



**STATE OF WASHINGTON
DEPARTMENT OF PERSONNEL**

DIRECTOR'S REVIEW PROGRAM
521 Capitol Way South, P.O. Box 40911, Olympia, WA 98504-0911
(360) 664-0388 · FAX (360) 586-4694

September 14, 2011

TO: Phyllis Naiad, Council Representative
Washington Federation of State Employees (WFSE)

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Jennifer Bean v. Department of Social and Health Service (DSHS)
Allocation Review Request ALLO-10-054

On July 7, 2011, I conducted a Director's review conference regarding the allocation of the following positions within the Division of Vocational Rehabilitation (DVR) at DSHS:

Marian Norberg	Position #D310
Jennifer Bean	Position #QB52
Susan Dougherty-Guild	Position #D339

All of the employees were present for the Director's review conference. At the conference, you represented Ms. Bean; WFSE Council Representative Dale Roberts represented Ms. Norberg; and WFSE Council Representative Herman Gilman represented Ms. Dougherty-Guild. Robert Swanson, Classification and Compensation Specialist, represented DSHS. DVR Interim Director Andres Aguirre and DVR Assistant Director Don Kay also participated in the conference via telephone.

At the conference, Ms. Bean submitted a document identifying statewide responsibilities (Exhibit D-1). Mr. Swanson had an opportunity to respond to the exhibit; however, in an August 12, 2011 email, he stated that he had no response (Exhibit D-2).

Director's Determination

This position review was based on the work performed for the six-month period prior to June 18, 2010, the date DSHS's Classification and Compensation Unit received Ms. Bean's request for a position review. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by all parties. Based on my review and analysis of Ms. Bean's assigned duties and responsibilities, I conclude her position should be reallocated to the Vocational Rehabilitation Counselor 4 (VRC 4) classification.

Background

The employees serve as Benefits Specialists (working title) performing benefits planning consultation and technical assistance to DVR staff and customers. The Benefits Specialist function within DVR began in 2003. At that time, Ms. Norberg and Ms. Bean, along with one other Benefits Specialist position, each covered one of three regions within DVR. Originally, these positions had been allocated to the Vocational Rehabilitation Counselor 3 (VRC 3) classification as a best fit. At the time of this review, Ms. Bean had been assigned to Area 2, Ms. Norberg to Area 3, and Ms. Dougherty-Guild had been officially assigned to Area 2 but served in a floating position that covered the overflow from all three areas. During the Director's review conference, the employees indicated the system is set up so that any of their positions can pick up a call from any region in the state when the person assigned to that region is unavailable. As a result, they work as a team to provide benefits planning coverage for the entire state. From 2003 to 2006, the Benefits Specialist positions all reported to one Program Manager. However, at the time relevant to this review, these positions reported to the Area Manager for their respective areas.

On May 28, 2010, Ms. Bean completed a Position Review Request (PRR) asking that her Vocational Rehabilitation Counselor 3 (VRC 3) position be reallocated to the Vocational Rehabilitation Counselor 4 (VRC 4) classification. In June 2010, her supervisor, Area 2 Manager Ron Falberg, and VR Field Service Administrator Kelly Franklin signed the PRR. They agreed the information on the PRR was accurate and complete. Mr. Falberg noted Ms. Bean had been authorized to make "[a]ll decisions related to Benefits Planning with customers" and "[a]ll training to staff and partners related to BP material/curriculum" (Exhibit A-4, page 9). During the Director's review conference, Mr. Kay indicated that DVR management generally agreed with the duties described by the employees.

After DSHS's Classification and Compensation Unit receives a PRR, Mr. Swanson explained the HR Office will often request an updated Position Description Form (PDF) from management. In this case, HR received the PDF for Ms. Bean's position on June 18, 2010. During the Director's review conference, the employees stated the PDFs submitted in 2010 had not been updated and reflected the same duties and responsibilities described in prior PDFs. The employees indicated their positions assumed new duties and responsibilities previously performed by the Program Manager position that supervised the Benefits Specialist (VRC 3) positions.

