

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF CONSOLIDATED CLASSIFICATION APPEAL NO. 4-2000:

ADMINISTRATIVE OFFICER II'S, AND)	Case No. 1361-2001
HUMAN SERVICES SPECIALISTS, HUMAN)	
& COMMUNITY SERVICES DIVISION,)	
DEPARTMENT OF PUBLIC HEALTH &)	
HUMAN SERVICES, MISSOULA COUNTY)	
OFFICE OF PUBLIC ASSISTANCE FIELD)	FINDINGS OF FACT;
SERVICES SPECIALISTS,)	CONCLUSIONS OF LAW;
Appellants,,)	AND RECOMMENDED ORDER
)	amended to show correct appeal date
vs.)	
STATE PERSONNEL DIVISION,)	
DEPARTMENT OF ADMINISTRATION,)	
Respondent,)	

I. INTRODUCTION

The Appellants appealed the application of the Benchmark Factoring Methodology (BFM) performed by classifiers in the State Personnel Division, specifically, whether Supervision Received is properly factored at level 3. Michael T. Furlong conducted a hearing in this matter on November 1, 2001, in Helena, Montana.

Human Services Specialist Susan Rutherford represented the Appellants. Appearing as witnesses were Human Services Specialists Kathy Gibson, Karen Jirsa, and Christine Mitchell. Sue Brown, supervisor of the Missoula Job Program, Jennifer Carter, Missoula Public Assistance Office director, and John Vestre, Region III and V Manager, also appeared for the Appellants.

Vivian V. Hammill, attorney for the State Personnel Division, represented the Defendant. Donna Hansen, DPHHS Personnel Specialist, Chris Blazer, Classification Trainer, Kelly DaSilva, Personnel Specialist, and Karlene Grossberg, Public Assistance Bureau Chief, appeared as witnesses for the Defendant.

Joint Exhibits 1 through 5, Appellant Exhibits 1 through 16, and Defendant Exhibits A through Z and AA through DD, were admitted into the record without objection.

II. ISSUE

The issue in this case is whether the Appellants are properly classified or whether they should properly be classified at a grade 15, with Supervision Received factored at Level 4.

III. FINDINGS OF FACT

1. The Appellants are employed by the Department of Public Health and Human Services (DPHHS), Human and Community Services Division (HCSD), Public Assistance Bureau (Bureau). They are employed under the job title of Human Services Specialist, position numbers 30422 (Susan Rutherford), 30421 (Christine Mitchell), 30423 (Kathy Gibson), and 30447 (Karen Jirsa). The positions are currently classified at grade 14, and are permanently assigned to the Missoula County Office of Public Assistance, Missoula, Montana.

2. The responsibility of the Bureau is to determine eligibility and the provision of benefits to participants regarding the Families Achieving Independence in Montana (FAIM) project, redirecting the focus of Montana's Temporary Assistance to Needy Families (TANF), Food Stamp, TANF-related Medicaid, Employment and Training, and welfare reform programs.

3. The Bureau offers an array of services available to individuals and families with limited incomes and resources. The services are designed to identify and overcome barriers to employment, offer alternatives to welfare, and capitalize on employment skills and opportunities. The Bureau's function is to meet the temporary needs of participants. The Bureau provides temporary financial, medical and food stamp benefits in a non-threatening atmosphere by accurate interpretation and application of federal, state, and county rules, regulations, and law. Programs are administered in accordance with civil rights and privacy laws, within mandated state and federal requirements.

4. Human Services Specialists are responsible for the supervision of a variety of positions within the office, which may include compliance specialists (grade 13), human services program officer (grade 14), FAIM coordinators (grade 13), human service specialists (grade 13), administrative assistant IV (grade 12), eligibility examiners (grade 11 and 12), eligibility assistants (grade 8 and grade 9). They also supervise FAIM, food stamps, 30 family-related medicaid programs, and 36 adult-related medicaid programs.

