VENEITA F. EVANS, .

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Grievant, .

.

v. . Docket No. 93-HHR-511 .

WEST VIRGINIA DEPARTMENT OF HEALTH AND .

HUMAN RESOURCES/LAKIN STATE HOSPITAL .

AND DEPARTMENT OF ADMINISTRATION/ .

DIVISION OF PERSONNEL, .

.

Respondents. .

D E C I S I O N

Veneita Evans (hereinafter Grievant) filed a grievance on July 30, 1993, alleging that she was improperly classified by the Division of Personnel (hereinafter Personnel) as a Medical Records Assistant, and contending that her proper classification should be that of a Medical Records Supervisor. After receiving an adverse decision at Level III, Grievant submitted an appeal to this Board on January 10, 1994, A Level IV hearing was held in the Board's office in Charleston, West Virginia, on February 15, 1994. (See footnote 1)

Background

There is no dispute regarding the facts in this case. Grievant has been employed at Lakin State Hospital for over 20years. She started working with medical records in 1983 and has been the working supervisor of the Medical Records Department since 1989. (See footnote 2) **Grievant reports to the Director of Nursing and has one employee, Julie Watson, under her direct supervision. Personnel conducted a major reclassification project covering employees**

working for the Department of Health and Human Resources (hereinafter HHR) resulting in Grievant's reclassification as a Medical Records Assistant on December 16, 1992.

Grievant's Position Description contains the following summary of her duties:

> Responsible as a working supervisor of the Medical Record Department which includes the organizing, planning, and directing of the activities necessary for record management and maintenance; supervise, direct, assign or instruct OJT of one assistant; maintain complete and non-deficient records readily accessible for the disciplines of care givers, for research, for review, or for federal and state audits; responsible for staying abreast of all statutes/changes (legal or regulatory) as related to records.

Grievant testified without contradiction that she is one of four people at Lakin Hospital who are responsible for maintaining medical records. However, only Ms. Watson is under her direct supervision. Ms. Watson is classified as an Accounting Assistant II. Grievant personally trained one of the other two medical records personnel in record keeping, records maintenance and microfilming. On occasion, Grievant performs some of their duties when these employees are on extended leave. In addition, Grievantprovides at least annual inservice training on medical records. These other personnel also come to Grievant seeking guidance and counsel on matters relating to medical records. In particular, these other employees consult with Grievant on release of confidential medical records. One of these other employees maintains current unit records or "patient charts" in the Nursing Department while the other employee transfers inactive medical records from various other state hospitals to microfilm.

Because Grievant is a "working supervisor," she personally performs various tasks relating to patient records, including entering data into a patient database using a computer at her desk. For example, she enters data relating to patient admissions and discharges as well as diagnosis codes. She also uses the computer system to prepare various reports. Grievant's direct subordinate, Ms. Watson, works as an admissions clerk and a billing clerk, collecting for physician services under Medicare and Medicaid.

Classification Specifications at Issue

The relevant portions of the classification specifications for the Medical Records Assistant and Medical Records Supervisor positions at issue in this case are reproduced herein as follow:

MEDICAL RECORDS ASSISTANT

Nature of Work

Under general supervision, performs paraprofessional work at the full-performance level in the maintenance of medical records in a state health care facility. Responsible for the upkeep and condition of patient files, including typing, indexing, coding and filing. Compiles medical care census data. May supervise the medical records unit in a small facility. May work nights, evenings, weekends and/or holiday (sic). Performs related work as required.

Examples of Work

Codes and indexes patient files.

Analyzes patients' records to assure all information is included and in proper format.

Files information related to patient charts and files, in compliance with federal, state and professional standards.

Compiles statistical reports: Outpatient, patient and facility activity, deaths, long-term care, substance abuse, medicaid, medicare and other related reports.

Types labels, file folders, forms, and related correspondence; writes correspondence concerning information contained in medical records.

Bills appropriately for medicare, medicaid and other accounts.

Purges files when necessary.

Decides if all files are complete and accurate and returns file to appropriate person for changes when necessary.

Uses patients' charts to complete questionnaires and various reports.

J Ex 1.

MEDICAL RECORDS SUPERVISOR

Nature of Work

Under general supervision, performs supervisory work in the care and maintenance of all medical records in a hospital or health care facility. Work includes the development and maintenance of a classification system of medical records including quality control, collection of statistical data, and quantitative analysis of unit medical record activities. Supervises all technical records functions for the unit to insure compliance with federal, state and professional requirements. Work is performed under the general supervision of the Clinical Director or Hospital Administrator. Performs related work as required.

Examples of Work

Supervises the daily record coding, posting and updating procedures and reviews medical records for completeness and accuracy and for compliance with federal, state and professional standards.

