
 DARWIN G. UTYNEK,
 Appellant,
 v.
 Administrator, DIVISION OF
 PERSONNEL,
 Respondent.
 Case No. 81-83-PC

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(a), Stats., of the denial of a reclassification request.

FINDINGS OF FACT

1. At all relevant times the appellant has been employed by DILHR in the classified civil service.

2. In 1980 the appellant's position was reallocated from Job Service Supervisor 4 to Job Service Supervisor 5 as the result of a survey. He subsequently requested reclassification of his position to Job Service Supervisor 6.

3. The duties and responsibilities of appellant's position, as of the time of his reclassification request were as follows:

Supervise/Manage staff and functions assigned to Monetary Determination Section. Principle functions, on a statewide basis, include: (1) Recomputation of claimant benefit payments in accordance with corrected employment data or eligibility decisions issued by a department deputy or appeal tribunal, the Labor, Industry and Review Commission or the Wisconsin Courts. Calculate overpayments, underpayments and reallocate benefit charges to employer accounts within the UC Reserve Fund. (2) Review (accept/reject/correct)

district office payment authorizations. (3) Review (accept/reject/correct) district office computation requests. (4) Compute Extended Benefit rights.

4. The appellant directly supervises 7 permanent employes who in turn supervise 39 employes. The employes immediately supervised are one Job Service Specialist 3, two Job Service Supervisors 2, one Job Service Supervisor 3, one Clerical Assistant 2, one Clerical Assistant 2-seasonal, and one Typist-seasonal. The 39 subordinate employes include one Program Assistant Supervisor 2, one Program Assistant Supervisor 3, one Job Service Assistant 4, and the remainder either Job Service Assistant 1-3 or Clerical Assistant 1.

5. The Job Service Supervisor position standard includes the following definitions:

JOB SERVICE SUPERVISOR 4

This is very responsible professional supervisory job service work in the Department of Industry, Labor and Human Relations.

* * *

Positions in the administrative office allocated to this class are typically Section Chiefs and carry responsibility for a statewide job service program; 1) which requires the supervision of support staff and the exercise of considerable independent judgment in the development of program objectives and methods to be carried out at the field office level, or 2) which involves the supervision of a medium-sized staff engaged in advanced professional level program activities.

Work at this level is performed under general supervision.

JOB SERVICE SUPERVISOR 5

This is highly responsible professional supervisory job service work in the Department of Industry, Labor and Human Relations.

* * *

As section chiefs, positions in the administrative office allocated to this class carry responsibility for a large

complex statewide job service program including the supervision of staff assistants. Frequent, difficult, and unprecedented policy and program decisions which have a significant impact on overall Division operations and Division clients are typical at this level.

Work at this level is typically performed under the general administrative supervision of a Job Service Office Director.

JOB SERVICE SUPERVISOR 6

This is highly responsible supervisory job service work in the Department of Industry, Labor and Human Relations.

* * *

Positions in the administrative office allocated to this class function as; 1) the Assistant Bureau Director of a program bureau with responsibility for a major segment of the total job service program; 2) section chief with responsibility for a major complex job service program.

Positions at this level typically differ from positions at lower levels in investment of personnel and finances to assigned programs and potential ramifications of program decisions in terms of clients served, division operations, and inter-agency commitments. General administrative supervision is provided by the Milwaukee Metropolitan Job Service Director or Bureau Director.

6. The Job Service Supervisor position standard contains the following classification factors:

- 1) Organizational status as it relates to level of accountability;
- 2) Staff size (see chart);
- 3) Availability, applicability, and the degree of judgment required in applying job service guidelines, procedures, precedents, and legal interpretations;
- 4) Potential impact of policy and/or program decisions on claimants, employers, job seekers, and overall Division operations;
- 5) Frequency and purpose of internal and external coordination and contacts required;
- 6) Availability of other staff (either within the Division or at the Regional Office) whose authority it is to make

the most difficult and unprecedented program decisions or legal interpretations;

- 7) Complexity of employment services or unemployment compensation work performed; and
- 8) For positions with functional responsibility for a job service program area and the degree of involvement in choosing methods and setting priorities for accomplishing work.

