

* * * * *

MARY ELLEN HAVEL-LANG,
 Appellant,

v.

Secretary, DEPARTMENT OF
 HEALTH AND SOCIAL SERVICES,
 and Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS,

Respondents.

Case No. 91-0052-PC

* * * * *

INTERIM
 DECISION
 AND
 ORDER

This matter is before the Commission on appeal of respondent's decision denying a request for reclassification of appellant's position from Program Assistant 2 to Program Assistant 3. A hearing on this matter was held before Commissioner Gerald Hoddinott.

FINDINGS OF FACT

1. At all times relevant to this appeal, appellant, Mary Ellen Havel-Lang, was employed by the Department of Health and Social Services (DHSS) in the Management Development Section, Bureau of Quality Compliance, Division of Health as a Program Assistant. Appellant reports directly to Ms. Patricia Zapp (Administrative Assistant 5-Supervisor), who is the Management Development Section Chief.

2. In December 1985, appellant's position was classified as a Program Assistant 2. The duties and responsibilities of appellant's position are accurately described in a Position Description signed by her on January 22, 1986, as follows:

POSITION SUMMARY

This position is responsible for independently and effectively providing a wide range of general and specific program and coordinative activities to the Section Chief, staff of the Management Development Section and to all personnel in the Bureau of Quality Compliance.

<u>TIME %</u>	<u>GOALS AND WORKER ACTIVITIES</u>
45%	A. Preparation, processing, and maintenance of purchasing documents for Bureau purchases.
30%	B. Provision of administrative and secretarial support services for the Section Chief and professional staff.
10%	C. Provision of direct assistance in the development of division Internal Services requisition and printing requisitions.
10%	D. Monitoring of all Bureau training request and purchasing transactions to ensure compliance with state and agency rules and regulations.
5%	E. Coordination of support services to the Bureau of Quality Compliance.

3. In December, 1988, a request for reclassification of appellant's position from Program Assistant 2 (PA 2) to Program Assistant 3 (PA 3) was made to respondent's Division of Health with an effective date of December 19, 1988. The request was subsequently referred to DHSS's central Personnel Bureau (BPER) for final review.

4. A job audit of appellant's position was initiated on May 15, 1990, by Mr. Juan Flores of the Bureau of Personnel and Employment Relations (BPER) which is the central personnel office for DHSS. Mr Flores interviewed appellant and her immediate supervisor, Ms. Patricia Zapp.

5. Before completion of the reclassification review, Mr. Flores was called to active duty in Operation Desert Storm. As a consequence of this call to active duty, Mr. Bradley Czebotar was assigned to complete the classification review of appellant's position.

6. Mr. Czebotar received the assignment in December 1990 and immediately reviewed the materials submitted with the request, i.e. appellant's 1986 and 1988 position descriptions. In addition, he interviewed appellant and her supervisor, Patricia Zapp on January 9, 1991, made comparisons with other PA 2 and PA 3 positions, and then analyzed this information in relation to the relevant classification specifications.

7. In a memorandum, dated January 25, 1991, under the name of Lorraine Amundson, Assistant Director, Bureau of Personnel and Employment Relations (BPER) the request to reclassify appellant's position was denied.

8. Appellant received the reclassification denial on April 25, 1991, and within 30 calendar days appealed the BPER decision to this Commission.

9. The goals and worker activities described in appellant's December 12, 1988 Position Description submitted with the reclassification request accurately describe the duties and responsibilities of her position as follows:

POSITION SUMMARY

Under the general supervision of the Chief of the Management Development Section, (MDS) this position independently provides a wide range of administrative support to MDS and Bureau of Quality Compliance. This position independently monitors personnel transactions, purchasing. The incumbent must exercise considerable independent judgment and discretion, set priorities and work with the supervisors within the Bureau and staff in Division and the Department.

TIME % GOALS AND WORKER ACTIVITIES

- | | |
|-----|---|
| 35% | A. Provision of administrative and program support services for the Section Chief and Bureau staff; such as the processing reviewing, coordinating and monitoring of personnel and related documents. |
| | A.1 Review and log in PARs, HARs, and other personnel documents for accurate completion and correct format; contact appropriate supervisor of bureau contact to assure compliance to information and staffing needs. |
| | A.2 Prepare personnel requests. Assure correct routing procedure for completed PARs and HARs for the signature of the BQC. (Consequence of mistakes are detrimental to Bureaus' ability to hire in a timely manner.) |
| | A.3 Identify and resolve status problems regarding submitting PARs and HARs; consult with DOH personnel, BPER position control and operations, BPER specialists, or DOH Affirmative Action Officer for updates on personnel transactions. |

