

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2014-048

MELISSA M. HILL

APPELLANT

FINAL ORDER  
SUSTAINING HEARING OFFICER'S  
VS. FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER

CABINET FOR HEALTH AND FAMILY SERVICES  
J.P. HAMM, APPOINTING AUTHORITY

APPELLEE

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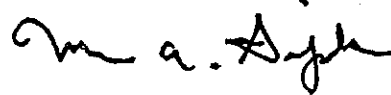
The Board at its regular November 2014 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated September 15, 2014, having noted Appellant's exceptions, Appellee's response, oral arguments, and being duly advised,

**IT IS HEREBY ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

**SO ORDERED** this 19<sup>th</sup> day of November, 2014.

KENTUCKY PERSONNEL BOARD



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MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Mona Womack  
Hon. Michael Boylan  
J.P. Hamm

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2014-048**

**MELISSA M. HILL**

**APPELLANT**

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

**V.**

**CABINET FOR HEALTH & FAMILY SERVICES  
J. P. HAMM, APPOINTING AUTHORITY**

**APPELLEE**

This matter came on for an evidentiary hearing on September 3, 2014 at 9:30 a.m. at 28 Fountain Place, Frankfort, Kentucky, before the Hon. Brenda D. Allen, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Melissa Hill, was present and was represented by the Hon. Michael Boylan. The Appellee, Cabinet for Health and Family Services was present and represented by the Hon. Mona Womack. Also present as Agency representative was Tina Ashley.

The Appellee had the burden of proof to show that the dismissal was taken with just cause and was neither excessive nor erroneous.

**BACKGROUND**

1. The Appellant, Melissa Hill timely appealed a letter of dismissal dated February 11, 2014, terminating her from her position as a Patient Aide, II at Bingham Gardens.

2. The evidentiary hearing commenced on September 3, 2014. The Hearing Officer addressed a pre-hearing motion filed by Appellee on September 2, 2014, an Objection to the Interim Order requiring the production of certain documents. Upon being given the opportunity to respond to the Objection, the Appellant declined and asked that the hearing proceed. Accordingly, the Hearing Officer **SUSTAINED** the Appellee's Objection.

3. After Opening Statements by the Appellee and the Appellant, the Appellee proceeded with the presentation of evidence and called **David Corbett** as its first witness. Corbett testified that he currently serves as the Assistant Executive Director of ResCare Bingham Gardens, a facility that was formerly under the authority of the Cabinet for Health and Family Services until its February 1, 2014, privatization which placed it under the authority of ResCare.

4. Corbett stated that while the facility was under the authority of the Appellee, he served as the Associate Facility Director and was the Appellant's third line supervisor. He testified that Appellant was a Direct Support Professional (DSP), responsible for providing assistance to the residents to include accompanying them to their daily activities, assisting with personal hygiene, mealtime, cleaning and laundry.

5. Corbett stated that at the time of Appellant's employment, Bingham Gardens was a twenty-four hour per day residential facility comprised of six homes. It housed twenty-four residents with mild to moderate intellectual and developmental disabilities. Corbett testified that the facility was bound by the staffing and resident supervision regulations of the Office of Medicare/Medicaid Services (OMS). The number of staff needed to care for the residents of Bingham Gardens was typically 20 to 21 people per shift. He testified that it is important that the staff report for their scheduled shift because if they do not, the administration is left to mandate that someone stay over and work the shift on short notice or attempt to call in another staff member.

6. Corbett testified that he became aware of the Appellant's time and attendance issues approximately seven months before her termination after she was disciplined for violations of the policy and disputed that she had violated the policy on calling in. Appellant contended that she had called the assigned number each time she was supposed to have done so, but the phone was not answered or there were other problems with the process that made it appear that she was in violation of the policy, when in fact, she was not.

