

STATE OF WISCONSIN

PERSONNEL COMMISSION

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JAN DUNN-HERFEL, \*

Appellant, \*

v. \*

Secretary, DEPARTMENT OF \*

EMPLOYMENT RELATIONS, and \*

Attorney General, DEPARTMENT OF \*

JUSTICE, \*

Respondents. \*

Case No. 94-0043-PC \*

\* \* \* \* \*

DECISION AND ORDER

On or around December 23, 1993, appellant requested the reclassification of her position from Program Assistant 1 (PA 1) to PA 2. This request was denied by respondent DOJ, pursuant to authority delegated by respondent DER, in a memo to appellant's supervisors from Gary Martinelli, DOJ Personnel Director, dated March 23, 1994. Appellant filed a timely appeal of this denial with the Commission. A hearing was held on this appeal on August 16 and September 6, 1994, before Laurie R. McCallum, Chairperson. The parties were permitted to file post-hearing briefs and the briefing schedule was completed on October 14, 1994.

Appellant submitted as part of her reclassification request a position description which her supervisor had signed on December 23, 1993, and which appellant signed on January 27, 1994. This position description represented the duties and responsibilities of appellant's position to consist of the following, in pertinent part:

40% A. Completion of initial processing phases of Crime Victim Compensation applications.

- A1. Review applications for completeness of information and contact victims by phone and in writing to obtain additional information.

- A2. Advise applicants of the various program benefits and the processing timeframes and procedures.
- A3. Evaluate claims to determine if application deadline, law enforcement reporting requirements and child support eligibility have been met.
- A4. Notify ineligible applicants in writing, determine the feasibility of a waiver, and advise on how to proceed.
- A5. Review applications for potential benefits and determine the necessary documentation to be collected.
- A6. Contact law enforcement agencies to obtain completion of certification form or law enforcement reports.
- A7. Contact physicians and hospitals to obtain medical reports and other treatment records.
- A8. Contact victims' employers to obtain completion of certification form or records of employment such as rate of pay, time loss from work, and disability pay available.
- A9. Consult with Claim Specialist on highly unusual claims to ensure all necessary documentation is requested.
- A10. Turn claim files over to assigned Claim Specialist when sufficient data is available to begin the crime and financial eligibility phases.

30% B. Provision of administrative support services related to the processing of claims.

- B1. Enter claims data in to computer to initiate and track the processing status.
- B2. Open claims files and file all subsequent information and correspondence gathered throughout the life of the claim.
- B3. Periodically review claims and follow up with applicants who have not responded to requests for information.
- B4. Notify applicants who do not meet timeframe requirements that their claims have been administratively closed.
- B6.<sup>1</sup> Prepare payment notices to victims and providers and document the receipt and mailing out of all checks.
- B7. Record, plan, pack, move and label prior fiscal year's claim files.

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<sup>1</sup> There was no worker activity designated as B5 on the position description.

- B8. Respond to general inquiries regarding the Crime Victim Compensation program, answering questions on the processing and status of claims for victims, service providers, and other victim-related professionals.
- 20% C. Coordination of the Child Support and Restitution functions of the Crime Victim Compensation program.
- C1. Review social security numbers of applicants against the certified child support list to identify potentially delinquent claimants.
  - C2. Ensure proper identification of those on list and prepare memorandum with required information for the Bureau of child Support in DHSS.
  - C3. Prepare certified denial letters for cases with outstanding delinquencies to county Child support agencies and close out claims.
  - C4. Respond to questions from affected victims and determine when exceptions to the child support rule occur.
  - C5. Review restitution checks for accuracy of information re: victim's name, claim number, and date of last OCVS payment.
  - C6. Complete revenue deposit forms using the proper coding to reflect the correct type of funding and fiscal year.
  - C7. Prepare individual deposit slips showing the vendor's Federal Tax Identification number for current fiscal year deposits.
  - C8. Notify the Department of Corrections of any incorrect information on restitution checks.
- 10% D. Provision of administrative support services for the Office of Crime Victim Services.
- D1. Open, sort, stamp and distribute incoming mail.
  - D2. Compose and type letters in response to a variety of inquiries or problems.
  - D3. Prepare labels, index tabs, and file folders for office files.
  - D4. Prepare correspondence, mailings, reports, and other special projects for OCVS staff.
  - D5. Order and distribute applications, brochures, directories, posters, and forms to victims and victim services programs.

At hearing, appellant testified that she spent the following percentages of her time on the following duties and responsibilities:

15% data entry [B1 on position description (PD)]

5% miscellaneous clerical [D on PD = 10%]

25% restitution [C5-C8 on PD = one-half of Goal C which was listed as 20% in total]

25% child support cross-referencing [C1-C4 on PD = one-half of Goal C which was listed as 20% in total]

30% processing applications from crime victims [A1-A10, B2-B8 on PD which represents all of Goals A and B except for B1 and a total % for Goals A and B of 70%]

The differences in time percentages are significant. Data entry and processing application duties were assigned 45% in appellant's testimony but 70% in appellant's position description; and child support and restitution duties were assigned 50% in appellant's testimony but 20% in appellant's position description. However, in view of the actual nature of the duties and responsibilities of appellant's position, regardless of which time percentages were accurate, the outcome of this appeal would be the same.

