STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT
STATE HUMAN RESOURCES | DIRECTOR'S REVIEW PROGRAM
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October 24, 2014

TO: Connie Goff, PHR
Rules and Appeals Section Chief

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

SUBJECT: Robert O'Dowd v. Department of Social and Health Services (DSHS)
Daniel Rees v. Department of Social and Health Services (DSHS)
Allocation Review Requests ALLO-13-104 and ALLO-13-105

Director's review regarding the allocation of the following positions has been completed:

ALLO-13-104	Robert O'Dowd
ALLO-13-105	Daniel Rees

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 both parties. Based on my review and analysis of Robert O'Dowd's and Daniel Rees's assigned duties and responsibilities, I conclude both positions are properly allocated to the Financial Services Specialist 4 classification.

Background

Mr. O'Dowd's and Mr. Rees's positions are located in DSHS within the Aging and Long Term Support Administration (ALTSA - formerly ADSA). Their positions are assigned to the Home and Community Services (HCS) Division - Region 1, Eastern Washington, Long Term Care (LTC) unit.

Mr. O'Dowd and Mr. Rees filed position review requests with DSHS Human Resources Division, Classification and Compensation Unit (HRD CCU), requesting reallocation to Program Specialist 4 based on the specialized nature of their work.

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

On December 3, 2013 the employees filed appeals with State HR requesting reallocation to the Program Specialist 4 class.

On September 16, 2014 I conducted a combined telephone review conference with Mr. O'Dowd and Mr. Rees. Also in attendance were his representative Gregory Davis, Council Representative, WFSE and Lester Dickson, Classification and Compensation Specialist, HRD CCU.

Following the review conference, the parties submitted additional information which was received on September 16, 2018. 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

Mr. O'Dowd and Mr. Rees work in the Region 1 HCS LTC unit performing specialized financial services work. This involves leading, directing and training the unit's Financial Services staff who perform duties associated with 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. If a client disagrees with a decision made by one of the staff, Mr. O'Dowd and Mr. Rees are responsible for reviewing the decision and representing DSHS at administrative hearings.

The employees' duties are described in the PRR submitted for reallocation (Exhibit B-4).

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.

The employees assert their positions should be reallocated to the Program Specialist 4 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 4 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. The employees assert that the letter submitted from Pao Vue, Regional Administrator, to Ellen Andrews, Administrator, CCU (Exhibit B-5), 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 4 class.

Summary of DSHS's reasoning

DSHS asserts the employees' positions do not specifically fall within the Program Specialist 4 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 serve in a Lead Worker capacity and also function in part as fair hearings coordinators for their unit. DSHS asserts their positions reach the FSS 4 class based on the scope and complexity of the work they perform in leading assigned Financial Services staff and establishing financial eligibility, interpreting rules, planning, and developing procedures.

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 4

The Definition for Program Specialist 4 class states:

> Positions at this level work under administrative direction, and have organization-wide program management responsibilities, and are recognized as program specialists. For programs with statewide impact, incumbents are specialists who manage two or more components of the program. Incumbents administer, oversee, and direct all program activities and advise public entities and higher level administrative staff on the program components. Program components are comprised of specialized tasks (e.g., reservations, administration, and budget coordination) within a specialty program. Incumbents provide and coordinate program activities affecting an essential service within the organization or activities with statewide impact. Incumbents perform a wide scope of complex duties and responsibilities in the management of a program, exercise independent judgment, and have delegated decision-making authority. Programs include but are not limited to, salmon, marine and shell fish enhancement programs; boating, concession, or winter recreation programs; missing children's clearinghouse; and fund-raising programs which include prospect identification, endowment campaigns, annual funds, direct mail marketing and membership development.

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 4 level work under administrative direction and typically have organization-wide program level responsibilities. Incumbents are specialists who manage two or more program components and administer, oversee, and direct all program activities and advise public entities and higher level administrative staff on the program components.

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 leading FSS staff and 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 two 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 determining 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 4 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 have primary responsibility for serving in a Lead worker capacity. The majority of their time is spent leading a unit of financial services specialists who provide case management to a broad range of individuals seeking long term care services. They also spend a portion of their time representing DSHS in administrative hearings.

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;

The employees' duties and responsibilities are fully consistent with the typical work statements of this class of serving as a lead worker capacity. They perform more complex duties in relation to establishing financial eligibility, interpreting rules, planning, and developing procedures.

For example, their duties include regularly assigning and directing staff, providing case counseling and guidance to other financial services specialists, and auditing the work of financial services staff to ensure compliance with established policies and procedures. They are responsible for rule interpretation and establishing and maintaining procedures for efficient workflow, and acting the unit's supervisor in their supervisor's absence.

Therefore, the employees' positions meet the primary allocating criteria of working in a lead capacity as required for allocation to this class. In total, the overall complexity and level of responsibility of their assigned duties is accurately and fully described by the FSS 4 classification.

For each of the reasons stated above, their positions should remain allocated to the FSS 4 class.

Appeal Rights

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

> The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, WA 98504-0911. 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
Gregory Davis, WFSE
Lester Dickson, DSHS
Lisa Skriletz, OFM

Enclosure: List of Exhibits

ROBERT O'DOWD v DSHS ALLO-13-104

DANIEL REES v DSHS ALLO-13-105

List of Exhibits

A. Employee Exhibits

1. Request for Director's Review
2. Agency's denial of Employees' request for production
3. Memo of understanding promoting subordinate FSS3 positions within HCS to FSS4 positions
4. Position Description for FSS4 at DCFS
5. Order for ALLO-97-0009
6. Position Description for Program Specialist 3 at the Mobile CSO
7. November 25, 2013 Job Announcement for Subordinate FSS4 position at HSC
8. December 30, 2013 Job Announcement for Subordinate FSS4 position at HSC
9. November 22, 2010 email with attachment from Policy Staff, David Armes
10. December 9, 2013 email from Policy Staff, Lori Rolley, acknowledging exceptional rule knowledge required by Leadworkers/Administrative Hearing Coordinators at HCS
11. December 13, 2012 through May 29, 2013 email – examples of statewide impact of rule review by FSS4 staff at HCS
12. December 12, 2013 email – example of statewide impact of manual review by FSS4 staff at HCS
13. December 17, 2013 email – examples of statewide impact of rule review by FSS4 staff at HCS
14. July 1, 2008 email – example of review of work of Assistant Attorney General staff by FSS4 staff at HCS

Exhibit submitted following the review telephone conference

15. Copy of final response memorandum from Lester Dickson to Kris Brophy regarding Lynnette King et al appeals, dated September 5, 2014 with attachments:
    a. HCS/LTC Management Work Description Document
    b. HCS/LTC Organization Charts

B. DSHS Exhibits

1. Allocation determination letter November 4, 2013, 14 pages
2. Current Position Description received in DSHS C&C Unit September 27, 2011, 5 pages

3. Organizational Charts for the Home and Community Services Division, Long Term Care, Region 1, 2 pages
4. Position Review Request submitted by Robert O'Dowd June 13, 2013, 5 pages
5. Memorandum from Pao Vue, Regional Administrator, HCS, Region 1, dated June 12, 2013, 2 pages
6. Previous Position Description June 9, 2009, 6 pages
7. State HR Class Specification for Financial Services Specialist 4
8. State HR Class Specification for Program Specialist 4

Exhibits submitted following the Director's Review Conference

9. State HR Glossary of Classification Terms.

C. Director's Exhibits

1. State HR Class specification for Financial Services Specialist 4
2. State HR Class specification for Program Specialist 4