5. Human Services Specialists are responsible for training in cultural change, case management, interactive interviewing, research, and in interpretation of welfare rules. They review eligibility for compliance with federal, state, and county guidelines, rules, regulations, and objectives of the DPHHS. They write position descriptions and participate in recruitment of new employees and formal evaluations on a scheduled or needed basis. They represent the agency at administrative reviews, fair hearings, and intentional program violation meetings. They provide orientation, initial, and on-going training. They identify levels of performance and suggest measures to improve performance. They prepare reports as needed and are responsible for the management of the office in the absence of the County Director. They perform related duties as required or assigned. They establish and direct the workloads of supervisees, insuring equity of case load size

through redistribution of cases as the need arises, and provide guidance in time management, coaching, counseling, and the organizational skills involved in case management.

6. Human Services Specialists share responsibility with the County Director and other supervisors for assessment of office procedures and management in an effort to achieve an accurate eligibility determination and an efficient office. They are responsible for preparing and conducting administrative reviews, fair hearings, and intentional program violation hearings for Missoula and Mineral Counties.

7. Human Services Specialists are required to understand all of the assistance programs, the welfare reform programs, and the FAIM philosophy. They interpret and clarify policies, rules, regulations, and objectives from the Code of Federal Regulations, Administrative Rules of Montana, Montana Operations Manual, Personnel Procedures Manual, and program manuals for supervisors for proper applications to programs administered by DPHHS, including family-related medicaid programs, food stamps, and adult-related medical programs. They use the Food Stamp manual (temporary assistance to needy families), Medicaid Manual for Families, SSI Medicaid manual for adults, and other manuals, including Childcare Resource manual and Foster Care manual. They also use a welfare reform manual, which includes contractor rules and regulations.

8. They refer to the regulations and manuals on a daily basis to perform their work. The manuals are used as guides, but do not furnish black-and-white answers to all dilemmas which arise, and the Human Services Specialists themselves must often use their own judgment when making benefit determinations.

9. The Human Services Specialists are cross-trained to allow them to step into each other's jobs if situations arise which require them to do so.

10. The Human Services Specialist has final authority over a sanction issue which a FAIM coordinator brings to her attention. The Human Services Specialist and her staff follow guidelines when imposing sanctions, but are allowed to interpret human factors to determine eligibility. However, a review committee evaluates and signs off on every sanction. 11. The Human Services Specialists are not required to submit all their work for approval by a supervisor. For instance, if a welfare recipient is dissatisfied with a ruling, the recipient can request a review. An administrative review occurs at the specialist's office, or occasionally, by telephone. Following an administrative review, the Human Services Specialist and other workers involved in the review make a decision and explain their decision and the basis for it, to the participant. A participant still dissatisfied with the result can request a fair hearing. If the case goes to a fair hearing, a Human Resource officer examines the case to determine that everything was done in compliance with the manuals and guidelines. The fair hearing can either affirm or overturn the administrative decision.

12. If the Human Services Specialist cannot interpret the rules or manuals to make a determination based upon her experience, she sends the issue to the regional policy specialist for interpretation. The regional policy staff also provides quarterly training for the Human Services Specialists.

