

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE WAGE
CLAIM OF SHANNON WALDEN,

Claimant,

vs.

ST. PETER'S HEALTH,

Respondent

Case No. 625-2024

FINAL AGENCY DECISION

I. INTRODUCTION

On April 11, 2023, Claimant, Shannon Walden (Walden), filed a wage claim alleging that Respondent, St. Peter's Health (SPH), owed her a total of \$11,003.49 in retroactive wages and accompanying retirement benefits for work performed as its Point of Care Coordinator during the period from December 1, 2021 through February 11, 2023. On March 15, 2024, the Employment Standards Division (ESD) issued a determination wherein it found that SPH did not owe Walden any additional wages and that she was paid appropriately in accordance with Montana law. Walden timely appealed.

On November 1, 2024, the Hearing Officer convened a contested case hearing in Helena, Montana. Walden appeared and participated on her own behalf. David McLean appeared on behalf of SPH. Nathan Wyant attended as SPH's designated representative. Walden and Wyant both provided sworn testimony. By stipulation of the parties, Documents 1-167, which comprise the investigative record from ESD, Walden's Exhibit 1, and SPH's Exhibit A were admitted into the record. Both parties waived the submission of post-hearing briefs. As such, this matter is now ripe for disposition.

II. ISSUE

1. Whether SPH owes Walden retroactive wages and penalties for work performed as its Point of Care Coordinator as provided by law.

III. FINDINGS OF FACT

1. Walden started working for SPH as a phlebotomist on July 27, 2020.
2. SPH's policies do not provide that an employee is entitled to an annual increase in salary, but SPH is required to give their employees annual performance reviews.
3. Shortly after she started at SPH, Walden transitioned to a clinical lab scientist.
4. Eventually, Walden was promoted to the position of Point of Care Coordinator.
5. As the Point of Care Coordinator, Walden was responsible for managing all the users and devices within SPH's facility.
6. In order for a user to access and utilize a particular device, they had to have a certain licensure. This meant that Walden was responsible for ensuring that users were only accessing and using SPH's devices that they were properly licensed and qualified to use.
7. When the Point of Care Coordinator position was first proposed to Walden, she was provided with a "stripped down" job description that did not contain all the duties that she was expected to perform.
8. Walden started training with her predecessor in August 2021, but did not officially transition into the position until December 2021. During this time, she worked alongside her predecessor to learn more about what her responsibilities as the Point of Care Coordinator would be.
9. While training with her predecessor, Walden never fully assumed the duties of the Point of Care Coordinator. Rather, she gained a general understanding of what her day-to-day responsibilities would be. For instance, while she was told about the audit process, she never had to prepare for and go through an audit on her own.
10. On December 3, 2021, Walden was presented with and executed a Personnel Transaction Form (PTF) which changed her salary from \$31.20 per hour to \$32.00 with an effective date of December 5, 2021. The PTF denoted a change in

job code, which corresponded with her transition from a clinical lab scientist to the Point of Care Coordinator.

11. Once Walden became the Point of Care Coordinator, she realized that the position entailed considerably more work than she anticipated through her onboarding process with her predecessor or that was described in the “stripped down” position description.

12. Given this increase in her duties, throughout 2022 Walden requested a performance evaluation as she believed she was entitled to more pay based upon the increase in work responsibilities as the Point of Care Coordinator. Walden sent several requests to various supervisors and employees of SPH for an evaluation. However, those requests went unanswered.

13. Eventually, Walden met with Naomi in SPH’s Human Resources Department who conducted Walden’s first performance evaluation since she took over as the Point of Care Coordinator. This evaluation occurred on February 1, 2023.

14. On February 21, 2023, Walden was presented with and executed a PTF that increased her salary from \$32.00 per hour to \$36.36 per hour.

15. The increase in Walden’s pay was due to a market analysis that was conducted by SPH, which found that similar Point of Care Coordinators made approximately \$36.00 per hour.