7. Corbett identified Appellee's Exhibit 1 as the Bingham Gardens Time and Attendance Policy in effect at the time of Appellant's disciplinary action. He outlined that the policy requires that if an employee is going to be absent or tardy for a scheduled shift, he/she must call the assigned phone number two hours prior to the start of the shift, and provide a detailed reason for the absence or tardiness.

8. Corbett testified that to address the Appellant's claims that she was being disciplined as a result of a flawed call-in process, he worked with Human Resources (HR) and provided her with the number to his personal cell phone, which remained in his possession twenty-four hours per day. Appellant was required to call or text Corbett two hours prior to the start of her shift to report her absences and tardiness and the reasons for each.

9. Corbett identified Appellee's Exhibit 2 as the Letter of Dismissal provided to the Appellant. He stated that he worked with HR to create the chart on pages 2, 3 and 4 of the letter based upon the Appellant's call-in records. Appellee's Exhibit 2 was entered into evidence and is attached hereto as **Recommended Order Attachment A**.

10. **Howard J. Klein** was called as the next witness for the Appellee. He serves as the Director of the Division of Employee Management, a position he has held for approximately 15 years. He stated that when they receive a request for disciplinary action, it is sent to his department and assigned to a branch for the letter to be drafted. He stated that if a dismissal is requested, it is reviewed by the Legal Department and then sent to him for review of the letter and supporting documents.

11. Klein testified that in this case, because a dismissal was requested, he provided a Notice of Intent to Dismiss as required by KRS 18A.095 and had a pre-termination hearing with the Appellant. He stated that after hearing from the Appellant during their meeting, he concluded that dismissal was the appropriate sanction and signed and issued the Letter of Dismissal as the Appointing Authority.

12. Klein testified that the Letter of Dismissal, Appellee's Exhibit 2, listed previous disciplinary actions for the Appellant including a June 9, 2011 Written Reprimand for Poor Time and Attendance, an October 10, 2012 Written Reprimand for Unsatisfactory Performance of Duties and Lack of Good Behavior, and an April 19, 2013 Five-Day Suspension for Poor Time and Attendance.

13. Klein then identified Appellee's Exhibit 3 as the Letter of Suspension he issued to Appellant on April 19, 2013, for violations of the Bingham Gardens Time and Attendance Policy, and Appellee's Exhibit 4 as a Letter of Suspension he issued to the Appellant on October 12, 2012, for Unsatisfactory Performance of Duties and Lack of Good Behavior. Appellee's Exhibits 3 and 4 were entered into evidence.

14. The witness identified Appellee's Letter of Reprimand issued to Appellant on June 9, 2011, which was submitted as an exhibit. However, Klein testified that he did not have specific recollection of reviewing the letter with other documents at the time he issued the Notice of Dismissal since he reviews several hundred requests for disciplinary action per year. He also testified that he did not sign the Letter of Reprimand. Appellant objected to its entry into evidence. The objection was SUSTAINED and the Letter of Reprimand was not entered into the record.

15. Klein testified that the Letter of Dismissal, Appellee's Exhibit 2, lists the October 10, 2012 disciplinary action for Lack of Good Behavior (Appellee's Exhibit 4) as a written reprimand instead of a two-day suspension. Klein stated that he overlooked the typographical error upon his review of the letter at the time he signed it.

16. Klein testified that the Policy on Time and Attendance, Appellee's Exhibit 1, lists progressive disciplinary actions on Page 4 of the policy, but also details thereafter that if the employee has a No Call/No Show, up to two levels of the progressive disciplinary steps may be omitted.

17. Klein testified that the Letter of Dismissal does not list that Appellant was given a "verbal warning." He stated that he has no knowledge of the October 10, 2012 two-day suspension for Unsatisfactory Performance of Duties being appealed then reduced to a written reprimand, but also testified that the disciplinary action for Unsatisfactory Performance of Duties was not a factor in Appellant's dismissal because it was not related to Time and Attendance violations.

