

August 22, 2007

Mr. Michael Hanbey
Attorney at Law
P.O. Box 2575
Olympia, WA 98507

RE: Patrick Van Cleave v. Employment Security Department (ESD)
Allocation Review No. R-ALLO-06-006 (Case 06AL0024 on remand from PRB)

Dear Mr. Hanbey:

The Director's review of ESD's allocation determination regarding Mr. Van Cleave's position, #0491, has been completed. This review resulted from a remand by the Personnel Resources Board (PRB) on October 9, 2006, and was limited to the information relevant during the time of Mr. Van Cleave's original request in May/June 2005, ESD's subsequent determination in September 2005, and the review conducted by Director's designee Paul Peterson in February 2006. Additionally, the PRB asked the Director to review the Management Analyst 5 classification with respect to Mr. Van Cleave's position.

Background

On May 26, 2005, Mr. Van Cleave submitted a Classification Questionnaire (CQ) to ESD's Human Resources Department (received June 24, 2005) requesting that his Employment Security Program Coordinator 3 (ESPC 3) position be reviewed for reallocation (Exhibits 2 and J). On September 29, 2005, Karen LaFreniere, Human Resource Consultant, provided Mr. Van Cleave with the results of ESD's allocation review (Exhibit 1). Although Ms. LaFreniere acknowledged that Mr. Van Cleave had assumed additional duties, including the responsibility of Interstate Program Coordinator (ICP), she concluded those added duties were still within the scope of the ESPC 3 classification.

On October 1, 2005, Mr. Van Cleave appealed ESD's allocation determination to the Department of Personnel (DOP). By letter dated February 23, 2006, Personnel Hearings Officer Paul L. Peterson, issued a determination, also concluding that Mr. Van Cleave's additional duties relating to the Interstate Program were encompassed in the ESPC 3 classification.

On March 21, 2006, Mr. Van Cleave appealed Mr. Peterson's determination to the PRB. On October 5, 2006, the PRB conducted a hearing on Mr. Van Cleave's exceptions to Mr. Peterson's decision. At the outset of the hearing, Mr. Van Cleave requested that his position be allocated to the Management Analyst 5 (MA 5) classification. Because Mr. Peterson had not considered the MA 5 classification, the Board remanded the matter back to the Director of DOP for further investigation.

On April 6, 2007, Karen Wilcox, Director's Review Coordinator, informed the parties the Director's Review would be considered based on written documentation. On April 12, 2007, we received ESD's written response with one additional attachment (Exhibit 8) from Classification and Pay Specialist Russell P. Widders. On April 30, 2007, we received your response on behalf of Mr. Van Cleave with attachments (Exhibits A – R).

Summary of Mr. Van Cleave's Perspective

As the supervisor of the Special Wage and Benefits Unit (SWAB) and the Interstate Program Coordinator (IPC), Mr. Van Cleave asserts his duties and responsibilities go beyond the level of the Employment Security Program Coordinator 3 (ESPC 3) classification. As a result, Mr. Van Cleave contends his position should be reallocated to a higher-level classification, specifically the Management Analyst 5 (MA 5) classification. In his role as the IPC within the Unemployment Insurance (UI) Division, Mr. Van Cleave asserts he regularly exchanges information with other states to support unemployment compensation benefits determinations and workforce security objectives. As such, Mr. Van Cleave states he has knowledge of and implements interstate agreements and plans within the framework of regular state unemployment operation units. Mr. Van Cleave also describes his IPC role as one of leadership, as well as oversight of the state's operation of the Interstate Connection Network system (ICON), which consists of 19 application programs and the Combined Wages Programs.

Further, Mr. Van Cleave asserts he represents Washington State on the Interstate Benefits Committee on issues relating to Combined Wage Claims, Federal Claims and items being reviewed by the Committee and US Department of Labor, in particular in Region X (Alaska, Idaho, Washington and Oregon). As part of his responsibility, Mr. Van Cleave states he serves as a liaison with the ICON Programmer and updates the Automated Interstate Handbook; monitors and corrects Liable Agent Data Transfer reports, reflecting UI claim counts at the state Telecenters; creates administrative reports to ensure the state is providing correct data to the US Department of Labor and other states; and conducts onsite evaluations of the Telecenters for effectiveness relating to Interstate Benefits.

Mr. Van Cleave also asserts he acts as a liaison for UI Systems, regularly attending meetings and sending and receiving IPC information. Mr. Van Cleave states he also provides support for and information to a consortium representing 30 states in an effort to collect overpayment by offsetting a claimant's benefits. By serving as a liaison in several areas relating to the Interstate Program, Mr. Van Cleave contends his supervisors and administrators rely on his knowledge and competence, as shown by their delegated responsibility to him. Therefore, Mr. Van Cleave believes the scope of his duties and responsibilities are best reflected by the MA 5 classification.