Insures the strict confidentiality of all patient's medical records; screens the release of information to all personnel.

Prepares various associated reports including monthly death reports, monthly statistical patient data reports and a comprehensive annual statistical report on admissions and releases.

Supervises file clerks in the routine maintenance and disposition of medical records which includes preparation of records for microfilming and storage of original records.

Trains new employees and may conduct continuous in-service training classes in medical terminology, coding procedures for medical records unit personnel.

J Ex 2.

Parties' Contentions

Grievant essentially contends that she should be classified as a Medical Records Supervisor because that classification provides the "best fit" for her duties. Her employer, HHR, concurs with Personnel that Grievant has been properly classified as a Medical Records Assistant. Personnel argues that the Medical Records Assistant classification provides the "best fit" for Grievant's position since she is not responsible for all medical records in the institution and she does not supervise at least three subordinate employees.

Discussion

In order for Grievant to prevail upon a claim of misclassification, she must prove by a preponderance of the evidence that her duties for the relevant period more closely matched

another cited Personnel classification specification than that under which she is currently assigned. See generally, Hayes v. W. Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). Personnel specifications are to be read in "pyramid fashion," i.e., from top to bottom, with the different sections to be considered as going from the more general/more critical to themore specific/less critical, Captain v. W. Va. Div. of Health, Docket No. 90-H-471 (Apr. 4, 1991); for these purposes, the "Nature of Work" section of a classification specification is its most critical section. Atchison v. W. Va. Div. of Health, Docket No. 90-H-444 (Apr. 22, 1991).; See generally, Dollison v. W. Va. Dept. of Employment Security, Docket No. 89-ES-101 (Nov. 3, 1989). The key to the analysis is to ascertain whether Grievant's current classification constitutes the "best fit" for her required duties. Simmons v. W. Va. Dept. of HHR/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991). The predominant duties of the position in question are class-controlling. Broaddus v. W. Va. Div. of Human Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). Finally, Personnel's interpretation and explanation of the classification specifications at issue should be given great weight unless clearly erroneous. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993).

Clearly, the primary difference between a Medical Records Supervisor and a Medical Records Assistant is that the former is a supervisor while the latter is not. Personnel contends that, although it is not spelled out in the classification specification, there is a long-standing practice that a classified employee must supervise at least three employees to be considered a "supervisor" for classification purposes. See R Ex 3. Accepting this interpretation as a matter within Personnel's broad discretion to establish an employee classification system, it is substantially negated by Personnel's acknowledgement that the employeeresponsible for medical records at Pinecrest Hospital directly supervises only one employee and was nonetheless classified as a Medical Records Supervisor. (See footnote 3)

Comparison of Grievant's duties with another employee classified as a Medical Records Supervisor might not be relevant since the other employee could be misclassified. However, comparison with the position at Pinecrest is probative in that there was testimony that this position was only recently reclassified as a Medical Records Supervisor, following a field audit of the position by the Assistant Director of Personnel for Classification and Compensation. (No field audit was conducted on Grievant's position.) Accordingly,

Personnel's actions in reclassifying the Pinecrest position is more probative of its interpretation of the language in the classification specification than testimony or written statements from Personnel which purport to explain how Grievant fails to "fit" under that same specification.

Thus, although employees classified as Medical Records Supervisors at other state hospitals may supervise 15 to 20 employees or more, (See R Ex 1; R Ex 4.) Personnel's actual practice appears to take into consideration an employee's overall level of responsibility in making exceptions to its usual numerical standard for obtaining supervisory status. In that regard, theundersigned was convinced by a preponderance of the evidence of record that Grievant's level of responsibility was substantially the same as other HHR employees classified as Medical Records Supervisors, particularly the employee at Pinecrest. It may appear incongruous for Grievant to hold the same classification as someone who supervises 15 to 20 subordinates. However, the more glaring and less defensible incongruity would be to classify Grievant disparately from her Pinecrest peer who encompasses a virtually identical span of responsibility (See footnote 4) **and directly supervises only one employee.**

Grievant spends a majority of her time, approximately 25 hours per week, performing duties relating to the supervision of medical records and records maintenance. These duties, as specified in Grievant's Position Description, better fit under the Medical Records Supervisor position classification than Medical Records Assistant. In addition, Grievant has responsibility for quality control and quantitative analysis of unit medical record activities, duties that are emphasized in the "Nature of Work" section of the Medical Records Supervisor classification but whichare not contained in the classification specification for Medical Records Assistant.