18. Klein testified that the Time and Attendance Policy applies to all employees of Bingham Gardens and that he felt that the dismissal of Appellant was appropriate because of the extreme number of violations of the policy listed on pages 2-5 of the Appellee's Exhibit 2. He testified that Appellant was treated better than other employees because Bingham Gardens was very slow about seeking Appellant's dismissal in light of the significant number of violations of the policy. The Appellee rested.

19. The Appellant, **Melissa Hill**, was the first witness to testify on her own behalf. She testified that she was a state Certified Nurse Assistant and had been employed since January 1, 2010, as a Patient Aide II with Bingham Gardens. She testified that at the time of her dismissal from Bingham Gardens she was in a domestic violence relationship and that she kept Bingham Gardens updated on her situation with Court and counseling.

20. Hill testified that she would call-in as required by the policy, but there were problems with the facility cell phone being charged, and also problems with the availability of the person assigned to answer the phone. She stated that this prevented them from having an accurate record of her calls to report her absences or tardiness.

21. Appellant testified that she had a problem keeping cell phones because her ex-boyfriend would break the phones and steal money, but she made every effort to comply with the policy and would use someone else's phone if necessary. She testified that the facility wanted to keep tabs on her after her last suspension so they required her to call David Corbett and not the phone number listed in the policy.

22. She stated that she felt she was being watched and treated differently and that she was the only DSP required to call David Corbett. She also stated that the October 10, 2012 two-day suspension was reduced to a written reprimand and she received back pay for the days. She testified that she provided documentation of that to Klein during her pre-termination hearing and that is why it is listed in Appellee's Exhibit 2 as a written reprimand.

23. Appellant testified that because she had problems keeping cell phones and did not receive her timesheets as requested, she had no records to refute any of the days or times listed as violations of the policy in the chart of Appellee's Exhibit 2. She stated that she had filed grievances because she felt her employer was trying to "piece her apart" and get her out the door, but admitted that she received both a written reprimand and five-day suspension for violations of the Time and Attendance Policy.

24. The next witness for the Appellant was **Todd McGuire**, who is currently employed as the floor supervisor at Hazelwood, but was previously Appellant's supervisor at Bingham Gardens until early 2013 when Appellant switched to second shift. McGuire testified that Appellant was a good worker, but he had issues with the Appellant missing days of work and coming to work late.

25. McGuire stated that he was aware that Appellant was involved in a domestic violence relationship and that he had spoken with Appellant about her time and attendance issues and placed her on a Performance Improvement Plan (PIP).

26. Upon Cross Examination, McGuire stated that on Appellant's annual evaluation, he rated her a "1" or "2" for unsatisfactory performance relative to her time and attendance. He stated that because the rating was so low, he was required to implement a PIP. He testified that he did not recall if he had provided Appellant verbal counseling.

27. The witness was then provided Appellant's PIP to refresh his memory. It was identified and marked as Appellee's Exhibit 5 and was signed by both the witness and the Appellant and dated March 8, 2013. The witness stated that he issued this document to Appellant and that the document provided that he had provided the Appellant verbal coaching on December 28, 2012 and that the Appellant had "been trained numerous times on the time and attendance policy of the facility." The witness read from the document that they "had several talks about her time and attendance issues" and that the Appellant had agreed to "make a better effort to correct this issue." Appellee's Exhibit 5 was entered into evidence.

28. McGuire testified that he did not believe that the Appellee followed up on the PIP as required, but admitted that he did not know for sure because he was not Appellant's supervisor at the time of the scheduled follow-up conference with her in April 2013.

29. The Appellant rested and both parties presented closing arguments. The Hearing Officer carefully reviewed all evidence in its entirety.

### **FINDINGS OF FACT**

1. The Appellant, Melissa Hill a Patient Aide, II was terminated from Bingham Gardens, a residential facility for the developmentally disabled within the Cabinet for Health and Family Services for violations of the facility's Time and Attendance Policy. (Appellee's Exhibit 2)

2. The Appellant, a classified employee with status, timely appealed her dismissal to the Personnel Board on March 14, 2014.

