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CHUCK BRASSINGTON, *

Appellant, *

v. *

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

Respondents. *

Case No. 92-0038-PC *

* * * * *

DECISION
AND
ORDER

After reviewing the hearing record and the arguments of the parties in response to the Proposed Decision and Order, and after consulting with the hearing examiner, the Commission adopts the Proposed Decision and Order, a copy of which is attached hereto, and offers the following for purposes of explanation and clarification.

1 Much of the argument offered by appellant in his objections to the Proposed Decision and Order relies upon facts not in the hearing record, e.g., much of the description of the responsibilities of the Schesch position, and the representations relating to appellant's position's responsibilities in the Income Maintenance allocation area ("responsible for allocating funds for AFDC alone of \$500-600 million per year") other than those specifically described in the Proposed Decision and Order.

2. Mr. Buhr's testimony (Tape 3, beginning at #2230) as well as Respondent's Exhibit 1 indicate, in contrast to appellant's representations in his objections, that Mr. Buhr rated appellant's position at the KS 2 level of April of 1989 and rated his own (Buhr) position at the KS 3 level in May of 1988. In addition, Respondent's Exhibit 14 indicates that Mr. Feggstad rated appellant's position at the KS 2 level in August of 1989

3 Finding of Fact 1 should be modified to reflect that the position at issue was in the Division of Economic Support, Economic

Assistance Research and Statistics Section. The employing division was incorrectly identified in the Proposed Decision and Order through an administrative error.

Dated: February 8, 1993 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

LRM:rcr


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

Parties

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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.

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CHUCK BRASSINGTON,

Appellant,

v.

Secretary, DEPARTMENT OF
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Case No. 92-0038-PC

* * * * *

PROPOSED
DECISION
AND
ORDER

Nature of the Case

This appeal relates to actions taken by respondents in regard to the classification of appellant's position. A hearing was held on August 26, 1992, before Laurie R. McCallum, Chairperson, and the briefing schedule was completed on December 4, 1992.

Findings of Fact

1 At all times relevant to this matter, appellant has been employed by respondent DHSS in a half-time (.50 full-time-equivalent) classified position in the Division of Community Services, Office of Management Information, Economic Assistance Research and Statistics Section. In April of 1989, appellant requested the reclassification of his position from the Research Technician 3 level to the Research Analyst 5 (RA 5) level. Pursuant to this request, respondents concluded that appellant's position was appropriately classified at the RA 4 level and reclassified appellant's position to the RA 4 level. Appellant filed a timely appeal of this action with the Commission.

2 The duties and responsibilities of appellant's position are accurately described as follows:

25% A Development and maintenance of special-purpose information systems for the Employment and Training program and the Fraud/Overpayment reporting program, including developing forms, procedures, instructions, and edit criteria for

collecting and entering the data; overseeing data collection and entry; reviewing raw and entered data for completeness and accuracy; developing a database to meet record-keeping and reporting needs of the programs; determining need for ongoing as well as ad hoc reports and designing report layouts; developing mainframe and micro-computer programs to extract, aggregate, tabulate, and analyze data through the independent selection and modification of packaged software programs; and determining the need for, and developing and implementing modifications to the systems. The type of data to be collected and maintained by these information systems is determined by program staff based on federal and state requirements and is not determined by this position. Annually, \$6-7 million in federal reimbursement money is allocated to counties based on data generated by the Fraud/Overpayment reporting system. The data generated by this system is also used to develop the relevant allocation formula

20% B. Response to requests for information initiated outside the Economic Assistance Research and Statistics Section, including analyzing the request to determine the type of data most appropriate to satisfy the request and the information reporting system from which such data can best be extracted; developing mainframe and micro-computer programs to extract, aggregate, tabulate, and analyze the data and present it in the most appropriate and useful format; editing the data extracted from the information reporting system for completeness, accuracy, and efficacy and modifying the program accordingly; and explaining to the requester or others using the data the limitations of the data and the scope of possible inferences from the data. The information reporting systems accessed to respond to such requests include the Employment and Training program system, the Fraud/Overpayment reporting system, the DES Computer Reporting Network, or other existing databases.

