BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

ROBERT O'DOWD, Appellant, vs. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent.	CASE No. R-ALLO-14-023 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came before the Personnel Resources Board, SUSAN MILLER, Member, and VICKY BOWDISH, Member, for a hearing on Appellant's exceptions to the director's determination dated October 24, 2014. The hearing was held on April 8, 2015.

Appearances. Appellant Robert O'Dowd was present and was represented by Sherri-Ann Burke, Labor Advocate with the Washington Federation of State Employees. Respondent Department of Social and Health Services (DSHS) was represented by Lester Dickson, Classification and Compensation Specialist.

Background. Appellant requested reallocation of his Financial Services Specialist position on June 13, 2013. By letter dated November 4, 2013, DSHS determined that Appellant's position was properly allocated to the Financial Services Specialist 4 (FSS4) classification.

On December 3, 2013, Appellant filed a request for a director's review of DSHS's determination asking that his position be reallocated to the Program Specialist (PS) 4 classification. By letter dated October 24, 2014, the director's designee determined that Appellant's position was properly allocated to the FSS4 classification.

In November 21, 2014, Appellant filed timely exceptions to the director's determination. Appellant's exceptions are the subject of this proceeding.

During the hearing on his exceptions, Appellant asked the Board to also consider reallocation of his position to a class within the Social and Health Program Manager or the Social and Health Program Consultant series.

As summarized in the director's determination, Appellant works in the Long Term Care (LTC) unit within the Region 1 Home and Community Services (HCS) Division. The work Appellant performs "involves leading, directing and training the unit's Financial Services staff who perform duties associated with determining Medicaid eligibility for aged, blind and disabled clients for nursing homes, assisted living facilities, and adult family homes. [His position deals] with complex eligibility rules associated with long-term and SSI related Medicaid eligibility requirements. [He is] required to analyze funding sources, read complicated documents: trusts, life insurance policies, court orders, etc. in order to determine eligibility for long term care services and benefits. If a client disagrees with a decision made by one of the staff, [Appellant is] responsible for reviewing the decision and representing DSHS at administrative hearings." As part of his lead duties, Appellant audits staff work to assure all necessary documents have been reviewed and included in the file, that eligibility determinations are appropriate and that the dollar amounts provided to eligible clients are correct.

Summary of Appellant's Arguments. Appellant argues that the duties of his position are complex, require a high level of knowledge and training, and include application of a variety complex rules and regulations related to Medicaid and Long Term Care. Appellant contends that other DSHS positions that are allocated to the FSS4 class perform one component of the work described in the class definition while his position performs work in all three of the components. Appellant believes that the components in the definition are separated by "or" statements which means that an FSS4 would not perform work in more than one component. Appellant explains that the FSS series drew a

distinction between line staff and lead staff because the work of a lead is different than the work performed by line staff. Appellant asserts that when line staff in LTC were allocated to the FSS4 level, that distinction was eliminated. Appellant further explains that the allocation of staff he leads to the FSS4 level created salary compression between his position and their positions. In addition, he asserts that his position is similar to or more complex than Program Specialist positions within the Economic Services Administration and within the mobile Community Services Office (CSO). Appellant argues that his position performs duties described in the typical work statements for the Program Specialist 4 (PS4) level which further supports his request for reallocation to the PS4 level.

Summary of Respondent's Arguments. Respondent argues that Appellant's position does not fit within the Program Specialist classifications or the Social and Health Services Consultant classifications because his work is not organization-wide or statewide. Respondent contends that Appellant's duties and responsibilities are specifically included in the FSS4 classification. Respondent explains that when there is a class that includes the duties of a position, the position should be allocated to that class rather than to a more general classification. Respondent further explains that the allocation or misallocation of other positions is not a criterion for the allocation of Appellant's position. Respondent agrees that Appellant performs lead duties but explains that the definition of a lead provides that employees perform the same or similar duties as other employees in the work group. Respondent contends that Appellant's position is fully encompassed in the definition of the FSS4 classification and that his position is properly allocated.

Primary Issue. Whether the director's determination that Appellant's position is properly allocated to the Financial Services Specialist 4 should be affirmed.

Relevant Classifications. Financial Services Specialist 4, class code 165J; Program Specialist 4, class code 107K; and Social and Health Program Consultant class series, class codes 349E – 349H.

Decision of the Board. The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In his exceptions, Appellant raised concerns about his ability to obtain information during the position review process. Appellant provided no persuasive argument that these concerns prevented him from providing the director's designee with complete information about the duties and responsibilities he performed to support his argument for reclassification.

Appellant argues, in part, that the duties and responsibilities of his positions are similar to Program Specialist positions located in DSHS's Economic Services Administration and mobile CSO. This Board and its predecessor, the Personnel Appeals Board, have addressed this issue numerous times. In Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), this Board determined that "[w]hile a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position." Citing to Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996). Therefore, the allocation of other Program Specialist positions is not a determining factor in the proper allocation of Appellant's position.

In Norton-Nader v. Western Washington University, PRB Case No. R-ALLO-08-020 (2008), the Personnel Resources Board (Board) stated that the following standards are the hierarchy of primary considerations in allocating positions:

> a) Category concept (if one exists).
> b) Definition or basic function of the class.
> c) Distinguishing characteristics of a class.
> d) Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question.

Appellant argues that the typical work statements of the Program Specialist 4 classification describe the duties of his position. However, typical work statements do not form the basis for allocation; rather they provide guidance and lend support to the work envisioned within a classification. Typical work statements are not allocating criteria.