3. Bingham Gardens is a twenty-four hour per day residential facility for mentally and physically challenged individuals and it is critical that time and attendance policies and procedures be followed in order to comply with the staffing and supervision requirements for health and safety imposed by the OMS. (Appellee's Exhibit 2, Testimony of Corbett).

4. The Bingham Gardens Policy on Time and Attendance, OP-200-04.1, provides that if an employee is not going to arrive timely for his/her shift, the employee must call the Call-In Phone on the date in which the tardiness or absence occurs, two hours prior to the start of the employee's shift and provide a detailed reason for the absence or tardiness. (Appellee's Exhibit 1, Paras. 8, 9)

5. The Time and Attendance Policy further provides:

24. Unexcused absences and/or tardiness are considered cumulative in nature and the following progressive disciplinary measures will be taken:

- A. 1<sup>st</sup> Occurrence Verbal Warning
- B. 2<sup>nd</sup> Occurrence Written Reprimand
- C. 3<sup>rd</sup> Occurrence Suspension Request
- D. 4<sup>th</sup> Occurrence Suspension Request
- E. 5<sup>th</sup> Occurrence Dismissal Request

25. If an employee fails to report for duty or notify the supervisor/designee of reasons for his or her absence (NO CALL, NO SHOW), up to two levels of the progressive disciplinary steps may be omitted.

...

29. When six (6) or more months have lapsed since the employee has last been disciplined for time and attendance infractions, and another infraction occurs, the last disciplinary step may be repeated.

30. When an employee achieves two (2) years free of disciplinary action for time and attendance infractions, the disciplinary process begins anew should there be another occurrence.

6. 101 KAR 1:345 states:

Section 1. General Provision. Appointing Authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

7. The Appellant had a several year history of chronic violations of the Time and Attendance Policy prior to her dismissal. She had been trained on the policy numerous times and received a June 9, 2011 written reprimand for violations of the policy. Additionally, her supervisor, Todd McGuire, verbally counseled her on the issue on several occasions, scored her unsatisfactorily on time and attendance on her annual evaluation and placed her on a March 2013 PIP in an attempt to improve her performance relative to this issue. (Testimony of Appellant, McGuire, Appellee's Exhibit 5.)

8. In April 2013, Appellant was issued a five-day suspension for thirty (30) violations of the Time and Attendance Policy including eight (8) No Call, No Shows and twenty-two (22) other violations. (Appellee's Exhibit 3.)

9. Upon receipt of the April 2013 suspension, the Appellant contended that she had complied with the call-in policy and problems with the assigned call-in number made it appear that she was non-compliant. As a result, beginning on May 17, 2013 the Appellee directed that instead of the phone number listed in the policy, Appellant call or text David Corbett's personal cell phone to report her absences, tardiness and reasons, prior to her scheduled shift. (Testimony of Appellant, Corbett, Appellee's Exhibit 2.)

10. From the period of May 8, 2013, to November 27, 2013, the Appellant violated the Time and Attendance Policy seventy-six (76) times, including eighteen (18) No Call, No Shows.

11. The Appellee provided the Appellant Notice of Intent to Dismiss, conducted a pre-termination hearing and then dismissed the Appellant by letter dated February 11, 2014 (Appellee's Exhibit 2, Testimony of Klein, Corbett, Appellant.)

12. During the hearing, the Appellant testified that she did call in as required, but put nothing into evidence to refute the Appellee's evidence. The Hearing Officer resolves this factual dispute in favor of the Appellee and finds the Appellee's evidence credible.

### **CONCLUSIONS OF LAW**

1. For her violations of the Time and Attendance Policy, the Appellant had previously been issued a Verbal Warning, Written Reprimand and Five-Day Suspension consistent with the progressive discipline provision of the policy.

