

State of New Hampshire



PERSONNEL APPEALS BOARD
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APPEAL OF MARY ALLARD

DOCKET #99-C-4

DEPARTMENT OF LABOR

October 6, 1999

The New Hampshire Personnel Appeals Board (Wood, Johnson and Barry) met on Wednesday, August 25, 1999, under the authority of RSA 21-I:57, to hear the appeal of Mary Allard, an employee of the Labor Department. Ms. Allard, who appeared *pro se*, was appealing the Personnel Director's decision denying her request for reclassification from Workers' Compensation Special Funds Coordinator, salary grade 21, to Program Specialist IV, salary grade 24. Virginia Lamberton, Director of Personnel, appeared on behalf of the Division of Personnel.

The appeal was heard on offers of proof by the parties. The record of the hearing in this matter consists of pleadings submitted by the parties, notices and orders issued by the Board, the audio tape recording of the hearing on the merits of the appeal, and documents admitted into evidence as follows:

State's Exhibits

- A. Memorandum requesting reclassification addressed to the Director of Personnel
- B. Position classification questionnaire completed by Mary Allard
- C. Organizational chart

- D. Supplemental Job Description dated 8/15/88
- E. Supplemental Job Description dated 8/15/90
- F. Supplemental Job Description dated 3/27/98
- G. Director's decision letter dated September 8, 1998
- H. Request for reconsideration submitted by Ms. Allard
- I. Response to request for reconsideration dated October 5, 1998
- J. Evaluation worksheet/points

Appellant's Exhibits

- A. Memorandum to Director of Personnel requesting reclassification
- B. Position classification questionnaire completed by Mary Allard, Workers Compensation Special Funds Coordinator and Kathryn Barger, Director, Workers' Compensation Division
- C. Organizational chart
- D. Supplemental Job Description dated 8/15/88
- E. Supplemental Job Description dated 8/15/90
- F. Supplemental Job Description dated 3/27/98
- G. Director Lamberton's decision letter dated 9/8/98
- H. Ms. Allard's request for reconsideration dated 9/21/98
- I. Director Lamberton's response to request dated 10/5/98
- J. Evaluation worksheet/points
- K. Ms. Allard's summary of the above requests

Ms. Allard's September 21, 1998, Request for Reconsideration of Director's Decision summarizes the appellant's arguments in support of the proposed reclassification. Briefly, they include expanded program responsibilities associated with the Administration Fund, the Fund for Active Cases and the Fund for Second Injuries; authority to approve lump sum settlements without review by the Attorney General; increased involvement in litigation; increased training responsibilities; and authority to establish work methods for assessment, collection and disbursement of millions of dollars in special funds. Ms. Allard argued that these duties and

responsibilities warranted increases in the evaluation factors of Knowledge, Communication, Complexity and Independent Action.

Ms. Lamberton argued that the appellant's current job specification and supplemental job description accurately describe her duties and responsibilities for management of the special funds. Ms. Lamberton argued that although the appellant's supplemental job description had been revised several times, there were no significant changes that would warrant reallocation of the position to Program Specialist IV.

The Board asked the appellant to discuss differences between the current supplemental job description and the one originally assigned to the position in 1988. Ms. Allard indicated that she has more cases to review, and that major changes to the law in 1991 and 1994 have increased the scope and created sub-categories for the funds she manages. She argued that increasing numbers of applications for disbursement from the funds, more frequent requests for hearings and the likelihood of litigation have affected the complexity of her work. She argued that she is responsible for more frequent review of medical records and reimbursement requests. She also said that although she has none of the traditional supervisory responsibilities, she does supervise programs and should be evaluated on that basis. Upon further questioning by the Board, Ms. Allard indicated that she does not set up the structured settlements, nor does she serve as the hearing officer determining whether a lump sum settlement should be made; she decides whether the amount of settlement, once made, should be reimbursed by the Second Injury Fund.

