

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

FOR COURT USE ONLY	
S.C. Line #:	10

TriHealth G, LLC,

Case No.: A1204470

*Plaintiff,*

Judge: Steven E. Martin

v.

ENTRY OVERRULING OBJECTION

Jennifer R. Cahall, et al.,


*Defendants.*

ENTERED  
JUL 12 2016



D115049455

The objections filed on December 5, 2012 are overruled. The matter was set on the Court's Docket for July 12, 2016 and no one appeared. The record does not support the objections.

  
COURT OF COMMON PLEAS  
JUDGE STEVEN E. MARTIN  
Hamilton County Court Of Common Pleas  
HON. STEVEN E. MARTIN  
THE CLERK SHALL SERVE NOTICE  
TO PARTIES PURSUANT TO CIVIL  
RULE 58 WHICH SHALL BE TAXED  
AS COSTS HEREIN.

**COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO**

TriHealth G, LLC	:	Case No. A1204470
	:	
Appellant,	:	Magistrate Bachman
	:	
v.	:	Judge Martin
	:	
Jennifer R. Cahall, et al.	:	
	:	
Appellees.	:	<b><u>MAGISTRATE'S DECISION</u></b>



**RENDERED THIS 28<sup>th</sup> DAY OF NOVEMBER, 2012.**

This administrative appeal was filed by Appellant TriHealth G, LLC (“TriHealth”) under Ohio Revised Code § 4141.281 on June 5, 2012. Appellant TriHealth appeals the decision of the Unemployment Compensation Review Commission (“Commission”), which approved unemployment benefits for Appellee Jennifer R. Cahall. Following the timely filing of briefs by all parties, Appellant TriHealth and counsel for Appellee Ohio Department of Job and Family Services (“ODJFS”) presented oral arguments on November 14, 2012 on the merits of the appeal.

**BACKGROUND**

Appellee Cahall filed an Application for Determination of Benefit Rights for the benefit year beginning December 25, 2011. Appellee Cahall’s initial application for unemployment benefits was denied on January 19, 2012. On February 7, 2012 the Director for the ODJFS issued a Redetermination decision disallowing Appellee Cahall’s application. On February 7, 2012, Appellee Cahall filed an appeal from the Redetermination and the ODJFS Office of Unemployment Compensation transferred jurisdiction to the Commission under Ohio Revised Code § 4141.281. On March 13, 2012 and March 29, 2012, the Commission held telephonic

hearings and on March 30, 2012, the Commission reversed the Director's decision and granted Appellee Cahall unemployment benefits. On April 16, 2012, TriHealth filed a request for review of the Commission's decision and the Commission issued a decision disallowing TriHealth's request on May 17, 2012.

### DISCUSSION

Pursuant to R.C. § 4141.29(D)(2)(a), an individual who has been discharged for just cause in connection with the individual's work is not eligible or qualified for unemployment benefits. R.C. Chapter 4141 does not define "just cause." Case law has defined "just cause" as "that which, to an ordinarily intelligent person, is a justifiable reason for doing or not doing a particular act." *Irvine v. Unemployment Comp. Bd. of Rev.*, 19 Ohio St.3d 15, 17 (1985). The claimant has the burden of proving her entitlement to unemployment compensation benefits. *Id.*

A reviewing court may reverse the decision of the Commission with respect to unemployment benefits if it is "unlawful, unreasonable, or against the manifest weight of the evidence." R.C. § 4141.282(H); *see also Tzangas, Plakas & Mannos v. Ohio Bur. of Emp. Servs.*, 73 Ohio St.3d 694, 696 (1995). While this Court is not permitted to make factual findings or to determine the credibility of witnesses, it has the duty to determine whether the Commission's decision is supported by the evidence in the record. *Irvine, supra*, 19 Ohio St. 3d at 18.

In its Decision, the Commission found that Appellee Cahall was discharged from TriHealth for violating federal Health Insurance Portability and Accountability Act ("HIPAA") regulations by accessing patient information without a legitimate purpose. The Commission also found that TriHealth's HIPAA policy allows for discipline up to and including discharge for HIPAA policy violations. Additionally, the Commission recognized that TriHealth considered Appellee Cahall's violation a "ten" on a scale of one to ten, with ten being the most egregious

violation. However, the Commission ultimately concluded that “discharge [was] way out of proportion to [Appellee Cahall’s] violation” and granted her unemployment compensation benefits. In so finding, the Commission determined that TriHealth’s “rationale” was “irrational” and reasoned that a “ten” violation would be accessing a politician’s health records and leaking the information to CNN.

The Court finds the Commission’s decision is not supported by the evidence in the record. While the Commission may have found TriHealth’s decision to discharge Appellee Cahall draconian, entities such as TriHealth are required to strictly comply with HIPAA or face severe civil and criminal penalties. HIPAA requires that TriHealth treat as sacrosanct every patient’s protected health information, without regard to whether that patient is a high-powered politician or a homeless transient. Appellee Cahall received training regarding TriHealth’s HIPAA policy and signed a form acknowledging her responsibility to be familiar with the policy. Despite her training and her responsibility, she violated TriHealth’s HIPAA policy while she was on duty and was discharged in accordance with the policy. Accordingly, the Court finds that Appellee Cahall was discharged for just cause and that the Commission’s decision was unlawful, unreasonable or against the manifest weight of the evidence in the record.

#### **DECISION**

Wherefore, the Court, being fully advised on the merits, hereby grants the Appellant’s appeal and **REVERSES** the Commission’s decision.



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**MICHAEL L. BACHMAN  
MAGISTRATE  
COURT OF COMMON PLEAS**

**NOTICE**

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

**PRAECIPE**

**Copies sent by Clerk of Courts to:**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 11/29 Deputy Clerk: 