STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT
STATE HUMAN RESOURCES | DIRECTOR'S REVIEW PROGRAM
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October 13, 2014

TO: Connie Goff, PHR
Rules and Appeals Section Chief

FROM: Kris Brophy, SPHR
Director's Review Program Investigator

SUBJECT: Lynette King et. al. v. Department of Social and Health Services (DSHS)
Allocation Review Requests ALLO-13-091 to ALLO-13-103

Director's reviews regarding the allocation of the following positions have been completed:

ALLO-13-091	Tracy Cereghino	ALLO-13-097	Susan Odle
ALLO-13-092	Ginny Feucht	ALLO-13-098	Heather Percy
ALLO-13-093	Lorine Johnson	ALLO-13-099	Joshua Taylor
ALLO-13-094	Lynn Lynch	ALLO-13-100	Brenda Voss
ALLO-13-095	Theresa Mayou	ALLO-13-101	Holly Ybarra
ALLO-13-096	Heather McCarthy	ALLO-13-102	Victoria Thosath
		ALLO-13-103	Lynette King

Director's Determination

This Director's review was based on a review of the Position Review Request (PRR) forms describing each employees' duties and responsibilities effective May 16, 2013.

As the Director's designee, I carefully considered all of the documentation in the file, including the exhibits presented during the Director's review conference and comments provided by all parties. Based on my review and analysis of the assigned duties and responsibilities, I conclude these thirteen positions should be reallocated to the Financial Services Specialist 3 classification.

Background

The positions under consideration are located in DSHS within the Aging and Long Term Support Administration (ALTSA - formerly ADSA). The positions are assigned to the Home and Community Services (HCS) Division - Region 1, Eastern Washington, Long Term Care (LTC) unit.

WFSE worked with the Region 1 Administration to reallocate forty-one FSS 3 employees to the FSS 4 class. A memorandum of understanding was created which went into effect on May 16, 2013 and the positions under consideration were reallocated to the FSS 4 class effective that date.

The thirteen employees who are the subject of this review filed position review requests with DSHS Human Resources Division, Classification and Compensation Unit (HRD CCU), requesting reallocation to Program Specialist 3 based on the specialized nature of their work.

On November 1, 2013, HRD - CCU issued determinations for these positions indicating the positions were properly allocated to the FSS 4 class.

On November 25, 2013 the employees filed appeals with State HR requesting reallocation to the Program Specialist 3 class. (Ms. King filed on December 2.)

On August 27, 2013 I conducted a combined telephone review conference with the employees listed above. They were represented by Greg Davis, Council Representative, WFSE; and Randy Lorello, Council Representative, WFSE. Also in attendance were Lester Dickson, Classification and Compensation Specialist, HRD CCU; Jeanette Lyles, Human Resource Consultant (HRC), HRD CC; Amanda Myers, HRC, HRD CCU; and Mike Raich, Classification and Compensation Specialist, HRD CCU.

Following the review conference, the parties submitted additional information. Mr. Dickson submitted a final rebuttal statement on September 5, 2014. This information has been added to the record and incorporated as exhibits herein.

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

The Financial Services Specialist staff working in the Region 1 HCS LTC unit perform specialized financial services work which involves determining Medicaid eligibility for aged, blind and disabled clients for nursing homes, assisted living facilities, and adult family homes. These positions deal with complex eligibility rules associated with long-term and SSI related Medicaid eligibility requirements. They are required to analyze funding sources, read complicated documents: trusts, life insurance policies, court orders, etc. in order to determine eligibility for long term care services and benefits.

Ms. King's duties are described in detail in the PDF (Exhibit B-2) submitted for reallocation.

Summary of Employees' Perspective

The employees assert there is no class which properly fits their positions due to the unique and specialized nature of the work they perform within the Region 1, HCS Long Term Care Unit.

For example, the employees assert that reallocating their positions to the FSS 4 class is not appropriate because their positions don't fall within any of the primary allocating factors of the

FSS 4 Definition. The employees assert they do not work as a Lead, Fair Hearing Coordinator, or Quality Assurance Worker as required.

