DORIAN O. AUVIL,

Grievant,

v. DOCKET NO. 94-HHR-613

DEPARTMENT OF HEALTH AND HUMAN RESOURCES/DIVISION OF PERSONNEL,

Respondents.

D E C I S I O N

Grievant, Dorian Auvil, employed by the Department of Health and Human Resources, Medicaid Fraud Control Unit, following adverse decisions at the lower levels, filed a level four appeal on October 18, 1994, alleging that he is misclassified as a Microcomputer Programmer. Grievant asserts that his duties and responsibilities more closely match those of a Programmer Analyst I. A hearing was held on February 7, 1995, at which time the case became mature for decision.

The classification specifications at issue are reproduced herein as follows:

MICROCOMPUTER PROGRAMMER

Nature of Work

Under general supervision, performs full-performance level programming work writing computer programs primarily for personal computers (PC's). Analyzes work processes and systems to determine needs. Defines the logic flow of the program and documents the programs and systems. Performs related work as required.

Distinguishing Characteristics

Work is characterized by the application of programming principles to the PC. The predominant duty is application programming for other users rather than programming for ones own use. The ability to develop original software or revise software packages for use on

PC's is the desired trait. This class is not intended for use in an environment with occasional programming needs.

Examples of Work

Evaluates software packages, reads manuals, and becomes familiar with languages.

Consults with users to determine specific program requirements and types of data necessary for production; may prepare detailed specifications, output requirements, and logic specifications necessary for programming and systems documentation.

Communicates with users to resolve production problems, define specifications and analyze test results.

Writes new programs or modifies existing programs; designs flow charts, reviews logic, codes logic flow into appropriate language; conducts test runs, debugs program from test results and writes documentation.

Participates in self-study and vendor-supplied courses to improve skills in programming areas.

Performs routine duties such as keying programs, maintaining program documentation, updating data processing manuals and cleaning work area.

Trains users on developed applications and other automation tools.

Knowledge, Skills and Abilities

Knowledge of structural programming.

Knowledge of programming language (Basic, dBase, SAS, Fox Base, XBase, Paradox or Clipper).

Knowledge of data processing concepts and equipment usage.

Ability to evaluate and analyze user requests and develop effective work plans for systems development and maintenance.

Ability to present ideas in a clear, concise format using narrative statements and logic diagrams.

Ability to follow complex written and oral instructions.

Ability to maintain effective working relationships with data processing personnel and users.

Ability to understand complex technical manuals.

Ability to complete work within time frames.

Ability to develop and perform system checks which are sufficient to test the thoroughness and accuracy of programs.

PROGRAMMER ANALYST I

Nature of Work

Under general supervision, at the full-performance level, performs a full range of computer programming work involving the development and maintenance of application programs with minimal instruction. Researches documentation to learn the location of file layouts and codes programs of moderate complexity such as matching files. Creates test files and conducts test runs, debugs programs and prepares documentation. Attends user meetings with supervision. May perform limited systems analysis under direction. An irregular work schedule may be required of this position. Performs related work as required.

Distinguishing Characteristics

Programmer Analyst I's require less supervision than Programmers. Programmer Analyst I's receive job assignments with less detailed instruction and less routine problems. Programmer Analyst I's perform some systems analysis and design functions. May assist higher level Programmer Analysts in systems analysis of large, more complex systems. Responds to user inquiries.

Examples of Work

Consults with users to determine specific program requirements and the data necessary for production; prepares detailed specifications including block diagrams, input specifications, output requirements, and logic specifications necessary for programming and systems documentation.

Communicates with users to resolve production problems, define specifications and test results.

Writes new programs or modifies existing programs of low to moderate complexity; designs flow charts, reviews logic, codes logic flow into appropriate language, prepares JCL statements, conducts test runs, debugs program from test results and writes documentation.

Participates in self-study and vendor-supplied courses to improve skills in more complex programming areas.

Performs routine duties such as keying programs, creating or changing job control language, maintaining program documentation, updating data processing manuals and cleaning work area.

Trains users on developed applications and other automations tools.

Assists in the analysis of user work processes and systems to determine feasibility of electronic data processing applications.

May instruct subordinate programmers and support staff by providing technical guidance and training in complex programming techniques.

Knowledge, Skills and Abilities

Knowledge of data base management, documentation and project control techniques.

Knowledge of a programming language (COBOL, PL/1 or assembler) and job control language.

Knowledge of data processing concepts and equipment usage.

Skill in programming batch and/or on-line systems.

Ability to develop and maintain complex program systems at a level comparable to teleprocessing applications.

Ability to evaluate and analyze user requests and develop effective work plans for systems development and maintenance.

Ability to present ideas in a clear, concise format using narrative statements and

logic diagrams.

Ability to follow complex written and oral instructions.

Ability to train others in programming techniques.

Ability to maintain effective working relationships with data processing personnel and users.

Ability to understand complex technical manuals.

Ability to complete work within timeframes.

Ability to develop and perform system checks which are sufficient to test the thoroughness and accuracy of programs.

In order for Grievant to prevail upon a claim of misclassification, he must prove by a preponderance of the evidence that his duties for the relevant period more closely match another cited Personnel classification specification than that under which he 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 goingfrom 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. Dept. 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 his 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, if the language is determined to be ambiguous, should be given great weight unless clearly erroneous. See, W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993).

Both classification specifications involve the area of computer programming and analysis. Before the Statewide Reclassification Project, the classification series was called Programmer Analyst and there were several levels within the class. Grievant was classified as a Programmer Analyst I at that time. It was determined during the Reclassification Project that there were an increasing number of positions in State government that had programming responsibility in a personal computer ("PC")environment as opposed to a mainframe environment. A new class was developed called Microcomputer Programmer to more properly identify positions that worked in the PC environment. Tr., pp. 11-12.

A review of the classification specifications at issue reveal that the Nature of Work and Examples of Work are virtually identical for both classifications except that one works strictly in a PC environment, while the other performs in a mainframe environment. Grievant does not deny that he performs a majority of the functions listed on the Microcomputer Programmer classification specification. There is also no dispute that Grievant is qualified and capable of performing programming functions in both a PC and mainframe environment. However, the classification specifications are designed to describe a "job", not the person who performs the job. So, while Grievant is undoubtedly capable of programming on a wide variety of computer equipment, his evidence and testimony supports Personnel's conclusion that he works mainly in a PC environment. It is exactly this type of position that was found to warrant

the new classification series of Microcomputer Programmer.

The following findings of fact are derived from the record developed by the parties.

Findings of Fact

1. Grievant is employed as a Microcomputer Programmer within the Medicaid Fraud Control Unit of the Department of Health and Human Resources.

2. Grievant is responsible for writing computer programs in dBase which generate reports used by investigative and audit staff. Grievant maintains a repository of mainframe data on all Medicaid payments since December 1986 which serves as the data base on which he writes programs to extract certain data and generate reports. R Ex. 1.

3. Grievant's work involves a full range of programming work primarily within a personal computer (PC) environment.

Conclusions of Law

1. Grievant has failed to prove by a preponderance of the evidence that he is improperly classified as Microcomputer Programmer based upon a review of his duties and responsibilities.

2. Personnel's interpretation of the two classification specifications at issue in this case is not clearly wrong as applied to the facts established by the Grievant. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993).

Accordingly, this grievance is DENIED.

Any party or the West Virginia Division of Personnel 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.

MARY JO SWARTZ

Administrative Law Judge

Dated: February 23, 1995