

1 **BEFORE THE PERSONNEL RESOURCES BOARD**

2 **STATE OF WASHINGTON**

3 TRACY CEREGHINO, LORINE)
4 JOHNSON, THERESA MAYOU,)
5 HEATHER MCCARTHY, SUSAN ODLE,)
6 JOSHUA TAYLOR, LYNETTE KING,)
7 VIRGINIA FEUCHT, BRENDA VOSS)
8 AND HEATHER PERCY,)
9 Appellants,)
10 vs.)
11 DEPARTMENT OF SOCIAL AND)
12 HEALTH SERVICES,)
13 Respondent.)

CASE NOS . R-ALLO-14-012, R-ALLO-14-013, R-ALLO-14-014, R-ALLO-14-015, R-ALLO-14-016, R-ALLO-14-017, R-ALLO-14-018, R-ALLO-14-019, R-ALLO-14-020 & R-ALLO-14-021

ORDER OF THE BOARD
FOLLOWING HEARING ON
EXCEPTIONS TO THE
DETERMINATION OF THE DIRECTOR

14 **Hearing on Exceptions.** This appeal came before the Personnel Resources Board, NANCY
15 HOLLAND YOUNG, Chair; SUSAN MILLER, Member; and VICKY BOWDISH, Member, for a
16 hearing on Appellants' exceptions to the director's determinations dated October 13, 2014. The
17 hearing was held on March 25, 2015.

18 **Appearances.** Sherri-Ann Burke, Labor Advocate with the Washington Federation of State
19 Employees (Union), represented Appellants. Appellants Lynette King and Virginia Feucht were
20 present. Respondent Department of Social and Health Services (DSHS) was represented by Lester
21 Dickson, Classification and Compensation Specialist.

22 **Background.** Appellants requested reallocation of their Financial Services Specialist positions in
23 May 2013. By letter dated November 1, 2013, DSHS determined that Appellants' positions were
24 properly allocated to the Financial Services Specialist 4 (FSS4) classification.
25

26
27 In November 2013, Appellants filed requests for director's reviews of DSHS's determination asking
28 that their positions be reallocated to the Program Specialist 3 classification. By letters dated October

1 13, 2014, the director’s designee determined that Appellants’ positions should be reallocated to
2 the Financial Services Specialist 3 (FSS3).

3
4 In November 2014, Appellants filed timely exceptions to the director’s determinations. Appellants’
5 exceptions are the subject of this proceeding.

6
7 As summarized in the director’s determinations, Appellants work in the Long Term Care (LTC)
8 unit within the Region 1 Home and Community Services (HCS) Division. The work Appellants
9 perform falls under the umbrella of Medicaid benefits provided to all eligible DSHS clients within
10 HCS. However, Appellants’ positions differ from other Financial Services Specialist in that
11 Appellants “perform specialized financial services work which involves determining Medicaid
12 eligibility for aged, blind and disabled clients for nursing homes, assisted living facilities, and
13 adult family homes. These positions deal with complex eligibility rules associated with long-term
14 and SSI related Medicaid eligibility requirements. They are required to analyze funding sources,
15 [and] read complicated documents: trusts, life insurance policies, court orders, etc. in order to
16 determine eligibility for long term care services and benefits.” (Emphasis added.) In addition,
17 Appellants’ work goes beyond merely providing Medicaid services and includes handling a
18 specific client caseload, investigating individual client financial circumstances, approving and
19 denying benefits using a variety of complex eligibility criteria and working with guardians, legal
20 representatives and family members in determining individual clients’ benefit eligibility.