Summary of ESD's Reasoning

ESD agrees the content of Mr. Van Cleave's CQ, dated May 26, 2005, accurately describes the duties and responsibilities assigned to his position. ESD also acknowledges that Mr. Van Cleave assumed the additional duties of the IPC. However, ESD contends those added duties still fall within the definition and distinguishing characteristics of the ESPC 3 classification and are not considered higher-level duties. ESD asserts Mr. Van Cleave's IPC duties include planning, marketing, training, policy analysis, technical assistance, monitoring, and evaluation of all statewide interstate UI activities, which they believe are in line with the level responsibility of an ESPC 3 position. Additionally, ESD contends the employee previously performing IPC duties had also been allocated to the ESPC 3 classification.

ESD asserts the duties and level of responsibility assigned to Mr. Van Cleave's position do not meet the definition and distinguishing characteristics of the Management Analyst 5 because ESD contends his position is not responsible for performing several of the functions identified in the MA 5 class specification. For example, ESD contends that Mr. Van Cleave's position is not responsible for analyzing management problems, providing consultation, developing strategies, conducting research, formulating recommendations, or coordinating the implementation of strategic and long-range planning in areas such as budget, policy issues, and legislation. Additionally, ESD asserts Mr. Van Cleave does not work under administrative direction or provide expert advice and consultation to executive management. Rather, ESD contends Mr. Van Cleave reports to a WMS Program Manager.

ESD asserts the reports that Mr. Van Cleave prepares or oversees are not complex reports on unprecedented issues for use by diverse groups that include the highest levels of management, boards, commissions, elected officials, and/or other governmental entities. ESD further asserts he does not work on projects that frequently have high dollar impact on budget or revenue collections. ESD also states that Mr. Van Cleave's position does not have the responsibility for supervising lower level management analysts and multi-disciplinary project teams. In summary, ESD contends the duties assigned to Mr. Van Cleave's position have not changed since his May 26, 2005 CQ, and ESD believes Mr. Van Cleave's position is appropriately allocated as an ESPC 3.

Director's Determination

This position review was based on the work performed at the time of Mr. Van Cleave's reallocation request on May 26, 2005, and the months preceding that request. As the Director's designee, I carefully considered all of the documentation in the file remanded by the PRB, including Mr. Van Cleave's CQ dated May 26, 2005, and his previous CQ, which reallocated position #0491 from an ESPC 2 position to an ESPC 3 (Exhibits 3 and K). I also considered the written responses submitted by each party in April 2007. The exhibits I considered were those relevant to the timeframe of this request (see attached list). Based on my review and analysis of Mr. Van Cleave's assigned duties and responsibilities, I conclude his position is properly allocated to the Employment Security Program Coordinator 3 classification.

Rationale for Determination

It is undisputed Mr. Van Cleave assumed the duties related to the Interstate Program Coordinator (ICP) role, which comprised the majority (51%) of his work. When comparing the remainder of Mr. Van Cleave's duties and responsibilities outlined on the CQ submitted for reallocation (Exhibits 2 and J), they are fairly consistent with those listed on his previous CQ (Exhibits 3 and K). For example, Mr. Van Cleave is still tasked with supervising the Special Wage and Benefits (SWAB) unit and interpreting, analyzing, and developing plans to implement the monitoring of the following state-federal programs related to unemployment insurance:

- Washington Combined Wage Claimants (CWC)
- Ex-Federal Employees (UCFE)
- Ex-Military Personnel (UCX)
- Out-of-state Combined Wage Claimants (CWC Transfer)

As indicated in the Board's remand order, I compared Mr. Van Cleave's assigned duties and responsibilities to both the Employment Security Program Coordinator 3 and the Management Analyst 5 classifications. Because an allocation determination is based on the majority of work, I primarily focused on Mr. Van Cleave's IPC duties and responsibilities.

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

The CQ describes Mr. Van Cleave's IPC work as follows:

- Provide leadership and oversight of the State's operation of Interstate Activities (Agent, Liable and ICON operations) and leadership and assistance to the Combined Wage Programs, monitoring the programs.
- Serve as point of contact for States and Federal Regional or National office concerning Interstate Benefits (IB), CWC, and ICON activities.
- Ensure IB/CWC procedures/guidelines are followed.
- Conduct or assist in conducting IB/CWC training.
- Keep State's UI Director informed concerning IB/CWC/ICON issues and represent the State's position.

- Respond to IB committee requests for information and ensure the related handbooks are updated as necessitated by benefit, procedural or law changes.
- Review IB Delivery reports and promote prompt implementation of ICON applications, working with the ICON Programmer to design the interface of ICON Model to the state's wage and benefit systems.
- Update Automated Interstate Handbook; monitor data transfer report; create administrative reports for use in monitoring the state's activities and performance. Review state's reports to ensure state is sending appropriate transfer claim information.
- Promote/provide customer service to interstate/combined wage claimants.
- Conduct onsite evaluations of the effectiveness of the interstate programs, ensuring uniform, high quality performance.
- Serve as resource specialist to line officials in the administration of interstate programs.