After considering the evidence, arguments and offers of proof, the Board made the following findings of fact and rulings of law:

Findings of Fact

1. The points assigned to the evaluation factors for the appellant's current classification, the classification of Program Specialist IV, and an alternative point-spread suggested by the appellant for her position are as follows:

Position Title Classification	Skill	Knowledge	Impact	Experience	Working Conditions	Physical Demands	Communications	Complexity	Independent Action	Total Points	Salary Grade
W/C Special Funds Coordinator	5 95	4 85	4 40	3 15	1 5	1 5	4 35	4 80	4 55	415	21
Program Specialist IV	5 95	5 110	4 40	3 15	1 5	1 5	5 55	5 110	5 75	510	24
Proposed Re-evaluation	5 95	4 85	5 70	3 15	1 5	2 10	5 55	4 80	5 75	490	24

1. The current and proposed classifications are each rated at the 5th level for Skill, defined by the evaluation manual as the "combination of preparation and learning through experience and training necessary to perform a specific job function..." The Commissioner of Labor recommended that the position's minimum qualifications include a bachelor's degree and 5 years of experience. According to the Technical Assistance Manual, this factor could be rated at either the 4th degree, "Three years to six years of experience," or the 5th degree, "Four to eight years of experience."
2. Ms. Allard's current classification and suggested alternative evaluation factor allocations for the Knowledge factor are at level 4. Reclassification to Program Specialist IV would result in an increase to level 5, increasing the minimum educational requirements to a Master's degree.
3. If the Program Specialist IV position specification allowed an equivalency for education and experience at the graduate level, a candidate for the position would need, at a minimum, a bachelor's degree and seven years of experience in order to meet the minimum certification requirements. The information provided by the appellant and her supervisor on the classification questionnaire does not support such an increase.
4. The appellant's current classification and the Program Specialist IV classification are rated at level 4 for Impact. The appellant recommended reallocating this factor to level 5 which,

"Requires responsibility for achieving major aspects of long-range agency objectives by planning short- and long-term organizational goals, reviewing recommendations for procedural changes, and developing or revising program policies..."

5. The appellant's duties and responsibilities for calculating fund assessments, authorizing fund disbursements and providing training are more accurately described by level 4 which, "Requires responsibility for achieving direct service objectives by assessing agency service needs and making preliminary recommendations for the development of alternative short-term program policies or procedures."
6. The appellant's current classification and the Program Specialist IV classification are rated at level 3 for Supervision/Management, defined by the Evaluation Manual as, "Requires direct supervision of other employees doing work which is related or similar to the supervisor, including scheduling work, recommending leave, reviewing work for accuracy, performance appraisal, or interviewing applicants for position vacancies." Although the appellant has program management responsibilities, addressed by the factors of Impact and Independent Action, she has no actual supervisory responsibilities, and could be rated at level 1 for this factor. That change would reduce the total points assigned to the position by 15 points. That change would not reduce the currently assigned salary grade.
7. The appellant's duties are accurately rated at level 1 for Working Conditions.
8. The appellant's recommended increase in the Physical Demands factor from level 1 to level 2, would increase the total points by 5, from 415 points to 420 points. That change would not affect the salary grade assigned to the position.
9. The appellant recommended increasing the Communications factor from level 4 to level 5. The position's duties and responsibilities are accurately rated at level 4 which, "Requires summarizing data, preparing reports, and making recommendations based on findings which contribute to solving problems and achieving work objectives. This level also requires presenting information for use by administrative-level managers in making decisions." Ms. Allard's representations that she has increased her formal speaking engagements and training seminars, and that she works with groups to resolve issues, discuss statute interpretation and develop new methods to make the Fund's assessment and disbursement more effective are insufficient to warrant an increase in this factor.

