SHONNA E. ALDERMAN,

Grievant,

v. **DOCKET NO. 97-HHR-401**

WEST VIRGINIA DEPARTMENT OF
HEALTH & HUMAN RESOURCES/
WILLIAM R. SHARPE JR. HOSPITAL
and DIVISION OF PERSONNEL,

Respondents.

DECISION

Shonna E. Alderman ("Grievant") filed this grievance pursuant to the provisions of W. Va. Code §§29-6A-1, et seq., on November 4, 1996, alleging she should have been properly classified as an Administrative Secretary, rather than as a Secretary II, by Respondent Division of Personnel ("DOP"). She seeks back pay in the appropriate classification to April 1, 1996, the date upon which Grievant alleges she and her supervisor first realized she had exceeded the responsibilities of her assigned classification. (See footnote 1)

The grievance was denied at levels one and two, followed by an appeal to level three, where a hearing was conducted on March 24, 1997. In a decision dated August 20, 1997, the grievance was denied at level three by John Bianconi, Acting Director of the Bureau for Community Support. Grievant appealed to level four on September 4, 1997, and the parties agreed to submit this matter on the record developed below without benefit of a level four hearing. This grievance became mature for decision upon the submission of the parties' written arguments on November 21, 1997.

The following findings of fact are made from a preponderance of all of the evidence of record.

Findings of Fact

1. Grievant is employed by Respondent Department of Health and Human Resources ("DHHR") at Sharpe Hospital and is classified as a Secretary II.

2. Grievant's immediate supervisor is Michael Todt, Hospital Administrator. However, Grievant also provides support services for three other people, including the hospital's chief financial officer, the clinical director, and the hospital attorney. The majority of Grievant's duties involve work conducted for Mr. Todt.

3. Grievant performs a variety of duties for Mr. Todt and performs many of them quite independently. Her work includes the following:

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Composes correspondence and memos on Mr. Todt's behalf. The documents are signed under Mr. Todt's name, but he does not necessarily approve them before Grievant sends them out. However, Mr. Todt and Grievant discuss all such memos and correspondence.

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Attends management meetings on Mr. Todt's behalf, at which meetings Grievant provides input regarding the hospital administrator's position on various subjects. After many of these meetings, Grievant will compose a policy memorandum reflecting what was agreed to by the managers attending the meetings, without having been asked to do so. On such occasions, Mr. Todt may make some modifications to the policy Grievant has composed before it is sent out in final form.

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Composes routine reports which are Mr. Todt's responsibility, and which usually involve reports of events occurring at the hospital. Grievant independently gathers the information needed.

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Coordinates, schedules and makes necessary arrangements for various conferences and meetings.

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Opens and screens mail; Grievant then determines to whom various matters should be referred and does so without Mr. Todt's involvement.

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Ensures that Mr. Todt, as hospital administrator, complies with all applicable policies and takes whatever action is necessary for doing so.

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Maintains Mr. Todt's calendar and schedules all of his appointments.

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Deals with problems in Mr. Todt's absence by gathering information herself or by working with a senior manager.

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Spends a small portion of time typing, scheduling appointments and performing related clerical duties for her other supervisors.

See Testimony of Michael Todt, L III Transcript.

Classification Specifications at Issue

The relevant portions of the classification specifications for the Secretary II and Administrative Secretary positions at issue in this case are reproduced as follows:

SECRETARY II

Nature of Work

Under general supervision, at the full-performance level, provides clerical and administrative relief, exercising discretion and independent judgment. May sign supervisor's name to routine memorandums, correspondence and forms. Attends meeting[sic] in the supervisor's absence or on the supervisor's behalf. Necessity for dictation, familiarity with word processor and other special requirements vary depending upon supervisor's preference.

Distinguishing Characteristics

Work at this level is characterized by the level of administrative support performed. Typically,

duties such as researching a variety of sources (library, division archives, past-practice documents, outside private sources, etc.), attending meetings for supervisor where interpretation of information gathered is necessary, and coordinating the activities of section, unit, etc., are characteristic of this level.