- A.4 Interface with other agencies including the Division of Health, and the Department's Bureau of Personnel.
 - A.5 Implement and assure adherence to internal Bureau processes and procedures relative to the hiring of new employees.
 - A.6 Develop and keep up-to-date a personnel log indicating vacancy date, status in process, recruitment type, etc. Produce various statistical reports as necessary, including a weekly report to the Section Chief on the status of positions.
 - A.7 Maintain and update the BQC Position Status Report.
 - A.8 Disseminate certifications to appropriate bureau staff; determine special requirements necessary for interview process to meet affirmative action goals.
 - A.9 Maintain a follow-up system for certification requests to assure that timeliness requirements are met when filling permanent vacancies.
 - A.10 Respond to inquiries by employees and supervisors regarding vacancies for permanent represented/nonrepresented positions; explain base pay and pay range, counterpart transfer options, union transfer rights, and certification.
 - A.11 Prepare leave requests, time reports, letters of rejection and appointment, and other personnel materials of a confidential nature such as merit awards, employee evaluations, probationary reports, and disciplinary actions.
 - A.12 Schedule interviews and locations, send out confirmation letters and informational materials to potential job candidates, and send notification to persons to selected for the position
- 30% B. Provide administrative assistance to the Section Chief. This position requires considerable initiative and judgment

- B.1 Arrange and coordinate staff meetings, itineraries, and frequent travel both in and out-of-state.
- B.2 Interpret and keep abreast of departmental and division rules, regulations, policies and procedures for Section Chief, professional/non-professional staff and the public.
- B.3 Develop a variety of reporting programs (financial, statistical etc.) on PC, using Lotus 1-2-3 and other software programs.
- B.4 As directed and on own initiative attend and actively participate in office management meetings, training courses, seminars etc. to interpret and keep abreast of changing policies/procedures and generate this information to section staff.
- B.5 Compose various correspondence for Section Chief, for dissemination to the public, suppliers, etc. Compose correspondence for own signature regarding office operations, program information, etc.
- B.6 Act as resource person during the Section Chief's absence when necessary and appropriate
- B.7 Prepare, interpret and analyze various types of reports for the Section Chief, professional staff and others, (Ex: Prepare reports on recommendations for cutting costs by more efficient office management - printing and xerox usage, supplies etc)
- B.8 Independently maintain and monitor inventory of general supplies and materials for entire Section and independently initiate order when necessary.
- B.9 Handle routine calls for Section Chief, utilizing knowledge of space and fleet management, telecommunications, equipment inventory and purchasing.
- B.10 Authorize and prepare state fleet car requisitions as requested by staff.
- B.11 Prepare, develop and update Section mailing lists for Section mailings, as needed through use of computer.

- B.12 Make recommendations to the Section Chief for changes that could benefit the operations of the Section such as a new file system, a more workable office arrangement, etc.
 - B.13 Orient new staff to office procedures and practices, telephone and mailing systems, office equipment and desk supplies.
 - B.14 Serve as personnel liaison for payroll including distribution of paychecks.
 - B.15 Issue and keep records on building passes for all personnel.
 - B.16 Direct overall office procedures for MDS issuing instructions, providing information and training.
 - B.17 Provide general information to bureau employees about procedures to be followed or people to contact regarding Divisional and Departmental matters (i.e., RFP's, Fleet Management, Space, Telecommunications, Equipment Inventory and Word Processing).
- 20%
- C. Provide administrative support and independent judgment for bureau purchasing and printing activities.
 - C.1 Interprets and applies purchasing policies to prepare and process vouchers and purchase requests for office supplies, services, materials and equipment necessary for program/project operations.
 - C.2 Advise bureau staff initiating purchasing requests of procedures to be followed or additional information needed enduring the purchase method is appropriate and consistent with purchasing bulletin and DHSS policies and procedures.
 - C.3 Track purchase order from purchase order number creation through invoice request. Maintain bureau purchase order system to ensure accurate division accounting appropriateness of expenditures and modifications or adjustments to specific purchase order amounts.
 - C.4 Determine most appropriate vendor for purchase of capital equipment, to justify lowest cost, shortest delivery date, best quality in ac-

cordance with purchasing bulletin and DHSS policies and procedures.