13. Human Services Specialists can make arguments regarding changes in policy interpretations, but do not have the authority to make a final decision.
14. Human Services Specialists are expected to notify their supervisors in advance concerning unusual or volatile situations. They are not required to apprise a supervisor of normal situations on a day-to-day basis, which would interrupt their routines.
15. Kathy Gibson (position 30423) has been a Human Services Specialist in Missoula and Mineral counties for 4 years, and has worked for the Public Assistance Program for 15 years. As a Human Services Specialist, she is a first-line supervisor over 8 employees (eligibility examiners and FAIM coordinators). Her immediate supervisor is Jennifer Carter, Missoula County Director.
16. Gibson uses manuals and regulations as guides to performing her supervisory and other duties. She makes decisions on whether or not to allow someone a benefit, such as transportation, when the manuals and regulations do not specifically apply to the situation. Gibson uses 4 manuals, including the Food Stamp manual, the TANF cash manual, the Medicaid Manual for Families, and the SSI Medicaid Manual for Adults. She also uses program manuals to assist her in her deliberations, such as the program manuals for Child Care Resources and Foster Care. The welfare reform manual contains contractor rules and regulations. Gibson is not required to have all her work approved by her supervisor.
17. Gibson has authority over sanction issues that the FAIM coordinator brings to her attention. She has guidelines to follow for sanctioning participants, but sometimes must consider human discretionary factors. A review committee reviews each sanction and signs off as the final authority.
18. If a participant in the welfare program disagrees with a benefits decision, the participant may initiate a review. The administrative review is held in Gibson's office, or occasionally, by telephone. Prior to a case going to fair hearing, Gibson examines the case to verify that her supervisees have completed all work involved, and complied with all guidelines, manuals, and regulations. Fair hearings are generally held by telephone. Gibson has attended one in-person fair hearing during her tenure. Gibson does not have final authority over her entire program, or over the rules, policies, and procedures. The Legislature and central office have final authority over those subjects.
19. Gibson and her peers are cross-trained, even though each has her own area of specialty. Gibson and the other Human Services Specialists can fulfill each other's functions when needed.
20. If a question is not answered by the rules and manuals, and Gibson cannot supply an answer based on past experience, she refers the question to the regional policy specialist for interpretation. Regional policy personnel also provide training to the Human Services Specialists regarding application and interpretation of the rules and manuals.
21. Gibson does not apprise the County Director of normal day-to-day actions in her work, but does notify the County Director of unusual problems or when volatile situations occur.
22. Christine Mitchell (position 30421) has been a Human Services Specialist in Missoula for over 3 years. She has daily contact with outside agencies regarding

questions about Family Medicaid, CHIP (Children's Health Insurance Program), and the out-stationing program, her areas of emphasis. She directs out-station sites in Missoula. Other Missoula Human Services Specialists have been cross-trained to substitute for her in performing her daily duties.

23. In addition to the manuals used by other Human Services Specialists, Mitchell also refers to a CHIP manual. She is well versed with all the manuals and can answer questions regarding any of them. The recently expanded out-station program was a result of welfare reform. There were no rules or manuals to follow in establishing the program. The purpose of the program was to reach more children and families, to talk about Medicaid and other health insurance, and take applications at more client-accessible sites. Hospitals, clinics, schools, Missoula Indian Center, and several homeless centers were the targeted sites. In setting up the out-station program, Mitchell decided who to send and the best places to go. The Human Services Specialists were required to take their work outside the office by reaching out into the community. Mitchell's staff had to decide how to fit the new information and duties into their workloads. Mitchell understood that she represented the agency whenever she went out into the community, answered questions, sat on committees, or engaged in the day-to-day activities of her program.

24. Mitchell plans and develops her own materials and creates her own presentations for appearances in the community.

25. Mitchell is responsible for corrective action with her staff members. She has the authority to recommend discharge, present it to the employee, and to send it to Helena. She is required to discuss any discharge with the County Director. In the course of their work, Mitchell and the other Human Services Specialists frequently make decisions as a team.

26. Mitchell receives and responds to participant calls, inquiries, letters, and complaints regarding any of the programs. She uses her own discretion to perform her daily work. She supervises a staff of eight workers. With the other Human Services Specialists, Mitchell participated in writing the current position description in 1999. She believed the description to be accurate (Joint Exhibit 4, and state Exhibit 1, Human Services Specialist position description, 1999).

27. Karen Jirsa is the current training and development manager for the Public Assistance Bureau. Before her current position, she worked for 5 years as an eligibility technician/examiner, 7 years as a Human Services Specialist, and 1½ years as a regional rover, the precursor to the current regional policy/regional quality assurance positions. She indicated that she had worked on the Human Services Specialist position description before she left that capacity on July 1, 1999. She found the finalized 1999 position description to be accurate. While serving as a Human Services Specialist she supervised staff in Missoula and Mineral counties. She specialized in delivering training for food stamps, but was familiar with all programs. She conducted administrative reviews and intentional violation hearings. Her role at the intentional violation hearings was to present evidence on what had happened and why it was believed that the participant's actions were fraudulent. If the participant elected not to accept Jirsa's explanation regarding alleged fraudulent actions, the matter went to hearing.

