

December 11, 2007

Dave Pardy
Senior Field Representative
Washington Federation of State Employees
1210 Eastside Street SE Ste. 100
Olympia, WA 98501

RE: Waltraud Burgess, et.al. v. Employment Security Department (ESD)
Allocation Review No. ALLO-06-040

Dear Mr. Pardy:

The Director's review of Employment Security Department's allocation determination of Waltraud Burgess', Judy Volanti's, Robert Whitlock's, and Prescott Hahn's positions has been completed. The review was based on written documentation and on information provided during the November 20, 2007, Director's review meeting. Present at the Director's review meeting were you; Bob Keller, WFSE Field Supervisor; Ms. Burgess; Ms. Volanti; Susan Amico, Human Resource Consultant for ESD; and Elena Perez, Program Manager for ESD.

Background

The employees requested reallocation of their Employment Security Program Coordinator 1 positions to the Employment Security Program Coordinator 2 classification. By letters dated November 29, 2006, ESD determined that their positions were properly allocated and denied their requests. On December 14, 2006, the employees requested a Director's review of ESD's determination.

During the Director's review meeting, I noted that some of exhibits provided by the employees were dated after their requests for reallocation were filed and therefore, were outside of the twelve month period relevant to the review of their positions. The employees clarified that the exhibits were demonstrative of their duties and level of work they performed during the time period relevant to the review. Noting that clarification, I indicated that the documents would be included as part of the record of this case. During the review of the exhibits, the employees asked that ESD provide copies of the audit notes from the interviews conducted by Russell Widders for ESD. ESD agreed and copies were made and distributed before the meeting continued.

Summary of Employees' Perspective

The employees argue that they are responsible for administering federal unemployment insurance programs, for assuring that unemployment claims comply with federal and state rules and regulations and agency policies and procedures, and that they have the independent authority to deny financial allotments. The employees contend that their work requires the application of specialized knowledge and complex and technical research of federal and state unemployment rules and regulations and claimant status in order to determine whether a claimant is eligibility for benefits. The employees assert that they work directly with claimants and that they coordinate claims with federal agencies, other states and other ESD units to expedite claims requiring multiple actions.

The employees argue that they work with little or no input from their supervisor and that the Special Wage and Benefit (SWAB) unit is the only unit in the entire state that can do certain workarounds and wage restrictions in the system. In addition, they assert that when they get a wage change from the federal government, they work with the ESD information technology staff to figure out a technical work around to the computerized ESD claims processing system so that SWAB's processes comply with the federal mandate. The employees contend that the procedure manual for their unit is not helpful so they created their own process manuals which address how special wage claims need to be handled in order to be processed correctly. The employees argue that they are the contacts for Telecenter staff who receive the initial special wage claim, but that once the claim has been received, it is forwarded to and processed by staff in the SWAB unit. The employees assert that they independently perform work that is technical, very specialized, and complex which differentiates their positions from the work performed by Telecenter and Work Source staff.

The employees argue that their supervisor agrees that the duties described in their Position Description forms and their Position Review Request forms accurately describe their work. They argue that their work is best described as specialized, technical and independent journey-level work as contained in the Employment Security Program Coordinator 2 classification.

Summary of ESD's Reasoning

ESD argues that the employees' work processes are defined by federal rules and regulations and that the federal government determines how the program must be run. ESD explained that the employees' supervisor is very familiar with the federal process and the steps necessary to run the program as required by the federal rules and regulations because he sits on the committee with the federal government staff who determine how the program will be run. ESD asserts that the employees must follow the direction provided by the federal government and that they do not have the opportunity to exercise independent judgment in regard to processing claims. ESD contends that there is one procedure manual for the SWAB unit and that the manual was created by the employees' supervisor who has responsibility for policy analysis and program planning and development. ESD argues that the employees' work is initiated at the Telecenter where the information is gathered and the claim is set up. ESD asserts that after the claim is forwarded to the employees, they review the information and assure that the information is correctly entered

into the system and that the appropriate reason code is assigned using the list of codes received from each branch of the service.

ESD contends that the employees do not have authority to initiate a change to the ESD computerized claims processing system. ESD explains that when problems are identified, a service request is created, and then the request is reviewed and prioritized by management.

ESD argues that when the employees' supervisor and manager signed the employees' Position Review Request forms and Position Description forms, they did not understand the purpose of the forms or the criteria for reallocating positions. ESD asserts that during subsequent discussions, the supervisor and manager did not support the reallocation of these positions to the higher level class.

ESD agrees that the employees perform specialized, technical work and identify system workarounds to comply with federal mandates. However, ESD contends that the employees do not have responsibility for program planning or development. ESD further contends that the employees operate under the preset guidelines and procedure manuals and that any program-level decision making is done by either their supervisor or manager. ESD argues that the employees' duties, responsibilities, and level of independence and decision making authority best fit within the Employment Security Program Coordinator 1 classification.

