WILMA BURDETTE

v. Docket No. 93-HHR-325

DEPARTMENT OF HEALTH AND

HUMAN RESOURCES/DIVISION OF PERSONNEL

DECISION

Grievant, Wilma Burdette, employed by the Department of Health and Human Resources (DHHR or Respondent), at the West Virginia Children's Home (WVCH), filed a level four grievance appeal on August 18, 1993, alleging that she is misclassified as an Office Assistant I or II. (See footnote 1) Ms. Burdette asserts that based upon the duties which she performs, her proper classification is Secretary I. A level four hearing was conducted on October 25, 1993, at which time the case became mature for decision after all parties elected to waive the opportunity to file post-hearing submissions.

Grievant was first employed by DHHR as a Typist I. On June 8, 1992, DHHR posted the position vacancy of Secretary I at the West Virginia Children's Home. Carson W. Markley,Director of the WVCH, recommended that Grievant be promoted to the position; however, "Cancel 7/21/92 per Kay Holley" was handwritten on the Personnel Action form (WV-11). A separate, undated note apparently referencing the action taken on the WV-11 stated "Tom Strawderman said to rescind this PA. [signed] Kay." Tom Jacobs advised Mr. Markley by memorandum dated September 24 that the position was "on hold" pending reclassification and that perhaps it should be resubmitted. Mr. Carson complied with the suggestion resubmitting the proposed promotion on September 25, 1992.

On May 29, 1992, Grievant completed a position description in which she stated her primary duties consisted of answering the telephone, routing and screening calls, making appointments and reminding staff of appointments (5 hours per week), typing and composing correspondence, memos, and reports from rough draft, typing forms and purchase orders, and transcribing information from the dictaphone (8 hours per week), assigning resident files including typing the case summaries (8 hours per week), processing invoices (9 hours per week), assisting in assembling employment packages, organizing material for meetings, and updating and organizing manuals and guides (6 hours per

week), and filing (4 hours per week). Grievant asserts that these duties fulfill the responsibilities of a Secretary I and that the only duty which she does not engage is the delegation of work to others. To further support her claim for reclassification Grievant offered the testimony of Mr. Markley and Wanda Siler, Assistant Director of the WVCH. Mr. Markley opined that Grievant performs the duties of a Secretary I and stated that her present classification was based on funding rather than actual work performed. Ms. Siler concurred with Mr. Markley that Grievant functions as a Secretary I and cited several examples in which she works independently, including scheduling interviews, providing general information over the telephone and scheduling staff meetings.

Grievant also submitted a Quarterly Written Examination Announcement for the period of October 1 through December 31, 1993. The announcement listed Secretary I as performing secretarial, typing, clerical, and general office duties and required three years experience. Attached to the announcement were six postings for positions of Secretary I.

Lowell T. Basford, Assistant Director, Classification and Compensation, testified that while much similarity exists between the Office Assistant II and Secretary I positions, the real difference in the classifications is the complexity, difficulty, and responsibilities which emanate from the position for which the employee works. Specifically, the classification of Office Assistants and Secretaries are determined by the level of the administrative or supervisory position to which they are assigned. Mr. Basford stated that the two positions inquestion may be distinguished by reviewing whether the employee works with staff on a statewide level, has interplay with federal agencies, is required to exercise familiarity with the agency in its entirety, and the potential consequences of an error made by the employee. Mr. Basford noted that while the clients of WVCH come from all areas of the state, the WVCH staff work within a limited area of the Department of Health and Human Resources. He concluded that because Grievant is not required to exercise a broad knowledge of DHHR program services or work with a statewide staff, the difficulty and complexity of the responsibilities which she performs are less than those of a Secretary I.

The method of reviewing misclassification cases is well established. In order for the Grievant to prevail she must prove, by a preponderance of the evidence, that her duties more closely match those of Secretary I than those of the classification to which she is presently assigned, Office Assistant II. See generally, Hayes v. W.Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). The duties of the two positions in question are set forth in the following portions of the

relevant classification descriptions.

OFFICE ASSISTANT II

Nature of Work

Under general supervision, performs full-performance level work in multiple-step clerical tasks calling for interpretation and application of office procedures, rules and regulations. Performs related work as required.

Distinguishing Characteristics

Performs tasks requiring interpretation and adaptation of office procedures as the predominant portion of the job. Tasks may include posting information to logs or ledgers, and checking for completeness, typing a variety of documents, and calculating benefits. May use a standard set of commands, screens, or menus to enter, access and update or manipulate data.

At this level, the predominant tasks require the understanding of the broader scope of the work function, and requires an ability to apply job knowledge or a specific skill to a variety of related tasks requiring multiple steps or decisions. Day-to-day tasks are routine, but initiative and established procedures are used to solve unusual problems. The steps of each task allow the employee to operate with a latitude of independence. Work is reviewed by the supervisor in process, randomly or upon completion. Contacts are usually informational and intergovernmental.

Examples of Work

Posts information such as payroll, materials used or equipment rental to a log or ledger; may be required to check for completeness; performs basic arithmetic calculations (addition, subtraction, division or multiplication); corrects errors if the answer is readily available or easily determined.

Maintains, processes, sorts and files documents numerically, alphabetically, or according to other predetermined classification criteria; reviews files for data and collects information or statistics such as materials used or attendance information.

Answers telephone, screens calls, takes messages and complaints; gives general information to callers when possible, and specific information whenever possible.

Receives, sorts and distributes incoming and outgoing mail.

Operates office equipment such as adding machine, calculator, copying machine or other machines requiring no special previous training.

Types a variety of documents from verbal instructions, written or voice recorded dictation.

Collects, receipts, counts and deposits money.

Calculates benefits, etc., using basic mathematics such as addition, subtraction, multiplication, division and percentages.