- C.5 Contact vendors by telephone or correspondence to obtain prices and other information (delivery schedule, shipping cost, discounts, etc.) to determine best price(s) and/or quality.
 - C.6 Make correct calculations of costs when purchasing multiple items and in computing discounts.
 - C.7 Maintain filing system for Section purchase order requests by requisitioned, appropriation and project matter.
 - C.8 Receive all incoming equipment, supplies and services and determine if they are in compliance with the purchase order. Complete receiving reports if orders are accurate and return items not in compliance.
 - C.9 Monitor all invoices and voucher to ensure accuracy of charges. Correspond with vendors to reconcile any discrepancies. Authorize payment of invoices and process to cost centers as appropriate.
 - C.10 Initiate Quick Copy Orders and determine appropriate expenditure code, to ensure accurate billing of completed order.
 - C.11 Maintain postage copy machine and FAX machine use accounts. Provide fiscal reconciliation of expenditures. Bill other agencies.
 - C.12 Maintain the telecommunications accounting and reconcile STS and Wisconsin Bell billings each month; process expenditures by appropriation.
 - C.13 Report discrepancies and unresolved related issues to the Section Chief and Bureau Budget Analyst and recommend appropriate action.
- 15%
- D. Provision of communications services to the Bureau.
 - D 1 Determine communication needs of the Bureau either upon request or as needed.
 - D 2 Prepare work orders in conjunction with Division communications manager.

D.3 Initiate action to correct improper usage and procedures regarding communications media.

10. Beginning in 1986 new duties and responsibilities were gradually added to appellant's position. These new duties and responsibilities are described in Goal and Worker Activities A. 1-9, A.12, B.2-4, B.6, B.7, B.16, and C.2-4 of appellant's 1988 Position Description.

11. All purchasing for the bureau was administered by this position. Supervisory approval was needed only in purchasing of capital equipment. Appellant would discuss, on occasion, matters related to purchasing with her supervisor, but she independently obtained necessary approvals before processing purchase orders.

12. The position standard for Program Assistant 2 and 3 provides in pertinent part:

* * *

CLASSIFICATION DESCRIPTIONS

* * *

PROGRAM ASSISTANT 2

This is work of moderate difficulty providing program support assistance to supervisory, professional or administrative staff. Positions are allocated to this class on the basis of the degree of programmatic involvement, delegated authority to act on behalf of the program head, level and degree of independence exercised, and scope and impact of decisions involved. Positions allocated to this level are distinguished from the Program Assistant 1 level based on the following criteria: (1) the defined program area for which this level is accountable is greater in scope and complexity; (2) the impact of decisions made at this level is greater in terms of the scope of the policies and procedures that are affected; (3) the nature of the program area presents differing situations requiring a search for solutions from a variety of alternatives; and (4) the procedures and precedents which govern the program area are somewhat diversified rather than clearly established. Work is performed under general supervision.

PROGRAM ASSISTANT 3

This is paraprofessional work of moderate difficulty providing a wide variety of program support assistance to supervisory, professional or administrative staff. Positions are delegated author-

ity to exercise judgment and decision making along program lines that are governed by a variety of complex rules and regulations. Independence of action and impact across program lines is significant at this level. Positions at this level devote more time to administration and coordination of program activities than to the actual performance of clerical tasks. Work is performed under general supervision.

* * *

PROGRAM ASSISTANT 2 - WORK EXAMPLES

Provides administrative assistance to supervisory, professional and administrative staff, head of a department or program.

Schedules department facilities usage.

Maintains inventory and related records and/or reports and orders supplies.

Conducts special projects: analyzes, assembles, or obtains information.

Maintains liaison between various groups, both public and private.

Directs public information activities and coordinates public or community relations activities.

Prepares budget estimates, plans office operations, controls bookkeeping functions and handles personnel transactions.

Plans, assigns and guides the activities of subordinate employees engaged in clerical program support work.

Corresponds with various outside vendors or agencies to procure goods or information for program operation.

Develops and recommends policies, procedures, guidelines and institutions to improve administrative or operating effectiveness.

Screens and/or reviews publications; drafts or rewrites communications; makes arrangements for meetings and maintains agendas and reports; arranges schedules to meet deadlines.

Maintains extensive contact with other operating units within the department, between departments or with the general public in a coordinative or informative capacity on a variety of matters.

Prepares informational materials and publications for unit involved, and arranges for distribution of completed items.

Attends meetings, work shops, seminars.

PROGRAM ASSISTANT 3 - WORK EXAMPLES

Prepares reports, research project data, budget information, mailing lists, record keeping systems policies and procedures, training programs, schedules and generally oversees operations.