28. Jirsa worked on special projects during her time with the public assistance offices in Missoula and Mineral counties. She set up new program plans, provided training, and established an improved communication system. She also worked on developing the community operating plan.

29. The County Director assigned the work on the new programs to Jirsa. Jirsa developed the programs from there. When problems arose which Jirsa could not resolve, she spoke with other Human Services Specialists, and they collectively resolved them. If a problem could not be resolved collectively, they were referred to the County Director, regional manager, or regional policy director.

30. Jirsa and the other Human Services Specialists had a specific chain of command to which they could refer matters they could not resolve.

31. Jirsa generally advised the County Director about the procedures she followed in her work. She understood that while she could recommend discharges, the County Director and personnel had the final authority on discharges.

32. Jirsa did not participate in budget matters in the department. She did sign first checks for Medicaid travel and similar expenses, and some checks for program participants who were waiting for SSI benefits.

33. Susan Rutherford (position number 30422) is a Human Services Specialist in the Missoula County Office of Public Assistance. She is the first line supervisor over 8 employees (3 eligibility examiners, 1 Human Services program officer, and 4 FAIM coordinators) and is assigned to work in Missoula and Mineral counties for the Public Assistance programs. The Missoula County Director is Rutherford's direct supervisor.

34. Rutherford uses manuals and regulations as guides to performing her supervisory and other duties. She primarily oversees functions in family-related Medicaide, food stamps, and adult-related medical programs.

35. Her supervisory responsibilities include oversight and training of staff who determine eligibility for low income programs and who assure that all program determinations are timely and accurate.

36. The County Director makes assignments to Rutherford both verbally and in writing, in terms of objectives to be met to comply with Department and County policies. Policies and procedures are interpreted using manuals from FAIM, FAIM food stamps, FAIM medical, IV-E foster care, child care, SSI medical, The Economic Assistance Management System (TEAMS) handbook, Administrative Rules of Montana, Montana Operations manual, Code of Federal Regulations, DPHHS personnel manual, DPHHS administrative manual, FAIM bulletins and directives, and other department rules and regulations used to analyze information and verifications provided to determine eligibility for the programs. Rutherford has authority over sanction issues the FAIM coordinator brings to her attention. She follows guidelines in the resources listed above, but sometimes has to incorporate her own discretion and human factors. The review committee reviews each sanction and signs off as final authority.

37. Participants in the welfare program may disagree with benefits decisions, and may participate in the review process. The reviews are conducted by Rutherford, in her office or by telephone. Prior to a case going to fair hearing, Rutherford examines the case to determine that her supervisees have completed all necessary work and complied with all guidelines, manuals, and regulations. Fair hearings on

this subject matter are generally conducted by telephone conference call. The Legislature and central office in Helena have final authority over her entire program and over the rules, policies, and procedures. The County Director does not require Rutherford to inform her of normal day-to-day actions and work assignments. However, Rutherford is required to notify the County Director of unusual problems or serious situations that occur. Rutherford can refer matters she cannot finalize to the regional policy specialist for interpretation. Rutherford is also provided training by regional policy personnel regarding interpretation and application of rules and manuals.

38. Jennifer Carter is Missoula County Director for the programs and is the Human Services Specialists' immediate supervisor. Carter indicated that Missoula County is unique, diverse, and innovative in the human services field. Multiple human services agencies serve Missoula County. Eighty to 100 agencies interact with her offices. As a result, staff perform a large volume of weekly transactions.

39. Human Services Specialists are not required to obtain Carter's approval for their everyday work, but she is there as counsel for them. The Human Services Specialists review the ongoing work of the staff they supervise. Carter is responsible for the overall supervision of the programs and has the authority to sign contracts. She is classified as a grade 17. Carter can revoke the delegated authority to the Human Services Specialists at any time. Human Services Specialists do not have the authority to change the policies that regional policy specialists determine for them. Human Services Specialists are not in charge of the budget. Human Services Specialists go to Carter when they need advice on matters they cannot interpret.