7. Other positions which provide a basis for comparison with the appellant's position are as follows:

A. Supervisor, Benefit Payment Control Unit, Bureau of Benefits, Job Service Division, Job Service Supervisor 5 (Russell Nelson, incumbent). The duties and responsibilities of this position include the prosecution of individuals who have filed fraudulent UC benefit claims, monitoring district office fraud claim investigations and assessing alternative administrative penalties, investigation of extraordinary, unusual and complex fraudulent claim situations, tardy filing assessment and the investigation and resolution of employer requests for waiver of tardy filing fees assessed for late filing of wage records, investigation and authorization of replacement of lost or stolen benefit checks, management of the UC-17 microfilm process, and the determination of beneficiaries in deceased claimant cases.

(1) In comparison to the appellant's position as of December 1980, this position had a similar organizational relationship; has a smaller subordinate staff size (8 full-time, 3 seasonal); requires a higher degree of judgment in applying job service guidelines, procedures, precedents, and legal interpretations, due to the more individualized and less standardized nature of the work performed; is similar with respect to the

potential impact of policy and/or program decisions on claimants, employees, job seekers, and overall division operations; is similar with respect to the frequency and purpose of internal coordination and contacts required but is at a higher level with respect to external coordination and contacts required due to the contacts required with district attorneys regarding the prosecution of fraud; and is at a higher level with respect to the complexity of work performed because of the more individualized and less standardized nature of the work (which also relates to the larger percentage of professional subordinates supervised by this position).

B. Section Chief, Management and Administrative Support Unit, Office of Program Management, Job Service Division, Job Service Supervisor 5 (Evelyn A. Kois, incumbent). The duties and responsibilities of this position include responsibility for the provision of overall management and administrative assistance and support of Job Service operations throughout the state, development of or participation in the administrative policy development process, the design, implementation and control of policies, dissemination system and review of administrative operations and activities for conformance to policy, obtaining efficient and effective support services from the DILHR Administrative Division and Office of Management and Budget in the areas of Financial Management, Personnel, Facilities, Equipment and Services, Management Analysis, Systems Analysis, Training and Data Processing. Monitored and provided direct services to the Division in the areas of training, personnel, communication, facilities, policy development, and switchboard services.

(1) In comparison to the appellant's position, as of December 1980, this position had a higher reporting relationship; a smaller subordinate staff (6 full-time positions); is at a similar level with respect to the availability, applicability, and degree of judgment required in applying job service guidelines, procedures, precedents, and legal interpretations; is at a similar level with respect to the potential impact of policy and/or program decisions on claimants, employees, job seekers, and overall division operations, since the decisions impact on the overall efficiency of both UI and employment services activities; is at a similar level with respect to frequency and purpose of internal and external coordination and contacts required, since the lesser external role was counter-balanced by internal contacts in both UI and employment service that had an impact on policy; was at a higher level with respect to the complexity of the employment services or unemployment compensation work performed, since this position handles more types of functions and acts as a troubleshooter and management expert; and was at a higher level with respect to degree of involvement in choosing methods and setting priorities for accomplishing work, as the Office of Program Management does not have a Methods of Procedures Unit as the Bureau of Benefits does and because it is the sole administrative services expert in the office.

C. Supervisor, Successorship Unit, Bureau of Coverages and Contributions, Job Service Division, Job Service Supervisor 5 (Dennis E. Darwin, incumbent). The duties and responsibilities of this

position include the administration of the successorship provision of the UI law (Chapter 108, Stats., and Wis. Adm. Code), and serving as an expert in the successorship area.