21
22 **Summary of Appellants’ Arguments.** Appellants argue that their positions best fit the Program
23 Specialist 3 class because there is no other job class that addresses the type, level and complexity of
24 the services they administer under the Long Term Care program. Appellants contend that the work
25 they perform is specialized and complex and exceeds the duties encompassed in the Financial
26 Services Specialist 3 and 4 classes. Appellants argue that they do not fit within the FSS3 class
27 because the average FSS3s administer cash, food and traditional Medicaid as the bulk of their work.
28 Appellants assert that Long Term Care is a separate program and that the bulk of their work entails

1 completing separate eligibility determinations under each specialized service delivery program
2 including nursing facility services, COPEs waiver residential services and in-home care services,
3 hospice services, Medicaid personal care, WASHCAP and residential setting medical. Appellants
4 explain that most of the decisions they make result in a fee or service and that they incorporate the
5 knowledge to administer basic services as well as specialized, complex Medicaid services in
6 performing their work. Appellants further explain that they work with low to high income vulnerable
7 adults who are aged, blind or disabled and that most of the clients have representatives such as
8 attorneys, guardians or family members. Appellants also explain that the LTC process for providing
9 services includes verifying clients' identities, income, resources, transfers, medical expenses and
10 shelter costs. Appellants assert that they are independently available to clients and their
11 representatives to provide information, answer questions and help coordinate their financial services
12 with other social services. Appellants further assert that the specialty training they receive and the
13 complex procedure manual they must follow also sets their positions apart from other FSS3
14 positions. Appellants argue that the duties and responsibilities of their positions are not equal to
15 those of other FSS3 positions and that the FSS4 class discounts the level of expertise, intricacy and
16 importance of the work that they do every day. Appellants argue that they are Long Term Care
17 Program specialists who perform specialized, complex, intricate, complicated professional level
18 work in a defined program. Appellants further argue that Long Term Care is separate and
19 distinguished from the main body of Medicaid and as such, Long Term Care meets the definition
20 of a program as encompassed by the Program Specialist Class Series Concept. Therefore,
21 Appellants contend that their positions best fit the class series concept and definition of the
22 Program Specialist 3 classification.

23
24 **Summary of Respondent's Arguments.** Respondent did not file exceptions to the director's
25 determination but argues that Appellants' positions best fit the Financial Services Specialist 4 level
26 rather than the Financial Services Specialist 3 classification. Respondent argues that Appellants'
27 positions do not fit within the Program Specialist classification because while they perform specialty
28 work, the work is not unique to the organization; rather it represents the body of the work performed

1 within LTC. Respondent clarified that there are approximately 170 positions within DSHS that
2 perform duties and responsibilities necessary to provide specialized Long Term Care services to
3 LTC clients. Respondent argues that Appellants' work is transferable to other Home and Community
4 Services positions. Respondent asserts that Appellants make financial services determinations which
5 are specifically defined in the Financial Services Specialist classifications. Respondent contends the
6 Program Specialist series was created to incorporate unique classes, not positions that fit within
7 another classification. Respondent agrees with Appellants' description of their duties and
8 responsibilities and adds that Appellants must be effective communicators and have the ability and
9 knowledge to accurately and professionally communicate with outside entities such as tribes,
10 community partners and contracted providers who are also part of the Long Term Care system as
11 well as clients and attorneys. Respondent acknowledges that at the time of the Appellants' initial
12 position review request, there was not a class that fully encompassed the work of a Long Term Care
13 specialist. Therefore, after working with the Union and on a best fit basis, Appellants' positions were
14 placed in the FSS4 classification. Respondent contends that type of work Appellants perform fits
15 within the FSS classification series and asserts that based on complexity of their work, Appellants'
16 positions should remain allocated to the FSS4 level of the series.

17
18 **Primary Issue.** Whether the director's determination that Appellants' positions should be
19 reallocated to the Financial Services Specialist 3 should be affirmed.

20
21 **Relevant Classifications.** Financial Services Specialist 3, class code 165I, Financial Services
22 Specialist 4, class code 165J; and Program Specialist 3, class code 107J.

