

B-23



In the Matter of Glenn Pulliam,
Department of Health

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-1256

Classification Appeal

ISSUED: OCT 03 2014 (CAG)

Glenn Pulliam appeals the attached decision of the Division of Classification and Personnel Management (CPM) that the proper classification of his position with the Department of Health is Occupational Health Consultant 1.¹ The appellant seeks a Research Scientist 2 classification.

The record in the present matter establishes that the appellant's permanent title is Occupational Health Consultant 2. He is assigned to the Consumer, Environmental and Occupational Health Service Office, Environmental and Occupational Health Surveillance Program, Hazardous Site Health Assessment Unit, and reports to Jerald Fagliano, Health Science Specialist. Appellant sought a reclassification of his position, alleging that he had been performing duties consistent with a Research Scientist 2 classification. In support of his request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties he performs as an Occupational Health Consultant 2. CPM reviewed and analyzed the PCQ completed by Mr. Pulliam. On September 5, 2013, CPM conducted a telephone audit with appellant and an interview with his supervisor, Mr. Fagliano. In its decision, CPM determined that the duties performed by Mr. Pulliam, as detailed in CPM's attached decision, were consistent with the definition and examples of work included in the job specification for Occupational Health Consultant 1.

¹ Mr. Pulliam was provisionally appointed to the title of Occupational Health Consultant 1 effective March 23, 2013 as a result of the classification review.

On appeal, Mr. Pulliam argues that CPM's determination letter does not mention specific review of health consultation and public health assessment work that he submitted for review. Specifically, he argues that a thorough review of these reports is pivotal to understanding that the nature of these evaluations are to protect communities from health hazards originating from hazardous substances released into the environment primarily from hazardous waste sites, and are not occupational exposure assessment reports designed to evaluate occupational health hazards for adult employee populations. Appellant argues that his remaining arguments provide the distinction between his duties as a health risk assessor under the cooperative agreement with the funding agency, the Agency for Toxic Substances and Disease Registry (ATSDR) and the relevance of these duties related to the duties outlined in the Research Scientist title series.

He also argues that, although the assessments may include assessments of occupational exposures to an adult employee population within an industrial setting, the focus of these assessments are impacts to the community which may or may not include employees. Regarding CPM's reference to the job specification definition for the title of Occupational Health Consultant 2, he argues that the work under the cooperative agreement with the ATSDR is to provide a thorough assessment to determine the short and long term health impacts, not hazards, from exposures to hazardous substances from known hazardous contaminated sites and/or industries to adult and sensitive populations living in proximity to these sites. In addition, he argues that there is a crucial distinction between the occupational exposure assessments in the workplace environment and community-based health risk assessments, and the Occupational Health Consultant series defines the duties to evaluate exposures within the workplace environment. Further, he argues that the assessment work in the Occupational Health Consultant series is designed to assist employers and does not require routine liaison with higher level agencies.

Regarding his primary responsibilities, he argues that CPM failed to identify a key responsibility of communication and dissemination of report findings, conclusions and recommendations to local, state and federal agencies in order to coordinate exposure reduction and prevention measures to impacted communities. Regarding CPM's reference to his on-site visits, the appellant argues that this statement implies that the health consultation and public health assessment reports are based on site-visit type inspections, which are a small part of the overall health hazard assessment process. He states that, in many instances, he performs health hazard assessments without the need for site visits and can be solely based on information provided by either state or federal agencies requesting his expertise to determine whether immediate actions are required to protect public health. He also states that the health consultations and public health assessment reports are scientific, not consultation, in the nature of the assessment and the materials and information presented therein.

Regarding CPM's reference that a Research Scientist performs scientific investigations and experiments, identifying breakthroughs, and reports on new discoveries, appellant argues that the examples of work that he submitted for review exemplify the criteria noted in CPM's statement. In response to CPM's reference that a Research Scientist works in a specific professional field, he argues that he possesses a Master's degree in Public Health and lists the required areas of coursework which are all rooted in the scientific realm and within the specific professional field of Public Health. Although CPM determined that the Research Scientist 2 is not an appropriate classification for the appellant's position since the primary duties of the position are concerned with conducting consultation visits, he argues that these visits are a small component of the overall work as he previously argued. The appellant states that conducting a site visit and identifying the hazards are the first step in a much more detailed and scientific assessment of how those exposures can impact health. He states that these are not OSHA regulated sites and the focus of any visit is not on occupational health.