The position standard for the Program Assistant series states as follows, in pertinent part:

**PROGRAM ASSISTANT 1**

This is work of moderate difficulty providing program support assistance to supervisory, professional or administrative staff. Positions allocated to this level serve as the principal support staff within a specific defined program or a significant segment of a program. Positions at this level are distinguished from the Clerical Assistant 2 level by their identified accountability for the implementation and consequences of program activities over which they have decision-making control. Therefore, although the actual tasks performed at this level may in many respects be similar to those performed at the Clerical Assistant 2 level, the greater variety, scope and complexity of the problem-solving, the greater independence of action, and the greater degree of personal or procedural control over the program activities differentiates the Program Assistant functions. The degree of programmatic accountability and involvement is measured on the basis of the size and scope of the area impacted by the decision and the consequence of error in making such decisions which increases with each successive

level in the Program Assistant series. Work is performed under general supervision.

#### PROGRAM ASSISTANT 1 - WORK EXAMPLES

Plans, assigns and guides the activities of a unit engaged in specialized clerical duties.

Serves as acknowledged expert who resolves the most difficult problems of a complex clerical nature.

Performs most intricate clerical operations, processing documents and performing other clerical operations where comprehensive knowledge of legislation, or organization is required.

Sets up, maintains detailed budget ledgers posting debits and credits, issuing credits and refunds, and generally insures all records are accurate and up-to-date.

Purchases and requisitions supplies, including capital purchases and services, and follows up to insure merchandise or services are received and priced accurately.

Gathers and organizes information into summary reports, as assigned.

Maintains department or program schedule.

Develops and revises operating procedures affecting the immediate work unit.

Composes and types correspondence, requiring knowledge of departmental operations and regulations, which may not be reviewed by a superior.

Counsels and assists the public when applying for services provided by the program assigned, and may interview applicants to determine eligibility for program benefits and/or services.

#### 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 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, workshops, seminars.

The record shows that the program area in which appellant's position works is very narrowly focused, the decisions that appellant's position is required to make do not require a search for solutions from a variety of alternatives, and the procedures and precedents which govern the program area are clearly established. For example, application processing primarily involves determining whether an applicant has completely answered all the questions on the application form and contacting the applicant if they did not; sending forms to law enforcement agencies, physicians, and employers for them to complete and return; referring non-routine claims as well as completed claims files over to Claims Specialists; and performing related routine clerical work. The only duties appellant's position is assigned in this area which involve the exercise of some discretion are those relating to

responding to inquiries relating to the requirements and procedures of the Crime Victim Compensation program, and the screening of non-routine applications. These duties consume only a small percentage of appellant's position's time. Moreover, in view of the narrow scope of this program and the routing by appellant to other positions of inquiries and applications which are other than routine, these assignments fall well within the range of PA 1 duties. For example, the work examples cited in the PA 1 position standard refer to "processing documents . . . where comprehensive knowledge of legislation or organization is required," gather(ing) and organiz(ing) information into summary reports," and "counsel(ing) and assist(ing) the public when applying for services provided by the program assigned, and may interview applicants to determine eligibility for program benefits and/or services."

The child support duties of appellant's position primarily involve checking applicant social security numbers against a list provided by the Department of Health and Social Services and, if there is a match, determining whether the applicant owes only birthing expenses or owes support or maintenance payments; and, if the applicant owes support or maintenance payments, sending the applicant and other interested entities the applicable form letter or memorandum. Even though appellant's position is assigned to respond to inquiries relating to this child support aspect of the Crime Victim Compensation program, this aspect of the program has so few variables and is so well-defined that these duties also fall well within the range of PA 1 duties.

Finally, the restitution duties of appellant's position are routine bookkeeping duties and also fall well within the range of PA 1 duties. For example, the work examples cited in the PA 1 position standard include "sets up, maintains detailed budget ledgers posting debits and credits, issuing credits and refunds, and generally insures all records are accurate and up-to-date."

The record shows that the procedures and requirements relating to the aspects of the Crime Victim Compensation program with which appellant's position works are so limited in scope and variety and so well-defined that the variables applicable to them have been reduced in large part to a checklist format.

Even though a conclusion has been reached that the duties and responsibilities of appellant's position do not satisfy the language of the PA 2 position standard, i.e., the primary authority for the classification of positions,

it is often useful when considering more general and inclusive series such as the Program Assistant series to review positions offered for comparison purposes.