The duties above are also consistent with Mr. Van Cleave's descriptions indicated in your April 27, 2007 letter and exhibit I. When comparing the above duties and responsibilities to the class specifications, they are most in line with the ESPC 3 definition, which reads in part:

Assigned to the central office, of the Employment Security Department, under the supervision of a Washington Management Service Manager or higher, supervises a professional staff and directs the activities of a unit within the . . . Unemployment Insurance Program; OR serves as a management designated senior-level specialist within the . . . Unemployment Insurance Program and provides advance level consultation or liaison to a variety of internal and/or external customers.

Mr. Van Cleave supervises the SWAB unit and has delegated authority and assigned responsibility for ICP. He is also under limited supervision of a WMS Program Manager and provides advance level consultation and acts as a liaison to various internal/external customers as they relate to Interstate Benefits and Interstate Unemployment Insurance Programs.

Mr. Van Cleave's position further meets the distinguishing characteristics of the ESPC 3 because these positions "are characterized by a high level of independent judgment and broad responsibilities and decision-making authority . . ." Additionally, positions at the ESPC 3 level can be designated senior-level specialists for a program area, and as such, research new or revised laws, recommend policies, develop procedures or provide consultation on technical systems procedures for the administration of programs.

All of those characteristics relate to Mr. Van Cleave's ICP role in which he monitors the interstate combined wage programs, ensuring procedure and guidelines are followed; reviews reports; shares information and serves a resource for IB committee matters; and evaluates the effectiveness of the interstate programs. These functions are also similar to his continued responsibility to provide direct technical assistance for the administration of statewide Employment Security-federal government unemployment claims for the state-federal programs identified earlier and described as 30% of Mr. Van Cleave's work on the CQ (Exhibits 2 and J, page 2).

The category concept for the Management Analysis and Consultation Occupational Category states that positions in this category "analyze management problems, provide consultation, develop strategies, conduct research, formulate recommendations, and coordinate implementation of strategic and long-range planning activities . . ." Positions in this series perform those function in areas such as business and organizational planning, budgeting, operations, policy issues, and proposed legislation. Incumbents also develop and implement processes for monitoring and measuring outcomes.

At the MA 5 level, the distinguishing characteristics include working under administrative direction, functioning as an expert and/or supervisor "researching, analyzing, and making recommendations regarding multidimensional and/or complex, unprecedented issues having a broad scope and significant impact . . ."

While Mr. Van Cleave does oversee activities and provide an advanced level of consultation to internal and external customers regarding the SWAB unit (including ICP), his position is not responsible for analyzing management problems at a higher, more complex level such as the UI Tax and Wage Administration. Though I acknowledge he keeps the UI Assistant Commissioner advised about IB/CWC/ICON issues (Exhibits 2 (J) and I). Further, there is no evidence Mr. Van Cleave is involved in the implementation of strategic, long-range planning, budgeting, operations, policy issues or proposed legislation at that management level. Although Mr. Van Cleave has been designated as a senior-level specialist in his ICP role, based on his knowledge and experience of the program, that designation does not reach the level of researching, analyzing, and making recommendations related to multidimensional or complex, unprecedented management issues.

Although examples of work do not form the basis for an allocation, they lend support to the work envisioned within a classification. The examples of work at the MA 5 level include supervising lower-level management analyst positions, overseeing reports regarding the most complex and unprecedented issues, presenting research findings and recommendations to a department head, board, commission, or testifying at legislative hearings. While Mr. Van Cleave has been designated as the IPC and works with Interstate Program, including working with the IB committee and exchanging information, these functions do not reach the level of analyzing and reporting management problems to executive management, such as a department head, board or commission.

Again, this allocation review was based on Mr. Van Cleave's assigned duties and responsibilities indicated on the May 26, 2005 CQ. I realize this has been a lengthy process, in part due to scheduling issues. If Mr. Van Cleave believes his current assigned duties and responsibilities have changed, he may request a new position review from his employer in accordance with his collective bargaining agreement. However, based on the assigned duties and responsibilities detailed in this review, the Employment Security Program Coordinator 3 classification best describes Mr. Van Cleave's position # 0491.

Appeal Rights

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board (board) by filing written exceptions to the Director's determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the board within thirty (30) calendar days after service of the Director's determination. The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Teresa Parsons
Director's Review Supervisor
Legal Affairs Division

c: Patrick Van Cleave
Russell Widders, ESD
Lisa Skriletz, DOP

Enclosure: List of Exhibits