STATE OF WASHINGTON
OFFICE OF THE STATE HUMAN RESOURCES DIRECTOR
DIRECTOR'S REVIEW PROGRAM
P.O. Box 40911, Olympia, WA 98504-0911
(360) 902-9820 · FAX (360) 586-4694

December 18, 2012

TO: Robin Ledbetter, Council Representative
Washington Federation of State Employees (WFSE)

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

SUBJECT: Caroline Nucup-Villaruz v. Department of Health (DOH)
Allocation Review Request ALLO-12-003

On August 30, 2012, I conducted a Director's review telephone conference regarding the allocation of Dr. Caroline Nucup-Villaruz's position. Both you and Dr. Nucup-Villaruz participated in the Director's review conference. Ron Key, Human Resources Consultant, represented DOH.

On September 12, 2012, Dr. Nucup-Villaruz sent an email with additional documents to demonstrate her level of work (A-26 and 27). On November 2, 2012, Mr. Key provided an email indicating he had not considered them as part of his initial review but after looking at the documents, he still reached the same conclusion (Exhibit R-7).

I reviewed the documents in the context of Dr. Nucup-Villaruz's argument that it represented work performed during the relevant time period and weighed them accordingly.

Director's Determination

This position review was based on the work performed for the six-month period prior to September 26, 2011, the date Dr. Nucup-Villaruz's request was submitted to DOH's Human Resources (HR) Office. 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 both parties. Based on my review and analysis of Dr. Nucup-Villaruz's assigned duties and responsibilities, I conclude her position is properly allocated to the Health Services Consultant 2 (HSC 2) classification.

Background

Dr. Nucup-Villaruz's position is assigned to the Office of Newborn Screening within the Division of Epidemiology, Health Statistics and Public Health Laboratories at DOH. She reports to

Health Services Consultant 4 (HSC 4) John Thompson, who reports to Office of Newborn Screening Director, Mike Glass (Exhibit B-2). On September 26, 2011, DOH's HR Office received Dr. Nucup-Villaruz's Position Review Request (PRR) asking that her Health Services Consultant 2 (HSC 2) position be reallocated to the Health Services Consultant 3 classification (Exhibit B-1). Dr. Nucup-Villaruz's supervisor, Mr. Thompson, signed the PRR indicating that it accurately reflected her duties and responsibilities. In addition, both he and Mr. Glass support reallocation of Dr. Nucup-Villaruz's position to the HSC 3 job classification (Exhibits B-1, page 9 and B-7).

On December 12, 2011, Mr. Thompson and Mr. Glass both signed an additional Supervisor's Portion of the PRR supporting the description of duties and responsibilities Dr. Nucup-Villaruz described on the PRR, and both supported reallocation to the HSC 3 level (Exhibits B-1, B-4, and B-7). However, Division of Disease Control and Health Statistics Chief Administrator Lain Knowles (Delegated Appointing Authority) also signed the Supervisor's Portion of the PRR, which included a notation from Romesh Gautom, Director of Public Health Laboratories, that did not support reallocation (Exhibit B-4).

As part of his review, Mr. Key spoke with Mr. Thompson and Mr. Glass to gain clarification, in particular about her position's involvement in developing Newborn Screening health policies and procedures (Exhibits B-5, B-6 and B-7). Mr. Key did not speak with Mr. Knowles or Mr. Gautom. On December 19, 2011, Mr. Key issued DOH's allocation determination, concluding Dr. Nucup-Villaruz's position was appropriately allocated to the HSC 2 classification (Exhibit A-3).

On January 13, 2012, Dr. Nucup-Villaruz requested a Director's review of DOH's allocation determination (Exhibit A-1).

Summary of Dr. Nucup-Villaruz's Perspective

Dr. Nucup-Villaruz acknowledges that portions of her duties are technical and involve management of data systems. However, she contends she performs analysis and interpretation of the data and manages the scientific information used to creates reports and propose changes, which are based on her analyses of the data. Dr. Nucup-Villaruz asserts that her work also provides the primary content used in memorandums, though she agrees her supervisor edits content, provides input, and takes authorship as the manager. Dr. Nucup-Villaruz further asserts the content she develops for technical manuals fits the HSC 3 level of work because her work contributes to the development of policies and procedures, which serve as documents advising health care providers what to do when faced with certain situations. Therefore, Dr. Nucup-Villaruz asserts her work directly contributes to the development, implementation, and management of health data systems.

