

STATE OF WISCONSIN

PERSONNEL COMMISSION

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AJAY VYAS et al. (Ajay Vyas,
Diane Tieman, Judy Walsvik, and
Don Siegenthaler)

Appellants,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS, and

Secretary, DEPARTMENT OF
INDUSTRY, LABOR AND HUMAN
RELATIONS,

Respondents.

Case No. 94-0241-PC

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DECISION
AND
ORDER

This is an appeal of the denials of requests for reclassification of four positions from Employment Security Assistant 3 (ESA 3) to Unemployment Compensation Associate 1 (UCA 1). A hearing was held on October 7, 1994, before Laurie R. McCallum, Chairperson. The parties were permitted to file briefs and the briefing schedule was completed on December 12, 1994.

The appellants' positions are assigned to the Interstate Benefits (IB) unit of the IB/TRA Section, Benefit Operations Bureau, Unemployment Compensation (UC) Division, Department of Industry, Labor and Human Relations (DILHR). The following is a description of the duties and responsibilities of appellants' positions during the time period relevant to this appeal:

- 35% A. Assessment of type of claim and verification of initial claim data completeness/reasonableness. Although this responsibility entails identification and resolution of some eligibility issues, explanation of effects of certain decisions made by adjudicators, and explanation of eligibility requirements and procedures, these worker activities do not represent the primary emphasis of this goal, relate almost exclusively to routine and well-defined requirements and procedures, and are generally handled by ESAs in local UC offices. The primary emphasis of this goal is the collection of relevant information, the

verification that such information is complete and consistent, and the entry of such information in the relevant data base. The type of information to be obtained is well-defined and the type of review required to verify that the information is complete and consistent is generally routine, i.e., it does not require the search for solutions from a wide variety of alternatives.

- 20% B. Investigate and resolve oral and written inquiries and problems which are generally of a highly emotional nature derived from claimant and employer telephone inquiries. Because the IB unit is a specialized unit within the Unemployment Compensation area, some, but not a majority, of these inquiries are complex and would be considered "second-level" inquiries, i.e., inquiries referred from other UC offices or units. However, the majority are not complex and would be considered first-level inquiries similar to those handled by ESAs in local UC offices.
- 15% C. Adjustment of monetary information. Although this goal does involve the issuance of overpayment/underpayment determinations, the primary emphasis of this goal is the entry of corrected wage information into the relevant data base--the computer would then automatically re-calculate the payment to be made to the claimant. The parallel function assigned to ESAs in local UC offices appears to involve the majority of these functions although not the issuance of overpayment/underpayment determinations.
- 10% D. Investigation and resolution of non-complex quit eligibility issues identified on the initial benefit application or on employer reports (KWIT). Although this goal entails identifying and resolving certain eligibility issues, these issues are generally routine and the requirements well-defined, i.e., the more complex issues are referred to adjudicators or other higher level staff. This function is generally assigned to ESAs in local UC offices.
- 5% E. Identification/scheduling initial claim eligibility issues. This screening and scheduling function is routine, the requirements generally well-defined, and is identical to a parallel function assigned to ESAs in local UC offices.
- 5% F. Identification of potential fraud issues. This screening and scheduling function generally involves reviewing information received relating to a claim for consistency and referring any questionable information to an adjudicator.
- 5% G. Identification of eligibility issues from employer reports/other sources. This screening and scheduling function is routine, the requirements generally well-

defined, and is identical to a parallel function assigned to ESAs in local UC offices.

- 5% H. Other duties as assigned, including claims examination, claims processing, claimant assistance, clerical support duties, monetary computation activities, processing appeals, analysis and resolution of reject messages, identification/scheduling of eligibility issues, updating continued claim records. These appear generally to be routine clerical functions which are also assigned to ESAs in local UC offices.

UCA 1 positions offered for comparison purposes in the hearing record include the following:

a. John Witham--UCA 1--IB/TRA Section, Bureau of Benefits, UC Division, DILHR--This position amends existing TRA and CWC (Combined Wage Claim) computations based on simple and complex initial determinations, appeal tribunal decisions, LIRC decisions, or amended employer reports (40%); determines and computes TRA monetary rights (5%); analyzes and resolves TRA disputed claims exception error listings (5%); resolves the most complex TRA claims (15%); updates wage record files (5%); processes Wisconsin Liable Combined Wage Claims (5%); analyzes and resolves CWC reject messages (5%); investigates and resolves delayed or improperly processed combined wage claims (5%); investigates and resolves Trade Adjustment Act (TAA) eligibility issues related to the job search and relocation allowance, including making eligibility determinations and monetary determinations (10%); and special assignments, including acting as a technical advisor to local office personnel, private employers, and others relating to the TRA law.

b. Myra Hoyer--UCA 1--Benefit Information Section, Bureau of Benefits, UC Division, DILHR--this position provides specialized assistance to claimants, employers and elected officials who are unable to receive the assistance they require from the local UC office. The majority of time is spent on inquiries that are controversial and complex and are already at the second step. This position requires extensive knowledge of the state and federal UC law, department UC policy and procedures, the UC benefit processing system, and extensive technical background relating to local and central office procedures.