20% C. Provide technical support to Section and Division staff by planning, scheduling, and coordinating position's work assignments to meet state and federal reporting deadlines; maintaining a master file of past data reports from major information reporting systems both inside and outside the Division, and providing guidance to other Section analysts and other division staff in the use of these reports, providing advice to others on appropriate uses of routine and non-routine data and feasibility of its retrieval; reviewing reports prepared by others to identify problems with accuracy, consistency, or comparability of data or conclusions, and suggesting additional possible interpretations of data, recommending modifications to data collection processes or information reporting systems to accomplish required changes (such as in federal requirements) or recommended changes (based on input received from users of system); developing edit reports and reasonableness checks to assess completeness, accuracy, and efficacy of data generated by information reporting systems; and overseeing the maintenance

of Section libraries of reference materials relating to Income Maintenance programs.

20% D Generate regular-basis statistical reports from the data sources available to the Section, including determining the type of data needed to generate the report and the information reporting system from which such data can best be generated; developing mainframe and micro-computer programs to extract, aggregate, and tabulate the data and present it in the most appropriate and useful format; editing the data extracted from the information reporting system for completeness, accuracy, and efficacy, and modifying the program accordingly; analyzing and interpreting the report for users; and maintaining records of nature, purpose, content, and format of reports and of the procedures for producing them.

15% E. Development and maintenance of the County Personnel Master File, including developing and overseeing the implementation of procedures for data collection; developing procedures for carrying out and assessing the accuracy of data entry; developing mainframe and micro-computer programs to ensure integrity of data; developing and implementing processes for assessing efficacy of such programs; evaluating need for, and implementing and documenting system modifications; and maintaining written documentation of the system's nature, purpose, content, and procedures.

3. The Research Analyst position standard states as follows, in pertinent part:

III. Class Definitions and Point Ranges

* * * * *

D. The following classes represent the full performance objective or advanced levels for positions which have point values within the ranges listed. . . .

<u>Classes</u>	<u>Point Range</u>	<u>Pay Range</u>
Research Analyst 4	245-315	8-05
Research Analyst 5	320-405	8-06

* * * * *

IV. Factor Evaluation Guide

A Factor Level Definitions

FACTOR 1 - SCOPE AND IMPACT

NOTE. The factor is divided into two subfactors, with Scope measuring the range of functions and the degree of responsibility of the position for, or the extent of the contribution of the work product to, the effect of the work described in the Impact subfactor definitions. The same responsibilities should be used to select the level under each subfactor, and these responsibilities should represent the primary purpose of the position.

To determine the point value of a position on this factor, find the level of scope, then the level of impact. Use the Factor Rating Chart at the end of the level definitions for this factor to determine the point value for the combination of Scope and Impact chosen.

* * * * *

SUBFACTOR: IMPACT

NOTE: A position may be credited with a level of impact based on work individually performed or performed by positions under its direct control.

I-2

The work product affects such things as: the design of statistical information reporting systems; the planning, budgeting, or evaluation of governmental programs (or similar decisions of private organizations) through providing estimates, projections, or other measures of key variables and their interrelationships; the design of formulas used to allocate resources; the design and completion of a variety of analytic projects through the provision of expert technical advice; or the development/confirmation of new theories by refining and testing research hypotheses.

I-3

The work product or service: provides key information used for the planning, budgeting, and evaluation of a wide range of different programs or facilities; controls the allocation of millions of dollars through the design of allocation formulas or providing the data necessary to administer such formulas, provides information essential to key business decisions of a large number of private firms. The work product may also affect the way in which a wide variety of others conduct studies or provide services by developing new theories, concepts, or methodologies.

Factor Rating Chart - Scope and Impact

		Impact				
		I-1	I-2	I-3	I-4	I-5
Scope	S-1	30	55	85	110	140
	S-2	55	85	110	140	170
	S-3	85	110	140	170	195
	S-4	110	140	170	195	225
	S-5	140	170	195	225	250
		*	*	*	*	*

FACTOR 3 - KNOWLEDGE AND SKILL REQUIRED

Since positions covered by this standard are found in a wide variety of specializations, the factor level definitions cannot specifically mention all types of combinations of knowledge/skills that may be required for any one position. Rather, the factor level definitions are based on differences in the breadth and depth of the following broad types of knowledge/skills:

- Technical knowledge including knowledge of specific methods and techniques, professional standards and principles, the formal theory that governs the application of specific techniques or methods (e.g., psychometrics, sampling theory), and the skill required to apply them. Typical disciplines from which technical knowledge is required include statistics, mathematics, psychometrics, demography, econometrics, sociometry, and/or computer systems analysis and programming.
- Knowledge relating to the subject matter being studied, such as prior research results, how programs under study work, the history of governmental programs in the area, relevant laws, policies or regulations and related public policy issues, professionally accepted constructs, concepts, and theories explaining phenomena under study.
- Administrative knowledge and skills, including those required to plan, organize and control the work of others, the operation and principles of relevant administrative systems (e. g. , budgeting, personnel, purchasing) and techniques of contract administration, public relations or similar functions

NOTE. To be used as a basis for selecting a level under this factor, knowledge or skill must be required and applied on a continuing basis.

KS - 1 15 Points

This level encompasses the basic knowledge and skills needed to perform professional assignments in statistical analysis, statistical information reporting and/or research. Positions at this level require knowledge of the specific work methods, procedures and guidelines used in the work unit, and the basic concepts and techniques of quantitative analysis, information system operation and design, data processing, and/or package computer programs, of a particular discipline like history or political science relevant to the questions to be researched

In addition, positions at this level typically require either :

a) Working knowledge of statistics, psychometrics, demography, econometrics, or a comparable discipline, or of computer systems analysis and programming. This knowledge of the theory or formal principles behind the application of specific tools and techniques, and allows the analyst to locate, select, and apply a range of analytical techniques, and explain or interpret the rationale for these applications in terms of theory or professionally accepted principles

OR

b) A broad knowledge of the subject matter field or area of specialization, typically in the form of working to considerable knowledge of several related elements such as the operation and goals of private and/or governmental systems in the area, characteristics of the population under study, current public or professional issues, current theories or concepts applying to the area, or trends and results reported in the literature or by other investigators. This knowledge is used by the analyst to relate the results of the analyses to public or theoretical issues, interpret phenomena identified in terms of broader social or programmatic processes, design information collection systems and make substantive contributions to the design of studies or research projects.

Illustrations:

- (a) Applies working knowledge of statistics and sampling theory, and some knowledge of the concepts of clinical psychology to develop cross tabulations, calculate correlation coefficients, and apply tests of statistical significance to compare the effectiveness of two treatment programs on different types of patients

- (b) Applies considerable knowledge of Job Service Work Incentive Program statistical reporting system design and operation, extensive knowledge of procedural manuals, and basic concepts of systems analysis to identify incorrect application of procedures by local office staff and recommend changes in local office procedures or system design to ensure accurate reporting of information.

KS - 2 50 Points

Positions evaluated at this level require both:

a) working knowledge of statistics, psychometrics, demography, econometrics, or a comparable discipline, or of computer systems analysis and programming as described at Level KS - 1.

And

b) a broad knowledge of the subject matter field or area of specialization, as described at Level KS - 1

Knowledge of and skill in applying a variety of principles, practices and procedures necessary to supervise staff and direct an organizational unit, including such elements as purchasing/procurement guidelines, budget development procedures, personnel rules and practices, methods and techniques for organizing, motivating, and controlling the work of others or training techniques may be substituted for either (a) or (b) at this level.

Illustrations.

- Applies working knowledge of statistics and econometrics, as well as working knowledge of demographic and employment characteristics of Wisconsin population and the history and economics of State business and employment cycles, to estimate the proportion of population subgroups in the labor force, develop and interpret employment trends, and develop an index of economic indicators to predict future unemployment, utilizes correlation, regression, and trend analysis techniques.

- Applies working knowledge of highway design principles and methods, federal highway statistical reporting requirements, information needs of department planners, characteristics of Wisconsin's State trunk highway system, principles of computer systems analysis, data management and capabilities of data processing to design a system for collecting data on mileage, physical characteristics, and jurisdictional location of state trunk highways

KS - 3 80 Points

This is the first advanced level of knowledge, requiring, in addition to that described at Level KS -2, either:

a) Deeper technical knowledge, typically in the form of considerable knowledge of statistics, psychometrics, demography, econometrics, or a comparable discipline, or of computer systems analysis and programming. This knowledge is sufficient to allow the analyst to independently select, adapt, and apply a wide range of analytic techniques or methods, explain the rationale for methods selected or adaptations made, act as a technical resource to other staff, and produce results consistent with accepted professional standards of the discipline in response to a wide variety of technical problems.