2. After the five-day suspension, the Appellant continued to have a significant number of violations of the Time and Attendance Policy, including No Calls, No Shows such that the Appellee could, consistent with the progressive discipline provision of the policy, omit a second suspension and dismiss the Appellant in accordance with 101 KAR 1:345.

3. The Hearing Officer concludes that the Appellee's dismissal of the Appellant was taken with just cause and was neither excessive nor erroneous.

### **RECOMMENDED ORDER**

The Hearing Officer Recommends to the Personnel Board that the Appeal of **MELISSA HILL V. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2014-048)** be **DISMISSED**.

### **NOTICE OF EXCEPTION AND APPEAL RIGHTS**

Pursuant to KRS 13B.110(4), each party shall have fifteen days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365 Section 8(1). Failure to file exceptions will result in preclusion of the judicial review of those issues not specifically excepted to. On appeal, a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W. 3d 560 (Ky. 2004).

**Any document filed with the Personnel Board shall be served on the opposing party.**



The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has (30) days after the date of the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100

**ISSUED** at the direction of **Hearing Officer Brenda D. Allen** this 15<sup>th</sup> day of September, 2014.

**KENTUCKY PERSONNEL BOARD**



**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof this day mailed to:

Hon. Mona Womack  
Hon. Michael Boylan



CABINET FOR HEALTH AND FAMILY SERVICES  
OFFICE OF HUMAN RESOURCE MANAGEMENT

Steven L. Beshear  
Governor

275 East Main Street, 5C-D  
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Audrey Tayse Haynes  
Secretary

February 11, 2014

Melissa Hill

Re: Dismissal and Conclusion of Administrative Leave

Dear Ms. Hill:

After considering additional information you provided during your pre-termination hearing on February 6, 2014, and upon further investigation, I have not found sufficient reason to rescind the intent to dismiss dated January 16, 2014.

Therefore, based on the authority of KRS 18A.095 and 101 KAR 1:345, you are hereby notified that you are officially dismissed from your position as a Patient Aide II in the Department for Behavioral Health, Developmental and Intellectual Disabilities, Bingham Gardens ICF/MR, effective February 13, 2014.

Further, on January 16, 2014, in accordance with the authority of KRS 18A.095 (2)(c), the Appointing Authority placed you on administrative leave until the Cabinet for Health and Family Services' final action. As your dismissal is effective February 13, 2014, your administrative leave is hereby concluded.

You are being dismissed from your position for the following specific reason:

**Lack of Good Behavior.** As reported by Facility Director Melissa Brock, despite repeated attempts to improve your poor time and attendance, you routinely violate time and attendance procedures and repeatedly fail to report to work and/or fail to timely report your intended tardiness or absences.

Bingham Gardens is a 24-hour per day residential facility for mentally and physically challenged individuals. It is critical that Bingham Gardens' time and attendance policies and procedures are

followed in order to ensure proper supervision and care is maintained in order to maintain the health, safety and well-being of its residents.

According to Bingham Gardens Operational Practice (OP) Number, OP-200-04.1 Time and Attendance, specifically states, "Employees must notify the Shift Manager within the established time-frame (two hours prior to the start of their shift), if he/she is going to be tardy or absent and state the reason for the absence by calling the facility issued cell phone at 502-554-8523. If the Shift Manager is not reached then an employee must contact the front desk, either security or reception so they can log the time contacted about the absence or tardiness." You have been trained on this procedure multiple times. Additionally, on May 17, 2013, due to your history of excessive absences, tardiness and failing to report to work for an entire shift and failing to call the facility to report your absence, referred to as "no call/no shows", you met with Bingham Gardens Fiscal Manager David Corbett. Mr. Corbett advised you that as of that date, you were required to contact him to report your absences, as he was the only person that could now approve your time and attendance. Therefore, he provided you with his personal cell phone number and instructed you to call or text him, adhering to Bingham Gardens' time and attendance reporting procedures, to report all tardiness and/or absences.