CPM's determination letter indicated that appellant's work infrequently involves performing scientific investigations and experiments, identifying breakthroughs, reporting new discoveries, and developing and implementing innovating original theories, or methods. Regarding this statement, the letter indicated that, according to Mr. Fagliano, this type of research does not normally exceed between 30-40% of his overall duties. However, appellant argues that he discussed this statement with his supervisor who had no recollection of making any statement during the phone audit. With respect to CPM's statement that research work is already a component of the Occupational Health Consultant title series, appellant argues that there is only one description to conduct research listed in the Occupational Health Consultant title series and it is rooted in the realm of industrial hygiene and not within the scientific realm of research exposure assessment. Appellant describes his work in detail and submits examples of his work for review.

Mr. Pulliam supplements his appeal with additional documentation pertaining to duties performed as a health risk assessor under the Department of Health cooperative agreement grant with ATSDR. He argues that these health consultation and public health assessment reports are designed to protect the public health of communities in a residential setting, and do not fall under the category of occupational exposure assessment work of the title series of Occupational Health Consultant. He also argues that the health risk assessment work within these reports requires specialized research and analysis which meets that of a complex and technical nature as defined by the title of Research Scientist 2.

It is noted that the appointing authority submitted its recommendation on the PCQ that the appellant's classification appeal be rejected. It also indicated that the appellant's position is appropriately classified by its current title.

CONCLUSION

The definition section of the job specification for Occupational Health Consultant 2 states:

Under general direction of a supervisory official in a State department, institution, or agency, independently conducts consultation visits for the purpose of identifying, evaluating, monitoring, and controlling occupational or environmental health hazards; assists employers and/or others to recognize and prevent occupational or environmental health hazards; evaluates and recommends effective controls; does related work as required.

The definition section of the job specification for Occupational Health Consultant 1 states:

Under general direction of a supervisory official in a State department, institution, or agency, acts as team leader for subordinate professional staff, or conducts the most difficult consultation visits for the purpose of identifying, evaluating, monitoring, and controlling occupational or environmental health hazards; assists employers and/or others to recognize and prevent occupational or environmental health hazards; recommends effective controls; does related work as required.

The definition section of the job specification for Research Scientist 2 states:

Under general supervision of a Research Scientist 1 or other supervisory official in a State department, institution, or agency, conducts and/or supervises a research or developed program in a specified professional field; assumes appropriate administrative and supervisory duties as delegated; supervises complex projects and makes recommendations to the supervisor; does related work.

Based on the information presented in the record, it is clear that the position of Mr. Pulliam is appropriately classified as an Occupational Health Consultant 1. As noted by CPM, the duties performed by Mr. Pulliam as identified on the PCQ and those obtained during the audit process, including a thorough review and analysis of all information and documentation submitted, are reflective of the job specification definition for the title of Occupational Health Consultant 1. Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level of work which

is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized.

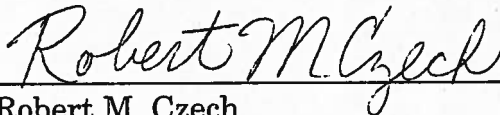
It is noted that the appellant indicated that in accordance with the ATSDR agreement, all health assessors share the same duties and responsibilities in regard to performing health risk assessment and that three other employees in his unit have Research Scientist 2 classifications. However, a classification appeal cannot be based solely on a comparison to the duties of another position, *especially if that position is misclassified*. With respect to Mr. Pulliam's credentials and experience, the foundation of position classification, as practiced in New Jersey, is the determination of duties and responsibilities being performed at a given point in time as verified by CPM through an audit or other formal study. Thus, classification reviews are based on a current review of assigned duties of the position, not the educational achievements or the experience of an incumbent in the position. Therefore, Mr. Pulliam's position is appropriately classified as Occupational Health Consultant 1 effective March 23, 2013.