OR

b) Knowledge of the subject matter field is extensive, enabling the analyst to provide authoritative consultation and interpretation as a recognized expert, develop new research hypotheses, develop and direct new research or statistical information reporting programs, or design and coordinate studies which add to the knowledge base about the program, population or issue under study. Typically, the analyst is considered the 'expert' in a particular subject matter area.

Positions evaluated at this level may also require supervisory knowledge/skill as described at Level KS - 2.

Illustrations:

- (a) Applies a considerable knowledge of statistical theory and operations research techniques such as Markov chain and queuing models to adopt a mathematical model of physician supply to Wisconsin conditions in order to predict need for medical education resources.

- (b) Applies extensive knowledge of Job Service Employment Program operations and policies, of Federal reporting requirements and agency management information needs, and of the structure and content of existing statistical information reporting systems, as well as working knowledge of systems analysis principles and considerable knowledge of BASIC programming techniques, to direct the design of new statistical information reporting systems for the Work Incentive Program.

4. Respondents reached the decision that appellant's position was appropriately classified at the RA 4 level by rating the Impact factor at the I-2 level and by rating the Knowledge/Skills factor at the KS-2 level. In this

appeal, appellant is challenging only these two factor ratings and not respondents' rating of the Scope (S-2), Complexity (C-2), Nature of Contacts (NC-2), Purpose of Contacts (PC-2), or Discretion (D-2) factors.

5. Respondents' analysis of the Impact and Knowledge/Skills factors, as stated in a memo prepared by Roberta Miller, Team Leader, Bureau of Personnel and Employment Relations dated January 17, 1992, is as follows:

IMPACT

In this factor, Mr. Brassington's position satisfies the I-2 area because his work product affects the design of reporting systems and the decision making on governmental policy and procedure. I-2 states "The work product affects such things as: the design of statistical information reporting systems; the planning, budgeting, or evaluation of governmental programs (or similar decisions of private organizations) through providing estimates, projections, or other measures of key variables and their interrelationships, the design of formulas used to allocate resources; the design and completion of a variety of analytic projects through the provision of expert technical advice; or the development/confirmation of new theories by refining and testing research hypotheses". By maintaining, revising and, in some cases, designing statistical information reporting systems; developing modules to extract certain requested sets of data reports from those systems; and providing interpretation of the validity and quality of that data, the incumbent's work product most appropriately fits in the I-2 factor.

A position that has the same impact (I-2) as Mr Brassington's position is located in the DHSS/Division of Community Services and is occupied by Adam Schesch (3/88) . Mr Schesch's position is involved with designing , maintaining and utilizing a system that documents allocation of time that foster care workers in the state spend on certain activities. A summary of Mr. Schesch's duties includes. designing, developing, and maintaining a system to determine statewide foster care worker activity levels in order for Wisconsin to claim \$10 million in federal foster care reimbursement annually; coordinating the ongoing operation and assuring the quality of data in the system; and processing data, analyzing results to produce reports, and interpreting the data collected. Mr. Brassington's and Mr. Schesch's work products are used for mandated reports and research tools for various organizations that need to make policy decisions.

The intent of the I-3 factor is to reference positions that provide research and/or data that is exclusively used for policy decisions of great magnitude for many organizations. In most cases, this data is not analyzed by other analysts and is the final product policy planners use in making their decisions. I-3 states: "The work product or service provides key information used for the planning, budgeting, and evaluation of a wide range of different programs or facilities; controls the allocation of millions of dollars through the design of allocation

formulas or providing the data necessary to administer such formulas; provides information essential to key business decisions of a large number of private firms. The work product may also affect the way in which a wide variety of others conduct studies or provide services by developing new theories, concepts or methodologies."

