



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Caya Asch, *et al.*,
Department of the Treasury

Classification Appeals

CSC Docket Nos. 2018-3287, *et al.*

ISSUED: JULY 20. 2018

(SLK)

Caya Asch, Steven Balalis, Marie O'Connell and Sara Sparano appeal the determinations of the Division of Agency Services (Agency Services) that the proper classification of their positions with the Department of the Treasury (Treasury) is Pensions Benefits Specialist 3 (PBS3). The appellants seek a Pensions Benefits Specialist 2 (PBS2) classification. The appeals have been consolidated due to common issues presented.

The record in the present matter establishes that the appellants' permanent titles are PBS3. The appellants sought reclassification of their positions, alleging that their duties were more closely aligned with the duties of a PBS2. Asch and Sparano are assigned to the Division of Pensions and Benefits, Office of Client Services (Client Services) – Telecommunications and Interview Units and report to Holly Cheser, Pensions Benefits Specialist 1 (PBS1). Balalis is assigned to the Division of Pensions and Benefits, Health Benefits/Policy and Planning and reports to Theresa Williams, PBS1. O'Connell is assigned to the Division of Pensions and Benefits, Client Services and reports to Nancy Howell, Chief, Division of Pensions. The appellants have no direct supervisory responsibility. In support of their requests, the appellants each submitted a Position Classification Questionnaire (PCQ) detailing the different duties that they perform. Agency Services reviewed and analyzed the PCQs completed by the appellants and all information and documentation submitted. In its decisions, Agency Services determined that the duties performed by the appellants were consistent with the definition and examples of work included in the job specification for PBS3.

On appeal, Asch asserts that there is a distinction between the level of knowledge, duties performed and professional nature required of an Interview Counselor as compared to a Telecommunications Representative (Representative) within Client Services. She explains that a Representative is an entry level position within the Division of Pensions and Benefits that can access a supervisor or team leader when needed when responding to health, pensions and other benefit questions while an Interview Counselor must be able to sit face-to-face with members and act independently without a supervisor safety net. Asch believes that this required independence means that Interview Counselors act as lead workers. She indicates that an Interview Counselor often identifies and resolves errors from the work completed by the operating sections and discusses the resolutions with the supervisors of the operating sections. Asch represents that her unit had previously been comprised of PBS2s and PBS1s and asserts that employee attrition and the Statewide hiring freeze has caused employees to work out-of-title. She claims that all Interview Counselors, whether they are PBS2s or PBS3s, share the same responsibilities. Asch states that previously her unit worked under the direction of a Supervising Pensions Benefits Specialist (SPBS). However, after the SPBS transferred, the unit now reports to a PBS1 who assumed the SPBS duties, but was not promoted. Asch highlights her claim that an Interview Counselor acts as a lead worker regarding retirement, health and other benefit questions, including work involving performing complex eligibility determinations and complex computations. She states that all Interview Counselors frequently take charge in the absence of the regular supervisor. Asch also indicates that Interview Counselors train new and existing employee and give member webinars.

Balalis emphasizes that the job specification for PBS2 indicates that there are several different ways that an incumbent can perform the applicable duties for a PBS2 classification. However, he believes that Agency Services only based its determination on one of those ways by deciding whether he was performing the duties of a lead worker. Balalis claims that the only substantive difference between the job specification for PBS2 and PBS3 is that incumbents performing the duties of a PBS2 perform complex calculations. He argues that Agency Services' findings of fact support the conclusion that he performs complex computations as it found that he compiled concerns received from supervisors and team leaders, the Director's office and other sources that have contact with the Division. Balalis also argues that he is in fact a lead worker. He presents that Agency Services defined a lead worker as a person who leads employees at the same or lower level than themselves and concluded he could not be a lead worker because his unit's organizational chart indicated that there were employees in his unit who held higher level titles than him. Balalis submits an updated organizational chart from his unit and indicates that he now trains three other employees in his unit who hold his same title and therefore he believes that he should now be considered a lead worker.

O'Connell presents that she is the sole Identity Theft Coordinator for the Division of Pensions and Benefits. She indicates that she is responsible for protecting private member information and is the initial contact to establish a security freeze on a member's account. Thereafter, O'Connell states that she is the sole contact for any member whose account has been frozen. She presents that she also trains two employees to be her back-up because her duties are of such high priority that coverage is needed when she is not in the office. O'Connell states that she also processes out-of-state purchases which involves creating an Excel spreadsheet so that employees can check the list to see if a member's paperwork has been received and/or completed. She asserts that out-of-state purchases require extensive pension knowledge. O'Connell highlights that she needs to use microfilm and microfiche machines in order to complete the paperwork and she must calculate and verify pension service, which often involves more than one employer per employee. Additionally, she prepares correspondence regarding a member's pension accounts on a daily basis, which may require detailed research into a member's pension history, she audits members' accounts to handle various member inquiries and she is staffed to handle the Telecommunications Device for the Deaf to respond to members' inquiries through a translator.