The ESA position standard states as follows, in pertinent part:

INCLUSIONS

This series encompasses clerical positions within the Unemployment Compensation and Job Service program areas. Positions in this series perform activities such as taking, maintaining, coding and/or processing records manually and/or

through automated record systems; providing general information, assistance and/or direction to the public about programs and procedures through personal contact or by telephone, and establishing benefit monetaries or disputed claim records. Positions in this series require procedural knowledge and a general program knowledge in order to perform assigned tasks.

* * * * *

EMPLOYMENT SECURITY ASSISTANT 3 (PR 02-10)

This is advanced clerical work or leadwork in the Job Service and/or Unemployment Compensation Programs. Positions allocated to this class perform program support activities that involve broad interpretations of established guidelines and procedures when applied to the varied intricate and interrelated situations presented to the position in such areas as establishing claimant benefit eligibility, employer liability records, or providing direct employment services to clients/or employers. Work is performed under general supervision.

The UCA position standard states as follows, in pertinent part:

INCLUSIONS

This series encompasses paraprofessional positions that require specialized knowledge of State and Federal Unemployment Compensation Law in the provision of program support services. Positions allocated to this series are responsible for the interpretation and consistent application of policies and procedures in performing a variety of functions which include: adjusting benefit monetaries; resolving disputed benefit claims; or determining employer liability.

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UNEMPLOYMENT COMPENSATION ASSOCIATE 1 (PR 02-11)

This is entry or objective level paraprofessional work in the State Unemployment Compensation Program.

Positions allocated to this class at the entry level perform a wide range of paraprofessional program support activities to professional and/or supervisory positions. Positions at this level are delegated authority to exercise judgment and decision making for a segment of the program in determining claimant benefit eligibility or employer contribution liability through the interpretation and application of the Unemployment Compensation Law, its guidelines and procedures. Positions at this level are assigned progressively more difficult situations designed to develop the knowledge and skill necessary to perform

at the objective level Unemployment Compensation Associate 3. Work is performed under close supervision.

Positions allocated to this class at the objective level perform program support activities that involve the broadest interpretations of established guidelines and procedures when applied to the more varied, intricate, interrelated and specialized situations presented the position in such areas as claimant benefit and/or employer records adjustment and maintenance. Positions at this level typically use the automated system as a resource to initiate changes and corrections to claimant and/or employer records. The work requires the exercise of considerable discretion and judgment and may involve the coordination of activities with other work units. The nature and type of work at this level is more complex due to the age and type of claimant and employer records adjustment and maintenance required. Work is performed under general supervision.

As described above, the appellants spend the majority of their time performing duties and responsibilities closely parallel, if not identical, to those assigned to ESA positions in local UC offices. This is confirmed in the record not only by the language of the relevant position descriptions, but also by the testimony of appellants' supervisor who, although she had occupied this supervisory position only seven months at the time of her testimony, had served in various line and supervisory positions in the local UC offices for over 30 years prior to assuming her current position. The record does show that the handling of some second-level inquiries; the required knowledge of specialized Interstate Benefit provisions and procedures; the interaction with employers, claimants, and UC offices in other states; the issuance of initial determinations of overpayment/underpayment; some of the more complex duties relating to lifts, continuing suspensions, and fraud issues; and the handling of each aspect of the IB process as opposed to a narrow segment, render appellants' positions somewhat more complex from a classification standpoint than ESA positions in local UC offices. However, the record does not show that these more complex duties consume more than a very small percentage of appellants' positions' time, i.e., the record does not show that this added complexity strengthens appellants' positions sufficiently to satisfy the requirements for classification at the UCA 1 level, or that the primary duties and responsibilities of appellants' positions and the ESA 3 positions in the local UC offices are not substantially identical.

The duties and responsibilities of appellants' positions are not comparable from a classification standpoint to those of either of the UCA 1

positions offered for comparison purposes. Although appellants' positions and the Witham position make some of the same changes to UC records, the Witham position has the authority to alter a benefit amount, i.e., to alter an existing claim, subsequent to a benefit determination by an adjudicator or an appeals body and exercises this authority as one of the primary functions of this position, whereas the appellant's positions generally exercise this type of authority in only extremely limited and generally less complex situations, e.g., to correct an error resulting from incorrect information being entered into the system when the initial claim was taken. The Hoye position is primarily responsible for resolving the most complex inquiries, while appellants' positions handle a range of inquiries and the majority of these are first-level and routine.

The duties and responsibilities of appellants' positions are better described by the language of the ESA 3 classification than the language of the UCA 1 classification; and are more closely comparable to those of the ESA 3 positions than those of the UCA 1 positions offered for comparison purposes.

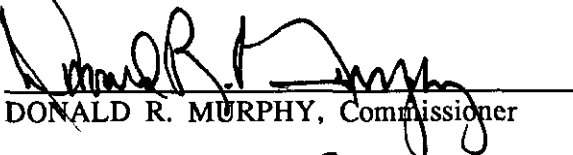
Order

The action of respondent is affirmed and this appeal is dismissed.

Dated: February 6, 1995 STATE PERSONNEL COMMISSION

LRM:lrn


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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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.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)