In addition, Dr. Nucup-Villaruz contends she has responsibility for managing information around specific disorders, including Cystic Fibrosis (CF), and she provides back up to the program as a whole with regard to all of the newborn disorders screened. As back up, she indicates she makes decisions about whether or not to act in situations affecting a newborn baby's health. She asserts a primary part of her job is to ensure infants are correctly diagnosed and connected with the correct neonatal services and resources and that she provides education, planning, and evaluation. She also notes that her work has improved the clinical outcomes of babies born in this state. Dr. Nucup-Villaruz acknowledges some of her work fits within the HSC 2 class specification but contends the overall level of work she performs fits the HSC 3 job class, which has been supported by her managers working in the newborn screening lab.

Summary of DOH's Reasoning

DOH asserts Dr. Nucup-Villaruz manages the data entered into Newborn Screening databases. While DOH recognizes she provides a lot of technical, scientific data, the agency does not consider that development of policies and procedures. Instead, DOH contends the information Dr. Nucup-Villaruz develops, implements, and recommends helps with the creation of technical manuals accessed by health care providers. DOH emphasizes that Dr. Nucup-Villaruz's position has not been assigned the responsibility to develop policies. DOH considers Dr. Nucup-Villaruz's work very important and acknowledges her work contributes to technical manuals and memorandums signed off on by her supervisor. However, DOH contends her supervisor retains overall responsibility and asserts the memorandums do not constitute a majority of her duties. In addition, DOH acknowledges Dr. Nucup-Villaruz performs work in both the HSC 2 and HSC 3 classes and that there is an overlap in the duties described. However, DOH contends the overall majority of duties fit the HSC 2 class specification.

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

On Position Review Request (PRR), Dr. Nucup-Villaruz describes her position's purpose as follows (Exhibit B-1):

> This position helps assure the effectiveness of newborn screening by recommending modifications of cut-offs and protocols, interpreting laboratory results, making specific recommendations to pediatric health care providers for appropriate follow-up of abnormal results, performing program evaluation and clinical correlation of NBS practice, procedures and guidelines, developing and implementing newborn screening policies and procedures, and providing assistance and support to hospitals and clinics regarding proper newborn screening procedures. It supports DOH's mission of "working to protect and improve the health of Washington State" by identifying infants with treatable disorders. Ultimately, the Newborn Screening Program strives to ensure that every infant born in Washington receives complete screening and those affected with a disorder receive prompt diagnosis and treatment.

She identifies the breakdown of duties as follows:

45% Assists management in the administration and provision of services to professions by providing technical consultation and assistance to health care providers, hospitals and clinics for disease prevention. In summary, specific tasks include the following:

- Assists management in the administration and provision of services to professions by providing technical consultation and assistance to health care providers, hospitals and clinics for disease prevention.
- Conducts comprehensive follow-up of abnormal laboratory results for designated disorders . . .
- Assists in promoting integrated systems of care to assure that affected children identified through newborn screening receive appropriate diagnostic work-up and timely treatment to achieve the healthiest life possible and develop their fullest potential.
- Conducts independent research on disorders and clinical correlation of NBS data with current practices and guidelines as exemplified by correlating CF's IRT levels with genotypes and sweat chloride results.
- Develops materials and concepts that serve as the framework for discussion and further development of screening algorithms and establishing cut-offs particularly for congenital Adrenal Hyperplasia . . .
- Managing health data systems by maintaining disorder specific databases to monitor positive screening results and their outcomes.
- Develops educational materials for health care providers, parents and the program website by updating the provider manual, mailer texts, fact sheets, etc. as needed.
- Evaluates abnormal screening tests in respect to specific laboratory results and demographics of infants including correlation of prenatal and immediate postnatal factors affecting the interpretation of results.
- Identifies those infants requiring immediate notification of results to child's health care provider . . .
- Consults with hospital personnel and health care providers to facilitate compliance with our special recommendations for follow-up of abnormal or equivocal results.
- Performs follow-up of abnormal screening results . . . [assure] proper medical care is taken to prevent severe disease or death caused by the disorders screened.
- Maintains current knowledge of disorders included in Washington's NBS panel . . .
- Assists in the short-term and long-term follow-up and tracking of confirmed cases as part of NBS primary and secondary disability prevention efforts . . .
- Represents the Dept. of Health – NBS program regarding screening, genetic testing, coordinating referrals and collaborating with specialty clinics at the University of Washington, Seattle Children's Hospital and other health service providers.