ORDER

Therefore, the Civil Service Commission concludes that the position of Glenn Pulliam is properly classified as an Occupational Health Consultant 1 and has so Ordered.

This is the final administrative determination in this matter. Any further review is to be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 1ST DAY OF OCTOBER 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Glenn Pulliam
Loreta Sepulveda
Kenneth Connolly
Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

September 12, 2013

Mr. Glenn Pulliam
New Jersey Department of Health
Consumer, Environmental and Occupational Health Service
Environmental and Occupational Health Surveillance Program
135 East State Street
Fourth Floor
Trenton, New Jersey 08619

**Re: Classification Appeal: Occupational Health Consultant 2 (03913, P25);
CPM #: 03130106; EID #: [REDACTED]**

Dear Mr. Pulliam:

This is to inform you and the New Jersey Department of Health of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted, as well as a phone audit conducted with you on September 5, 2013, and an interview with your supervisor, Jerald Fagliano, Health Science Specialist (55608, S98).

Issue:

You are appealing the current classification of your position (952128), Occupational Health Consultant 2 (03913, P25). You allege that your duties are not appropriately classified and you are seeking to reclassify your position to that of Research Scientist 2 (03165, P28), which you feel more appropriately reflects your current duties and responsibilities.

Organization:

Your position is located in the New Jersey Department of Health, Consumer, Environmental and Occupational Health Service Office, Environmental and Occupational Health Surveillance Program, Hazardous Site Health Assessment Unit. The Occupational Health Surveillance Program Unit is committed to understanding the public health impact of human exposure to hazardous substances in the environment and in the workplace, providing information to the public, and preventing disease and injury through the reduction or elimination of exposures and hazards. The Hazardous Site Health Assessment Unit conducts health assessments in communities where New Jersey residents may have been exposed to hazardous chemicals in their environment. They also study the possible health impacts that Superfund and other hazardous waste sites could have on nearby

residents. Your position reports to Jerald Fagliano, Health Science Specialist (55608, S98). The rest of your unit is composed of: one (1) vacant position Research Scientist 1 position; three (3) Research Scientists 2 positions, one of which is vacant; one (1) vacant Public Information Officer position; and one (1) Special Services CWA position. Your position does not prepare performance evaluations, therefore you do not supervise staff.

Finding of Fact:

The primary responsibilities of your position include, but are not limited to, the following:

- Under a cooperative agreement grant from the agency for Toxic Substances & Disease Registry (ATSDR), conducts consultation visits to various facilities, and potentially hazardous sites within the proximity of surrounding population and performs health assessments in order to identify, evaluate and monitor occupational, and/or environmental health hazards to the community.
- Performs outreach to effected community groups in order to explain the nature of hazardous conditions, including the pathways of these toxic chemicals, the potentially harmful effects on health and ways in which to remediate, reduce, or prevent exposure. Guides members of the community within the exposure area to health specialists in order to be tested for certain types of exposure.
- Evaluates and/or collects samples of dusts, soil, chemical residue, fumes, mists, gases, or other substances in order to determine the nature and extent of potential hazards. Assesses the public health implications and prepares clear scientifically sound, accurate, and factual reports containing findings, interpretations, conclusions and recommendations regarding the on-site visit including the identification and nature of specific/potential hazards. Conducts follow-up visits as necessary.
- Depending on the hazardous nature of the site being evaluated and the area of expertise of the individuals members of the unit, may be required to take the lead (informal) over other team members.
- Infrequently, depending on the nature of hazardous substances and sites being investigated, the work involves groundbreaking research work and methodology, such as your involvement as the lead investigator of the Artificial Turf Lead Hazard Team and your assessment work on the E.C. Electroplating site regarding hexavalent chromium groundwater contamination.

Review and Analysis:

Your position is currently classified in the title Occupational Health Consultant 2 (03913, P25). The definition section of the specification for this title states:

“Under general direction of a supervisory official in a state department, institution, or agency, independently conducts consultation visits for the purpose of identifying, evaluating, monitoring, and controlling occupational or environmental health hazards; assists employers and/or others to recognize and prevent occupational or

environmental health hazards; evaluates and recommends effective controls; does related work as required."