(1) As compared to the appellant's position, as of December 1980, this position was similar as to organizational status; has a smaller staff size (10 full-time employees); is at a higher level with respect to the availability, applicability, and the degree of judgment required in applying job service guidelines, procedures, precedents, and legal interpretations, since successorship determinations cannot be easily standardized due to the wide variety of ways businesses can change, requiring more judgmental interpretations of the guidelines and the applicable law; is at a higher level with respect to the impact of policy and/or program decisions on claimants, employers, and overall division operations, since the accountability for the impact of the appellant's decisions is shared with other Job Service staff and units who originate claims and develop the procedures used to process claims and change employer accounts, while this position is the expert on successorship and its decisions can have a very substantial impact on the employers in question; is comparable with respect to frequency and purpose of internal and external coordination and contacts required as its lesser internal role is counterbalanced by its higher level of external contacts in its attempts to settle large and legally complex matters; is at a higher level with respect to the complexity of the work performed, because of the large variety of different types of transfers of ownership and the lack of availability of as detailed guidelines as are available to the appellant's position,

and has a proportionately higher level of subordinate employes;
and is at a higher level with respect to degree of involvement in
choosing methods and setting priorities for accomplishing work
because of the role as the expert in the successorship area.

D. Supervisor, Employer Accounts Unit, Bureau of Tax and
Accounting, Job Service, Job Service Supervisor 5 (Mary Bresnahan,
incumbent). The duties and responsibilities of this position include the
supervision and management of the work unit responsible for the administra-
tion of employer experience rating, employer account adjustments and refund
provisions of the U.C. statutes and administrative code provisions, and
serving as an expert in the experience rating program.

(1) As compared to the appellant's position as of December
1980, this position had a similar organizational status; a smaller
staff size; is at a higher level with respect to the² potential
impact of policy and/or program decisions on claimants,
employers, and overall division operations because it makes
decisions on employer UI refunds and tax rates which in turn
affects the solvency of the UI program and the employers
covered by the program; is comparable with respect to the frequency
and purpose of internal and external coordination and contact
required, as lesser internal contacts are counterbalanced by the
greater number and sensitivity of external contacts in setting
employer tax rates; and is at a higher level as to complexity of
work performed, as shown in part by relatively more professional
subordinate staff.

E. Supervisor, Coverage Unit, Employer Status Section, Bureau
of Tax and Accounting, Job Service Division, Job Service Supervisor 5
(Clifford W. Buck, incumbent). The duties and responsibilities of this

has the responsibility for administering the employer coverage provisions of the UI statutes and administrative rules, and acting as an expert on coverage provisions.

(1) As compared to the appellant's position as of December 1980, this position was comparable as to organizational status; smaller in staff size (13 full-time employees), at a higher level in terms of availability, applicability, and degree of judgment required in applying job service guidelines, procedures, precedents and legal interpretations, since it must interpret and apply the law on coverage to individual employers; at a higher level in terms of potential impact of policy and program decisions on claimants, employers, and overall division operations, as these decisions directly affect the financial condition of employers and employees; at a comparable level with respect to the frequency and purpose of internal and external coordination and contacts required, since lesser internal contacts are counterbalanced by more frequent and more sensitive external contacts; and at a higher level with respect to the complexity of the work performed, as shown in part by relatively more professional subordinate staff.

F. Section Chief, Special Benefits Operations Section, Bureau of Benefits, Job Service Division, Job Service Supervisor 6. (James L. McGuire, incumbent). The duties and responsibilities of this position include the direction, management, and supervision of the functions and staff of the Special Benefits Operations Section which accomplish statewide Benefit Payment Control activities, statewide WIN payment services, and training payment services for the majority of the state's CETA prime

sponsors. This position supervises Mr. Nelson's position as supervisor of the Special Benefit Operations Unit, described above.