As part of his review, Mr. Swanson considered both the PRR and the PDF. He also conducted a desk audit with Ms. Dougherty-Guild. On September 8, 2010, Mr. Swanson issued an allocation determination reallocating Ms. Bean's position from the VRC 3 classification to the Vocational Rehabilitation Regional Program Counselor (VRRPC) classification. On October 4, 2010, the Department of Personnel received Ms. Bean's request for a Director's review of DSHS's allocation determination.

Summary of Employees' (Bean, Norberg, Dougherty-Guild) Perspective

The employees assert their positions serve as statewide experts in Benefits Planning. While they are located within a DVR region, they contend their positions perform direct client services for all regions in the state in addition to their assigned regions. Further, the employees assert their positions assumed portions of the former Program Manager's duties and responsibilities, including statewide curriculum development and training for counselors at all levels within the VRC series, as well as VR supervisors and managers. In addition, the employees assert they

serve on all statewide committees involving Benefits Planning. As a result, the employees contend they function at a statewide level rather than just a regional level.

Additionally, the employees contend they provide expert consultation on benefit issues affecting case management and directly impacting how a particular case is handled as well as the outcome. Specifically, the employees contend they provide complex case management consultation and guidance to other counselors in the VRC class series. The employees emphasize that cases with the most complex disabilities also have the most complex benefit issues and require specialized analysis to determine how benefits impact an individual's ability for employment. The employees state they assist VRCs in identifying goals and developing plans for employment when benefits impact a client's ability to get a job. The employees describe benefits analysis as complex with multiple factors. As a result, the employees indicate their analyses may also determine whether cases are opened or resolved sooner.

The employees acknowledge their Benefits Specialist functions are unique and do not fit perfectly within a specific job class. However, the employees assert the VRC class series more closely matches the work they perform. They point out the Vocational Rehabilitation Regional Program Counselor class has not been used within DSHS for several years. Further, the employees assert the VRC class series allows for progression through the series with increased responsibilities. The employees contend their duties and responsibilities fit the expert level of the VRC class series. Therefore, they believe the VRC 4 class is the best fit for the scope of responsibly and level of work assigned to their positions.

Summary of DSHS's Reasoning

DSHS asserts the duties and responsibilities assigned to the employees' positions do not meet the VRC class series because allocation to the class series requires case management. DSHS contends case management involves bringing all of the experts together and handling a case from start to finish with the goal of employing individuals with disabilities. DSHS asserts the intent of the VRC 4 class is to manage the most complex caseloads for customers with multiple barriers to employment, which makes it extremely hard for those customers to successfully find work. DSHS contends the employees do not have an assigned caseload and do not work a caseload from start to finish. Rather, DSHS contends the employees deal with the portion of a caseload that involves benefits planning and how a client's case is impacted by receiving benefits, such as Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

While DSHS agrees the employees provide subject matter expertise to other counselors in their assigned areas (regions), DSHS views the benefits planning piece as a component of a case, which then moves through the process with the counselor (VRC) assigned to the case. DSHS asserts the VRC has the responsibility for managing the case from start to finish. DSHS acknowledges there is not an existing job class that exactly fits the role of the Benefits Specialist positions. Further, DSHS agrees the employees clearly function as subject matter experts, and they provide and share that expertise widely with counselors and customers. However, DSHS indicates the VRC 4 class is intended to serve customer cases so complex that other counselors are unable to handle those cases. DSHS contends there is only one position within DVR allocated to the VRC 4 class.

DSHS contends the Benefits Specialist function can be viewed as a program similar to those identified in the VRRPC class. Further, while DSHS recognizes the Benefits Specialist positions

share responsibilities and back up other regional areas in the state, DSHS asserts the employees are assigned to an Area and report to the Area Manager, similar to a Regional Administrator. Therefore, DSHS believes the VRRPC class is the best fit for the overall duties and responsibilities assigned to the employees' positions.