25% Perform newborn screening overall program planning and evaluation of follow-up and health service delivery products. In summary, specific tasks include the following:

- Evaluates new and revised cut-offs by tracking outcomes (i.e. confirmed cases, false positives, false negatives . . .)
- Uses experience, observation and clinical knowledge to identify areas of potential improvement in the follow-up of abnormal results.

- Collects and analyzes screening performance data to evaluate program effectiveness.
- Presents these analyses to follow-up staff and management and proposes changes to improve the quality of our screening program.
- Assists and/or covers for Shelia Weiss [HSC 4 Program Coordinator] to facilitate order and delivery of health service delivery products like special formula available for disbursement of confirmed cases of PKU and other metabolic disorders.
- Prepares fact sheets in the expanded screening and assisted in the cost-benefit analyses of SCID as part of applying for the grant available from CDC.
- Assists pediatric researchers concerning technical and statistical data for purpose of evaluating screening methods as well as diagnosis, treatment and follow-up protocols . . .
- Assists in submitting NBS data to federally-funded agencies . . .
- Assists in coordinating the planning, development, and analysis of candidate disorders when proposing to add new disorders in the screening panel . . .
- Monitors and evaluates infant health programs by identifying problems and assisting agencies in planning, implementing, and evaluating services and correction of any deficiencies in service delivery . . . by providing technical assistance and appropriate referrals . . .

15% Develops and implements health policies and procedures related to newborn screening. . . .

In response to Mr. Key's question about Dr. Nucup-Villaruz's role in developing and implementing health policies and procedures, Mr. Thompson indicated she contributed to NBS Health Policies and Procedures, emphasizing the importance of her technical contributions in a number of detailed examples, including primary authorship of a provider manual regarding the testing of new disorders, implementing new cut-offs and monitoring and tracking medical data affecting lab results such as false positives (Refer to Exhibits B-5 and B-6).

10% Provides health education, health promotion program administration including administration of short and long range projects, consultation and technical assistance to public health programs at the state and local levels, and health/education promotion, program planning, development and reporting to comply with federal requirements.

5% Conducts ongoing assessments, surveillance, and training of hospitals and clinics to promote proper newborn screening practices.

Dr. Nucup-Villaruz's supervisor, John Thompson, and the Director of Newborn Screening, Mike Glass, agree the above duties and responsibilities are an accurate reflection of the work her position has been assigned to perform. In addition, Mr. Thompson wrote the following:

> I support this reallocation. Carol has grown in her responsibilities and has been performing these HSC3 level tasks for more than 6 months as a routine part of her duties. This higher level work has been of great benefit in improving our program (Exhibit B-1, page 9).

Mr. Thompson provided additional information regarding Dr. Nucup-Villaruz's work tracking and following up on Cystic Fibrosis (CF) and other conditions, which include galactosemia, biotinidase deficiency, argininosuccinic acidemia, citrullinemia, homocystinuria, maple syrup urine disease, and tyrosinemia type I. He further indicated that the intent of his clarification was to illustrate "the breadth of use and importance of the database work behind the technical consultation of health care providers for [the] disease prevention part of Carol's duties" (Exhibits B-5 and B-6).

In addition, Mr. Glass wrote, in part, the following:

> The scope and the clinical impact of this work do not fall squarely into the typical HSC duties. In particular, the consequences of an error in the follow-up process could be devastating for a baby and his/her family. This inequality has become more pronounced as the program has expanded over five-fold in the past seven years; growing from four to twenty five conditions on the screening panel (Exhibit B-7).

During the Director's review conference, Mr. Key recognized that a portion of Dr. Nucup-Villaruz's duties, including the 25% performing newborn screening and overall planning and evaluation of follow-up and health service delivery products fit the HSC 3 level of work. He also noted her contributions to the development and implementation of Newborn Screening health policies and procedures (15%) but emphasized her supervisor, as the section manager, retained ultimate authority for policies and memorandums that include her technical contributions. Mr. Key noted that even when considering these as higher level duties, they do not extend beyond 40% of her overall work. Instead, he asserted the majority of her duties closely match the HSC 2 job class.

<u>Class Specifications</u>

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 **Health Services Consultant 3** definition states the following:

> Functions as an assistant manager of a statewide health program by performing more than one of the following functions within the Department of Health:
>
> - Preparing and managing budgets, contracts or grants.
> - Coordinates division fiscal management.
> - Program planning and evaluation of health service delivery products.
> - Developing and implementing health policies and procedures.
> - Managing health data systems.
> - Supervising staff providing health services to the public.
>
> <u>OR</u>

Manages a region for the Department of Health

OR

Serves as a senior health services consultant in a specialty area to WMS Band 2 or higher. The specialty must be designated and conveyed in writing by the Department of Health appointing authority.