Sparano states that since she submitted her PCQ, she is now more involved in training. She indicates that she previously trained new hires on Enrollments, Purchases and Health Benefits and was using Power Point presentations developed by previous counselors. Sparano presents that she now not only trains new hires, but she provides refresher training for all counselors, from PBS1s to PBS3s, within Client Services. Additionally, it is her responsibility to develop the refresher training materials. She estimates that training accounts for 15 to 20 percent of her day. Sparano believes that she is a lead worker based on her training duties. O'Connell indicates that previously her unit had either two supervisors or a supervisor and a PBS1, but now it only has a PBS1. Therefore, she asserts that when the PBS1 is unavailable, she must act as a lead worker in her absence.

CONCLUSION

The definition section of the job specification PBS 3 states:

Under the supervision of a Pensions Benefits Specialist 1 or other supervisor in the Division of Pensions and Benefits, Department of the Treasury, processes retirement and/or health benefits for members involving complicated eligibility determinations and computation or, conducts final reviews of member contribution reports or, counsels employees on retirement and health benefits; does other related duties.

The definition section of the job specification for PBS2 states:

Under the supervision of a Chief of an administrative bureau or other supervisory officer in the Division of Pensions and Benefits, Department of the Treasury acts as lead worker in a retirement, health benefits, or other employee benefit program of the Division; or conducts field instructional seminars on retirement health benefits or other employee benefit programs of the Division or, reviews, processes and/or responds to retirement, health benefits or other employee benefit requests and inquiries involving complicated eligibility determinations and/or performs complex computations; does other related duties.

In this present matter, it is clear that the appellants' positions are properly classified as PBS3. One of the distinguishing characteristics between the job specifications for PBS2 and PBS3 is the incumbent's supervisor. With respect to Asch, Balalis and Sparano, as their direct supervisors are PBS1s, their positions are consistent with a classification of PBS3. It is noted that O'Connell reports to a Chief, Division of Pensions, which is consistent with a PBS2; however, her duties would also need to meet the other specifications for her position to be reclassified as PBS2.

Another difference between the two titles is that incumbents in the PBS2 title can be a lead worker whereas this is not a criterion for a PBS3 classification. A leadership role refers to those persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or a lower level than themselves. Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. Being a lead worker does not mean that the work is performed by only one person, but involves mentoring others in work of the title series. *See In the Matter of Henry Li* (CSC, decided March 26, 2014).

Acsh argues that she is a lead worker because she works independently, employee attrition in higher level titles has resulted in her performing the duties of these unreplaced employees, she always acts as the lead in resolving benefit questions including working with supervisors and clerks from other operational units to ensure errors are resolved and not repeated and she must lead workers in her supervisor's absence. However, as indicated on her PCQ, Asch does not assign, review and train specific individuals on an on-going basis, *i.e.* more than 50 percent of her time, and therefore she is not a lead worker. Working independently and taking the lead on a benefit question is not the same as being a lead worker for specific assigned employees. Additionally, her training responsibilities are not lead worker duties as her PCQ indicates that she only trains four percent of her time,

plus this training does not involve specific individuals who she is responsible for on a regular basis. Further, the fact that she may assist others while her supervisor is absent does not mean that her primary focus is to lead specific employees on a regular basis. Additionally, the loss of higher level employees who have not been replaced does not establish that she is acting as a lead worker or performing out-of-title duties. A classification appeal cannot be based solely on a comparison to the duties of another position. *See In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). *See also, In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A-5011-96T1 (App. Div. October 3, 1998). Instead, an analysis of her actual duties and the relevant job specifications is determinative and she has not indicated that she primarily acts as a lead worker.

Additionally, Balalis has not demonstrated that he was a lead worker at the time that he submitted his classification appeal. On his PCQ, he did not indicate that he assigns and reviews the work of specific individuals. Now, on appeal, he states that he coordinates and trains three other employees in his unit. However, since Balalis did not perform these duties at the time of the classification review, Agency Services rightfully determined that he was not a lead worker. If Balalis is currently responsible for the assigning, reviewing and training the work of specific employees and these duties involve at least 50 % of his time, he may file a new classification appeal. *See In the Matter of Battalion Fire Chief, Jersey City* (Commissioner of Personnel, decided October 16, 1991).