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

Duties and Responsibilities

During the Director's review conference, the employees explained that a portion of their work is devoted to direct client (customer) services, while another portion involves the development of curriculum and training on benefits planning issues for DVR staff statewide. The employees indicated their positions assumed added responsibilities previously performed by the position that served as the program manager for statewide benefits planning functions. For example, in addition to developing curriculum and training, the employees determine their priorities and develop their own workloads, help develop policies, and serve on statewide committees for anything related to benefits planning. The employees also serve as subject matter experts and provide consultation and technical guidance to VRCs (counselors), as well as VR supervisors and managers on benefits planning issues. These responsibilities are included on the employees' PRRs, which DVR management has agreed accurately describes the employees' duties and responsibilities.

The Position Purpose on the PRR states the following (Exhibit A-4):

The Area Benefit Specialist provides expert level benefit planning consultation and technical assistance as a core employment service to DVR staff and customers, including collecting data about individual benefits, providing critical analysis of the impact of work and earnings on benefits, and completing a written summary report with recommendations. The Area Benefit Specialist mentors DVR staff to increase their skills and develops resource materials for DVR staff, customers, and their rehabilitation team, as well as ensures Benefits Planning resources, materials, handouts, and webpage are up to date with policy changes. The Area Benefit Specialist develops curriculum and provides comprehensive Benefit Planning training as part of Rehab Academy, as well as developing curriculum and providing advanced training to DVR staff. The Area Benefit Specialist participates in Area Management meetings, Rehab Academy training, and leadership groups and committees, both internally and with community partners, to provide technical assistance when benefit issues are involved.

The following summarizes the breakdown of duties on the PRR:

- 40% Act as Area 2 expert and provide Benefits Planning consultation to DVR customers who receive SSI and SSDI, as well as other benefit programs, primarily in DVR Area 2 but assist DVR Areas 1 and 3 when needed.
- Analyze the impact of work and earning on benefits;
 - Make recommendations in a written benefit analysis report highlighting and outlining options and recommendations;
 - Provide ongoing case management and case staffing with VRCs for complex cases with ongoing benefit issues;
 - Follow up with benefit programs about specific issues or problems.

- 20% Act as Area 2 expert and provide Benefits Planning consultation and technical assistance to DVR staff (Supervisors, Counselors, Rehabilitation Technician) allowing staff to do their own benefit planning if appropriate, provide ongoing counseling and guidance to their customers throughout the VR process, and provide assistance with ongoing case management for complex and difficult benefit issues.

Act as a "help desk" for DVR staff and customers around benefit issues. Mentor staff and discuss complex cases for staff interested and skilled to provide their own benefit planning for their cases.

- 7.5% Support the above activities (benefits planning consultation and technical assistance to customers and staff):
- Gather information to maintain current knowledge of eligibility criteria, policies, procedures and changes for Benefit Planning related topics including Social Security, Medicare, Medicaid programs, Housing, DSHS (TANF and GAU, Division of Development Disabilities, Home and Community Services) Mental Health, and healthcare options.
 - Maintain current information and working knowledge of applicability, usage, and implementation of work incentives for SSI, SSDI, housing programs, etc. and how they can be used to increase self-sufficiency and pay for long term employment supports.
 - Interpret complex policy, rules, procedures, administrative code, and legislative language.
 - Communicate complex information in a clear, concise, logical and understandable manner both verbally and in written format through Area emails, materials for staff and customers such as SSI and SSDI guides, written benefit analysis report, DVR Intranet resources, and staff training materials.

- 15% Benefit Planning Team Lead for Training (in summary):

- Develop team agendas and facilitate team meetings to develop training curriculum, training materials, and implement statewide Benefit Planning trainings as part of Rehab Academy.

