



GREG BROCKMEYER  
Director of Administration

## COUNTY OF DANE

DEPARTMENT OF ADMINISTRATION  
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Date: December 4, 2024

To: Employee Group #2634  
Kate Gravel

From: Greg Brockmeyer  
Director of Administration

Subject: Step 3 Grievance Decision – Travel Time

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A third step hearing was held on November 13, 2024. I have summarized the primary arguments of each of the parties below:

### **Employee Group: #2634:**

Kate Gravel presented:

- For the 30 years that I have been an employee, it has always been the practice that we have been able to with consultation, conduct our day in a way that insures we are meeting the needs of the families we serve.
- With telecommuting we have now changed where we are starting and ending our day. We are often required to travel in order to conduct the counties' business. We travel to schools, home visits, therapist meetings, etc.
- The practice has been to be paid for mileage that is the shortest distance plus hours worked. For example, if I am traveling 12 miles back to my office vs 20 miles to my house, I am claiming the 12 miles. This has been consistent in various work groups.
- On October 17, 2024, Heather Stertz emailed her supervisor and explained she had a home visit at 4pm. This was not an ideal time for the employee but worked best for the client. The employee explained that the 45-minute drive would take her over the 8 hours in that day and she would flex the time on Thursday of the same week.
- The supervisor explained that it would not be counted since the home visit ended at Janesville. The supervisor did tell the employee they could add 30 minutes to her day because the visit was in Janesville.
- Employee cited it should be counted since the drive home was closer than the office and there would be mileage reimbursement.
- This supervisor is not consistently enforcing this practice that is done countywide. Saying she cannot pay after her day ends but will give them an extra 30 minutes is not consistent.
- After an exchange with Amy Utzig, it was explained that ER did not give this guidance, it was Corporation Counsel.
- Still, we agree that employee should be allowed to claim the time, whichever is shorter, similar to our mileage.

- Note the language of our mileage in the Employee Benefit Handbook. Mileage reimbursement is at the IRS rate or a higher (if approved) while performing the county's business. That is the key phrase. If I am performing the county's business, I am eligible to claim mileage.
- There is concern as to how this can impact the people that we serve. I am not going to work for free as much as I love the people I serve. That means that myself and members of the Employee Group should not schedule appointments that occur at the end of our day.

Marissa Burack presented:

- At the ADRC we are being paid for the time of our commute for home visits that are the shorter distance along with mileage.
- We do time reporting to the State of Wisconsin since we are able to bill for travel time and the travel time is matched up to the mileage we are claiming.
- Some appointments may need to be at 4, per request. If employees are not being paid for their drive home that matches up with their mileage, I would advise them to not start meetings after 2pm.

**Management:**

Brenda Blanck presented:

- I am responding to this regarding the CYF staff and cannot speak to anything else regarding the other professionals.
- We received our guidance from Corporation Counsel regarding the end of the work day when staff are not in the office and instead at home office. The guidance is that the work day ends when a home visit is complete regardless of which location they complete the work. For example, if they have a home visit until 4:30, they are done at 4:30 when the home visit ends.
- On October 17, Heather was ending their work day outside of Dane County. The decision was to add 30 minutes since employee was out of county.
- When I asked my supervisors this issue, the understanding was also that the day ended when the home visit ended and not when the drive ended.
- It is different when there is staff driving greater distances like Milwaukee. We include the drive back that it would have taken them to get back to the county. We do see the difference between long and shorter distance.
- We talked to CYF leadership and let supervisors know the information that was provided by Corporation Counsel. The agreement was clear and our understanding was mileage and hours of work were separate at the end of the day.

Amy Utzig presented:

- The Fair Labor Standards Act regarding the portal-to-portal act states that travel to and from your home to work is not compensable.
- The time spent commuting from home before work and to home at the end of the work day is not considered work time. Not time for which employees have been paid.
- It also speaks on traveling all in a day's work. If you travel during your work day from one location to another, that would be compensable. Once the last task is complete, regardless of the location, the travel from that location is normal ordinary commute and is unpaid.

## Decision

The request for settlement in the third step Grievance filing from the Employee Groups is:

- a) Management continue observing existing benefits and working with employees to ensure time spent traveling to and from outside worksites is compensated as regular work time regardless of whether it falls inside or outside the regular work day.
- b) In accordance with Wisconsin Statute 109.09 on Wage Claims and Collections, make all employees whole who were affected by the County's failure to pay for all hours worked as set forth in the EBH sections cited above, all other relevant sections, and/or federal, state, or municipal law regarding payment by employers for all hours worked.

These requests are denied, for reasons described below. However, the employee's request for an additional 15 minutes of flex time is granted. As a result, this grievance is sustained in part.

In this situation, the employee had a site visit in Janesville at 4:00 pm. The employee requested approval to flex time equivalent to the minimum between their distance to home and their distance to the office. The supervisor approved flexing 30 minutes, as the site visit was out of Dane County. The employee through their representative appealed that decision through the Grievance process. The employee's request for an additional 15 minutes of flex time is granted. How the Department of Human Services considers work time for travel outside of Dane County is not clear and the employee should not be harmed because of this ambiguity.

To clarify this ambiguity, I am directing the Department of Human Services to develop a clear policy for employee compensation when traveling. This policy must conform with the provisions of the Portal-to-Portal Act of the Fair Labor Standards Act as discussed below.

Any broader Countywide implications associated with this Grievance are denied; Including the request to compensate time worked according to the rules of mileage.

Generally speaking, Employee Relation's presentation of the Portal-to-Portal provisions of the Fair Labor Standards Act are correct. The time spent commuting from home before work and to home at the end of the work day are not considered work time. When county employees use their own vehicle to attend a meeting and return home after that meeting, the time spent returning home has not been considered work time.

This unit of the Department of Human Services has made an exception to this rule for when employees are returning from appointments outside of the County, because of the distance involved in traveling. In this case, the employee was traveling from outside of Dane County and some amount of additional time was afforded to this employee. How or why management came to that amount of time is unclear and that ambiguity is the reason why this decision affords the additional 15-minutes to this employee.

During this Grievance, I was only able to investigate the actions of Management as it relates to this particular unit of Human Services. How other parts of the Department of Human Services or other Departments consider related requests, with potentially different facts, were outside of the scope of this Grievance process.

Further, comparisons to situations where an employee is returning a county vehicle or returning to the office to continue to work are not apt comparisons in this circumstance. In both of those circumstances, the employee is traveling back to a work location to either return the County's property or to continue to work and thus the travel time is not commuting home.

Mileage and work-time are two distinct forms of compensation. Broadly speaking, mileage compensates employees for the use of their personal vehicle while traveling on County business. That compensation is for the fuel, insurance, and the “wear and tear” on the vehicle. Work-time is compensation for performing the business of the County.

If you have any questions, you may contact me at 608-266-4519.

Sincerely,

A handwritten signature in black ink that reads "Greg Brockmeyer". The signature is written in a cursive style with a horizontal line underneath the name.

Greg Brockmeyer  
Director of Administration

Cc: Marissa Burack  
Derek Wallace  
Brian Standing  
Ben Ratliff  
Brenda Blanck  
Martha Stacker  
Amy Utzig  
Mary Kasperek  
Nick Bubb