In addition, the employees contend their positions do not fit the FSS 3 class in that their duties differ greatly from their FSS counterparts in CSO units across the administration that perform general and direct "first contact" services to non-specific and general population clients. The employees assert their positions provide specialized services involving determining eligibility for Medicaid and other complex services and benefits which reach beyond the requirements of FSS 3 level class in terms of the level of complexity required to perform their duties. During the review conference, the employees stated that the level of review they perform is more comprehensive than the work performed in a CSO. In their case they have to apply specialized codes that are specific to long term care and the scope and complexity of the documents they review is much more extensive.

The employees assert their positions should be reallocated to the Program Specialist 3 class to more accurately reflect the level of responsibility and complexity of scope of duties assigned to their positions. The employees assert their positions fit the Program Specialist 3 class because of the nature of the Long Term Care Program specialty duties they perform which requires that they manage Long Term Care program activities for clients rather than primarily determining initial eligibility for program services as a Financial Services Specialist. The employees assert that the letter submitted from Pao Vue, Regional Administrator, to Ellen Andrews, Administrator, CCU (Exhibit A-19), supports their position that the long-term care home and community based services, hospice and SSI related eligibility rules require advanced knowledge, special expertise and skills.

For these reasons the employees feel their positions should be reallocated to the Program Specialist 3 class.

Summary of DSHS's reasoning

DSHS asserts the employees' positions do not specifically fall within the Program Specialist 3 class or the Program Specialist series as a whole. In its comments, DSHS asserts the FSS series specifically addresses the financial eligibility needs of DSHS clients whereas the Program Specialist is a generic series which consolidated a number of different classes into one series. DSHS asserts allocation to the Program Specialist series requires an assignment of work specific to a particular program and not work that is specifically described by another class specification.

DSHS acknowledges the employees do not serve in a Lead Worker, Fair Hearings Coordinator, or Quality Assurance Reviewer capacity. However, consistent with the previous Personnel Appeals Board case, Stegner et.al. v, DSHS, PAB Case ALLO-97-0009, (1997), DSHS contends the duties they perform are more complex than the duties described at the FSS 3 level class of solely making eligibility determinations, providing on-going eligibility maintenance, and conducting internal reviews to verify eligibility determination.

DSHS asserts that their positions reach the FSS 4 class based on the scope and complexity of the work they perform in establishing financial eligibility, interpreting rules, planning, and developing procedures. DSHS asserts performing complex level work is described in the FSS 4 class.

For example, DSHS contends the employees deal with eligibility rules concerning long-term and Medicaid eligibility programs which is highly specialized in determining Medicaid for nursing homes, assisted living facilities, and/or adult family homes. They must identify and analyze funding sources and legal and financial documents such as guardianships, trusts, life insurance policies, court orders, power of attorney, burial trusts, annuities, or asset transfers. DSHS asserts these individuals work with social service case workers to develop an accommodation plan for clients.

In total, DSHS contends the employees' positions meet the requirements of the FSS 4 class.

Comparison of Duties

When comparing the assignment of work and level of responsibility to the available class specifications, the Class Series Concept (if one exists) followed by the Definition and Distinguishing Characteristics are primary considerations. 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.

Comparison of Duties to Program Specialist 3

The Definition for Program Specialist 3 class states:

> Positions at this level work under general direction and typically have organization-wide program responsibility. For programs with statewide impact, incumbents are specialists who manage one component or assist higher levels in two or more components of the program. Programs include but are not limited to voter registration programs; boating, concession, or winter recreation programs; minority and women's business enterprise programs; and aeronautics programs. Program components are comprised of specialized tasks (e.g., reservations, administration, and budget coordination) within a specialty program. Incumbents assist higher-level staff by coordinating all aspects of program services, providing technical assistance and specialized, consultation to program participants, staff and outside entities, and recommending resolution for complex problems and issues related to the program. Incumbents assess program participants' needs and develop specialized services and training unique to the program and are responsive to the needs of participants.