- Typically, serve as training lead once per year in Area 2 and assist as a trainer in Area 1.
- Develop Advanced Benefit Planning training curriculum and materials for quarterly training offered to DVR staff certified as a Benefit Specialist (curriculum developed for statewide use) but currently providing training for Area 1 and 2 staff..
- Develop training curriculum and materials and provide training within Area 2 as needed. For example, Mental Health cross-training, SSI Basics, PASS/IRWE for long term employment supports.
- Develop curriculum and materials for Rehab Academy 2 Independent Living (statewide training).
- Participate as subject matter expert for additional statewide trainings, such as VR Best Practices.

7.5% Provide Benefit Planning consultation and expert opinion to DVR management for use in policy development, counselor responsibilities, best practices, and community partnerships, including serving on statewide committees.

Participate in DVR management and leadership activities including local staff meetings. Area Management Meetings, Director's Advisory Committee, and Senior Leadership team.

Serve as subject matter expert on other internal and external committees and partnerships as requested, King Co. DDD/DVR benefit planning and long term support partnership, and White Space (Mental Health) group.

5% Serve as Area expert for Ticket to Work. Participate on Ticket to Work Team, provide training and develop materials as needed for Ticket to Work, under Ticket to Work Lead, Program Manager.

5% Participate in general DVR activities, for example, required training, staff meetings, policy updates, and other duties as assigned.

The majority of work described on the PRR, as well as the PDF, involves benefits planning analysis and consultation to DVR customers receiving SSI, SSDI, and other benefits, as well as DVR staff.

During the Director's review conference, the employees described their typical involvement with customer cases. They stated that a VRC typically refers a case to Benefits Planning. After reviewing the customer's benefits and getting any clarification, for example, from the Social Security Administration, the Benefits Specialist meets with the VRC and customer. The employees stated they will often meet with the VRC and customer early in the process, prior to developing a plan, to determine how much the customer can work and still retain benefits. They explained they often continue to work with the customer and VRC throughout the process, which can be ongoing. As an example, they indicated they will perform benefits planning again when the customer gets a job or other factors affect their benefits.

The employees noted benefits planning can be complex because they also serve customers with benefits in addition to social security, such as child care or a combination of state and

federal benefits. They consider the specific disability, the individual's level of ability to work, and the benefits received along with the state and federal regulations to strategize and determine the best possible outcome for the customer. While they acknowledge they do not help individuals get a job, they recommend other services that may impact their ability to get a job. For example, they may recommend an independent living vendor or suggest an internship. In some cases, benefits may be a barrier to employment or a turning point. The employees perform benefits analysis to find the right combination to assist customers in finding a level of work they can perform and still keep their needed benefits.

When VRCs ask for guidance, the Benefits Specialists analyze the whole case, so they frequently get involved with and make recommendations about VR services. As a result, they interconnect with other components of the case. In many instances, they work directly with the customer on benefit issues, and the VRC does not get involved. The employees stated they use their judgment to decide when to involve the VRC. At times, they may perform ongoing follow-up with the customer and keep the VRC informed of their interactions. The employees also noted that customers may contact them directly throughout the process or when issues surrounding their benefits get complicated. The analyses they perform help resolve cases more quickly. The employees indicated they document notes in the case management system and prepare written reports to send to the customers.

The employees also explained their responsibilities to train other DVR staff. They indicated all new DVR staff attend a one-time training on Independent Living as part of orientation, which is a half-day training one or two times per year. In addition, VRC 1–VRC 3 positions, VR Supervisors and some Program Managers attend the Vocational Rehabilitation Academy (Rehab Academy) every five years. The Rehab Academy training is a four-day training that is scheduled three or four times per year. As Benefits Specialists, the employees are responsible for developing the curriculum and training for the Benefits Planning segment of Rehab Academy, as well as Independent Living training. They also conduct advance benefits training for those VRCs who have received a national certification in benefits planning, and they mentor those VRCs who are working on becoming certified. The employees emphasized that training is an ongoing process as state and federal legislation regarding disabilities continues to change.

Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations.

The parties agree there is not a classification that specifically fits the duties and responsibilities assigned to the Benefits Specialist positions. As a result, these positions are allocated on a best fit basis. In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of best fit. The Board concurred with the former Personnel Appeals Board's conclusion that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position. Allegrì v. Washington State University, PAB Case No. ALLO-96-0026 (1998).

The **Vocational Rehabilitation Regional Program Counselor** (VRRPC) definition reads, in part, as follows:

Within a DSHS region, plans, organizes and manages all regional program functions for one of the vocational rehabilitation programs such as Support Employment or Business Relations and provides technical assistance and training to all professional counselors . . .

The VRRPC distinguishing characteristics related to DSHS include the following:

Positions within DSHS report to the regional administrator or assistant regional administrator. This is a regional staff manager level which creates and implements the development and enhancement of programs, analyzing program service performance, building community resources, program accessibility, consumer participation, and system advocacy. Provides assistance to all professional counselors and performs training to meet regional program goals. Initiates, negotiates, and monitors county and/or regional interagency agreements and contracts.

While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification. The VRRPC class specification describes typical work such as serving as the regional employment consultant on the management team; providing consultation to regional administrator in developing, implementing, and evaluating the regional employment plan to include job placement, public relations, and marketing to clients and others; providing technical assistance and consultation in labor exchange activities; planning, organizing and managing the technical assistance and training for regional counselors, vendors, and staff; and serving small caseload of job-ready participants.

There are aspects of work assigned to the Benefits Specialists that fit the VRRPC class. For example, the employees are assigned to an Area (region) and report to an Area Manager. They also provide technical assistance and consultation to Area Management, counselors, and staff. However, the employees in this case also develop curriculum and training for all DVR staff statewide. The employees, who no longer report to a program manager, also work as a team to ensure benefit issues are covered statewide. For example, the employees set their own priorities and divide work among their positions to ensure all areas of expertise involving benefits planning are covered and clients in all areas throughout the state are served. In addition, the employees each serve as technical experts on statewide committees involving benefits planning.

The bulk of work the employees perform, however, encompasses benefits planning analysis, expert consultation, and technical guidance to DVR customers and staff. As a result, the employees in this case are more involved in case management services than managing all regional functions for a program, such as creating and implementing the development and enhancement of benefits planning as a program or analyzing program service performance. Therefore, the VRRPC job class is not the best fit for the majority of work and overall scope of responsibility assigned to the employees' positions.

There is no class series concept describing the **Vocational Rehabilitation Counselor** (VRC) series. However, the **VRC 3** level describes the responsibly for serving as a lead counselor as well as working with a specialized caseload. The distinguishing characteristics include providing

direct case management services. Further the VRC 3 typical work includes advising area management on client service issues area-wide; providing expert consultation to other vocational rehabilitation staff; and providing advice, guidance, counseling, and direction to all regional counselor staff regarding case management.

The primary thrust of work assigned to these positions, as described on the PRR and affirmed by DVR management, involves specialized, expert level consultation, guidance, and training to DVR counselors at all levels in the VRC series, as well as DVR supervisors and managers. While they are not assigned a specific caseload, they do provide case management services to counselors handling a caseload, as well as direct client services. The focus of the employees' expert consultation deals with the complexities of benefits planning and how those issues impact the VRC's ability to manage customer caseloads. The expert consultation they provide around benefits directly impacts a customer's ability to gain some level of employment, which all parties agree is the ultimate goal of serving DVR customers. Therefore, the majority of work assigned to the employees' positions is a better fit with the Vocational Rehabilitation Counselor class series.

