

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 DENNIS ZOLTAK,  
                   Appellant,  
 v.  
 Secretary, DEPARTMENT OF  
 EMPLOYMENT,  
 [Employment Relations]  
                   Respondent.  
 Case No. 83-0239-PC  
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DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal of a decision by respondent to allocate appellant's position to the Institution Treatment Director 2 level. A hearing was held on June 15, 1984, and the parties filed post-hearing briefs.

FINDINGS OF FACT

1. At all times relevant to this appeal, appellant has been employed by the Department of Health and Social Services (DHSS) in the classified civil service as an Institution Treatment Director (ITD) at the Southern Wisconsin Center.

2. In 1972, appellant was appointed to an ITD 3 (PR 1-17) position which had the working title of Director of Residential Services. This position had responsibility for planning, implementing, coordinating and administering a complex, multi-disciplinary program of appropriate care, treatment, habilitative and rehabilitative services for developmentally disabled individuals, including: residential living, medical, nursing, dental, pharmaceutical, psychological, speech pathology and audiology, occupational and physical therapies.

3. Earlier in 1972, the State Bureau of Personnel completed a personnel management survey in which the ITD series was considered. One of the products of this survey was the current position standard for the ITD series (see Finding of Fact 5). The survey documents indicate that Treatment Directors at the colonies for the mentally retarded (now the centers for the developmentally disabled such as the Southern Wisconsin Center), generally had responsibilities in the following program areas: medical, nursing, dental, psychological, intensive treatment, rehabilitation, and foster grandparent services. The survey documents also indicated that the cottage living programs at the juvenile correctional institutions and the Wisconsin Child Center were not administered by the Treatment Director position but were administered by a separate Residential Care Director position which was considered comparable to the Treatment Director position at these institutions. The survey documents do not refer to a cottage living program or residential care program at the colonies.

4. In 1982, a reorganization at the Southern Wisconsin Center resulted in the abolishment of appellant's position and an ITD 2 position which had a working title of Director of Social and Community/Development Evaluation Services and the creation of 2 new ITD 2 (PR 1-16) positions, one with a working title of Director of Care and Treatment Services and the other with a working title of Director of Residential Services. Appellant was appointed to the Director of Care and Treatment Services position and his responsibilities in this position included: planning, implementing, coordinating and administering a complex multi-disciplinary program of appropriate care, treatment, habilitative and rehabilitative services for developmentally disabled residents/patients; and supervising an assigned staff of professional,

para-professional and non-professional personnel in service areas which include Wallace Hospital; Medical Services including Radiology, EEG, ECG, Pharmacy, Clinical Laboratory, Occupational Therapy, Physical Therapy, Audiology and Medical Records; Dental Services, Nursing Services and Development Evaluation Center services. Thomas Evans was appointed to the Director of Residential Services position and his responsibilities in this position included: planning, implementing, coordinating and administering a complex multi-disciplinary program of appropriate care, treatment, habilitative and rehabilitative services for developmentally disabled residents/patients; and supervising an assigned staff of professional, para-professional and non-professional personnel in service areas which include Unit A - Beck and Garner Halls; Unit B - Cottages 8, 9, 10, and 11; Unit C - Cottages 16, 17, and 18; Unit E - Cottage 3, Tramburg Hall, and the Group Home; and Unit F - Cottages 1, 2, 12, and 13. This reorganization resulted in appellant no longer having responsibility for administering the residential care program but having additional responsibilities which included administering the Development Evaluation Center Services (DEC) program; supervising admissions, transfers and discharges; and serving as the liaison to the 51.42 and 51.437 boards. The DEC program had been nearly phased out by 1982. The Social Service program formerly administered by the previous ITD 2 position at Southern Wisconsin Center was phased out by 1982 and the staff allocated to each residential unit.

