

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Teresa Hall,

*Appellant,*

v.

Case No. 2014-TFR-05-0096

Ohio Department of Medicaid,

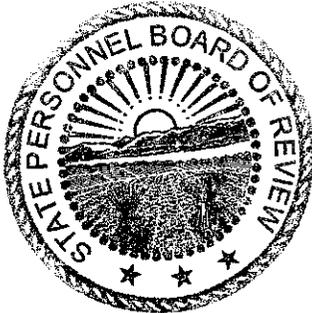
*Appellee,*

**ORDER**

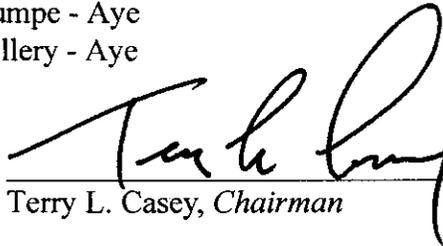
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the instant appeal is **DISMISSED** for lack of jurisdiction, pursuant to Section 323.10.30(D) of Am. Sub. H.B. No. 59.



Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
\_\_\_\_\_  
Terry L. Casey, *Chairman*

**CERTIFICATION**

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes ~~(the original)~~ a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, December 17, 2014.

  
\_\_\_\_\_  
*Clerk*

**NOTE:** Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Teresa Hall,

Case No. 14-TFR-05-0096

*Appellant*

v.

November 7, 2014

Ohio Department of Medicaid,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on pursuant to Appellee's Motion to Dismiss, filed with this Board on October 14, 2014. Appellee alleges that this Board lacks jurisdiction to consider the instant appeal. Appellant filed no memorandum *contra*.

**FINDINGS OF FACT**

Based upon the uncontroverted evidence contained in the record, I make the following findings of fact:

On May 22, 2014, Appellant filed an appeal of the transfer of her home office from Montgomery County to Franklin County with this Board. Appellant was notified of the transfer in a letter dated March 6, 2014, signed by Appellee's Director, John B. McCarthy. That letter indicated that Appellant's transfer was made pursuant to the authority granted by Am. Sub. H.B. 59.

Am. Sub. H.B. 59 granted the Director of the Department of Medicaid the authority to reorganize exempt employees during the period of July 1, 2013, through June 30, 2015. The law provides that actions of the Department Director taken pursuant to H.B. 59 are not subject to appeal to the State Personnel Board of Review.

At all times relevant to the instant appeal, Appellant was employed by Appellee in the classified exempt position of Medicaid Health Systems Administrator 1. Appellant's transfer did not result in a change in pay.

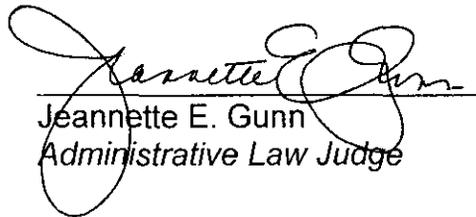
### CONCLUSIONS OF LAW

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ketron v. Ohio Dept. of Transportation (1991), 61 Ohio App.3d 657. Ohio Revised Code Sections 124.03 and 124.33 provide this Board with the authority to consider an employee's appeal of his or her transfer.

In Am. Sub. H.B. No. 59, however, the General Assembly specifically removed the Board's jurisdiction over appeals arising from certain employee reorganization actions taken by Appellee's Director during the period beginning July 1, 2013, and June 30, 2015. Section 323.10.30(B)(1) of Am. Sub. H.B. No. 59 authorizes the Director of Medicaid to "establish, change and abolish positions" for Appellee, and to "assign, reassign, classify, reclassify, transfer reduce, promote or demote all employees of the Department of Medicaid who are not subject to R.C. Chapter 4117." Section 323.10.30(D) of Am. Sub. H.B. No. 59 removes this Board's jurisdiction to consider an appeal of the actions taken pursuant to Section 323.10.30 by Appellee's Director.

Appellant was an exempt employee of the Department of Medicaid and was transferred to a different home office location by Appellee's Director in March 2014. This Board has no authority to consider an appeal of that transfer, pursuant to the provisions of Section 323.10.30(D) of Am. Sub. H.B. No. 59.

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction.

  
Jeannette E. Gunn  
Administrative Law Judge