10. Ms. Allard's position is currently rated at level 4 for the Complexity factor. In her proposed alternative point assignments, she recommends no increase in this factor. However, the Program Specialist IV classification is rated at level 5 for this factor, and "Requires evaluating a combination of wide-ranging job functions to determine work procedures, to solve problems, and to reach conclusions by applying analytical, technical or scientific thinking. This level also requires planning policies and long-term strategies, drawing conclusions based on available criteria, and evaluating the effectiveness of program objectives."
11. Ms. Allard's responsibilities to calculate fund assessments, implement billing procedures, and authorize special fund disbursements under the statutorily defined criteria, and to defend those decisions at the agency level, are more accurately reflected in the 4th level for Complexity, requiring "...coordinating a combination of diverse job functions in order to integrate professional and technical agency goals. This level also requires considerable judgment to implement a sequence of operations or actions."
12. Ms. Allard recommended allocating the Independent Action factor at level 5 rather than its current assignment at level 4. Allocation at level 5 for Independent Action, "Requires independent judgment in planning and evaluating work procedures and in supervising the development of professional, technical, and managerial standards under administrative direction and according to broad departmental guidelines." The evidence reflects that assessment and disbursement standards are well-defined. Decisions regarding assessment and disbursement of special funds are more accurately reflected by level 4, which "Requires objective assessment in analyzing and developing new work methods and procedures subject to periodic review and making decisions according to established technical professional or administrative standards."
13. Ms. Allard's duty assignments support allocation at salary grade 21, and are most accurately reflected in the single-incumbent title of "Workers Compensation Special Funds Coordinator."

Rulings of Law

- A. "The director shall establish a formal written class specification covering each position in the classified system. The purpose of the class specification shall be to identify the job functions, distinguishing factors, examination requirements, and the minimum qualifications which apply to all positions in the same class." [Per 301.02 (a)]
- B. "The duties and work assignments for each position in the state classified service shall be defined by a supplemental job description established by this rule." [Per 301.03 (a)]
- C. The supplemental job description shall be developed and updated by the appointing authority or the supervisor assigned by the appointing authority to oversee the work assignments of the position." [Per 301.03 (b)]
- D. "Any work assignment which affects more than 10 percent of the total working time of the position shall be listed on the description by the appointing authority, designated supervisor or the employee of the position in accordance with this rule." [Per 301.03 (c)]
- E. An employee's supplemental job description must include, "A statement of the scope of work for the position, which shall be related to the basic purpose section of the class specification and shall specify how the broad purpose of the specification translates into a specific role within the goals and objectives of the agency." [Per 303.03 (d) (6)]
- F. "There is hereby established within the department of administrative services the division of personnel, under the supervision of an unclassified director of personnel appointed under RSA 21-I:2, who shall be responsible for the following functions in accordance with applicable laws: ...III. Allocating the position of every employee in the classified service to one of the classifications in the classification plan. [RSA 21-I:42, III]
- G. "...The employee or department head, or both, shall have the right to appeal the director's decision to the personnel appeals board in accordance with rules adopted by the board under RSA 541-A. If the board determines that an individual is not properly classified in accordance with the classification plan or the director's rules, it shall issue an order requiring the director to make a correction." [RSA 21-I:57]

Decision and Order

The evidence reflects that Ms. Allard carries out her responsibilities for assessing, collecting and disbursing millions of dollars in Workers' Compensation "special funds" with little direction or supervision. Generally, neither the amount of work an employee must perform, the financial liabilities associated with the position's duties, the employee's level of performance, nor the

employee's ability to carry out those assignments independently have any bearing on the correct classification of the employee's position. However, in this instance, the Board believes that the Director was correct in retaining the "single incumbent" class title assigned to Ms. Allard's position, and apparently taking some of those factors into consideration.

The Board found that the position was correctly allocated at salary grade 21. Although the current evaluation factors could be realigned to more accurately reflect the duties and responsibilities of the job, such a reallocation of individual factors would likely result in a reduction in the assigned grade, not an upgrading as the appellant had requested. On the evidence, argument and offers of proof, the Board concluded that such an outcome would be neither reasonable nor equitable. Therefore, the Board voted unanimously to DENY Ms. Allard's appeal, affirming the Director's decision that the appellant's position is correctly classified as Workers' Compensation Special Funds Administrator, salary grade 21.

THE PERSONNEL APPEALS BOARD


Patrick H. Wood, Chairman


Robert J. Johnson, Commissioner


James J. Barry, Commissioner

cc: Virginia A Lamberton, Director of Personnel, 25 Capitol St., Concord, NH 03301
Commissioner James Casey, Department of Labor, State office Park South, 95 Pleasant St., Concord, NH 03301
Mary Allard, WC Special Funds Coordinator, Department of Labor,