In addition, Appellant argues that salary compression supports his request for reallocation. However, salary inequity is not an allocation criterion and should not be considered when determining the appropriate allocation of a position. See Sorensen v Depts. Of Social and Health Services and Personnel, PAB Case No. A94-020 (1995).

The Glossary of Classification Terms defines a "program" as:

> A specialized area with specific complex components and tasks that distinguish it from other programs (or the main body of an organization). A program is specific to a particular subject and has a specific mission, goals, and objectives. A program typically has an identifiable funding source and separate budget code.
>
> The specific components and specialized tasks involve interpretation of policies, procedures and regulations, budget coordination/administration, and independent functioning. Typically requires public contact relating specifically to program subject matter, clients, and participants.
>
> Duties are not of a general support nature transferable from one program to another. Performance of clerical duties is in support of an incumbent's performance of specialized tasks. Independent performance of these duties usually requires at least a six-month training period.

The class series concept for the Program Specialist classes states:

> Positions in this series coordinate discrete, specialized programs consisting of specific components and tasks that are unique to a particular subject and are separate and distinguished from the main body of an organization. Positions coordinate program services and resources; act as a program liaison and provide consultation to program participants and outside entities regarding functions of the program; interpret, review and apply program specific policies, procedures and regulations; assess program needs; and develop courses of action to carry out program activities. Program coordination also requires performance of tasks and application of knowledge unique to the program and not transferable or applicable to other areas of the organization.
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> Examples of program areas may include, but are not limited to: business enterprises, fund raising, volunteer services, community resources, election administration and certification, juvenile delinquency prevention, recreational education and safety, energy education, aeronautic operations and safety, student housing, financial aid, and registration.

The definition for Program Specialist 4 class states:

> Positions at this level work under administrative direction, and have <u>organization-wide program management responsibilities</u>, and are recognized as program specialists. For programs with statewide impact, incumbents are specialists who manage two or more components of the program. Incumbents administer, oversee, and direct all program activities and advise public entities and higher level administrative staff on the program components. Program components are comprised of specialized tasks (e.g., reservations, administration, and budget coordination) within a specialty program. Incumbents provide and coordinate program activities affecting an essential service within the organization or activities with statewide impact. Incumbents perform a wide scope of complex duties and responsibilities in the management of a program, exercise independent judgment, and have delegated decision-making authority. Programs include but are not limited to, salmon, marine and shell fish enhancement programs; boating, concession, or winter recreation programs; missing children's clearinghouse; and fund-raising programs which include prospect identification, endowment campaigns, annual funds, direct mail marketing and membership development.
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> (Emphasis added.)

Long Term Care is a component of the Medicaid program. LTC is not separate and distinguished from the main body of the organization. Appellant does not have organization-wide responsibility for the DSHS Medicaid program or for the LTC component of the DSHS Medicaid program. Rather, his position is limited to leading staff who serve Region 1 LTC clients, using an audit

process to check the work of the staff, and participating in the administrative hearings process before the Health Care Authority. We recognize the LTC is a specialized and complex component of the Medicaid program within DSHS; however, regional LTC units do not meet the intent of the program definition, the Program Specialist class series concept or the Program Specialist 4 classification definition. Appellant's position does not best fit within the Program Specialist 4 classification.

Likewise, the Social and Health Program Consultant class series (formerly Social and Health Program Managers) describes positions that have statewide program responsibilities. Appellant does not have statewide responsibility for LTC, a component of the Medicaid program within DSHS. His position does not fit within the Social and Health Program Consultant class series.

When there is a class that specifically includes a particular assignment and there is a general classification that has a definition which could also apply to the position, the position should be allocated to the class that specifically includes the position. Mikitik v. Dept's of Wildlife and Personnel, PAB No. A88-021 (1989); see also, Waldher v. Dept. of Transportation, PRB Case No. R-ALLO-08-026 (2009).

The Financial Services Specialist classifications specifically address the duties and responsibilities of managing medical benefit programs including determining eligibility, conducting reviews and validating information. FSS4 level describes positions that function as lead workers, fair hearings coordinators or quality assurance reviewers.

The State Human Resources Glossary of Classification Terms defines a lead as:

> An employee who performs the same or similar duties as other employees in his/her work group and has the designated responsibility to regularly assign, instruct, and check the work of those employees on an ongoing basis.

Appellant is a lead worker and he performs work that is similar to the duties of other employees in his work group. In his position review request (Exhibit B-4), Appellant indicates that 75% of his duties involve leading, training and guiding staff, including auditing their work. The remaining 25% of his duties involves representing DSHS in the administrative hearing process before the Health Care Authority. The majority of the duties and responsibilities of Appellant's position are fully encompassed in the FSS4 definition which states, in relevant part:

> Serves as a lead worker . . .; or as a fair hearings coordinator a majority of the time; or as a quality assurance reviewer for one or more units.

Appellant serves as a lead worker a majority of the time. His position is properly allocated to the FSS4 classification.

In a hearing on exceptions, the Appellant has the burden of proof. WAC 357-52-110. Appellant has failed to meet his burden of proof.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Robert O'Dowd is denied and the director's determination dated October 24, 2014, is affirmed.

DATED this _____ day of _____, 2015.

WASHINGTON PERSONNEL RESOURCES BOARD

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SUSAN MILLER, Member

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VICKY BOWDISH, Member