A position that adequately meets the intent of I-3 is Robert Purvis (1/91), Research Analyst 5 in the Center for Health Statistics. Mr. Purvis is responsible for planning, developing, and implementing a statewide hospital and ambulatory surgery center outpatient-specific surgical database for the Office of Health Care Information (OHCI). Given the data evaluation needs of the legislature (via OHCI and the Board for Health Care Information), Mr. Purvis must determine the broad as well as the specific parameters of the data research he must collect. This encompasses doing strategic planning, determining the actual data that will be collected on the system, assuring quality of that data, and doing special analysis of data using statistical research techniques on selected aspects. The work product is utilized by many organizations to actually plan, budget, and evaluate a wide range of different facilities (hospitals). Although Mr. Brassington's position performs many of the duties that Mr. Purvis performs, the primary focus of work for Mr. Brassington is to provide mandatorily required reports (federal government) and requested data for various organizations, which is often analyzed by the requestor's own research team. Mr. Purvis's position has more latitude in deciding what data is needed for collection to satisfy the often undefined needs of the Board of Health Care Information. Also, the data collected and analyzed by Mr. Purvis's position is utilized, without added analysis or interpretation, by many diverse organizations like individual hospitals, the Division of Health and the Legislature. Therefore, the work product of Mr. Purvis satisfies the intent of the I-3 area.

S-2 and I-2 combined are given a 85 point value

Factor 3 - Knowledge and Skill Required

KNOWLEDGE AND SKILL

This factor is based on differences in the breadth and depth of knowledge and skill. Mr. Brassington's position is most appropriately placed in the K-2 factor. KS-2 states "Positions evaluated at this level require both: a) working knowledge of statistics, psychometrics, demography, econometrics, or a comparable discipline, or of computer systems analysis and programming; and b) a broad knowledge of the subject matter field or area of specialization." Mr. Brassington's duties require him to have enough knowledge/skill in statistics and computer programming to perform his daily work assignments. Also, the incumbent must have a broad based knowledge in the welfare programs so he can adequately consult with people who are involved with the various welfare programs.

To fit into the KS-3 factor a position must either have "deeper technical knowledge, typically in the form of considerable knowledge" in the technical areas quoted above or "knowledge of the subject matter field is extensive". The definition of "considerable" is a level of knowledge that would enable the employe to work effectively in a wide range of work situations and with little direct supervision. Mr. Brassington must have knowledge in the technical area with regard to statistics and computer programming, but considerable knowledge is not needed to perform his required duties. An example of considerable technical knowledge, as stated by the specifications, would be "applying statistical theory and operations research techniques such as Markov chain and queuing models to adopt a mathematical model of physician supply to Wisconsin conditions in order to predict need for medical education resources." Although Mr. Brassington must have knowledge of the welfare program area, it is not required of him to have extensive program knowledge to perform his research activities.

KS-2 is given a 50 point value

6. Some time on or around March 25, 1988, Charles Hess, an RA in the Section, was reassigned on an acting basis to serve as the Division's data processing manager. As a result, appellant's RA position, as well as the RA positions of Beth Dorschner, and Richard Steuber, were assigned certain of the Hess position's responsibilities. Appellant's position was assigned the Hess position's responsibility for the Fraud/Overpayment program which, at the time, was a manual reporting and recording system requiring relatively little time and necessitating only the application of basic bookkeeping skills and arithmetic analysis.

7. Since March of 1988, the Fraud/Overpayment system has been modified to include front-end verification of eligibility for income maintenance programs (Aid to Families with Dependent Children, food stamps, Medical Assistance, general relief, and energy assistance) in addition to the original goal of identifying income maintenance program overpayments and attempting to recover them; to collect case-specific data rather than aggregate data from counties, and to involve a computerized information reporting system instead of the manual system. The assignment to appellant's position of responsibility for the Fraud/Overpayment reporting system was made primarily because of workload considerations. As the Fraud/Overpayment assignment changed and consumed a larger percentage of appellant's position's time, his supervisor assigned some of his other responsibilities to other RA's in the Section.