During the period below, you worked several different shifts. Specifically, from May 1, 2013 to June 15, 2013, your scheduled shift was from 6:45 a.m. to 3:00 p.m., (with the exception of May 8, 2013, when your doctor ordered light duty, and May 17, 2013, when you were required to attend training, and both days your scheduled shift was from 8:00 a.m. to 4:30 p.m.). From June 15, 2013 to July 1, 2013, your doctor ordered light duty and your scheduled shift was from 8:00 a.m. to 4:30 p.m. From July 1, 2013 to September 1, 2013, your scheduled shift was 6:45 a.m. to 3:00 p.m. From September 1, 2013 to November 30, 2013, your scheduled shift was 2:45 p.m. to 11:00 p.m.

As indicated in OP-200-04.1 Time and Attendance, although you were required to contact the facility at least two hours prior to the beginning of your shift if you are unable to report to work, you failed to report to work and failed to contact the facility at least two hours prior to the beginning of your shift to report your tardiness or absence, as follows:

Date	Called in	Reported to work	Number of Hours of Unauthorized Leave Without Pay
May 8, 2013	No	8:10 a.m.	0.25
May 10, 2013	Yes	N/A	0.50
May 12, 2013	No	N/A	7.50
May 13, 2013	Yes	9:58 a.m.	3.50
May 19, 2013	No	9:26 a.m.	2.75
May 28, 2013	No	6:57 a.m.	0.25
May 31, 2013	No	6:59 a.m.	0.25
June 2, 2013	No	11:45 a.m.	5.00
June 8, 2013	No Call/No Show <sup>1</sup>	N/A	7.50
June 24, 2013	No	N/A	7.50

July 3, 2013	No	8:50 a.m.	2.00
July 8, 2013	No Call/No Show	N/A	7.50
July 9, 2013	No Call/No Show	N/A	7.50
July 10, 2013	No Call/No Show	N/A	7.50
July 12, 2013	No Call/No Show	N/A	7.50
July 13, 2013	No Call/No Show	N/A	7.50
July 14, 2013	No Call/No Show	N/A	7.50
July 15, 2013	No Call/No Show	N/A	7.50
July 18, 2013	Yes	N/A	7.50
July 19, 2013	Yes	N/A	7.50
July 20, 2013	Yes	N/A	7.50
July 21, 2013	Yes	N/A	7.50
July 23, 2013	Yes	N/A	7.50
July 29, 2013	No	7:20 a.m.	0.50
July 30, 2013	No	9:05 a.m.	2.25
August 2, 2013	No	8:47 a.m.	2.00
August 3, 2013	No Call/No Show	N/A	7.50
August 4, 2013	No	7:23 a.m.	0.75
August 5, 2013	No Call/No Show	N/A	7.50
August 8, 2013	No	7:04 a.m.	0.25
August 9, 2013	No	6:64 a.m.	0.25
August 10, 2013	No	10:17 a.m.	4.00
August 11, 2013	No	11:02 a.m.	4.25
August 13, 2013	No	12:18 p.m.	4.75
August 14, 2013	No Call/No Show	N/A	7.50
August 15, 2013	No Call/No Show	N/A	7.50
August 16, 2013	No	9:48 a.m.	3.00
August 24, 2013	No Call/No Show	N/A	7.50
August 25, 2013	No	8:36 a.m.	1.75
August 26, 2013	No	7:35 a.m.	0.75
September 1, 2013	No	2:53 p.m.	0.25
September 4, 2013	No	5:10 p.m.	2.50
September 4, 2013	No	N/A	0.25 <sup>2</sup>
September 5, 2013	No	6:18 p.m.	3.50
September 6, 2013	No	3:00 p.m.	0.25
September 6, 2013	No	N/A	0.25 <sup>2</sup>
September 9, 2013	Yes	N/A	3.25
September 11, 2013	No	3:06 p.m.	0.25
September 13, 2013	No	2:56 p.m.	0.25
September 14, 2013	No Call/No Show	N/A	7.50
September 15, 2013	No	3:54 p.m.	1.25
September 16, 2013	No	N/A	7.50