23
24 **Decision of the Board.** During the hearing before the Board, DSHS discussed their unsuccessful
25 attempts beginning since 2008 to modify the class series to better address the duties and
26 responsibilities of Appellants' positions. The parties also discussed a Memorandum of
27 Understanding between the Union and DSHS to allocate Appellants' positions to the Financial
28 Services Specialist 4 classification. In addition, DSHS presented information that subsequent to the

1 timeframes relevant to these appeals, the Financial Services Specialist 4 classification was modified
2 to encompass Appellants' work. While the parties should be applauded for their efforts to address
3 the allocation challenges related to Appellants' positions, these efforts do not influence our decision
4 in Appellants' appeals.

5
6 The purpose of a position review is to determine which classification best describes the overall
7 duties and responsibilities of a position. A position review is neither a measurement of the volume of
8 work performed, nor an evaluation of the expertise with which that work is performed. A position
9 review is a comparison of the duties and responsibilities of a particular position to the available
10 classification specifications. This review results in a determination of the class that best describes the
11 overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State
12 University, PAB Case No. 3722-A2 (1994).

13
14 In their exceptions, Appellants raised concerns about their ability to obtain information during the
15 position review process and the agency's submission of additional argument after the director's
16 review conference. Appellants provided no persuasive argument that these concerns prevented them
17 from providing the director's designee with complete information about the duties and
18 responsibilities they perform to support their argument for reclassification.

19
20 Appellants argue, in part, that the duties and responsibilities of their positions are similar to other
21 Program Specialist 3 positions at DSHS. Respondent explains that the scope and breadth of
22 responsibilities assigned to the Program Specialist 3 positions are not similar to Appellants'
23 positions.

24
25 This Board and its predecessor, the Personnel Appeals Board, have addressed this issue numerous
26 times. In Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), this
27 Board determined that "[w]hile a comparison of one position to another similar position may be
28 useful in gaining a better understanding of the duties performed by and the level of responsibility

1 assigned to an incumbent, allocation of a position must be based on the overall duties and
2 responsibilities assigned to an individual position compared to the existing classifications. The
3 allocation or misallocation of a similar position is not a determining factor in the appropriate
4 allocation of a position.” Citing to Flahaut v. Dept’s of Personnel and Labor and Industries, PAB
5 No. ALLO 96-0009 (1996). Therefore, the allocation of other Program Specialist 3 positions is not a
6 determining factor in the proper allocation of Appellant’s position.

7
8 In Norton-Nader v. Western Washington University, PRB Case No. R-ALLO-08-020 (2008), the
9 Personnel Resources Board (Board) stated that the following standards are the hierarchy of
10 primary considerations in allocating positions:

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

15 Appellants argue that the typical work statements of the Financial Services Specialist
16 classifications do not address the breadth of duties, level of responsibilities or complexity of their
17 positions. However, typical work statements do not form the basis for allocation; rather they
18 provide guidance and lend support to the work envisioned within a classification. Typical work
19 statements are not allocating criteria.

20
21 Appellants commented that the existing class specifications have not kept up with the ever
22 changing nature of their work. Therefore, Appellants ask that if the Board determines their
23 positions do not fit with the Program Specialist 3 classification, the creation of a new class series
24 be initiated to fairly compensate them for the high-level specialized work they perform. However,
25 RCW 41.06.150 provides that:

26 The director [of the Office of Financial Management] shall adopt rules, consistent
27 with the purposes and provisions of this chapter and with the best standards of
28 personnel administration, regarding the basis and procedures to be followed for . . .

1 (4) Adoption and revision of a comprehensive classification plan, in accordance
2 with rules adopted by the board under RCW 41.06.136, for all positions in the
3 classified service, based on investigation and analysis of the duties and
4 responsibilities of each such position and allocation and reallocation of positions
5 within the classification plan.

6 In addition, WAC 357-13-010 provides, in relevant part, that: “[t]he director adopts a
7 comprehensive classification plan and any subsequent revisions to the plan.” And, WAC 357-13-
8 050 provides that: “[t]he employer must allocate or reallocate each classified position to an
9 established class in the classification plan.”