Director's Determination

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. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

As the Director's designee, I carefully reviewed all of the documentation in the file and the information all parties provided during the Director's review meeting. Based on my review of the documents, the information provided during the review meeting, the available classifications, and my analysis of the employees' overall assigned duties and responsibilities, I conclude that the employees' positions are properly allocated to the Employment Security Program Coordinator 1 classification.

Rationale for Determination

In summary, majority (85%) of the employees' duties and responsibilities include:

- Provide statewide direction involving all aspects of Unemployment Insurance (UI) special wage benefit programs.

- Coordinate with other states and the federal government concerning special wage claims; interpret federal UI programs and advise agency staff of their impact on current programs.

Provide interpretation of Washington State UI laws and regulations to state, national and regional staff.

During the Director's review meeting, the employees clarified that they are responsible for all claims that come into the SWAB unit from Telecenters across the state. These claims include claimants with military wages, federal wages, wages from other states or a combination of wages. The employees explained that they work with Telecenter staff to answer questions and provide guidance on entering information for special wages and setting up SWAB claims in the system.

Identify, investigate, evaluate, research, review and process multiplicity of UI claims and special wage requests statewide and nationally.

Provide journey level technical assistance to agency staff and management.

Coordinate with other states, agency staff, and clients to expedite complex claims requiring multiple actions.

Monitor the interface of GUIDE, ICON and TAXIS to detect system irregularities; communicate/coordinate with GUIDE Liaison in resolving problems.

During the Director's review meeting, the employees explained that they call other states and federal government staff to seek additional information or clarification of information provided through the claim intake process and to assure that benefit awards are adjusted correctly depending on the claimant's status and eligibility. The employees also explained that when changes are made to a federal program that requires a workaround in the ESD computerized claims processing system, they inform ESD information technology staff of the problem and seek their assistance in identifying a solution for entering the information into the system so that the claimant receives the appropriate benefits.

Exercise independent judgment and technical expertise in providing problem resolution to UI special wage claims.

Interpret and apply knowledge of state and federal laws and agency procedures in determining eligibility, liability, and entitlement issues on UCX, UCFE, and CWC claims.

During the Director's review meeting, the employees clarified that no other unit in ESD works with these federal programs and that they must follow federal guidelines and UI policy letters to perform the technical work required to process special wage claims. ESD explained that the employees work within preset guidelines and procedures to process special wage claims and to assure compliance with rules and regulations governing the program; thus their exercise of independent judgment is limited.

Audit and reconcile reports from Federal Claims Control Center that track and provide current data on military separations and federal claims.

During the Director's review meeting, the employees clarified that they review information and assure that information entered into the computerized system is correct and that the claimant receives appropriate benefits.

Analyze, determine and implement complex technical workarounds on obstructed records; issue redeterminations and decisions, and adjust wage files.

During the Director's review meeting, the employees explained that they inform ESD information technology (IT) staff when a change to the process requires a workaround in the system. The employees seek IT's assistance in identifying a solution for entering the information into the system to assure that the claimant receives the appropriate benefits.

Coordinate, monitor and process electronic transfer of wages; research and locate missing wages; initiate tax assignments; implement complex claim adjustments.

Utilize the (Interstate Connection Network) ICON, General Unemployment Insurance Development Effort (GUIDE) and Tax Information System (TAXIS) computer systems to research, evaluate, and process UI claims.

Respond to telephone inquiries, identify, analyze and research problems, and recommend solutions.

During the Director's review meeting, the employees explained that they receive information from the Telecenters, but sometimes the information is incomplete in which case, the employees contact the claimant to gather the correct information. Sometimes, the information input by the Telecenter is incorrect which requires the employees to correct the information. The employees may work with Telecenter staff to assure that the information is correct or may gather the information from information submitted with the claim or from other sources such as from other states in which the claimant has been employed or from schools if the claimant is enrolled in and receiving benefits for a course of study.

The definition for the Employment Security Program Coordinator 2 classification states:

Assigned to the central office of the Employment Security Department, under the limited supervision of a higher level Employment Security Program Coordinator or Washington Management Service Manager, performs journey-level professional work. Within the Employment and Training Program or the Unemployment Insurance Program, provides policy analysis, and program planning, develops and provides technical program training and assistance and/or monitors program compliance with federal and state standards;

OR

Within the Unemployment Insurance Program, collects overpayment, negotiates and establishes repayment contracts; OR investigates fraud and gathers information for financial recovery or prosecution; OR provides statewide quality assurance by conducting appraisals and validation of the unemployment insurance system.