The scope of the long term care financial services eligibility determination activities and related functions performed by the employees do not meet the definition of a program. A program consists of discrete, specific components and tasks that are unique to a particular subject and are separate and distinguished from the main body of an organization. Although the HCS unit performs a specialized function in contrast to CSO financial services units by determining long-term and Medicaid eligibility of clients for nursing home and other facilities, the nature and scope of the unit's activities are the same as those performed by other Long Term Care HCS units working across the ALTSA. The focus and scope of these activities are transferable and applicable to other HCS units within the ALTSA organization. Therefore, the overall nature and scope of the technical work the employees perform does not meet the definition of a program.

In addition, positions at the Program Specialist 3 level work under general direction and typically have organization-wide program level responsibilities. Programs at this level often have statewide impact, and incumbents are specialists who manage one component or assist higher

levels in two or more components of these larger scale programs. Incumbents assess program participants' needs and develop specialized services and training unique to the program and are responsive to the needs of participants. The thrust of the employees' positions and the specific technical nature of the duties they perform do not reach this level of responsibility. Their duties consist of providing professional case management activities and performing financial services tasks to make long term care eligibility determination activities within their assigned HCS unit. The employees do not function within a program specialist context and do not have management level responsibility for one or more program activities as required for allocation to this class.

Further, allocation to the "Program" series requires an assignment of work that is unique and specific to a particular program and not work that is specifically described by another existing class specification. If there is a class that encompasses the body of work, allocation to the specific class must take primary consideration. Allocation to a "Program" class should only occur when there are no other viable options for allocation.

The Financial Services Specialist series specifically addresses the body of work under review in this appeal. This includes conducting intensive interviews to determine eligibility for medical benefits for long term care in various long term care and other facilities. Because these classes specifically describe the scope of work and specific duties performed by the employees, allocating their positions to a class within the Program series is not appropriate.

This is further supported by Personnel Resources Board (PRB) decisions in which the Board has concluded that while one class appeared to cover the scope of a position, there was another classification that not only encompassed the scope of the position, but specifically encompassed the unique functions performed. In Alvarez v. Olympic College, PRB No. R-ALLO-08-013 (2008), the Board held that "[w]hen there is a definition that specifically includes a particular assignment and there is a general classification that has a definition which could also apply to the position, the position will be allocated to the class that specifically includes the position. [See Mikitik v Depts. of Wildlife and Personnel, PAB No. A88-021 (1989)."

For these reasons, the employees' positions should not be allocated to the Program Specialist 3 class.

Comparison of Duties to Financial Services Specialist 4

The definition of the Financial Services Specialist 4 classification states:

> Serves as a lead worker in the Reception Financial Intake System, the Financial Maintenance System, and/or the Verification and Overpayment Control System; or as a fair hearings coordinator a majority of the time; or as a quality assurance reviewer for one or more units.

There are three primary allocating criteria stated in the Definition for this class. Positions must serve as a Lead Worker, Fair Hearings Coordinator, or a Quality Assurance Worker. Based on the written materials and verbal comments provided by the parties, it is uncontested that the employees' do not serve in a Lead worker, Fair Hearings Coordinator, or Quality Assurance Worker capacity.

In addition, although the typical work statements are not allocating criteria, they lend support to the type of work performed by incumbents in this class. A portion of the typical work statements are stated as follows:

> As a Leadworker:
>
> - Assigns and audits work of financial staff;
> - Establishes and maintains procedures for efficient workflow;
> - Acts as unit supervisor in absence of the supervisor, including attendance at meetings, case counseling, and decision making;
> - *Performs more complex duties in relation to establishing financial eligibility*, *rule interpretation, planning, and procedural development*;
> - Conducts on-the-job training for financial staff;
>
> [Emphasis added]

The employees' duties and responsibilities are not supported in the typical work statements. For example, within the context of working as a lead position, incumbents perform more complex duties as a Lead with respect to establishing financial eligibility, interpreting rules, planning, and developing procedures. The employees' positions do not have this focus or scope of responsibility.

For example, they do not have responsibility for interpreting rules, planning, and developing procedures as a lead. Further, DSHS contends the employees deal with complex eligibility rules concerning long-term and Medicaid eligibility programs which is highly specialized in determining Medicaid for nursing homes, assisted living facilities, and/or adult family homes. They must identify and analyze complex funding sources and legal and financial documents such as guardianships, trusts, life insurance policies, court orders, power of attorney, burial trusts, annuities, or asset transfers. DSHS asserts these individuals work with social service case workers to develop an accommodation plan for clients.