10 Therefore, consistent with the statute and the rules, the allocation process is not the proper forum
11 to address the creation of a new classification. Resolution of this issue is not within the Board’s
12 jurisdiction. Williams v. Dept. of Corrections, PRB Case No. R-ALLO-10-009 (2010).

13 In addition, salary inequity is not an allocation criterion and should not be considered when
14 determining the appropriate allocation of a position. See Sorensen v Depts. Of Social and Health
15 Services and Personnel, PAB Case No. A94-020 (1995).

16 The Glossary of Classification Terms defines a “program” as:

17 A specialized area with specific complex components and tasks that distinguish it
18 from other programs (or the main body of an organization). A program is specific
19 to a particular subject and has a specific mission, goals, and objectives. A program
20 typically has an identifiable funding source and separate budget code.

21 The specific components and specialized tasks involve interpretation of policies,
22 procedures and regulations, budget coordination/administration, and independent
23 functioning. Typically requires public contact relating specifically to program
24 subject matter, clients, and participants.

25 Duties are not of a general support nature transferable from one program to
26 another. Performance of clerical duties is in support of an incumbent’s
27 performance of specialized tasks. Independent performance of these duties usually
28 requires at least a six-month training period.

29 The class series concept for the Program Specialist classes states:

1 Positions in this series coordinate discrete, specialized programs consisting of
2 specific components and tasks that are unique to a particular subject and are
3 separate and distinguished from the main body of an organization. Positions
4 coordinate program services and resources; act as a program liaison and provide
5 consultation to program participants and outside entities regarding functions of the
6 program; interpret, review and apply program specific policies, procedures and
7 regulations; assess program needs; and develop courses of action to carry out
8 program activities. Program coordination also requires performance of tasks and
9 application of knowledge unique to the program and not transferable or applicable
10 to other areas of the organization.

11 Examples of program areas may include, but are not limited to: business
12 enterprises, fund raising, volunteer services, community resources, election
13 administration and certification, juvenile delinquency prevention, recreational
14 education and safety, energy education, aeronautic operations and safety, student
15 housing, financial aid, and registration.

16 The definition for Program Specialist 3 class states:

17 Positions at this level work under general direction and typically have
18 organization-wide program responsibility. For programs with statewide impact,
19 incumbents are specialists who manage one component or assist higher levels in
20 two or more components of the program. Programs include but are not limited to
21 voter registration programs; boating, concession, or winter recreation programs;
22 minority and women's business enterprise programs; and aeronautics programs.
23 Program components are comprised of specialized tasks (e.g., reservations,
24 administration, and budget coordination) within a specialty program. Incumbents
25 assist higher-level staff by coordinating all aspects of program services, providing
26 technical assistance and specialized, consultation to program participants, staff and
27 outside entities, and recommending resolution for complex problems and issues
28 related to the program. Incumbents assess program participants' needs and develop
29 specialized services and training unique to the program and are responsive to the
30 needs of participants.

31 Long Term Care is a component of the Medicaid program. LTC is not separate and distinguished
32 from the main body of the organization. Appellants do not have organization-wide responsibility
33 for the DSHS Medicaid program or for the LTC component of the DSHS Medicaid program.
34 Rather, their positions are limited to serving Region 1 LTC clients. It is undisputed that providing
35 services to LTC clients involves a level of complexity that is not found in other components of the
36 Medicaid program. We recognize the LTC is a specialized and complex component of the

1 Medicaid program within DSHS; however, regional LTC units do not meet the intent of the
2 program definition, the Program Specialist class series concept or the Program Specialist 3
3 classification definition. Appellants' positions do not best fit within the Program Specialist 3
4 classification.

5
6 When there is a class that specifically includes a particular assignment and there is a general
7 classification that has a definition which could also apply to the position, the position should be
8 allocated to the class that specifically includes the position. Mikitik v. Dept's of Wildlife and
9 Personnel, PAB No. A88-021 (1989); see also, Waldher v. Dept. of Transportation, PRB Case No.
10 R-ALLO-08-026 (2009).