With respect to O'Connell, while she indicates that she assigns and reviews the work of two specific individuals on her PCQ, under the Work Performed section of her PCQ, she does not list any lead worker responsibilities other than a brief statement that she has two employees who act as back-ups for her role as the Identity Theft Coordinator. It is noted that she spends 20 percent of her time as the Identity Theft Coordinator, which clearly means she is spending less than 50 percent of her time acting as a lead worker for her back-ups in this area, therefore, being a lead worker cannot be her primary responsibility. Further, O'Connell's being the sole Identity Theft Coordinator does not make her a lead worker as being the sole expert in an area does not establish that her position should be classified by a lead worker title. *See In the Matter of John Freise* (CSC, decided May 1, 2013).

Sparano argues that her training responsibilities make her a lead worker. However, she is not responsible for the assigning, reviewing and training specific individuals on a regular basis. Thus, her general training responsibilities are not lead worker responsibilities. In addition to being a lead worker, an incumbent can be classified as PBS2 by primarily being a benefits instructor. However, Sparano's PCQ indicates that she only spent five percent of her time as a benefits

instructor. The fact that she now spends more time instructing cannot be considered because, as stated above, only her duties at the time of the classification review are considered. However, it is noted that even though she now claims that she spends up to 20 percent of her time instructing, instructing would still not be considered her primary responsibility.

One other issue needs to be addressed. Balalis highlights that the job specification for PBS2 indicates that one of the ways an incumbent can be performing the duties for this title is to do work involving complicated eligibility determinations and/or perform complex computations whereas the job specification for PBS3 indicates that incumbents perform work involving complicated eligibility determinations and computation. Therefore, Balalis argues that the significant difference between the two titles is that PBS2s perform complex computations and he complains that Agency Services failed to evaluate the complexity of his duties. Balalis presents that Agency Services' findings of facts indicated that he compiled concerns from various supervisors, team leaders and other sources and asserts that this is evidence that Agency Services found that he performed complex computations and his position should be classified as PBS2.

In reviewing the job specification for PBS3, the use of the word "and" between eligibility determinations and computations indicates that the word "complicated" is modifying both eligibility determinations and computation meaning that PBS3s perform "complicated computations" while PBS2s perform "complex computations." According to dictionary.com, one of the definitions of complicated is "composed of elaborately interconnected parts; complex." Further, one of dictionary.com's definitions for complex is "so complicated or intricate as to be hard to understand or deal with." In other words, these words are synonyms as both words are used to define the other. Presumably, this is why Agency Services' determination letters state that, traditionally, the analysis as to whether an employee is performing duties that rise to the level of a PBS2 is based on whether that employee is acting as a lead worker as there is not a clear delineation in the level of "complication" or "complexity" in the other duties performed in those titles.

However, even assuming, *arguendo*, employees can perform the duties of a PBS2 by performing more "complex" duties than a PBS3, Balalis has not submitted any evidence to support the "complexity" of his duties. He simply states that Agency Services found that he compiled concerns from various supervisors, team leaders and other sources as evidence that his duties are complex. It is noted that Agency Services did not label this duty as being "complex" and he not provided any evidence to support his claim that his majority of his time is spent on duties that are so significantly more complex than his previous duties that his position is now misclassified. Additionally, a review of Agency Services' audit notes indicates that when Balalis was asked what prompted him to file a classification review, he indicated that he took on more responsibility due to attrition. Additionally, when

he was asked what were his out out-title duties, he responded the “Medicare Advantage Spreadsheet, Aetna Healthcare Audit, and Dental Eligibility.” When his supervisor was asked what has changed in his work, she responded the volume of work and the type of work has changed. In other words, neither Balalis nor his supervisor clearly indicated that he was spending 50% or more of his time on work that was more complex than his previous work. Instead, they both emphasized that the volume of his work has changed due to additional responsibilities, without any reference to the new work’s complexity. However, volume of work has no effect on the classification of a position currently occupied, as *positions*, not employees are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009).

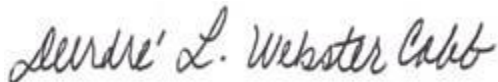
However, in light of the unclear specifications regarding the differences in the level of work between the two titles, the Commission finds that Agency Services shall review the job specifications for these titles and make any changes that it deems appropriate.

ORDER

Therefore, it is ordered that these appeals be denied, and the positions of Caya Asch, Steven Balalis, Marie O’Connell and Sara Sparano are properly classified as Pensions Benefits Specialist 3s. Further, the Division of Agency Services shall review the job specifications for Pensions Benefits Specialist 2 and 3.

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 18th DAY OF JULY, 2018



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