September 20, 2013	No	4:39 p.m.	2.00
September 21, 2013	Yes	5:54 p.m.	1.75
September 22, 2013	No	2:58 p.m.	0.25
September 25, 2013	No	11:06 a.m.	4.25
October 2, 2013	Yes	N/A	7.50
October 4, 2013	Yes	N/A	7.50
October 5, 2013	Yes	N/A	7.50
October 6, 2013	No	5:20 p.m.	2.50
October 7, 2013	No Call/No Show	N/A	7.50
October 12, 2013	No	6:07 p.m.	3.25
October 15, 2013	No Call/No Show	N/A	7.50
October 18, 2013	No	5:56 p.m.	3.25
October 19, 2013	No Call/No Show	N/A	7.50
October 21, 2013	No	4:45 p.m.	2.00
November 3, 2013	No Call/No Show	N/A	7.50
November 6, 2013	No	3:18 p.m.	0.50
November 11, 2013	No	3:06 p.m.	0.25
November 12, 2013	No	2:56 p.m.	0.25
November 13, 2013	No	3:11 p.m.	0.50
November 17, 2013	No	N/A	0.25 <sup>2</sup>
November 18, 2013	Yes	3:46 p.m.	1.00
November 21, 2013	No	2:55 p.m.	0.25
November 26, 2013	No	N/A	0.25 <sup>2</sup>
November 27, 2013	Yes	3:11 p.m.	0.50

<sup>1</sup> You stated you called Mr. Corbett, although you admit you did not leave him a voice mail to report your absence. However, Mr. Corbett has no record on his cell phone that he received a missed call from you on this date. Therefore, this was considered a no call/no show.

<sup>2</sup> You took extended lunch time without prior notice and approval.

Your repeated poor time and attendance, and in particular your repeated "No Call/No Shows," not only placed Bingham Gardens' residents at risk, but also placed an undue burden on the facility and your fellow coworkers. Each time you failed to report to work, the facility was required to ensure adequate resident supervision and would either require employees to work double-shifts, require an employee in another area of the facility to cover your shift (thereby causing a staffing deficiency in that area), or call other employees into work in order to provide coverage during your assigned shift.

Your actions violate Bingham Gardens Operational Practice (OP) 200.04.1 Time and Attendance and the Cabinet for Health and Family Services' Personnel Procedures 2.1, Employee Conduct, 5.2 Annual Leave, and 5.13, Sick Leave. Your actions also violate 101 KAR 2:095, Section 2(5) and 101 KAR 2:102, Section 10 and constitute grounds for disciplinary action pursuant to 101 KAR 2:102, Section 10(2)(c). Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

You previously received the following actions:

<u>DATE</u>	<u>ACTION</u>	<u>REASON</u>
April 19, 2013	Five-Day Suspension	Lack of Good Behavior (Poor Time and Attendance)
October 10, 2012	Written Reprimand	Unsatisfactory Performance of Duties and Lack of Good Behavior
June 9, 2011	Written Reprimand	Lack of Good Behavior (Poor Time and Attendance)

As you are an employee with status, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the day of receipt. To appeal, you must complete the attached form and direct it to the address indicated on the form. Copies of KRS 18A.095 and 101 KAR 1:365 concerning appeal and hearing procedures are also attached.

Sincerely,



Howard J. Klein  
Appointing Authority

HJK:jty

c: Secretary Timothy Longmeyer, Personnel Cabinet  
Executive Director Mark Sipek, Personnel Board  
Facility Director Melissa Brock, Bingham Gardens  
Cabinet Personnel File