8. The Schesch position - KS-2, I-2 (See Finding of Fact 5, above) performs duties and responsibilities comparable to those performed by appellant's position but for a single information reporting system, rather than the multiple systems with which appellant's position works. However, the data with which the Schesch position works appears to involve a more complex data collection process with more data variables and less specificity and the Schesch position appears to exercise greater discretion relating to eligibility determinations and interpretation of eligibility requirements. The data generated by the system for which the Schesch position is responsible controls the allocation of approximately \$10 million in public funds annually

9. The data generated by the system for which the Purvis position - KS-2, I-3 (See Finding of Fact 5, above) is responsible controls the allocation of a wide range of state health resources and the spending priorities for hundreds of millions of health care dollars annually. Although the Purvis position works primarily with a single reporting system, rather than the multiple systems with which appellant's position works, the data with which the Purvis position works appears to involve a more complex data collection process with more data variables and less specific data requirements; the Purvis position appears to involve greater participation in determining the type of data to be collected and greater oversight of the work of other Research Assistants and Research Technicians; and the Purvis position appears to be more involved in the analysis of the data tabulations generated by the system, including comparative and trend analyses, and more involved in the application of a variety of statistical techniques to this data.

10 In the opinion of Fred Buhr, appellant's position's supervisor, the Impact level of appellant's position is higher than that of the Dorschner and Steuber positions, although they perform the same basic type of tasks, because the Fraud/Overpayment reporting system has a greater monetary impact than the special-purpose information systems for which these other positions are responsible

11. In 1989, Mr. Buhr rated the KS level of appellant's position as KS-2 and testified at hearing that he felt that rating was accurate.

12. The RA 5 position of Juliette Redding - I-3, KS-3 - is responsible for the planning, development, implementation, maintenance, and analysis of data from the Wisconsin Public Health Data System. The work product generated by this position affects the allocation of Division of Health Regional

staff, state general purpose revenue, federal Prevention and Maternal and Child Health Block Grant funding, and the development of public health programs at the state and local level. This position sets policy-relevant objectives and performs strategic planning in the broad public health program area; designs and develops highly complex, sophisticated assessment mechanisms to ascertain the impact of state and local policies; plans and develops research and statistical applications strategies, performing complex and sophisticated interpretive analysis of data; and performs a variety of special studies and prepares reports.

13. In a memo to Mr. Buhr dated May 10, 1990, appellant requested reclassification of his position to the RA 6 level and that he and Mr. Buhr meet within the "next few days to start the reclass proceedings rolling." Appellant later informed Mr. Buhr that he was withdrawing this request since some of the assignments upon which the request had been based had not yet been made permanent

14. In a memo to Mr. Buhr dated November 2, 1990, appellant renewed his request for the reclassification of his position to the RA 6 level, suggested that his position description be redrafted, and stated that, "It is my understanding that you have begun to rewrite it already. Should we meet shortly to discuss?"

15. In a memo dated March 22, 1991, to appellant and Lianne Marshall, Director of the Bureau to which appellant's position was assigned, Mr. Buhr stated as follows, in pertinent part:

Relating to Chuck's request of 11-02-90 for reclassification to RA 6, I have drafted a position description (attached) which should meet the criteria for that classification. During the period since Chuck's request, I have sought to identify the most promising strategy to follow toward achieving the RA 6 classification.. That strategy would have followed a course of submitting the position description to BPER and consequently run a risk for Chuck of having the position adjudged as one for which he would 'have to compete. In discussing this option, Chuck and I concluded that the risk would be particularly great during a budget period in which position deletions are being proposed. Further, if the position were adjudged as one for which competition was necessary, that situation possibly could complicate resolution of the (thought to be) pending reclassification review request.

I would like to move the request along but short of submitting the position description to BPER, I am at a loss as to how to proceed.

Perhaps the three of us could meet and decide how best to process the reclassification request.

Mr. Buhr did not submit the referenced reclassification request to respondent DHSS's Bureau of Personnel and Employment Relations (BPER).

16. In a memo to the Commission dated February 14, 1992, appellant stated as follows, in pertinent part:

The letter from Bert Miller seems to be answering two distinct reclass requests, the RA 5 request of 4-89 and the RA 6 request which was initiated in 1991. I wish to make it clear that I hereby appeal both denials.

The referenced letter did not refer to a request by appellant for the reclassification of his position to the RA 6 level

17 A request for the reclassification of appellant's position to the RA 6 level was not filed with respondent DHSS's Bureau of Personnel and Employment Relations

Conclusions of Law

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

2. The appellant has the burden to prove that respondent's decision to deny his April, 1989, request for the reclassification of his position from the RA 4 to the RA 5 level was incorrect.