40. John Vestre is the field manager, Region V, Missoula, and Region III, Kalispell. He is the direct supervisor of the Missoula Director. Vestre found the Human Services Specialists in Missoula to be excellent at performing their duties, and from his observation, he feels they have set up quality programs far and above other counties in the state. They are accurate in their work and have good relationships with providers of other services. They were the first to establish a relationship with a local hospital. During an interim period when the Missoula County Director position was vacant, Vestre chose not to appoint a temporary director. Rather, he had the Human Services Specialists act as a team to run the office. He noted that the Missoula Human Services Specialists have been innovative and creative in developing new programs. During the interim period when the Director position was vacant, he had more direct contact with the Missoula Human Services Specialists. Vestre found that the position description developed in 1999 is accurate.

41. Vestre indicated that the Human Services Specialists must follow established policies set forth in the rules, regulations, and manuals except when the answer to a problem is not defined therein. The County Director is ultimately responsible for the direction of the programs in the community. The Human Services Specialists' involvement in the program typically is less than that of the County Director.

42. A County Director negotiates contracts between specific programs and establishes the means for meeting essential terms. It is then up to the Human

Services Specialists to apply rules and to oversee the programs with their staffs. There are various methods and procedures available which enable the Human Services Specialists to set up programs, and they make the decision as to which method to use in any particular situation. Human Services Specialists frequently solve unusual problems without any supervisory direction, using the appropriate rules, regulations, manuals, and policies.

43. Participation of the Human Services Specialists in fair hearings is limited to giving testimony about the work, and decisions they made based on the rules, regulations, manuals, and policies. Manuals, such as FAIM, Child care, TANF, Medicare, SSI manual, foster care manual, are all developed at the central office in Helena.

44. When policy manuals conflict, the proper procedure for Human Services Specialists to follow is to contact the central office policy specialist, and not to choose between conflicting policies. They are also to refer case problems which are outside the ordinary policies and procedures to their supervisor, or to the regional policy specialist.

45. The County Director prepares the performance evaluation reviews for the Human Services Specialists.

46. The Human Services Specialists report to their immediate supervisor, the County Director. They retain a significant amount of authority, especially in light of continual program changes at FAIM in order to meet federal requirements. They are responsible for planning and organizing the details of the work, deciding the methods to use to produce the desired result, making proper interpretations, and are held accountable for the output of the work produced by their program staff. They are required to work within the parameters of defined policies and regulations for each program. Decisions made by the incumbent involve the determination, establishment, and revision of methods, practices and procedures necessary to achieve program objectives. The work is reviewed before attainment of planned results and each program's performance standards. The County Director exerts control over matters such as long-range planning and significant expenditures.

47. The Mineral/Missoula County Director's position was vacant for approximately three months before filled in fall 1999. The four Human Services Specialists divided the County Director's internal and community responsibilities, and each was assigned her share of the functions. During that three month period, each supervisor planned, directed, problem solved, managed personnel activities, and made decisions for day-to day and longer term operations. The Human Services Specialists were required to use judgment in decision making for new services, interagency linkages, and design for customer services while planning for the new agency service center in Missoula.

48. Between August 1996 and June 1999, (date of the current position description), the Missoula County Office of Public Assistance director delegated increased levels of responsibility to the Human Services Specialists due to the need for the incumbents to spend significant time in the community with resource providers, service consumers, and the general public to develop working mechanisms to support the necessary transition of program participants to work.

The increase in duties required the identification of barriers, services, and resources in the continual building of support systems to address the needs of the participants who needed to obtain work due to specific issues, including chemical dependency, substance abuse, and mental illness.

49. Under the Classification Manual's Benchmark Factoring Methodology for the category Supervision Received, the Human Services Specialists in this case are appropriately factored at a level 3.