You allege that you are performing the duties of a Research Scientist 2 (03165, P28). The definition section of the specification for this title states:

"Under general supervision of a Research Scientist 1 or other supervisory official in a state department, institution, or agency, conducts and/or supervises a research or developed program in a specified professional field; assumes appropriate administrative and supervisory duties as delegated; supervises complex projects and makes recommendations to the supervisor; does related work."

A Research Scientist performs scientific investigations and experiments, identifying breakthroughs, and reports on new discoveries. Scientific research involves the development and implementation of innovative original theories or methods, making independent decisions in a very limited or restricted area of a specific scientific field, and solving problems using standard principles, procedures, and techniques for his or her scientific area of expertise. Research Scientists design their research, choose methods, and analyze findings. It is significant that the Research Scientist works "in a specific professional field," and this is supported by the substitution clause which allows for a Doctorate degree in a discipline appropriate to the position to be substituted for years of experience. The intent is that the series remain in the scientific realm. In this respect, research performed must be developed using appropriate research programs and designs, and be independently initiated and coordinated.

The Research Scientist 2 title is not an appropriate classification for your position, as the primary duties of your position are concerned with conducting consultation visits for the purpose of identifying, evaluating and controlling environmental health issues. This entails evaluating samples of dusts, soil, chemical residue and other bi-products of current and former industrial sites and determining the potential health implications to the surrounding community. This also involves educating the individuals located in these exposure areas to the potential health risks associated with the respective toxins which were generated by these industrial sites. Most of this work is based on long standing environmental rules and regulations and established methodology.

Infrequently, your work does involve performing scientific investigations and experiments, identifying breakthroughs, reporting on new discoveries, and developing and implementing innovative original theories, or methods, such as your work with the Artificial Turf Lead Hazard and E.C. Electroplating site. However, according to your supervisor, this type of research normally does not exceed between 30-40% of your overall duties. Additionally, research work is already a component of the Occupational Health Consultant title series.

The definition section of the specification for Occupational Health Consultant 1 (03914, P27) states.

"Under general direction of a supervisory official in a state department, institution, or agency, acts as team leader for subordinate professional staff, or conducts the most difficult consultation visits for the purpose of identifying, evaluating, monitoring, and controlling occupational or environmental health hazards; assists

employers and/or others to recognize and prevent occupational or environmental health hazards; recommends effective controls; does related work as required."

An Occupational Health Consultant 1 may act as a team leader, often conducting the most difficult consultation visits for the purpose of identifying, evaluating, monitoring and controlling environmental health hazards. Your responsibilities as lead investigator on some of the most difficult consultation visits supports the higher duties normally performed in this title series. These duties are consistent with Occupational Health Consultant 1.

Determination

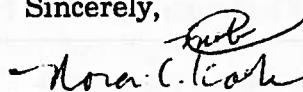
Your duties, as identified on the Position Classification Questionnaire (DPF-44S) and those obtained during the audit process, are reflective of the job specification definition for the title Occupational Health Consultant 1 (03914, P27). By copy of this letter, the Appointing Authority is advised that we will reclassify your position to the Occupational Health Consultant 1 (03914, P27) title effective March 23, 2013, unless the Appointing Authority assigns duties and responsibilities that are commensurate with the positions current title, Occupational Health Consultant 2 (03913, P25) within thirty days of receipt of this determination letter.

The title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed.

Please note that this classification determination does not imply that you will meet the eligibility requirements of the title. It is the responsibility of the Appointing Authority to ensure an incumbent meets the eligibility requirements prior to any appointment.

An appeal of this decision may be filed within twenty (20) days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments that you wish considered should be submitted within the specified timeframe. Appeals should be addressed to the Written Records Appeal Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Nora C. Koch, Assistant Director
Classification and Personnel Management

NK/MTB/rwz

Cc: Loreta Sepulveda
Ann Kopczynski
CPM Log #: 03130106