While there are aspects of the employees' work that fit within the VRC 3 class series, allocation to the VRC 3 requires a lead designation that involves assigning, instructing, and checking the work of other VRCs, which the employees have not been assigned. Additionally, on Ms. Dougherty-Guild's PRR, Mr. Falberg (also Ms. Bean's supervisor) indicated their duties and responsibilities exceeded the VRC 3 level of work, further supported by DVR management during the Director's review conference. Mr. Kay recognized the employees clearly were subject matter experts in benefits planning.

The **VRC 4** definition reads as follows:

In the Division of Vocational Rehabilitation, DSHS, or the Department of Services for the Blind, serves as an expert and consultant to other employees in the vocational rehabilitation counseling series. Provides case management for the most complex and difficult cases of most severely disabled customers. Provides in-service training for counseling staffs and may develop training curriculum to meet specific local needs. May also serve on statewide committees designed to develop training curricula for professional Vocational Rehabilitation staff around the state and provide training at the Rehab Academy.

The distinguishing characteristics describe the VRC 4 level as follows:

This level is characterized by demonstrated superior counseling skills and the ability to handle the most complex cases. This level assumes responsibility for providing training for other professional staff within the series, both at the local level, and at the statewide level as required. Employees act as consultants or expert advisors to lower levels within the series. Allocated on basis of complexity and specialization; in-depth counseling.

The VRC 4 class specification contains typical work examples that align with Ms. Bean's duties and responsibilities. For example, a VRC 4 position:

- Performs an area or statewide specialist role . . .;
- Advises area management on client service issues area-wide;

- Provides orientation and basic vocational rehabilitation procedural training for new staff;
- Provides case management services to other counselors with complex or challenging cases.

The employees are involved with customer cases. After reviewing a customer's benefits and obtaining clarification from benefit programs like Social Security, they meet with the VRC and customer early in the process to assist in developing a plan for employment by considering the impact of benefits on a customer's ability to work. They consider the specific disability and the customer's work potential, as well as state and federal regulations, to strategize and determine the best outcome for the customer and the department. They continue to work with the customer and VRC throughout the process, which can be ongoing. They analyze the entire case and recommend VR services. They also work directly with the customers on some benefit issues. The benefits analysis and expert consultation they provide directly affects case management and the outcomes achieved. They act as a resource and provide guidance on specialized technical issues. Specifically, the employees provide complex case management consultation and guidance to other counselors in the VRC class series. Therefore, because of their involvement throughout the process and the level of expertise and scope of responsibility assigned to the Benefits Specialist positions, the VRC 4 is the best fit.

The VRC 4 classification best encompasses the overall duties and responsibilities assigned to Ms. Bean's position.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 521 Capitol Way South, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 586-4694.

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

c: Jennifer Bean
Robert Swanson, DSHS
Lisa Skriletz, DOP

Enclosure: List of Exhibits

Jennifer Bean v. DSHS
ALLO-10-054

A. Jennifer Bean Exhibits

1. Request for Director's Review Form
2. Attachment: Distinguishing Characteristics
3. September 8, 2010 reallocation notification letter
4. Position Review Request dated June 2010, supervisor signature
5. 2009 Performance and Development Plan–Phase 1 Planning
6. 2009 Performance and Development Plan–Phase 2 Assessment
7. 2008 Performance and Development Plan–Phase: 1 Planning
8. 2008 Performance and Development Plan–Phase: 2 Assessment
9. Organizational Chart–Division of Vocational Rehabilitation 2009
10. Area 2 Org Chart

B. Department of Social and Health Services Exhibits

1. June 2010 Position Description Form with Fair Labor Standards Act Checklist
2. September 8, 2010 reallocation notification letter

C. Class Specifications

1. Vocational Rehabilitation Counselor 3 (353M)
2. Vocational Rehabilitation Counselor 4 (353N)
3. Vocational Rehabilitation Regional Program Counselor (353T)

D. Additional Documents

1. Statewide responsibilities–Jen Bean
2. August 4–12, 2011 email correspondence between Teresa Parsons and parties regarding exhibit D-2 above.