacceptable or their job performance is unsatisfactory, illustrating inefficiency or other good cause, the immediate supervisor shall notify the Office Director, the Deputy Administrator, and the Office of Human Resources immediately. Simultaneously, the immediate supervisor shall fully document the unacceptable behavior or unsatisfactory job performance and provide the Office Director, the Deputy Administrator, and the Office of Human Resources with a copy of the documentation. The employee should be advised of the formal disciplinary actions (written reprimand, involuntary demotion with a reduction in pay, suspension without pay or termination) that could be warranted based on their behavior. This should not occur without prior consultation with the Office of Human Resources.

The Office Director and/or the Deputy Administrator will consult with the Human Resources Director and/or the Equal Employment/Disciplinary Officer to discuss possible disciplinary action. If disciplinary action is warranted, the immediate supervisor and Office Director shall develop a corrective action plan to be administered. The corrective action plan must be discussed with the Human Resources Director and/or the Equal Employment/Disciplinary Officer prior to being presented to the employee. The immediate supervisor or Office Director has the authority and responsibility to reprimand the employee; however, prior discussion and notification must be provided to the Human Resources Director and/or the Equal Employment/Disciplinary Officer in an effort to maintain consistency throughout the agency in regard to disciplinary actions. The immediate supervisor shall consult with his or her supervisor in making the final decision as to the disciplinary action that will be administered to the employee.

- Supporting documentation must be included with any request for formal and/or informal disciplinary action.
- The employee should be furnished with the original copy of the written reprimand, written warning, or documented counseling session.
- A copy of the written reprimand, written warning, or documented counseling session shall be forwarded to the Human Resources Director and/or the Equal Employment/Disciplinary Officer.
- Written reprimands will be included in the employee's personnel file and are grievable pursuant to Section 7.5 of the MSPB Handbook.
- Written warnings and documented counseling sessions will be included in a separate employee disciplinary file and are not grievable pursuant to Section 7.5 of the MSPB Handbook.
- Violation of established rules may result in an employee being suspended, demoted, or dismissed in accordance to Mississippi Code Annotated 25-9-127.

- Legal counsel will be sought when an employee violates the established rules of conduct.

NOTE: Any adverse action that affects an employee's compensation or employment status must be approved by the Executive Director.

Disciplinary action shall be applied in steps of increasing severity. The Executive Director or designated representative shall administer discipline in an equitable and consistent manner.

Suspension with Pay

The Executive Director or designated representative may immediately place an employee on administrative leave/suspension with pay before the due process hearing. Factors that shall be considered in determining if administrative leave/suspension with pay pending the hearing is appropriate include, but are not limited to:

- The seriousness of the allegation(s) against the employee, taking into account the mission of the agency and the employee's particular job duties;
- The reasonable possibility of serious disciplinary action being issued as a result of the pending hearing;
- Whether the employee's continued presence at work pending the hearing would be contrary to the best interests of the agency.

Grievance Procedures

Grievances are to be submitted to the Office of Human Resources within seven (7) working days of the employee becoming aware of the alleged grievable issue using the MSPB Grievance Form. Management shall provide the 1st Level and Final Agency Response on the grievance form. If necessary, either party may attach relevant supporting documents.

The steps and time restraints for filing a grievance are outlined in Chapter 8, Grievances, of the Mississippi State Employee Handbook. NOTE: When an employee files a grievance, all supporting documentation submitted with the initial grievance must be submitted to each level of management.

Access to Human Resources Director

The Human Resources Director or the Equal Employment/Disciplinary Officer is available to answer any questions an employee may have in connection with filing a grievance.

Confidential Information/Records Policy and Procedures

DOM houses many confidential records. These records relate to all agency staff whether they are medical, financial, personnel, and/or agency related. It is imperative that the information contained in these records remains confidential in every aspect. The employees of DOM will be held accountable if information from confidential records maintained and held in their trust is released without authorization.

It is the policy of DOM to take appropriate disciplinary action against DOM employees, contract agency employees, or independent contractors (business associates) who violate the agency's privacy policies, or state or federal confidentiality laws or regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Additionally, DOM is required to appropriately safeguard all Protected Health Information (PHI) from unauthorized access, use, or disclosure. Attempting to access, use, or disclose, or assisting others to access, use, or disclose PHI, when unauthorized, improper, or for more than what is minimally necessary to accomplish an authorized task, will result in counseling and/or disciplinary action up to and including dismissal. A violation of confidentiality policies and laws that results in a breach of confidentiality and/or security will result in disciplinary action.

When considering the level of severity of the disciplinary action, the Executive Director or designated representative shall take into account whether the infraction was intentional or unintentional. Intentional violations shall result in a more severe level of disciplinary action, including written reprimands, suspension, demotion, or dismissal.

Probationary Employee Policy

According to the Mississippi State Employee Handbook every employee, upon original entry into a State Service status position, must successfully serve a twelve month probationary period before that employee is granted permanent State Service status. Although the probationary employee may be terminated with or without cause during this twelve month period, DOM requires that probationary employees periodically be advised of their progress toward successful or unsuccessful performance of the major duties of their job.

Regarding probationary employees and the Performance Review System (PRS), the review period for a probationary employee will begin within fourteen days of the hire date. Probationary employees should receive a mid-point review within 3-4 months from the hire date. The Sixth Month Review will be conducted within fourteen days prior to the end of the sixth month from the date of hire. If the probationary employee is performing at the "Successful" level or above, a new Performance Review Assessment (PRA) will be opened for the next 6 months. The probationary employee will receive a 2nd mid-point review within 9 - 10 months from the hire date. The Twelve Month Review will be conducted within fourteen days prior to the end of the twelfth month from the date of hire. If the employee is performing at the "Successful" level or above, a new PRA will be opened for the next 12 months.

Failure to receive a Successful rating at the conclusion of a Review Period is considered to be inefficiency or other good cause warranting possible corrective or disciplinary action. Corrective or disciplinary action for an employee's failure to receive a Successful rating and/or non-performance of job duties during a Review Period shall comply with Chapter 7 (Employee Corrective and Disciplinary Action).

Sexual Harassment Policy and Procedures

Sexual harassment of any DOM employee is prohibited. All DOM employees have the right to work in an environment that is free from sexual harassment. Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964, and is defined as an unwanted, unwelcome and repeated action of one individual against another individual, using sexual overtones as a means of creating stress. However, some forms of sexual harassment may be so severe that repetition is not needed for the act to be considered sexual harassment.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, jokes, or comments; sexually explicit posters or pinups; requests for dates or sexual favors; sexually motivated gestures or physical contact; verbal or physical conduct; or communication of a sexual nature when:

- Submission to that type of conduct or communication is made a term or condition, either explicitly or implicitly, of an individual's employment; or
- Submission to, or rejection of, that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
- That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creates an intimidating, hostile, or offensive work environment; or
- Such conduct is based on gender and would have not occurred "but for" the gender of the victim even though it is not clearly sexual in nature or an explicit sexual advance.

Any claims of sexual harassment should be reported immediately to the employee's supervisor, the Human Resources Director, or the Executive Director. Claims of sexual harassment or violations of the Sexual Harassment Policy will be investigated by the Human Resources Director, unless another individual is determined more appropriate by the Executive Director. Anyone found in violation of this policy will be reprimanded according to the guidelines set forth in the Mississippi State Employee Handbook, Employee Corrective and Disciplinary Action, Chapter 7. All reports of sexual harassment will be handled as confidentially as possible.