16. The additional \$0.36 increase was due to a one percent annual increase policy that SPH had implemented.

17. This February 2023 PTF does not state that the increase was being applied retroactively back to the date that she first started as the Point of Care Coordinator.

18. Rather, SPH verbally agreed to apply Walden’s salary increase retroactively for 10 weeks, and provided her with a lump sum amount for that retroactive pay increase.

19. The retroactive pay was meant to date back to the approximate one-year anniversary of Walden assuming the role as the Point of Care Coordinator.

20. On April 11, 2023, Walden filed a wage claim alleging that SPH owed her the sum of \$11,003.49 in retroactive wages and retirement benefits. In asserting her wage claim, Walden alleged that SPH should have to pay her the \$36.36 hourly wage, together with accompanying retirement benefits, retroactively to the date that she first assumed the role as SPH's Point of Care Coordinator.

IV. DISCUSSION¹

In this matter, Walden is claiming over \$11,000.00 in retroactive wages that she believes she is owed. Walden's claim is premised on her belief that she should have been paid \$36.00 per hour upon assuming the duties of the Point of Care Coordinator. Notably, Walden has not alleged that SPH failed to pay her for hours she worked. Rather, she believes that her rate of pay should have increased when she started working as the Point of Care Coordinator, and that SPH owes her the difference between her rates of pay when she first took over as the Point of Care Coordinator to when SPH increased her hourly rate in February 2023.

Mont. Code Ann. § 39-3-201(6)(a) defines "wages" to include "any money due an employee from the employer or employers, whether to be paid by the hour, day, week, semimonthly, monthly, or yearly. . . ." *Id.* Mont. Code Ann. § 39-3-204(1) further provides, in part, that "every employer of labor in the state of Montana shall pay to each employee the wages earned by the employee. . . ." *Id.* In interpreting these two statutes, the Montana Supreme Court has held that the "rate of compensation for work performed is normally defined by the employment contract." *Harrell v. Farmers Educ. Co-op Union of Am., Montana Div.*, 2013 MT 367, ¶ 39, 373 Mont. 92, 314 P.3d 920 (citing *Myers v. Dept. of Agric.*, 232 Mont. 286, 291, 756 P.2d 1144, 1147 (1988)). The "employer is free to set the terms and conditions of employment and compensation, and the employee is free to accept or reject those conditions." *Harrell*, ¶ 39. Notably, the Court has stated that one party "cannot unilaterally decide that more wages are owed than the amount upon which the employer and employee have agreed." *Harrell*, ¶ 40.

Based upon the language of the aforementioned statutes, the wage statutes "do not apply to claims for wages that could have been earned but for breach of employment contract or wrongful termination because such wages were not 'earned' as required by the wage statutes." *Harrell*, ¶ 39. "The Montana Wage Protection Act does not govern disputes over the rate of pay; it only governs the payment of actual wages due an employee." *Id.* Thus, it is the law in Montana that one party cannot

¹ Any statements of fact in this discussion are hereby incorporated by reference to supplement the findings of fact. *Coffman v. Niece* (1940), 110 Mont. 541, 105 P2d 661.

unilaterally decide that more wages are owed than the amount upon which the employer and employee have agreed.

Here, this matter constitutes a dispute about the appropriate rate of pay. There is no dispute that Walden was paid for the hours that she worked. Rather, she believes that her rate of pay should be increased, retroactively, to the date that she assumed the duties of the Point of Care Coordinator. As such, this matter constitutes a “rate of pay” dispute, and is not covered under the applicable wage statutes. The December 2021 contract between the parties stated that Walden was to be paid \$32.00 per hour. Then, in February 2023, the parties entered into another contract whereby they agreed that Walden was to be paid at a rate of \$36.36 per hour. Nothing within those contracts states that pay was to be retroactive to the date that Walden assumed the duties of the Point of Care Coordinator. If Walden wanted retroactive pay, she was obligated to negotiate for said retroactive pay prior to executing the February 2023 PFT. She did not. There is nothing in the record to suggest that SPH did not pay Walden for hours she worked. As such, Walden has presented a claim that is not contemplated by the Wage Protection Act.