At this level, the work requires the application of specific knowledge necessary to complete complex procedural or unusual assignments. Incumbent determines appropriate procedures from among various and variable methods, resources, and processes, or devises innovative methods to accomplish assignment. Incumbent is responsible for his/her own work, and may assign, direct, or supervise the work of others. Although some tasks are defined and self-explanatory, the incumbent works closely with supervisor to set objectives, priorities, and deadlines; may independently set goalsand time frames for individual work assignments. Work is typically reviewed randomly upon completion for adherence to guidelines. Contacts at this level are frequent, typically varied and non-routine. Incumbent answers procedural or program inquiries, whenever possible, or refers. Contacts are frequently of a confidential or sensitive nature and require tact.

Examples of Work

Coordinates activities associated with the functions of the division/section/unit, planning and implementing office procedures.

Researches basic statistical work in the compilation of reports involving the activities of the division/section/unit.

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

Answers telephone, screens calls, and places outgoing calls.

Screens mail and responds to routine correspondence.

Schedules appointments and makes travel arrangements and reservations for supervisor.

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

Attends meetings with or on behalf of supervisor to take notes or deliver basic information.

Composes form letters, routine correspondence, and factual reports requiring judgment and originality.

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

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

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

May maintain bookkeeping records for grants, contract or state appropriated funds or related departmental accounts.

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

May assign and review the work of others.

Exhibit 2 at L III.

ADMINISTRATIVE SECRETARY

Nature of Work

Under general direction, performs advanced level work by assuming responsibility for adjunctive administrative duties under the guidance of an administrator. Applies in-depth knowledge of program areas, the mission of the division, and the administrator's jurisdiction, policies and views. Provides support services to administrator by supplying specific information, composing reports and correspondence, and taking action in modifying and/or improving unit procedures, policies, rules and regulations. Depending on size of organizational unit, may offer some clerical support to administrative superior, often in matters which must remain confidential. Typically performs administrative support for an agency/division administrator. Performs related work as required.

Distinguishing Characteristics

The paraprofessional work at this level is generally confidential and requires a working knowledge of program areas within the division or organizational unit to which assigned. Administrative support duties are predominant; clerical/secretarial duties typically comprise less than 20% of work time.

Examples of Work

Attends meetings for supervisor to take notes and offer input vis-a-vis supervisor's views, or is briefed on meetings after the fact in order to assist the implementation of new procedures.

Studies and analyzes operational procedures; prepares reports of findings and recommendations for implementation of new procedures or the modification of existing procedures.

Collects and perpares operating reports such as time and attendance records, terminations, new hires, transfers, budget expenditures, and statistical inquiries.

Receives telephone calls, personal callers and incoming mail.

Makes arrangements for conferences, including date, time, location and space.

Plans, schedules, asigns, and reviews the work of other employees.

Oversees office services such as the completion of maintenance reports, ordering of supplies, filing.

Supplies administrator with specific detailed information for completion of reports, speeches, etc.

Types a variety of documents, often confidential in nature.

May conduct initial job interviews and recommend candidates for employment.

May monitor particular programs, draft reports on programs status, assist in applications for grants or outside monies, and draft correspondence for division heads concerning the programs areas.

May delegate work to other sections.

May write news releases and otherwise interact with the public on behalf of or in lieu of the administrator.

Exhibit 1 at L III.

Discussion

As this grievance does not involve a disciplinary matter, Grievant has the burden of proving each element of her grievance by a preponderance of the evidence. W. Va. Code §29-6A-6; Payne v. W. Va. Dept. of Energy, Docket No. ENGY-88-015 (Nov. 2, 1988). More particularly, in order for a 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 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 generally 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 Health & Human Resources, 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 classifications at issue should be given great weight unless clearly erroneous. W. Va. Dept. of Health v. Blankenship, 189 W. Va. 342, 431 S.E.2d 681 (1993).

Part of Grievant's claim that she is misclassified relates to the allegation that the secretary assigned to the hospital administrator at Huntington State Hospital is classified as an AdministrativeSecretary. Therefore, as the secretary to the administrator of Sharpe Hospital, Grievant argues that she should receive the same classification. However, the Administrative Secretary at Huntington State Hospital is assigned only to work with the hospital administrator. Therefore, her job duties differ in a significant aspect from Grievant's, who provides clerical and secretarial support to three other supervisors, who also report to the administrator; accordingly, a comparison of Grievant's position to that individual is not dispositive in this case. In addition, it is unknown whether or not this other individual may, in fact, be misclassified.