However, while their positions differ from their FSS counterparts in other units who perform general and direct "first contact" services to non-specific and general population clients, the FSS 3 class addresses the scope and level of work the employees perform working in the Long Term Care HCS unit. The employees provide financial services work which involves conducting intensive investigations and determining initial and on-going eligibility for medical services and benefits. This work is addressed by the FSS 3 level class.

Therefore, while one component of this typical work statement addresses certain aspects of the employees' work making complex financial eligibility determinations, the employees' positions do not first reach the primary allocating criteria of working in a lead capacity as required for allocation to this class.

For these reasons the positions should not be reallocated to the FSS 4 class.

Comparison of Duties to Financial Services Specialist 3

The Definition for FSS 3 class states:

> Manages an assigned financial service caseload of intake and initial eligibility determinations in the Reception Financial Intake System, and/or on-going maintenance of continuing eligibility in the Financial Maintenance System for financial, medical and food stamp programs, by independently conducting interviews to determine or redetermine eligibility for a variety of financial, medical and food stamp programs, and/or conducts internal reviews or validation studies in the Verification and Overpayment System, to verify the adequacy of eligibility determinations..

The employees' positions meet the requirements of the Definition of this class. The majority of their work involves providing professional case management and evaluative services for clients seeking Long Term Care medical services through the HCS office. Their duties consist of independently conducting interviews to determine and redetermine eligibility for waivered service programs such as COPES and Hospice. This involves gathering information regarding family income, demographics, assets and other information to determine eligibility for long-term care services based on a needs assessment. The employees are responsible for reviewing the client's circumstances and making a determination of which services the client is applying for or eligible for, based on their knowledge of the financial eligibility rules for each program.

In addition, the employees' duties and responsibilities are further supported in the typical work statements which provide examples of work performed at this level. They state:

> Conducts intensive interviews to determine eligibility for financial, medical, and food stamp benefits; analyzes written and oral information; obtains and reviews necessary data, documentation, and verification for each program of assistance as it relates to the recipients' specific circumstances; explains program requirements and services available; refers clients to both mandatory and optional services and to other agencies as required; authorizes necessary warrants, medical coupons, and food stamps; works within time frames and deadlines which are dictated by program requirements;
>
> Investigates complaints from the community as well as hotline calls and analyzes data for validity; detects discrepancies and clarifies data through telephone inquiries, correspondence, and interviews; recognizes and recomputes incorrect payments of grants, food stamp benefits and medical assistance, and establishes overpayments; conducts validation studies, reads cases, and makes home visits and collateral contacts to verify eligibility factors, discovers and reports errors made by agency or clients;
>
> Duties may also include maintaining an ongoing financial, medical, and/or food stamp caseload;
>
> Reads and interprets the Washington Administrative Code and procedural manuals;
>
> Attends and completes required training courses as mandated by the agency;

The employees' duties are consistent with these statements. Their positions more accurately align with the scope of duties stated at the FSS 3 level.

For example, as stated in the PRR, the employees conduct intensive face-to-face, telephone and home visit interviews to determine eligibility for medical benefits relating to Long Term Care. Consistent with the typical work statements, the employees analyze written and oral information and obtain and review necessary data, documentation, and verification for each program of assistance as it relates to the recipients' specific circumstances. They act as a source of information for social workers, medical providers, and attorneys. This includes explaining requirements and services available. They also direct clients, representatives and caregivers to the appropriate person and refer clients to other services and agencies as required.

A portion of their time includes investigating complaints from the community. They detect discrepancies and clarify data through telephone inquiries, correspondence, and interviews. They recognize and calculate incorrect payments of grants. Their duties include reading and interpreting complex Washington Administrative Code regulations and procedural manuals.

As a whole, the overall complexity of the employees' assigned duties and their level of responsibility is more accurately described by the FSS 3 classification.

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, Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998).

Most positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. See Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

For each of the reasons stated above, the positions should be reallocated to the FSS 3 class.

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 PO Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the Raad Building, 128 10th Avenue SW, Olympia, Washington. The main telephone number is (360) 407-4101, and the fax number is (360) 586-4694.