3. The appellant has failed to sustain this burden.

4 Respondent's decision to deny appellant's request for the reclassification of his position from the RA 4 to the RA 5 level was correct and appellant's position is more appropriately classified at the RA 4 level.

5. The appellant has the burden to prove that he filed a valid request for the reclassification of his position to the RA 6 level on or after November of 1990

6. The appellant has failed to sustain this burden

7 The appellant did not file a valid request for the reclassification of his position to the RA 6 level on or after November of 1990.

Opinion

The parties agreed to the following issues for hearing at their May 1, 1992, prehearing conference.

1. Was respondent's decision to deny appellant's April of 1989 request for the reclassification of his position to the Research Analyst 5 (RA 5) level correct.

Subissue Whether respondent's evaluation of the Impact factor was correct.

Subissue: Whether respondent's evaluation of the Knowledge and Skills factor was correct.

Subissue: Whether appellant's position is more appropriately classified as an RA 4 or RA 5.

2 Whether appellant filed a valid request for the reclassification of his position to the RA 6 level on or after November of 1990

The basis for appellant's challenge of respondent's decision to deny the 1989 reclassification request rests solely on his contention that respondent's ratings of the Impact factor and the Knowledge/Skills factor were incorrect. Respondent rated both these factors at the "2" level. Had respondent rated either of these factors at the "3" level, the result would have been classification of appellant's position at the RA 5 level.

In regard to the Impact factor, appellant argues that his position ". . . controls the allocation of millions of dollars through . . . providing the data necessary to administer such [allocation] formulas. . ." within the meaning of the I-3 definition. The record does reflect that appellant's position controls the allocation of millions of dollars through providing the data necessary to administer the Fraud/Overpayment reimbursement allocation formula. However, the danger here is to apply the quoted language in too literal and isolated a manner. It is obvious that the language of the Research Analyst position standard was drafted utilizing general language in order to encompass positions performing a wide variety of duties and responsibilities. In such situations, in order to gain an understanding of classification concepts and relationships, it is necessary for the Commission to examine definitional language in context, not in isolation, and to examine how such language has been applied to the duties and responsibilities of positions in relevant classifications.

The I-3 definition, viewed as a whole, presents a picture of a position with ultimate responsibility for providing data upon which administrators and

managers rely in making a wide range of planning, budgeting, fund allocation, and evaluation decisions relating to differing programs or programs of wide scope. This is illustrated by the Purvis position (See Finding of Fact 9, above) which generates data impacting on the allocation of state health resources and the establishment of spending priorities for hundreds of millions of health care dollars annually, i.e., the planning, evaluation, budget, and spending decisions made based upon the outpatient surgical care data generated by the Purvis position affect the establishment of spending priorities for hundreds of millions of health dollars annually in both the public and private sectors. In contrast, the data generated by appellant's position relating to the Fraud/Overpayment program is used for the much narrower purpose of determining how much money each county is entitled to be reimbursed for their activities in the income maintenance fraud/overpayment area based on specific federal and state reimbursement and allocation requirements. Although appellant's position also generates data for other programs, it is implicit from the record that these programs consume a significantly smaller percentage of his position's time than the Fraud/Overpayment program and that appellant regards his duties and responsibilities relating to these other programs as having significantly less impact, within the meaning of the RA position standard, than those relating to the Fraud/Overpayment program.

The I-2 definition generally describes the type and scope of the duties and responsibilities of appellant's position, i.e., the data and reports generated by appellant's position affect the design of statistical information reporting systems; the planning, budgeting, or evaluation of certain aspects of the state's income maintenance program; the design of the fraud/overpayment allocation formula; and the design and completion of a variety of projects through the provision of technical advice relating to the extraction of data from various information reporting systems. The Schesch position (See Finding of Fact 8, above), has an impact level of I-2 and the data generated by this position, like the data generated by appellant's position in the Fraud/Overpayment area, controls the allocation of approximately \$10 million in public funds annually.

The Commission concludes that respondent's rating of the impact factor for appellant's position at the I-2 level was correct.