The employees are assigned to the central office of ESD and their supervisor is an Employment Security Program Coordinator 3. The employees work in the Special Wage and Benefit (SWAB) unit within the Unemployment Insurance Program. The employees do not have responsibility for policy analysis, program planning, and program development for the SWAB unit or for the Unemployment Insurance Program. Their supervisor and manager are responsible for SWAB unit policies, planning and development activities. The employees created internal workflow manuals that include specific procedures and processes to assist them in performing the activities of the unit. In addition, they provide advice and assistance to others in regard to procedures and processes for

processing claims within their unit. The employees do not monitor the unit's compliance with federal or state standards; rather they assure that their day-to-day work processes comply with specific federal guidelines and rules. The employees are not responsible for overpayment or repayment plans, they do not investigate fraud, and they do not provide statewide quality assurance of the unemployment insurance system.

The Department of Personnel Glossary of classification terms provides guidance on journey level work. The Glossary of terms defines journey level work as:

Fully competent and qualified in all aspects of a body of work and given broad/general guidance, can complete work assignments to standard under minimal supervision. Also referred to as the *working* or *fully qualified* occupational level.

The employees are competent, qualified and perform their work under general supervision. In addition, they perform their work under specific guidelines, rules, regulations, procedures and processes. They do not work under broad or general guidelines as anticipated for incumbents performing journey level work.

The employees' assigned duties and responsibilities do not fit within the definition of journey level work. Furthermore, the majority of their duties and responsibilities do not fit within the definition of the Employment Security Program Coordinator 2 classification.

The definition for the Employment Security Program Coordinator 1 classification states:

Assigned to the central office of the Employment Security Department, under the general supervision of a higher level Employment Security Program Coordinator, independently performs professional level work. Within the Employment and Training or the Unemployment Insurance Programs, plans, implements, reviews, monitors and evaluates program activities or portions of a program (such as Trade Readjustment Assistance Act claims or combined wage claims). Positions at this level have the responsibility and authority to correct and adjust claims and/or payments within the automated payment systems.

As stated above, the employees are assigned to the central office of ESD and their supervisor is an Employment Security Program Coordinator 3. They function independently within the SWAB unit. They process claims and implement, review, monitor and evaluated activities related to the processing of SWAB claims. The employees' work is technical and requires compliance with multiple federal and state programs when determining multiple wage sources and correcting and adjusting complicated claims information and benefit awards within ESD's automated claims system. This work fits within the description contained in the Employment Security Program Coordinator 1 definition.

Department of Personnel Glossary of classification terms provides guidance on professional level work and on general supervision. The Glossary of terms defines professional level work as:

Work (a) requires knowledge of an advanced type in a field of science or learning customarily obtained by a prolonged course of specialized instruction or study; or (b) is original and creative in character in a recognized field or artistic endeavor

and the result of which depends on invention, imagination, or talent. Duties are predominately intellectual as distinguished from routine or mechanical. Discretion and independent judgment must be exercised in carrying out assignments.

The employees perform work that requires advanced learning within the SWAB unit. Their work is predominately intellectual and they exercise discretion and independent judgment in carrying out their day-to-day assignments. The employees' perform professional level work.

The Glossary of terms defines general supervision as:

Recurring assignments are carried out within established guidelines without specific instruction. Deviation from normal policies, procedures, and work methods requires supervisory approval, and supervisory guidance is provided in new or unusual situations. The employee's work is periodically reviewed to verify compliance with policies and procedures.

The employees perform their work within established guidelines as well as established rules, regulations and processes. Their supervisor provides oversight for the program as a whole and maintains authority for the program planning and development. The employees work under general supervision.

In addition, the employees work is specifically described in the typical work statements for the Employment Security Program Coordinator 1 classification. Although typical work statements are not allocating criteria, they do provide guidance as to the type and level of work encompassed by a classification. The following typical work statements Employment Security Program Coordinator 1 classification encompass the work performed by the employees:

Assists in the audit/monitoring of one or more program components for compliance with federal/state and contract regulations.

Participates in the program planning process which can include the development of program policy, goals and objectives, system and program designs, funding projections, program implementation, research activities, and grant application.

Reviews, monitors and evaluates claims for unemployment insurance benefits for compliance with laws, regulations, policies and procedures; makes decisions on non-monetary and monetary eligibility for special UI programs, analyzes quality of information from employers, and does problem solving.

Performs technical work in correcting and adjusting unemployment insurance benefit claims, including account adjustments, payment corrections, canceling claims, returning wages when appropriate.

The majority of the employees' overall duties, responsibilities and level of independence are described by the Employment Security Program Coordinator 1 classification.

Appeal Rights

Because these positions are covered by a Collective Bargaining Agreement, please refer to the contract to determine whether the parties have appeal rights to the Personnel Resources Board.

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

Sincerely,

Holly Platz, SPHR
Director's Review Investigator

cc: Susan Amico, ESD
Lisa Skriletz, DOP