11
12 The Financial Services Specialist classifications specifically address the duties and responsibilities
13 of managing medical benefit programs including determining eligibility, conducting reviews and
14 validating information. The duties and responsibilities inherent in performing these duties are
15 consistent with the duties and responsibilities of Appellants' positions.

16
17 Here as in Stegner, et al, v. Depts of Social and Health Services and Personnel, PAB No. ALLO-
18 97-0009 (1997), the "scope of Appellants' duties go beyond those encompassed by the FSS3
19 classification. Appellants' duties and responsibilities go beyond making eligibility determinations,
20 providing on-going eligibility maintenance, and conducting internal reviews to verify eligibility
21 determinations as encompassed by the FSS3 classification."

22
23 The definition for Financial Services Specialist 3 (FSS3) class states:

24 Manages an assigned financial service caseload of intake and initial eligibility
25 determinations in the Reception Financial Intake System, and/or on-going
26 maintenance of continuing eligibility in the Financial Maintenance System for
27 financial, medical and food stamp programs, by independently conducting
28 interviews to determine or redetermine eligibility for a variety of financial, medical
and food stamp programs, and/or conducts internal reviews or validation studies in
the Verification and Overpayment System, to verify the adequacy of eligibility
determinations.

1
2 Appellants' positions fit within the definition of the FSS3 classification. However, this level is
3 general in nature and does not address the complexity of determining LTC eligibility, the
4 complexity of managing an ongoing caseload of LTC clients or the unique needs and specialized
5 services provided to LTC clients. FSS3 is not the best fit for Appellants' positions.

6
7 The definition of the Financial Services Specialist 4 (FSS4) classification states:

8 Serves as a lead worker in the Reception Financial Intake System, the Financial
9 Maintenance System, and/or the Verification and Overpayment Control System; or
10 as a fair hearings coordinator a majority of the time; or as a quality assurance
11 reviewer for one or more units.

12 Appellants' positions are not specifically addressed in the FSS4 definition. However, the FSS4
13 definition is supported by typical work statements that describe the level of duties and
14 responsibilities encompassed at this level. Even though Appellants' do not perform lead duties,
15 their duties and responsibilities are consistent with the following example of FSS4 level work:

16 Performs more complex duties in relation to establishing financial eligibility, rule
17 interpretation, planning, and procedural development.

18 While not an allocating criterion, the above typical work statement best describes the complexity
19 of the work Appellants' perform. Therefore, of the classifications available during the time frame
20 relevant to these appeals, on a best fit basis, we find that the FSS4 class is the appropriate
21 allocation for Appellants' positions.

22
23 The best fit concept is used when for lack of a better fit, the duties and responsibilities of a
24 position do not encompass the full breadth of the duties and responsibilities described by the
25 classification but the classification best describes the level, scope and diversity of the overall
26 duties and responsibilities of the position. See for example, Salsberry v. Washington State Parks
27 and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007) and Allegri v. Washington
28 State University, PAB Case No. ALLO-96-0026 (1998).

1
2 Appellant's duties and level of responsibilities best fit within the scope, intent and level of
3 responsibility found in the Financial Services Specialist 4 classification.

4
5 In a hearing on exceptions, the appellant has the burden of proof. WAC 357-52-110. Appellants
6 have met their burden of proof in part by providing persuasive argument that their positions do not
7 best fit the FSS 3 classification.

8
9 **ORDER**

10 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeals on exceptions are granted in
11 part and the director's determinations dated October 13, 2014, are modified. On a best fit basis,
12 Appellants' positions are reallocated to the Financial Services Specialist 4 classification.

13 DATED this ____ day of _____, 2015.

14 WASHINGTON PERSONNEL RESOURCES BOARD

15
16
17 _____
NANCY HOLLAND YOUNG, Chair

18
19 _____
SUSAN MILLER, Member

20
21 _____
VICKY BOWDISH, Member