Clearly, Grievant is a highly motivitated, hardworking and independent employee. Mr. Todt's testimony reveals that Grievant has become increasingly indispensable to him by anticipating his needs and performing a lot of work assigned to his office without having to be told what to do. In fact, it would seem that Grievant has taken on a significant amount of responsibility which rises above and beyond the call of duty. However, while this is certainly to be commended, it does not necessarily render her misclassified, because it is positions, not persons, that are classified. See generally, W. Va. Div. of Personnel Administrative Rules, Series I (Amended) § 4.01, et seq. (1993).

Moreover, Grievant's practice of taking on an increasing number of tasks previously performed by Mr. Todt actually fits well within the phrase “provides clerical and administrative relief, exercising discretion and independent judgment” contained in the “Nature of Work” section of the Secretary II classification specification. Mr. Todt, in his level three testimony, made every effort to characterize

Grievant's work as fitting within the Administrative Secretary classification, based upon his opinion that she has ceased to function in a clerical role, and now performs more as an administrator in her own right. However, a close look at Mr. Todt's description of Grievant'sduties reveals that, while she may, at times, perform duties of an Administrative Secretary, her duties fit quite well within those contemplated by the Secretary II specification. In fact, the duties of a Secretary II, as set forth above, involve a great degree of independence. Although an employee may perform some duties outside her classification, this does not render her misclassified. Dooley v. W. Va. Dept. of Health & Human Resources, Docket No. 90-H-498 (Mar. 19, 1991). See Div. of Personnel Administrative Rules, Series I (Amended), §4.04(d) (1993); Broaddus, supra.

DOP argues that the Secretary II description is easily the “best fit” for Grievant's position, also pointing out that Grievant has erroneously assumed that the Secretary II classification was intended for “routine clerical work.” The undersigned agrees. The key to the distinction between the two classifications at issue in this case appears to hinge upon the paraprofessional status contemplated by the Administrative Secretary specification. The description discusses the Administrative Secretary's independent recommendations and actions. Conversely, Mr. Todt's testimony indicates that, while Grievant may function autonomously much of the time, her actions are done only in his name and on his behalf with his final approval. As DOP has noted, the Administrative Secretary is meant to function more as an associate than in a support position. Grievant's duties, while accomplished with extreme competence and independence, are still entirely supportive of Mr. Todt.

The West Virginia Supreme Court of Appeals' holding in Blankenship, supra, presents employees challenging their classification with a substantial obstacle to overcome in attempting to establish that they are currently misclassified. In this case, a preponderance of the evidence indicates that Grievant's predominant duties are more consistent with the Secretary II classification than the Administrative Secretary classification. Although Grievant performs some of the duties containedin the “Nature of Work” section of the Administrative Secretary classification specification, the record is clear that the majority of Grievant's duties fit easily within the Secretary II description of duties.

In accordance with the foregoing findings and discussion, the following conclusions of law are appropriate.

Conclusions of Law

1. In a non-disciplinary matter, Grievant has the burden of proving each element of her grievance by a preponderance of the evidence. W. Va. Code §29-6A-6; Payne v. W. Va. Dept. of Energy, Docket No. ENGY-88-015 (Nov. 2, 1988).

2. Grievant has not proven by a preponderance of the evidence that the classification of Administrative Secretary constitutes the “best fit” for the duties she performs. See Simmons v. W. Va. Dept. of Health & Human Resources, Docket No. 90-H-433 (Mar. 28, 1991).

3. Although Grievant performs some duties that are outside her current classification, this does not render her misclassified. Dooley v. W. Va. Dept. of Health & Human Resources, Docket No. 90-H-498 (Mar. 19, 1991). See Div. of Personnel Administrative Rules, Series I (Amended), §4.04(d) (1993); Broaddus v. W. Va. Div. of Human Services, Docket Nos. 89-DHS- 606, 607, 609 (Aug. 31, 1990).

4. Personnel's interpretations of the classification specifications for the positions of Administrative Secretary and Secretary II, as they apply to the duties being performed by Grievant, are not clearly erroneous and, therefore, should be accorded great weight. W. Va. Dept. of Health v. Blankenship, 189 W. Va. 342, 431 S.E.2d 681 (1993).

5. Grievant's job duties, as demonstrated by a preponderance of the evidence, best fitwithin the classification specification for Secretary II.

Accordingly, this grievance is **DENIED**.

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.

Date: January 30, 1998 _____

V. DENISE MANNING

Administrative Law Judge

Footnote: 1

Respondents have not challenged the timeliness of this grievance.