Plans, assigns and guides the activities of a unit engaged in the clerical support of the program assigned.

Develops and/or revises selected policies and procedures affecting the administration of the program.

Answers questions regarding the program or division via telephone, correspondence or face-to-face contact

May serve as an Assistant in charge of secretarial and administrative tasks in an operation handling cash procedures, equipment orders, inventory, program preparation, pricing, etc

Composes correspondence, maintains files of program related data, sets up schedules and performs any related administrative support function necessary to the operation of the program.

May be in charge of public relations, preparing and sending out pamphlets, brochures, letters and various program publications.

* * *

13. PA positions offered in the record for comparison purposes were:

a) Alana J BonoAnno, PA 3, DHSS, Division of Community Services, Bureau of Management and Budget (1988)

TIME % GOALS AND WORKER ACTIVITIES

- | | |
|-----|---|
| 75% | A. Performance of a wide range of complex procurement services exercising independent judgment to ensure fiscal and purchasing activities of units within the Division of Community Services are in accordance with Federal and State regulations, Department of Administration, Department of Health and Social Services and Division of accounting, purchasing and internal control policies and procedures; budget authority; and management directives. |
| 12% | B. Performance of office and administrative duties relating to the operation of the Budget and Fiscal Operation Section |
| 10% | C. Performance of fiscal Management System (FMS) encumbrance recording and budgetary control activities. |

2% D. Participation in training and staff development activities.

1% E. Performance of various tasks as assigned by Purchasing Supervisor.

b) Michelle Menigoz, PA 2, DHSS, Division of Health, Office of Management and Policy (1988).

TIME % GOALS AND WORKER ACTIVITIES

40% A. Oversee and implement the Division's computerized Position Incumbent List (PIL).

25% B. Provide program support to the Human Resources Section having routine access to confidential information affecting the employe-employer relationship.

25% C. Assume independent responsibilities for maintenance and daily upkeep of all personnel transactions received and posted in the personnel logs.

5% D. Maintain and process all Leave of Absences and grievances for the Division.

5% E. Provision of miscellaneous responsibilities as requested.

14. The PA 3 (BonoAnno) position is stronger than appellant's as its purchasing functions are for one division (Community Services) and the central office of another division (Care and Treatment Facilities). In contrast, appellant's position performs purchasing activities for a bureau. However, appellant's position includes program areas other than purchasing i.e. personnel and reports to an Administrative Assistant 5-Supv as opposed to a Purchasing Agent.

15. Appellant's position is stronger than the PA 2 (Menigoz) position. Although this position appears to be responsible for work in personnel similar to that of appellant's position, unlike appellant her paraprofessional personnel work is not performed with the same level of independent action in that her (Menigoz's) supervisor is a Personnel Manager 3 - Sup. and her two co-workers are Personnel Manager 1's and 2's. In addition, the Menigoz position does not have as wide a scope of responsibilities in the personnel area and is not responsible for other program areas like appellant.

16. Appellant serves as the paraprofessional in personnel and purchasing in her unit and in the bureau for purchasing.

17. Appellant's position is more closely aligned to the description in the position standard for PA 3 positions.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to § 230.44(1)(b), Wis. Stats.

2. Appellant has the burden of proving that respondent's decision to deny her request to reclassify her position was incorrect.

3. Appellant has sustained her burden of proof.

4. Respondent's decision denying reclassification of appellant's position was not correct.

DISCUSSION

The question before the Commission is whether respondent's decision (effective 12-19-88) denying appellant's request to reclassify her position from Program Assistant 2 to Program Assistant 3 was correct. Based on the record, the Commission believes the answer is no.

In Sopher v. UWS & DER, case no. 89-0122-PC (5-4-90) the Commission said:

In regard to the PA 3 classification, the specifications require that the position provide a "wide variety" of program support assistance...In addition these specifications require that the decisions independently handled by employees in PA 3 positions be governed by a variety of complex rules and regulations... It is more likely to conclude from the language of the PA specifications that the authors intended that these positions exercise independent authority in a variety of program support areas, each governed by a set of complex rules and regulations.(emphasis added).

The specification for PA 3 also identify the work performed as being paraprofessional, i.e. activities which support functions assigned to professional level positions. In appellant's position, she is responsible for both personnel and purchasing activities for a Bureau. These are two separate program areas and, while the specifications for PA 3 do not define how many

programs constitute a "variety", the plain language of the specification implies that more than one program area is involved such as are found in appellant's position.