The Office of the State Human Resources Director's (OSHRD's) Glossary of Classification Terms provides further clarification on the definition of senior as follows:

> **Senior** - The performance of work requiring the consistent application of advanced knowledge and requiring a skilled and experienced practitioner to function independently. Senior-level work includes devising methods and processes to resolve complex or difficult issues that have broad potential impact. These issues typically involve competing interests, multiple clients, conflicting rules or practices, a range of possible solutions, or other elements that contribute to complexity. The senior-level has full authority to plan, prioritize, and handle all duties within an assigned area of responsibility. Senior-level employees require little supervision and their work is not typically checked by others.

DOH acknowledges that a portion of Dr. Nucup-Villaruz's duties meet the HSC 3 level. Further, Mr. Thompson, her direct supervisor, indicates she has been performing HSC 3 level work, which has grown and expanded, and both he and the Director of Newborn Screening support her position's reallocation (Exhibits B-1, page 9 and B-7).

The HSC 3 class definition also indicates a requirement for a senior health services consultant serving in a specialty area to be "designated and conveyed in writing by the Department of Health appointing authority." Mr. Knowles is the designated appointing authority for Dr. Nucup-Villaruz's position. He signed the Supervisor's Portion of the PRR with a notation from Director of Public Health Laboratories Romesh Gautom that states, in part, "I am unaware of any changes in responsibility or duty that would warrant a reclassification" (Exhibit B-4).

In addition to the definition, the HSC 3 distinguishing characteristics indicate senior level positions report to Health Services Consultant 4's, equivalent, or to a position in WMS. Dr. Nucup-Villaruz's position reports to a Health Services Consultant 4, who reports to a WMS Band 2 position.

Further, 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. I acknowledge some HSC 3 examples of work resemble some of Dr. Nucup-Villaruz's duties, for example, monitoring and evaluating infant health programs. However, the duties assigned must first meet the definition and distinguishing characteristics of the class.

Dr. Nucup-Villaruz's duties and responsibilities meet portions of the HSC 3 definition. Although she does not function as an assistant manager of a statewide health program or manager of a region, she does perform program planning and evaluation of health services delivery products, significantly contribute to the development and implementation of health policies and procures, and work with health data systems to monitor and assess data relating to newborn screening for

conditions such as cystic fibrosis. Her supervisor, Mr. Thompson, highlighted the importance of her work with data systems for technical consultation to health care providers for disease prevention in newborns (Exhibit B-6). However, when considering the development and implementation of policies and procedures, as well as management of health data systems, the overall scope of duties and level of responsibility assigned to her position do not fully reach the HSC 3 definition as written.

Dr. Nucup-Villaruz's duties assisting management in the administration and provision of services to professions by providing technical consultation and assistance to health care providers, hospitals and clinics for disease prevention (45%) is specifically referenced in the HSC 2 definition as follows:

Specifically, the **Health Services Consultant 2** definition states the following:

> Provides technical consultation and assistance to local health departments, clinics, community and other health services providers by meeting one or more of the following functions within the Department of Health:
>
> - Disease prevention, health promotion, health education and training of providers and/or public, nutrition services, and health program policy.
> - Assists management in the review, analysis and impact of health legislation, health policy, rule development, and fiscal management.
> - Conducts assessment and/or data surveillance activities.

The HSC 2 distinguishing characteristics describe the class as "the journey level of the Health Services Consultant series," where incumbents "work independently and are expected to develop and innovate and be responsible for the flow and completion of work."

Further, OSHRD's Glossary of Classification Terms defines journey as follows:

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

It is undisputed that Dr. Nucup-Villaruz performs some HSC 2 and HSC 3 level work, and the technical consultation and assistance she provides are based on a deep analysis of the data. However, her position has not been fully assigned the responsibility for management of health data systems, as stated in the HSC 3 job class. The majority of Dr. Nucup-Villaruz's assigned work, including the 45% assisting management in providing technical consultation and assistance to health care providers, hospitals and clinics for disease prevention, is performed independently at a fully qualified level and specifically described in the HSC 2 job class.