(1) As compared to the appellant's position as of December 1980, this position has a comparable organization status (prior to December 1980 it had a higher organizational status but was then classified at the Job Service Supervisor 7 level); has a smaller staff size (23 full-time employes); is at a higher level with respect to availability, applicability, and degree of judgment required in applying Job Service guidelines, procedures, precedents, and legal interpretations, as indicated in part by the evaluation of the subordinate Russell Nelson position; is at a higher level with respect to the potential impact of policy and/or program decisions on claimants, employers, job seekers, and overall division policy, since this position makes decisions in three separate program areas, benefit payment control, CETA training payment, and WIN payment, which affect the individuals involved as well as the programs; is comparable with respect to the frequency and purpose of internal and external coordination and contacts required; and is at a higher level with respect to the complexity of the work performed because of the responsibility for three different substantive program areas governed by different requirements and policies.

G. Section Chief, Benefit Payment Central Section, Bureau of Benefits, Job Service Division, Job Service Supervisor 6 (Henry Sanders, incumbent). Mr. Sanders was the predecessor of Mr. Nelson in this position. It was essentially the same position during Mr.

Sanders' tenure with the exception of the fact that it was a section chief, as opposed to its later status as a unit supervisor. Because of the reduction in the organizational status of the position, its classification was lowered from Job Service Supervisor 6 to Job Service Supervisor 5. Therefore, the observations regarding the Nelson position, with the exception of organizational status, apply to the position as a Job Service Supervisor 6.

H. Interstate Benefits (IB)/Trade Readjustment ACT (TRA)

Section Chief, Bureau of Benefits, Job Service Division, Job Service Supervisor 6 (Leroy Shorey, incumbent). The duties and responsibilities of this position include the management and supervision of the of the bureau's Interstate, Combined Wage Claim and TRA activities, acting as the primary Wisconsin representative liaison as to these activities with the U. S. Department of Labor and other states.

(1) In comparison with the appellant's position, as of December 1980, this position was a higher organizational level, is comparable with respect to staff size (45 full-time and seasonal employees); is at a higher level with respect to the availability, applicability and degree of judgment required in applying job service guidelines, procedures, precedents, and legal interpretations, due to the lesser degree of specific guidelines available; is at a higher level with respect to the potential impact of policy and/or program decisions on claimants, employers, and overall division operations, as the position is responsible for decisions on benefits eligibility with respect to two UI programs; is at a higher level with respect to the frequency and purpose of internal and external coordination and

contacts required, since this position must interact extensively with federal and other state programs and officials; is at a higher level with respect to the availability of other staff with the authority to make the most difficult and unprecedented program decisions or legal interpretations; is at a higher level with respect to the complexity of work performed, due to having two separate program areas with different substantive rules and policies, the responsibility for eligibility adjudication, and the necessity of analyzing proposed law and regulation changes and formulating an agency position thereon; and is at a higher level with respect to degree of involvement in choosing methods and setting priorities for accomplishing work.

I. Collections Unit Supervisor, Bureau of Tax and Accounting, Job Service Division, Job Service Supervisor 6 (Frederick R. Heil, incumbent). The duties and responsibilities of this position include, in summary, carrying out two major functions: 1) the statewide collection of delinquent unemployment compensation contributions and special tax assessment provisions of Chapter 108, Wis. Stats., and the Wis. Adm. Code, and 2) the statewide collection of all claimant benefit overpayments for all state and federal unemployment compensation programs. This position acts as an expert in developing, recommending, and implementing collection standards, policies, procedures and goals.

(1) In comparison to the appellant's position as of December 1980, this position was comparable with respect to organizational status, has a smaller staff size (14 full-time employees); is at a higher level with respect to the availability,

applicability, and degree of judgment required in applying job service guidelines, procedures, precedents, and legal interpretations because of the less standardized and more individualized approaches required in deciding how to proceed with the collection of delinquent taxes and overpayments; is at a higher level with respect to the potential impact of policy and/or program decisions on claimants, employers, and overall division operations, as the decisions impact on individual claimants and employers and contributes directly to maintaining the UI funding level; is at a higher level with respect to the frequency and purpose of internal and external coordination and contacts required, as the internal aspect is at least comparable and there is more external activity; is at a similar level with respect to the availability of other staff with the authority to make the most difficult and unprecedented program decisions or legal interpretations; is at a higher level with respect to complexity of work performed, with a proportionally higher level of professional staff and two substantive program areas requiring the exercise of professional judgment on a case-by-case basis; is at a higher level with respect to degree of involvement in choosing methods and setting priorities for accomplishing work; and is comparable with respect to degree of involvement in choosing methods and setting priorities for accomplishing work.