Grievant's subordinate, Ms. Watson, was recently reclassified from an Accounting Assistant II to a Medical Records Assistant, despite her primary function as a "billing clerk." See R Ex 3. Personnel noted that they opposed this reclassification. In any event, the general duties performed by this employee tend to support Grievant's contention that her span of responsibility encompasses Medicare and Medicaid billing, (See footnote 5) **as well as admissions, factors that add to the complexity of her work. Thus, these circumstances operate to bolster her contention that the work being performed substantially exceeds the**

classification of a Medical Records Assistant.

Personnel also noted that Grievant works under the direct supervision of the Director of Nursing rather than the Clinical Director or Hospital Administrator as specified in the position classification statement. Grievant testified that technical questions and guidance regarding records administration comes from the Medical (Clinical) Director or the Hospital Administrator. Lakin apparently elected to place medical records under the Director of Nursing since nurses are primarily responsible for making most entries into patient medical records. This variance from the normal staffing pattern set forth in the classificationspecification for Medical Records Supervisor does not significantly change the nature of Grievant's work.

In conclusion, upon a thorough review of the record in this case, and upon comparing and contrasting the classification specifications for the classified positions of Medical Records Supervisor and Medical Records Assistant, Grievant has proven by a preponderance of the evidence that she has been performing the duties of a Medical Records Supervisor. The substance of Grievant's work is virtually identical to the nature of work described in the classification specification for Medical Records Supervisor. Also, Grievant performs more of the examples of work listed in the Medical Records Supervisor classification than that for Medical Records Assistant. Accordingly, the evidence of record supports the conclusion that the Grievant is performing as a Medical Records Supervisor rather than as a Medical Records Assistant and the former classification is the "best fit" for her duties. See Simmons v. W. Va. Dept. of HHR/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991).

The foregoing discussion of the facts of the case and of the applicable law to those facts is hereby supplemented by the following appropriate conclusions of law.

Conclusions of Law

1. Grievant has proven by a preponderance of the evidence that she is performing the duties of a Medical Records Supervisor based upon the principle that the predominant duties of a position are class-controlling. Broaddus v. W. Va. Div. of Human Services,Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). See Fuller v. Cabell-Huntington Health Dept., Docket No. 90-H-169 (Nov. 29, 1990).

2. The Division of Personnel's interpretations of the classification specifications for the positions of Medical Records Supervisor and Medical Records Assistant as they relate to Grievant's required job duties are clearly wrong in light of the probative evidence of record. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993); Propst v. W. Va. Dept. of Health & Human Resources, Docket No. 93-HHR-351 (Dec. 3, 1993).

Therefore, this grievance is GRANTED and the Division of Personnel is hereby ORDERED to classify Veneita Evans as a Medical Records Supervisor retroactive to December 16, 1992 when her position was misclassified as a Medical Records Assistant, and the Department of Health and Human Resources is hereby ORDERED to pay her damages in the form of the difference between the salary she would have received had she been properly classified and the salary she did receive while classified as a Medical Records Assistant, if any, (See footnote 6) less any appropriate set-off, for the period in question.

Any party may appeal this decision to the circuit court of the county in which the grievance occurred and such appeal must be filed within thirty (30) days of receipt of this decision. W.Va. Code §29-6A-7. Neither the West Virginia Education and State Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal and should not be so named. Any appealing party must advise this office of the intent to appeal and provide the civil action number so that the record can be prepared and transmitted to the appropriate court.

LEWIS G. BREWER

Administrative Law Judge

Dated: June 30, 1994

Footnote: 1*At the conclusion of the hearing, all parties waived the opportunity to make written submissions and this case became mature for decision at that time.*

Footnote: 2*Although this information was gleaned from the transcript of the Level III hearing, no page references will be noted in this opinion as the transcript pages were not numbered.*

Footnote: 3*This opinion is not intended to reject Personnel's interpretation of classification specifications relating to supervisory positions as generally requiring a span of control encompassing at least three or more employees.*

Footnote: 4*Personnel presented evidence that the Pinecrest employee who was reclassified as a Medical Records Supervisor is responsible for employee medical records and X-rays. At Lakin, these same records are maintained in the Personnel Office and Radiology. This merely establishes a quantitative distinction in the amount of work performed rather than a qualitative difference in the level of responsibility exercised by the incumbents of the two positions, both of which appear to involve "working" supervisors. Both Pinecrest and Lakin are similar in size, approximately 125-140 bed facilities.*

Footnote: 5*According to the evidence, these significant duties are not included within the responsibility of the Pinecrest employee classified as a Medical Records Supervisor. See R Ex 5.*

Footnote: 6*No evidence was presented regarding any difference in pay between the Medical Records Assistant classification and the Medical Records Supervisor classification as it would pertain to the Grievant.*