5. The position standard for the ITD series includes the following in pertinent part:

Institution Treatment Director 1

Class Description

Definition;

This is responsible administrative work directing all aspects of the treatment program at a small institution such as the Wisconsin Home for Women, Wisconsin School for Girls, and the Wisconsin Child Center. Employees are responsible for program planning and the establishment of procedures to implement and integrate the institution's social service and clinical service functions into a comprehensive treatment and staff development program. Work involves both the coordination of activities of subprogram directors and the direct supervision of social work personnel. In addition, employees in this class typically have considerable contact with the resident population on a one to one treatment basis. The employee in this class reports to the institution superintendent who provides general direction in terms of overall institution policies and philosophies. Work is reviewed through periodic conferences and reports.

Institution Treatment Director 2

Class Description

Definition:

This is responsible administrative work directing all aspects of the treatment program at a large juvenile correctional institution or supervising a fully operational Development Evaluation Center (DEC) Program at one of the colonies for the mentally retarded.

The Development Evaluation Center coordinator supervises a multi-disciplinary professional staff in a community oriented service program providing a wide range of services to the mentally retarded in an assigned area of the state. These services encompass all of the following: pre-admission evaluations, out-patient clinical evaluation, pre-vocational evaluation, technical consultation, family care, nursing home care, and home, vocational and residential care placements. The coordinator must insure uniformity of program goals and consistency of staff services provided throughout his assigned region of the state. Regardless of the particular orientation of services, DEC positions are allocated to this class on the basis of the size and multiplicity of programs administered, as well as the operational stage of development of the services provided. Employees in this class report to the Institution Superintendent with supervision limited to periodic conferences and a review of program reports.

Examples of Work Performed:

Juvenile Correctional

Performs work similar to that assigned to the Institution Treatment Director 1 except that: 1) employes in this class do not provide one-to-one treatment services to the resident population; and 2) because of the greater size and scope of the institution program, employes are involved primarily in administrative decision making and problem resolution.

Institution Treatment Director 3

Class Description

Definition:

This is responsible administrative work directing the treatment program at a colony for the mentally retarded or at a large adult correctional institution. In a colony, the employe in this class is responsible for directing and coordinating a multi-disciplinary professional and para-professional staff engaged in diverse treatment and care programs, such as medical, dental, psychological, intensive treatment, rehabilitation and nursing services which were designed to meet a multiplicity of patient needs. An employe in this class is responsible for the development and implementation of a comprehensive treatment program through: (1) the development of formal program goals, objectives and philosophies; (2) providing for staff development training of professional and para-professional staff; and (3) the direct supervision of staff activities or the coordination of program activities through technical subprogram supervisors. The work involves ongoing evaluation of treatment services provided for purposes of determining modification or additions necessary to maintain and improve the institution treatment program.

Positions allocated to this class are differentiated from those of other classes in the series on the basis of the size and scope of the institution treatment program and the latitude for individual initiative and independent responsibility for decision making delegated to the employe. Employes report to the Institution Superintendent with supervision limited to periodic conferences and a review of program results.

Examples of Work Performed:

Adult Correctional Institutions:

Work performed is similar in kind to that of the 1 and 2 levels and in addition:

Serves as head of the classification committee for the

assignment of inmates to a work or school program.

Administers group counseling programs.

Serves on the disciplinary committee to adjudicate discipline problems.

Maintains contacts with attorneys and law enforcement agencies.

Liaison with community based programs.

Mental Retardation Institutions:

Counsels parents regarding individual's progress.

Serves as chairman of evaluation committee to assign and classify patients.

6. On November 30, 1983, appellant filed a timely appeal of the allocation of his position to the ITD 2 level.

7. Appellant's position is more appropriately described by the ITD 3 class specifications and is more appropriately classified at the ITD 3 level.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(a), Stats.

2. The appellant has the burden of proving that respondent's decision to allocate appellant's position to the Institution Treatment Direct 2 level was incorrect.

3. The appellant has sustained his burden of proof.

4. Respondent's decision to allocate appellant's position to the ITD 2 level was incorrect and appellant's position is more appropriately classified at the ITD 3 level.

OPINION

Respondent has advanced several bases for its decision to allocate appellant's position to the ITD 2 level.