IV. DISCUSSION/RATIONALE

Montana law requires the Department of Administration to develop a classification plan for state employees and permits employees to appeal the allocation of positions to classes in the system. §§2-18-201 and 2-18-203 (2), MCA. The function of developing guidelines for classification is assigned to the Department of Administration. § 2-18-202, MCA. The guidelines are set forth in the Department's Classification Manual.

The Classification Manual, Volume 3, explains the methodology to be used in the classification of the Human Services Specialists' positions.

The Benchmark Factoring Method has two components: the factor-level definitions and the standards. The Benchmark Factoring Method places positions in grades on the basis of their duties and responsibilities as evaluated in terms of seven factors. (Part II, p. 2)

Standards: Standard include two elements, the **Series Discussion** and the **Benchmark(s)**. These documents guide the classifier to a representative application of the factors. (Part II.B)

Benchmark: A Benchmark lists the duties assigned to a representative position within an occupation and describes each of the seven factors as they relate to the duties. Benchmark descriptions illustrate how the factors are applied to a particular type of work. (Part II.B)

The BFM job evaluation process involves the following:

1. The classifier may first choose the class series by comparing the duties of the position to the kind of work described in the class series. Analysis of the education and experience necessary to perform the assigned duties also helps the classifier choose the correct class.
2. The classifier compares the duties and responsibilities assigned to the position to the factor-level descriptions, selecting the most applicable description for each factor.
3. The classifier relies on the Benchmark descriptions to corroborate the evaluation of the position. The Benchmarks demonstrate the factor-level ratings given to similar jobs and provide for consistent application of the factors. In those instances where the Benchmark lacks a particular characteristic, Benchmarks

for other occupations can be consulted. Benchmarks also provide important information about occupations. (Part II.C)

Predominant Duty Rule: The factors Complexity, Supervision Received, and Scope and Effect and Personal Contacts are applied to the work performed 50 percent of the time and more. In those instances where no duty is performed 50 percent or more of the time, the predominant work is defined as those tasks or duties comprising at least 50 percent of the time at or above the complexity level assigned. The predominant duties must be **fully equivalent** to the overall intent of the factor-level description in order to receive the rating. (Part II.C)

The Human Services Specialists believe they are aggrieved by the allocation of level 3 on the factor Supervision Received, instead of level 4. They maintain that they should be allocated a level 4 for the following reasons: 1) they have read the level 3 and level 4 language on Supervision Received and concluded, based on that reading, that they are a level 4; 2) more specifically, they believe that since they have final authority over their own work and work independently, a level 4 is fitting; 3) they supervise others; 4) their work changed between 1996 and 1999 because of welfare reform; 5) they ran the office of assistance in Missoula during the time the office was without a County Director; and 6) they are more productive and innovative than their counterparts in other regions in the state.

State Personnel Division contends that the Human Services Specialists are not aggrieved by the allocation of level 3 on the factor Supervision Received. It alleges that the allocation of level 4 would be inconsistent with how the factors have been applied to Benchmark positions and other similar positions throughout state government.

The State Personnel Division used the newly revised 1999 position description, which in part had been developed by the Human Services Specialists, and which captured the changes between 1996 and 1999 with welfare reform, to allocate the factors to the position. In accordance with the Benchmark Factoring Method, the predominant duty governs the Supervision Received factor. The classification manual requires that: "in instances where the predominant work is described by two levels, the classifier is required to apply the first level that accurately describes the work." BFM Manual, Part II, Page 2, Section C.

The point total for Human Services Specialists, as factored by the department, is 1048 points. This falls within the grade 14 range (979-1076), Points, Department Classification Manual, Part II, Page 39. Allocating Supervision Received at level 4 would have resulted in 48 additional points, which would increase the point total to 1096, which falls within the grade 15 range (1077-1180 points). Therefore, awarding the higher level on the Supervision Received factor would have resulted in allocation to grade 15. The BFM definitions for supervision received levels 3 and 4 are as follows:

LEVEL 3

The employee uses initiative and judgment to determine how to proceed with assignments. Various methods and procedures are available, and the employee determines those best suited to each task. The employee is expected to plan the sequence of steps and use judgment to solve even unusual circumstances. The

supervisor may review the work for soundness of approach or may occasionally spot check for accuracy, but the details of the work are normally assumed to be accurate. The supervisor provides direction in policy issues and normally resolves problems that involve other organizations.