A similar situation was analyzed by the Montana Supreme Court in *Harrell*. In that case, the claimant, Harrell, assumed a number of tasks that were formerly handled by the departed executive director. *Harrell*, ¶ 41. Harrell believed that he should have been paid more based upon the increase in his duties and responsibilities and filed a wage claim. *Id.* In addressing Harrell’s claim, the Court held the following:

Although Harrell assumed a number of the previous executive director’s tasks, MFU did not appoint him as an interim executive director or agree to pay him any additional compensation. . . . Harrell argued at trial that MFU deceived him into working “extra duties” by convincing him that he would receive additional pay, but he has not introduced any evidence showing that MFU ever actually offered him additional pay. It appears that instead Harrell made an assumption that he would be paid more, and believed that he deserved to be paid more, despite receiving no assurance from MFU that he would receive additional compensation.

MFU paid Harrell for all the work he performed as MFU’s education director. Even if he deserved a higher rate of pay, wages for the extra duties are not “due and payable” to Harrell. As MFU’s counsel pointed out, nothing in the wage claim statutes permits an employee to claim a raise that was not given. The fact that Harrell was asked to complete

tasks that did not fit within the express provisions of his job description . . . does not give rise to a wage claim.

Harrell, ¶¶ 41-42. Here, the same logic applies. Though Walden assumed the duties of the Point of Care Coordinator, SPH never expressly promised to pay Walden more even though this new position was more rigorous. Moreover, nothing within SPH's policies required it to undertake an evaluation or market analysis immediately upon her appointment to the new position. Though SPH did not provide Walden with a performance evaluation until approximately 14 months after she assumed the role of Point of Care Coordinator, it retroactively increased her salary back to the approximate one-year anniversary of her start date in that new position to comply with the annual evaluation requirement. However, though SPH was required to perform an annual performance evaluation, nothing required it to increase Walden's salary.

The fact that Walden signed off on the February 2023 PTF forecloses any argument that she was entitled to more pay than was expressly stated within the PTF. Walden agreed to the change in her compensation from that date forward, and nothing therein states that her salary increase was retroactive to the date that she assumed the Point of Care Coordinator position. Since rate of pay disputes are not contemplated by the Wage Protection Act, Walden has failed to state a viable claim under those statutes and is not entitled to the wages she seeks.

V. CONCLUSIONS OF LAW

1. The State of Montana and the Commissioner of the Department of Labor and Industry have jurisdiction over this complaint pursuant to Mont. Code Ann. § 39-3-201, et seq. *State v. Holman Aviation*, 176 Mont. 31, 575 P.2d 925 (1978).

2. Walden was an employee of SPH because SPH suffered and permitted Walden to work at SPH. Mont. Code Ann. § 39-3-201(3).

3. Walden timely filed a wage and hour claim within the 180-day period provided for under Mont. Code Ann. § 39-3-207(1).

4. SPH paid Walden for all hours she worked in accordance with the mutually agreed-upon rate of pay.

5. SPH was under no obligation to pay Walden retroactively at a higher rate of pay.

VI. ORDER

Based on the foregoing, Walden's wage claim is dismissed with prejudice.

DATED this 25th day of November, 2024.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ JEFFREY M. DOUD
JEFFREY M. DOUD
Hearing Officer

NOTICE: You are entitled to judicial review of this final agency decision in accordance with Mont. Code Ann. § 39-3-216(4), by filing a petition for judicial review in an appropriate district court within 30 days of the date of mailing of the hearing officer's decision. See also Mont. Code Ann. § 2-4-702. Please send a copy of your filing with the district court to:

Department of Labor & Industry
Wage & Hour Unit
P.O. Box 201503
Helena, MT 59620-1503