In terms of paraprofessional work, the Management Development Section in which appellant is employed has no professional personnel or purchasing positions. Additionally, there is no indication on the record that such professional positions exist at the Bureau of Quality Compliance level. Based on the unrebuted testimony of appellant and her supervisor, the responsibilities of appellant's position to provide guidance to staff on the applicable policies and procedures as well as insuring that the policies and procedures are followed appears to the Commission to constitute paraprofessional work.

The positions offered for comparison provided little assistance in determining the proper classification of appellant's position. The PA 3 position held by Ms. BonoAnno (see Finding #13a) is responsible for purchasing activities within a division. This activity encompasses seventy-five percent (75%) of the position's time. While this position's (BonoAnno's) level of program function differentiates it from purchasing activities in appellant's position (Division versus Bureau), it appears that it does not have as wide a variety of program assistance and support functions as appellant does. Ms. BonoAnno's position is devoted to a single program support area - purchasing and while it does have some other program support activities identified, they do not appear to be as significant as appellant's personnel responsibilities.

The personnel functions of the comparison PA 2 (Menigoz) position do not equate with what appear to be similar functions in appellant's position. Ms. Menigoz may perform personnel activities at the division level but, unlike appellant, not at the level of a paraprofessional. As indicated in finding sixteen, Ms. Menigoz has access to other professional staff within her section, including her supervisor, who perform professional personnel function. This is in contrast to appellant's position, which does not report to a professional personnel position in the performance of her personnel program responsibility.

In their denial of appellant's request for reclassification (Respondent's Exhibit #1), respondent indicated that the only new worker activities related to the personnel work were identified under Goal A (35%) and that all the other activities appellant performed in 1985 were essentially the same as those performed in 1988 except that they were performed more independently. At

hearing, respondent testified that the purchasing work identified under Goal C (20%) in appellant's 1988 PD could be at the Program Assistant 3 level, but since this was not a majority of the appellant's duties and responsibilities the position was still most appropriately classified as a Program Assistant 2.

There is nothing in the record to show that the rules, regulations, policies and procedures governing appellant's purchasing activities are any more or less complex than those covering her personnel activities. Appellant's responsibilities in personnel (Goal - 35%) and purchasing (Goal C - 20%) comprise 55% of the total position time. While this is a close case, appellant has shown that the majority of time (55%) is spent in providing support and assistance in a variety of programs (personnel and purchasing) involving complex rules and regulations.

Respondent argues that there has been no change in decision making authority and that appellant only makes recommendations. Notwithstanding that to effectively recommend an action takes a level of knowledge equivalent to the position which has approval authority, the fact that the appellant doesn't have final decision making authority is not fatal to her case. As a matter of record, many personnel and purchasing decisions can not be finalized even at the department (Health and Social Services) level, but rather require approval of the Department of Employment Relations and Department of Administration, respectively.

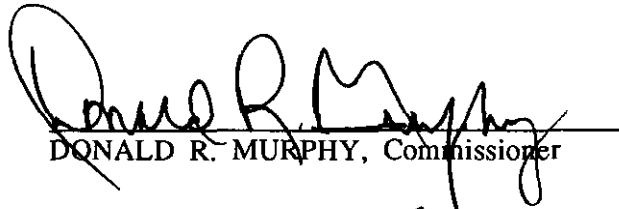
Consequently, the Commission concludes that based on the scope of appellant's responsibilities, the lack of professional personnel and purchasing staff in the section and bureau, the independence with which her functions are performed, and the variety and complexity of rules appellant must deal with appellant's position is most appropriately identified by the position standard for Program Assistant 3 rather than that of Program Assistant 2.

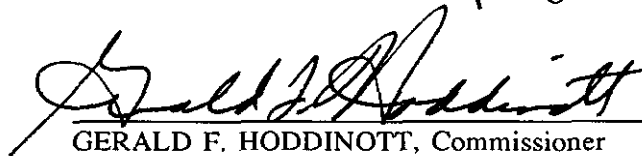
ORDER

Respondents' decision is rejected and this matter remanded for action in accordance with this decision.

Dated: August 26, 1992 STATE PERSONNEL COMMISSION

DRM:rlr/2


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

Parties:

Mary Ellen Havel-Lang
710 Hanley Dr
Sun Prairie WI 53590

Gerald Whitburn
Secretary DHSS
1 W Wilson St
P O Box 7850
Madison WI 53707

Jon E Litscher
Secretary DER
137 E Wilson St
P O Box 7855
Madison WI 53707

NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or

within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.