LEVEL 4

Assignments are broadly stated in terms of objectives to be met. The employee is responsible for planning and organizing the details of the work, deciding upon the methods to use to produce the desired result, making proper interpretations, and acting as the final authority on the adequacy of the work. The supervisor exerts control over matters such as long range planning, expenditure of funds, and related problems.

OR

Managerial or executive positions where decision involve revision of methods and procedures necessary to achieve objective; activities and methods are generally defined and a variety of complex procedures and methods limit latitude; existing methods, practices and procedures are covered by either established precedents or well defined policy and regulations; objectives are clearly defined and work is reviewed for attainment of planned results.

Under the BFM, standard procedure used to weigh and balance the job elements measured in the Supervision Received factor is to consider: 1) supervisory review; 2) job structure; and 3) technical assistance. The position description for Fish and Wildlife Biologists, grade 15, class code 04105, used as a Benchmark position by the State Personnel Division shows that the position is similar to the Human Services Specialist position in how the three elements of the factor Supervision Received were weighed and balanced. Both positions are allocated at a level 3 for Supervision Received. Both the Human Services Specialist and Fish and Wildlife Biologist positions have comparable supervisory review in that supervisors do not normally review the work, and the individuals in those positions make independent decisions. Both positions have laws, regulations, and manuals to guide and direct them in carrying out their work responsibilities. Both positions have access to a supervisor for obtaining advice in choosing a specific strategy when needed. Both positions have similar technical assistance, in that they share ideas with and provide assistance to others in the same work unit.

In general, Supervision Received level 3 Benchmark are more similar to the Human Services Specialists than Supervision Received level 4 Benchmark. In positions receiving level 3 in Supervision Received, an inverse relationship exists between review by a supervisor and job structure. The greater the structure provided by laws, regulations, statutes, policies, and procedures, the less the review by a supervisor. For positions factored at a Supervision Received level 4 Benchmark, the positions have very little structure to rely on in approaching, investigating, or resolving a case, yet they have close contact with a supervisor during the processing of cases. Human Services Specialists have a well-defined body of laws and regulations that provide guidelines and standards. Within these legal constraints, the Human

Services Specialists independently determine how to proceed, decide which rules, laws, and regulations apply to individuals, plan strategies, and adapt guidelines.

Another example of Benchmark grade 14 comparison is the position of Employment Services Supervisor, grade 14, Benchmark, Exhibit "F," and is comparable to the Human Services Specialist position. The Employment Services Supervisor is rated a level 3 on Supervision Received. The Employment Services Supervisor, grade 14, Benchmark, was close to the Human Services Specialist position because it is responsible for supervising the program office, overseeing the administration and acting as a liaison between program personnel, clients, agencies and employees. They supervise the administration of the work through their knowledge of state and federal laws, regulations, and policies, as well as personnel management. They meet regularly with program oversight committees, do case reviews, coordinate efforts with participatory programs, and negotiate contracts. They work on their own initiative. They work independently within the confines of the rules, regulations, manuals, laws, and policies that apply to their area of work.

Supervision Received level 4 Benchmarks fell into three groups: 1) the position is the final authority; 2) the position is a technical expert; 3) the job assignment is broadly stated. "Final authority" means that the individual in the position is responsible for work produced by a work unit as either a supervisor or a technical expert. The Human Services Specialists have final responsibility for the quality of their own and their staffs' work, and under normal conditions the work is not reviewed by the supervisor. However, their supervisor becomes involved in cases assigned to them when a complaint is received from a party involved. The County Director is ultimately responsible for the Human Services Specialists and their work units. If a Benchmark were the "technical expert" in a given area, no one else in the work unit, including the supervisor, has the knowledge or expertise to "second guess" or truly review the work of that position. If one of the Human Services Specialists has a problem pursuing a case, help is available from a coworker or supervisor. They rely on each other or the supervisor when confronting unusual or difficult cases. There is no single technical expert on any particular kind of case.