Posts records of transactions, attendance, etc., and writes reports.

May compile records and reports for supervisor. May operate a VDT using a set of standard commands, screens, menus and help instructions to enter, access and update or manipulate data in the performance of a variety of clerical duties; may run reports from the database.

SECRETARY I

Nature of Work

Under general supervision, at the full-performance level, relieves supervisor of clerical and minor administrative duties, exercising discretion and independent judgment. Necessity for dictation, familiarity with word processors, and other special requirements vary depending upon supervisor's preference. Performs related work as required.

Distinguishing Characteristics

This class is distinguished from the Office Assistant series by the assignment of support duties to a specific individual overseeing a section, or a division. The incumbent composes routine correspondence for the supervisor, screens calls and visitors and responds to inquiries requesting knowledge regarding office procedure, policy and guidelines, and program information. The position has limited authority to speak for the supervisor.

At this level, the work requires the knowledge necessary to complete complex procedural assignments. Incumbent determines appropriate procedures from among a variety of resources, methods, and processes. Incumbent is responsible for his/her own work, and may assign and direct the work of others. Although some tasks are defined and self-explanatory, the objectives, priorities, and deadlines are made by the supervisor. Work is reviewed, usually upon completion, for conformance to guidelines. Contacts at this level are frequent and often non-routine and/or of a confidential or sensitive nature, requiring tact and the ability to judge which inquiries can be answered or must be referred.

Examples of Work

Responds to inquiries where knowledge of unit policy, procedure, and guidelines is required.

Answers telephone, screens calls, and places outgoing calls.

Screens mail and responds to routine correspondence.

Signs, as directed, supervisor's name to routine correspondence, requisitions, and other documents.

Schedules appointments and makes travel arrangements and reservations for supervisor.

Takes and transcribes dictation, or transcribes from dictation equipment.

Composes form letters, routine correspondence, and factual reports. Types reports, manuscripts, and correspondence using standard typewriter or word processing equipment; proofreads and corrects to finished form.

Gathers, requests, and/or provides factual information, requiring reference to variety of sources.

May delegate routine typing, filing and posting duties to subordinate clerical personnel.

May maintain basic bookkeeping records for grants, contract or state appropriated funds.

May prepare payrolls, keep sick and annual leave records, act as receptionist and perform other clerical duties as needed.

May attend meetings take notes and relay information; typically would not interpret information or speak on behalf of supervisor.

These 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 the more 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 the 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 No. 89-DHS-606, 607, 609 (Aug. 31, 1990). Finally, Personnel's interpretation and explanation of the classification specifications at issue should be given greatweight

unless clearly erroneous. W.Va. Dept. of Health v. Blankenship, 431 S.E. 2d 681, 687 (W.Va. 1993).

It is readily apparent from the Nature of Work specifications that the significant differences between Office Assistant II and Secretary I are the complexity of the work and the amount of supervision under which the employee functions. While Grievant performs a variety of duties, such as typing and answering the telephone, which are similar to those performed by a Secretary, the evidence establishes that she is rarely, if ever, required to interpret and apply office procedures, rules, and regulations, and her authority for independent action is limited.

Although Grievant may work independently, her duties are routine and completed under the guidance of well- structured directives. Grievant's work does not encompass the state-wide agency structure but rather is limited to the narrow area of services provided by the WVCH. The limited responsibilities together with less complex or difficult duties performed by Grievant establish that her "best fit" classification is Office Assistant II. Based upon the foregoing, the undersigned cannot determine that Personnel's application of standards resulting in Grievant's classification as an Office Assistant II is clearly wrong.

In addition to the foregoing narration, the following specific findings of fact and conclusions of law are appropriate.

FINDINGS OF FACT

1. Grievant is employed as an Office Assistant II at the West Virginia Childrens Home in Elkins, West Virginia.

2. On a position description completed by Grievant she estimates that her duties consist of answering the telephone, routing calls, making appointments, typing forms with some composition of correspondence, transcription, processing invoices, assisting in assembling employment packages and organizing material for meetings, and filing.

3. Grievant's duties do not require that she interpret or apply office procedures, rules, and regulations. Grievant's duties do consist of a variety of routine tasks which she performs within prescribed procedures and guidelines.

4. Many of the "Examples of Work" overlap between the classification descriptions for Office Assistant II and Secretary I; however, the distinguishing factor which actually separates the two classes is the difficulty and complexity of the job duties.

CONCLUSIONS OF LAW

1. Grievant has not proven by a preponderance of the evidence that her duties more closely match the classification of Secretary I, or that the higher classification constitutes the "best fit" for the duties she performs. See generally, Hayes v. W.Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989); Simmons v. W.Va. Dept. of Health and Human Resources, Docket No. 90-H-433 (Mar. 28, 1991).

2. The performance of some duties outside the employee's classification does not render her misclassified. Dooley v. W.Va. Dept. of Health and Human Services, Docket No. 90-H-498 (Mar. 19, 1991). It is the predominant duties of the position in question which are class-controlling. Broaddus v. W.Va. Div. of Human Services, Docket Nos. 89- DHS-606, 607, 609 (Aug. 31, 1990).

3. Personnel's interpretation of classification specifications should be accorded great weight unless shown to be clearly erroneous. W.Va. Dept. of Health v. Blankenship, 431 S.E. 2d 681 (W.Va. 1993).

4. Personnel's determination that Grievant's job duties best fit the classification specification for Office Assistant II is not clearly erroneous.

Accordingly, the grievance is DENIED.April 19, 1994 SUE KELLER

SR ALJ

Footnote: 1

The parties agreed to waive processing at levels one and two. Following a hearing at level three it was determined that Grievant was improperly classified as an Office Assistant I and that she should be reclassified as Office Assistant II.