8. The appellant in December, 1980, requested reclassification of his position from Job Service Supervisor 5 to Job Service Supervisor 6, and the respondent denied this request by letter dated March 11, 1981.

9. The appellant's position is best described by the position standard for Job Service Supervisor 5 and is most appropriately classified in that classification.

CONCLUSIONS OF LAW

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

2. The appellant has the burden of proving that the respondent erred in denying his reclassification request.

3. The appellant has not satisfied that burden.

4. The respondent's decision denying the appellant's reclassification request was not incorrect.

OPINION

The definitions in the Job Service Supervisor position standards provide distinctions between the Job Service Supervisor 5 and 6 levels only in general terms. The Job Service Supervisor 5 definition uses the phrase "...responsibility for a large complex statewide job service program." The Job Service Supervisor 6 definition refers to "...responsibility for a major complex job service program." (emphasis supplied) The Job Service Supervisor 6 definition contains the following distinguishing language:

Positions at this level typically differ from positions at lower levels in investment of personnel and finances to assigned programs and potential ramifications of program decisions in terms of clients served, division operations, and inter-agency commitments.

Another aid in classifying positions in this series is the listing of "classification factors" as set forth in finding #6.

In part because of the general, relative nature of the distinctions between the classification levels and the class factors used in the position standard, it is particularly important with respect to this series

to look to comparable positions. Factors such as degree of complexity and potential impact of decisions can best be evaluated by reference to other positions at the various levels.

In this connection, it is noteworthy that the major thrust of the appellant's position is the computation or recomputation of benefits after determinations on eligibility by others, outside of appellant's section. Most of the other positions examined were involved in more complex, judgmental kinds of decision-making, such as eligibility determinations and collection proceedings. Mr. Schmidt, the director of the Bureau of Benefits, testified that the Monetary Determination Section (MDS) determined the amount of payments once the initial decision on whether to make payment had been made outside the unit. He testified that the MDS handled a large volume of generally repetitive transactions, and, as might be expected with such a large number, there were some complex transactions. The generally more routine nature of the work performed by the MDS also was indicated by the fewer number of professional employes in comparison with many of the other positions examined.

With respect to the additions to the position of continued claims and Federal Military Service (UCX) and Federal Civilian Service (UCFE) claims functions, Mr. Schmidt testified that these functions were not extremely complex. While the addition of these functions added to the responsibility of the position, it cannot be said that that it was an extremely significant addition from a classification standpoint.

ORDER

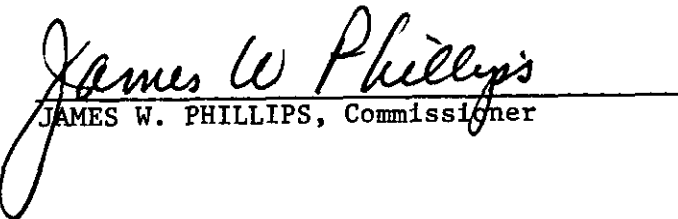
The action of the administrator denying the appellant's request for reclassification is affirmed and this appeal is dismissed.

Dated: January 7, 1983 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

AJT:jmf


LAURIE R. McCALLUM, Commissioner


JAMES W. PHILLIPS, Commissioner

Parties:

Darwin Utynek
260 Burr Oak
Oregon, WI 53575

Charles Grapentine, Administrator
DP
149 E. Wilson Street
Madison, WI 53702