It is clear Dr. Nucup-Villaruz's work is highly recognized and valued in the Office of Newborn Screening and she brings knowledge and expertise to the position as a medical doctor with training in pediatrics (Exhibit B-1, page 2). A position's allocation, however, is not based on an individual's ability to perform higher-level work or on an evaluation of performance. Instead, a position's allocation is based on the majority of work assigned to a position and how that work best aligns with the available class specifications. In this case, the level, scope and diversity of

the overall duties and responsibilities of Dr. Nucup-Villaruz's position best fit the Health Services Consultant 2 (HSC 2) classification.

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 on the 4th floor of the Insurance Building, 302 Sid Snyder Avenue SW, Olympia, Washington. The main telephone number is (360) 902-9820, and the fax number is (360) 586-4694.

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

c: Caroline Nucup-Villaruz, MD
Ron Key, DOH
Lisa Skriletz, OSHRD

Enclosure: List of Exhibits

CAROLINE NUCUP-VILLARUZ v. DOH
ALLO-12-003

A. Caroline Villaruz Exhibits

1. Director's Review Form received January 13, 2012 (pages 1-5)
2. Position Description Form with no signatures or dates (pages 1-5)
3. December 19, 2011 DOH allocation determination letter (pages 1-7)
4. February 28, 2012 letter from Dr. Nucup-Villaruz submitting exhibits (pages 1-3)
5. December 14, 2011 Email from Director Mike Glass attaching PDF (pages 1-2)
6. WGS PDF for generic NBS-HSC3 position, dated 9/2/11 (pages 1-5)
7. December 20, 2011 email from Mike Glass to Ron Key, HR (pages 1-2)
8. July 26, 2011 email from Dr. Margaret Rosenfeld attaching presentations (examples of work) (1 page)
9. "Five Years of CF Screening in Washington State" and "Correlating IRT Levels with Genotypes" PowerPoints (pages 1-5)
10. December 9, 2011 email from John Thompson thanking Dr. Nucup-Villaruz for her good work
11. Table of confirmed CF cases with delayed diagnosis (pages 1-3)
12. August 24, 2011 email to Jame Vajda regarding sweat chloride data on patients referred to Seattle Children's Hospital (pages 1-5)
13. August 24, 2011 email to Kendra Darnell regarding sweat chloride data on patients referred to Sacred Heart CF Clinic (pages 1-6)
14. September 14, 2011 email regarding modification of CF algorithm (pages 1-3)
15. Email chain regarding proposal to add genotype to prevent ruling out CF on affected Hispanic patients with normal sweat chloride tests (pages 1-7)
16. December 16, 2011 email from John Thompson regarding quality control monitoring of new Galastosemia kit (pages 1-3)
17. PowerPoint presentation on NBS and Endocrine Disorders (pages 1-5)
18. PowerPoint presentation on CAH cases (pages 1-3)
19. December 23, 2011 email attaching Severe Combined Immune Deficiency draft (pages 1-3)
20. February 24, 2012 email attaching Cost-Benefit Analysis on SCID (pages 1-8)
21. January 9, 2012 email to Mike Glass regarding concern of False Positives on SCID (pages 1-2)
22. November 9, 2011 email from Anne Marie Comeau, Massachusetts NBS, complimenting on job well done (pages 1-5)
23. March 25, 2011 email from PEARL organizers thanking Dr. Nucup-Villaruz for a presentation (pages 1-2)
24. February 18, 2012 email from John Thompson on feedback from presentation (pages 1-3)
25. Manuscript draft on CAH Cases in Washington State (pages 1-6)
26. September 12, 2012 email from Caroline Nucup-Villaruz to Teresa Parsons with additional points to support her argument.
27. Attachment to September 12, 2012 email (pages 1-17).

B. DOH Exhibits

1. September 2011 PRR signed by Dr. Nucup-Villaruz and John Thompson, supervisor (pages 1-9)
2. Office of Newborn Screening Organizational Chart
3. December 19, 2011 DOH allocation determination letter (pages 1-7)
4. New Supervisor section of PRR dated December 2011
5. Clarification from supervisor of Dr. Nucup-Villaruz's duties involving implementing and evaluating policies and procedures (pages 1-14)
6. Clarification from supervisor of Dr. Nucup-Villaruz's duties involving assigned conditions and deidentified spreadsheets (pages 1-9)
7. Response by Mike Glass, Director of Newborn Screening, to DOH allocation determination.
8. November 2, 2012 email response from Ron Key, DOH, to Teresa Parsons in response to Caroline Nucup-Villaruz's September 12, 2012 email and attachments.

C. Class Specifications

1. Health Services Consultant 2 (283I)
2. Health Services Consultant 3 (283J)