In regard to the Knowledge/Skills factor, appellant argues that the duties and responsibilities of his position require the application of "considerable" knowledge of computer systems and analysis within the meaning of the KS-3 definition as opposed to a "working" knowledge of computer systems and analysis within the meaning of the KS-2 definition. Once again, the general nature of this definitional language prompts the comparison of the duties and responsibilities of appellant's position to those of positions with a Knowledge/Skills rating of KS-2 and KS-3.

The Redding position (See Finding of Fact 12, above) has a Knowledge/Skills rating of KS-3. This position sets policy-relevant objectives and performs strategic planning in the broad public health program area; designs and develops highly complex, sophisticated assessment mechanisms to ascertain the impact of state and local policies; plans and develops research and statistical applications strategies, performing complex and sophisticated interpretive analysis of data; performs special studies and prepares reports. This position is responsible for a more complex information reporting system affecting a much broader and more varied program area, has a much more significant planning and policy component, is responsible for more complex analysis of data generated by the system, and is responsible for preparing a wider variety of interpretive and analytical reports than appellant's position.

In contrast, the Schesch position (See Finding of Fact 8, above) which has a Knowledge/Skills rating of KS-2, although apparently responsible for only a single information reporting system, also appears to work with a more complex data collection process with more data variables and less specificity and to exercise greater discretion relating to eligibility determinations and interpretation of eligibility requirements than appellant's position. These differences appear to counterbalance each other.

The Purvis position (See Finding of Fact 9, above) which has a Knowledge/Skills rating of KS-2, although also apparently responsible primarily for a single information reporting system, appears to work with a more complex data collection process with more data variables and less specific data requirements, to involve greater participation in determining the type of data to be collected and greater oversight of the work of Research Assistants and Research Technicians; and to be more involved in the analysis of the data tabulations generated by the system, including comparative and trend analyses, and more involved in the application of a variety of statistical

techniques to this data than appellant's position. The Purvis position is stronger, from the standpoint of the Knowledge/Skills factor, than appellant's position.

Although appellant urges the Commission to rely upon Mr. Buhr's expert opinion relating to the knowledge and skills required to carry out the duties and responsibilities of appellant's position, the record reflects that Mr. Buhr rated the Knowledge/Skills level of appellant's position in April of 1989 at the KS-2 level and confirmed his opinion in this regard in his hearing testimony. Although Mr. Buhr also testified that the knowledge and skills required for the performance of the duties and responsibilities of appellant's position exceed those required for the performance of the duties and responsibilities of the RA 4 Steuber and Dorschner positions, the record does not reveal that they are sufficiently higher to justify a KS-3 rating for appellant's position.

The Commission concludes that respondent's rating of the Knowledge/Skills level of appellant's position at the KS-2 level was correct.

Respondent has also contended that the assignment of responsibility to appellant's position for the Fraud/Overpayment information reporting system was not gradual and, therefore, could not serve as the basis for the reclassification of appellant's position. The Commission finds, however, that, when such assignment was made, it constituted a very minor addition to appellant's duties and responsibilities and consumed a very small percentage of his position's time. The assignment subsequently became substantially more complex and more time-consuming and these changes occurred both gradually and logically. The Commission considers the changes in appellant's position prior to April of 1989 to be both logical and gradual.

The final issue relates to whether appellant filed a valid request for the reclassification of his position to the RA 6 level on or after November of 1990.

It is apparent from the November 2, 1990, memo drafted by appellant and the March 22, 1991, memo received by appellant that he was well aware that his request for the reclassification of his position had not been forwarded to DHSS's Bureau of Personnel and Employment Relations, i.e., the entity within his employing agency responsible for acting upon reclassification requests. Although the Commission has applied the doctrine of equitable estoppel to conclude that valid reclassification requests have been filed by employees whose supervisors or employing agencies have misled them as to

the existence or status of a request for reclassification, that is not the situation here. The Commission concludes that appellant did not file a valid request for the reclassification of his position on or after November of 1990.

Order

The actions of respondent are affirmed and this appeal is dismissed.

Dated: _____, 1992 STATE PERSONNEL COMMISSION

LAURIE R. McCALLUM, Chairperson

gdt

DONALD R. MURPHY, Commissioner

GERALD F. HODDINOTT, Commissioner

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