First, respondent argues that, since appellant's former position was essentially split in two as a result of the reorganization and since appellant's current position includes only 1 of the 2 primary components of the old position, it does not make sense that the classification of appellant's current position should be the same as the classification of appellant's former position. However, the "splitting in two" characterization is not entirely accurate. Actually, 2 ITD 2 positions were created out of an ITD 2 and an ITD 3 position. Although appellant in effect "lost" those duties relating to residential care, he also "gained" duties relating to the DEC program as well as certain other programs described in the Findings of Fact above. The DEC program is not as large a program as it once was (e.g., in 1972 when the ITD survey was completed), and the duties gained are not as significant as the duties lost by appellant as a result of the reorganization. There can be no doubt that appellant's current position is weaker than his former position, but the proper issue is whether the duties and responsibilities of appellant's current position are better described by the class specifications for the ITD 3 classification or the class specifications for the ITD 2 classification regardless of the relative strengths of the former position and the current position.

Second, respondent argues that the class specifications for the ITD 3 classification require that a position administer all care and treatment services including residential services. The 1972 survey documents do not support this argument, however. The ITD 1 and ITD 2 class specifications require that positions classified at these levels direct "all aspects of the treatment program" at certain institutions. The ITD 3 class specifications require that positions classified at the ITD 3 level direct "the treatment

program" at certain institutions. Respondent contends that the language of the ITD 3 class specifications should be interpreted as requiring that a position direct all aspects of the relevant treatment program. The Commission accepts this reasoning in view of the obvious intent of the drafters of the ITD position standard to have the ITD 1, 2, and 3 class specifications parallel each other. However, the survey documents clearly indicate that, at least in regard to juvenile correctional institutions and the Wisconsin Child Center, "all aspects of the treatment program" did not include residential care since the cottage living programs were directed by Institution Residential Care Director positions which were deemed to be equivalent for classification purposes to the ITD positions at those institutions.

If the respondent's decision were upheld, appellant's position would be classified at the same level as a treatment director position at a large juvenile correctional institution. To the extent that both positions direct treatment programs which do not include residential care, this would make sense. However, this ignores a critical distinction. Both the survey documents and the ITD position standards make it clear that the classification of positions which direct institutional treatment programs is dependent to a large extent upon the type of institution in which the position is employed. There are three different levels: the first includes small institutions such as the Wisconsin Home for Women, Wisconsin School for Girls, and the Wisconsin Child Center; the second includes large juvenile correctional institutions; and the third includes the colonies for the mentally retarded and large correctional institutions. To classify appellant's position at the same level as that of a treatment director at a large juvenile correctional institutional would be in direct conflict with this



classification scheme since large correctional institutions are at the second level and the colonies at the third.

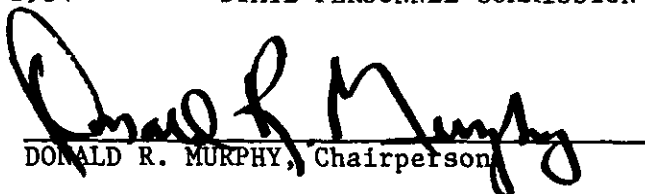
Respondent also asserts that residential care was not mentioned as a separate program in the survey documents or ITD 3 class specifications because, at the time the survey was completed, residential care was considered part of the overall treatment program and responsibility for this overall treatment program was invested in one position at the colonies. It is true that, at the time the survey was completed, the position held by the appellant was responsible for residential care and treatment. However, if, as respondent asserts, residential care responsibilities were such a critical component of the ITD 3 position for classification purposes, why weren't they mentioned as such in the position standard or survey documents? The ITD 3 class specifications list certain treatment programs representative of those directed by an ITD 3. This listing does not include residential care. The responsibilities of appellant's position clearly meet the requirements set out in the actual language of the ITD 3 specifications. Respondent asks the Commission to go beyond this and impose an additional requirement not reflected in the actual language of or logical extrapolation from the class specifications or survey documents. The Commission declines to do this on the basis of the record before it.

ORDER

The respondent's action is rejected and this matter is remanded to respondent for action in accordance with this decision.

Dated: Nov. 8, 1984

STATE PERSONNEL COMMISSION

  
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LAURIE R. McCALLUM, Commissioner

  
DENNIS P. MCGILLIGAN, Commissioner

LRM:ers

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