The positions offered for comparison purposes in the hearing record which are assigned duties and responsibilities most closely parallel to those assigned to appellant's position include the following:

a. Kim Roach - PA 1 - DOJ Division of Law Enforcement Services, Crime Laboratory Bureau - This position is involved in the screening and assignment of items for which laboratory analysis is requested--this requires compiling information incorporating numerous and complex variables from a variety of sources, knowledge of scientific applications, familiarity with the scientific expertise of laboratory staff, and knowledge of techniques for maintaining chain of evidence; and is involved in complex scheduling duties for laboratory scientists used as expert witnesses. Although this position is classified at the PA 1 level, it appears to be a stronger position from a classification standpoint than appellant's position due to the greater variety of decision variables and functions, and the greater complexity of the program to which the position is assigned.

b. Nancy Georgeson-Shimeall - PA 1 - Department of Administration - Bureau of State Risk Management/Workers Compensation (WC). This position is responsible for evaluating all WC claims for completeness and obtaining missing information, reviewing certain types of WC claims for eligibility purposes and approving or denying related medical expenses, auditing and approving payment registers, making timely payments to employees and vendors, responding to and resolving all inquiries relating to status of WC payments, and record-keeping responsibilities related to the WC program; providing general program support to other WC staff including routing inquiries to appropriate staff, creating and updating data fields, providing expertise and recommending improvements relating to the WC computer system; and distributing payments authorized by program staff, acting as liaison with state records center, providing training to agency staff on WC forms use, and making recommendations to improve the efficiency of WC claims processing and management. The majority of the duties and responsibilities of this position are of the same type as those of appellant's position although, because the WC program is apparently more complex and the number of variables affecting WC claims more extensive and less well-defined, this position appears to be stronger from a classification standpoint than appellant's position.

c. Linda Schenk - PA 2 - DOJ Division of Narcotics Enforcement. This position is responsible for operating the statewide Narcotics Analysis Intelligence Link (NAIL) program



(65%), including developing, implementing, and revising policies, procedures and protocols and ensuring they conform with state and federal statutes; developing and monitoring measures to ensure security and accuracy of NAIL information; developing all administrative reports; providing interstate liaison between NAIL and the Mid-States Organized Crime Information Center; maintaining all NAIL files; answering inquiries about the NAIL program; developing informational materials for publication; providing feedback and program evaluation criteria to supervisory staff; providing support and technical assistance to the Tactical Intelligence Unit (20%), including gathering information to assist in investigations of the Special Operations Section, providing technical support with specialized equipment, and assisting in the liaison function between the Tactical Intelligence Unit and other intelligence organizations; and providing program support for the Special Operations Section staff (15%), including composing correspondence for staff members, providing back-up assistance, and organizing and maintaining administrative files. The program policy and procedure development, report development, informational materials development, program evaluation, and interstate liaison responsibilities of this position render it a significantly stronger position from a classification standpoint than appellant's position.

d. Mary Moroney - PA 2 - DOJ - this position is responsible for organizing and setting up training conferences for the Special Prosecutors Educational Training program, arranging for CLE credits, coordinating reimbursement for participants (20%), coordinating the presentation of Educational Telephone Network programs (15%), providing administrative support services to the SPET program (35%); and coordinating the proofreading, printing, and distribution of SPTE publications (30%). The apparent scope of independent decisions required to be made from a variety of diverse alternatives for which no well-defined precedent exists renders this a significantly stronger position from a classification standpoint than appellant's position.

Appellant argues that, since some of the responsibilities added to her position prior to 1994 were previously performed by Claims Specialists which are classified at the higher Administrative Assistant 4 (AA 4) level, these should be regarded as PA 2 or higher level responsibilities. However, simply because a responsibility is assigned to an AA 4 position does not mean that it is an AA4-level responsibility. Most positions are an amalgam of responsibilities which vary in strength when viewed from a classification perspective. It is those responsibilities which consume a majority of the position's time which determine its classification.

Appellant appears to argue that the addition of higher level duties to her position in and of itself justifies reclassification to a higher level. However, the addition of higher level duties, while strengthening a position, does not justify its reclassification unless and until the majority of the position's duties satisfy the requirements for classification at the higher level.

Appellant refers in her arguments to a PA 2 position assigned to the Victim Resource Center. However, there is so little evidence in the record relating to this position that it is not possible to examine its comparability to appellant's position.

One somewhat troubling aspect of this appeal is the fact that the positions which formerly performed many of the same functions as appellant's position were reclassified from PA 1 to PA 2 in 1985. It is very difficult to compare the positions, however, since these earlier positions were not assigned the child support and restitution functions assigned to appellant's position which appellant testified consume 50% of her time. In addition, these earlier positions had purchasing, scheduling, and lead work duties not assigned to appellant's position. As a result, it is not possible to conclude that these positions were identical or even similar to appellant's position. Laying to one side any lead worker responsibilities, it appears as though at least 75% of the duties and responsibilities of these earlier positions appear to be PA 1 program support/clerical duties and the basis for classification at the PA 2 level is unclear.

The record shows that the duties and responsibilities of appellant's position are better described by the language of the PA 1 classification specification than that of the PA 2 specification; and are more closely comparable to the duties and responsibilities of the PA 1 positions described above than the PA 2 positions. As a result, it is concluded that appellant's position is more appropriately classified at the PA 1 level than the PA 2 level.

ORDER

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

Dated: December 14, 1994 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

LRM:lrn

  
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.)