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

c: Employees
Greg Davis, WFSE
Lester Dickson, DSHS
Lisa Skriletz, OFM

Enclosure: List of Exhibits

<u>LYNETTE KING v DSHS</u>
ALLO-13-103

A. WFSE Exhibits

1. Director's Review Form received December 2, 2013 (3 pages)
2. Email dated November 8, 2013, Subject: Information Request Related to Position Review Requests-Needed by November 14, 2013 – HRD Response/Denial
3. Memorandum of Understanding between WFSE and The State of Washington regarding reallocation of FSS 3 positions to FSS 4 in HCS in ALTSA
4. Email and attachment dated October 25, 2013, Subject: FW: FSS4 PDF Reallocation Reclass Final
5. Email and attachment dated October 28, 2013, Subject: FW: FSS4 PDF Reallocation Reclass Final 10/27/2017
6. Email and attachment dated October 29, 2013 Subject: Financial Service Specialist 3 Reallocation
7. Position Description Form (PDF) for reallocated FSS4 ADS – Home & Community Services
8. Email and attachment dated October 25, 2013, Subject: FW: Unit Meeting Minutes for Your Review
9. Position Description Form (PDF) DCFS FSS4
10. Case No. ALLO-97-0009 Order of the Board Following Hearing on Exceptions to the Determination of the Director*
11. Position Description Form (PDF) R07 District 1 Spokane CSC FSS3 to FSS4
12. Position Description Form (PDF) R01 – K60 – Access Spokane CSO FSS4
13. February 4, 2014 Job Announcement for FSS4 for HCS ALTSA
14. February 19, 2014 Job Announcement for FSS4 for ESA CSD
15. November 13, 2013 Job Announcement for FSS4 for ESA CSD
16. Letter DSHS HRD CCU Position Review Request (PRR) – denial
17. Position Description Form (PDF) ESA/CSD Program Specialist 3
18. November 4, 2013 Job Announcement for Program Specialist 3 – Public Records WSDA
19. Memorandum dated June 12, 2013 Subject: Position Review Requests from Financial Staff in Reagion 1, from Pau Vue, Region 1 Administrator*
20. Email and attachment with responses by David Armes, dated November 22, 2010, Subject: Suggestions to Reduce Financial Workload Due to Furlough and Vacant FTE's
21. Classification Specification for Financial Examiner 2
22. Classification Specification for Regulatory Analyst 2
23. Classification Specification for Acturial Analyst 2
24. Classification Specification for Cost Reimbursement Analyst 3

Exhibits submitted after the Director's Review conference:

25. Director's Review presentation notes from Lynette King

B. DSHS Exhibits

1. Allocation decision letter to Lynette King, dated November 12, 2013 (15 pages)

2. Position description for position JY49, received in the DSHS Local HR Office in Spokane, Washington on May 16, 2013 and by DSHS Classification and Compensation Unit on June 13, 2013 (6 pages)

3. Organizational Chart for the Home and Community Services Division, Long Term Care, Region 1 (1 page)

4. Memorandum, dated June 12, 2013, to Ellen Andrews, Classification and Compensation Administrator, from Pao Vue, Regional Administrator, HCS, Region 1 (2 pages)

5. Position Review Request, submitted by Lynette King and received in the DSHS Classification and Compensation Unit on June 13, 2013 (5 pages)

6. Previous position description for position JY49, received in the DSHS Classification and Compensation Unit on November 29, 2011 (6 pages)

7. Classification Specification for the Financial Services Specialist 3 (2 pages)

8. Classification Specification for the Program Specialist 3 (2 pages)

9. Classification Specification for the Financial Services Specialist 4 (2 pages)

10. Personnel Appeals Board Decision – ALLO-97-0009 (6 pages)

Exhibits submitted after the Director's Review conference:

11. Final response from Lester Dickson to Kris Brophy dated September 5, 2014 with attachments:
    a. HCS/LTC Management Work Description Document
    b. HCS/LTC Organizational Charts

C. Class Specifications

1. Financial Services Specialist 3
2. Program Specialist 3
3. Financial Services Specialist 4