"Broadly stated assignments", as defined in the Benchmark, require the incumbent to devise or set up procedures for each step, develop job structure, or to create new policies or procedures predominantly. In comparing the broadly stated assignment, Benchmark position Fish and Wildlife Biologists, level 4 Benchmark, Exhibit H, conducts "long-term research" on the impact of hunting strategies, as well as other factors, on a given elk population. The Biologists designed the study, created and implemented methods of interpretation, and findings. There are no laws, rules, or regulations outlining the process used. Further, no other position performs similar duties within the department, making this position the "technical expert" as well. By contrast, the Human Services Specialist positions are structured by the nature of the case and by a body of laws, rules, regulations, manuals, policies, and procedures, which limit their discretion. The Fish, Wildlife, and Parks Biologist job structure and direction are significantly stronger than that of the Human Services Specialists. The Human Services Specialist's job is structured by a body of laws, rules, and policies which limit their discretion and the types of actions they can take. Therefore, the Human Services Specialist position is not "broadly stated" as defined by Supervision Received level 4.

The Human Services Specialists do not have final authority or direct the entire Missoula county program. That program is directed by the County Director (grade 17), who supervises the Human Services Specialists and is Benchmarked at a Supervision Received level 4. While the County Director does not review daily work, the director is responsible for the entire program. There is a layer of supervision above the Human Services Specialists within the department. The Human Services Specialists have the authority to make decisions on certain cases, but if a participant does not like the decision, the participant can request a review or other action at a higher level.

The Benchmark position of Administrative Officer, grade 16, class code 16931, is factored at a level 4 for supervision received. The position is supervised by the Division Administrator. The position directs the daily operations. The scope of work is very wide. The position deals with state government operations, licensing, tax collection, and budgeting. The duties include organizing state-wide training and regularly recommending state policy and legislation. The incumbent is responsible for the entire state program and has final authority state-wide, not just over his own work. This is stronger than the Supervision Received factor level allocated to the Human Services Specialists who only have final authority over their own work and staffs. The final authority of their program rests with the County Director.

Upon examination of the three elements that are measured in the Supervision Received level 3 factor, the record supports a finding that the allocation of the level 3 on the Supervision Received factor is consistent with the application of the BFM methodology that defines the levels 3 and 4.

Summary

The Human Services Specialists are properly factored at a level 3 for Supervision Received. As a result, the positions are properly classified at grade 14.

V. CONCLUSIONS OF LAW

1. The Board of Personnel Appeals has jurisdiction over this case pursuant to §2-18-1011, MCA.
2. Appellants' positions are appropriately ranked at level 3 for Supervision Received.
3. Appellants are not aggrieved by the allocation of their positions to the Human Services Specialists, grade 14, pursuant to the classification plan developed by the Department of Administration.

VI. RECOMMENDED ORDER

Classification Appeal #4-2000 is DISMISSED.

DATED this 8TH day of April, 2002.

BOARD OF PERSONNEL APPEALS

By: /s/ Michael T. Furlong

Michael T. Furlong
Hearing Officer

NOTICE: Pursuant to ARM 24.26.215, the above RECOMMENDED ORDER shall become the Final Order of this Board unless written exceptions are postmarked no later than May 1, 2002. This time period includes the 20 days provided for in ARM 24.26.215, and the additional 3 days mandated by Rule 6(e), M.R.Civ.P., as service of this Order is by mail.

The notice of appeal shall consist of a written appeal of the decision of the hearing officer which sets forth the specific errors of the hearing officer and the issues to be raised on appeal. Notice of appeal must be mailed to: Board of Personnel Appeals
Department of Labor and Industry
P.O. Box 6518
Helena, MT 59624-6518