

STATE OF MONTANA  
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF CONSOLIDATED CLASSIFICATION APPEAL NO. 3-2000:

FIELD SERVICES SPECIALISTS,	)	Case No. 647-2001
DEVELOPMENTAL DISABILITIES	)	
PROGRAM, DEPARTMENT OF PUBLIC	)	
HEALTH AND HUMAN SERVICES,	)	
Appellants,	)	
	)	FINDINGS OF FACT;
vs.	)	CONCLUSIONS OF LAW;
	)	AND RECOMMENDED ORDER
STATE PERSONNEL DIVISION,	)	
DEPARTMENT OF ADMINISTRATION,	)	
Respondent.	)	

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**I. INTRODUCTION**

Appellants, 16 Field Services Specialists, appealed the application of the Benchmark Factoring Methodology performed by Respondent State Personnel Division. They appealed three of the seven factors as rated by Respondent under the Benchmark Factoring Methodology, contending that Respondent improperly classified their positions at grade 14. Hearing Officer Gordon D. Bruce conducted an in-person hearing in the matter on August 2 and 3, 2000.

At the hearing, Attorney J. C. Weingartner represented the Appellants, and Associate Counsel Vivian Hammill represented the Respondent. Donna Hansen, Personnel Specialist at the Department of Public Health and Human Services, Beth Strandberg, Personnel Specialist at the Department of Administration, Field Services Specialist Lori Wertz, and Larry Lovelace, a Regional Manager at the Department of Public Health and Human Services (DPHHS), gave sworn testimony at the hearing.

The Hearing Officer admitted Appellants' Exhibits 1 through 12, Respondent's Exhibits A-VV and J-1 through J-25, including Hearing Bureau orders, into the record.

The hearing record closed upon receipt of final post-hearing arguments submitted by the parties.

**II. ISSUES**

The parties presented three issues for review: (1) Whether Respondent correctly rated the factor "Supervision Received" at level 3, instead of at level 3 or greater; (2) Whether the Respondent correctly rated the factor "Personal Contacts" at level 4, instead of at level 5; (3) Whether Respondent correctly rated the factor "Working Conditions" at normal instead of at level 1.

### III. FINDINGS OF FACT

1. The Field Services Specialists Unit consists of approximately 16 individuals employed by the Department of Health and Human Services within the Developmental Disabilities Program. They are dispersed in five regional offices and each office is responsible within its geographical area for procuring and supporting community-based services for individuals with developmental disabilities and their families. The Field Services Specialists also provide information on developmental disabilities and services to other agencies and community groups, and generally promote public participation in the design, development, and provision of those services.
2. The Field Services Specialist title is a working title used by the Appellants. The official title in the classification and pay system is "Human Services Specialist." The Field Services Specialists' positions are in the Human Services Specialist Classification Series.
3. Most of the Field Services Specialists do not travel extensively. Three of the positions (positions 14101, 14110, and 14111) each average 1,000 miles or more a month over a 12 month period of time. The other Field Services Specialists may travel extensively on an "as needed" basis.
4. In conjunction with the central office, the Field Services Specialists in the regional offices are responsible for developing and managing the process for entrance into community-based services and nursing facilities, for expanding services based on assessment of unmet needs, and for determining eligibility for program resources through level of care evaluations. They negotiate and manage contracts both financially and programmatically with community service providers. They also provide technical assistance to employees of contracted providers and provide community education. They interpret rules and regulations, provide accurate policy direction and guidance to contracted providers, conduct ongoing program compliance reviews, maintain Medicaid Waiver funding requirements, and ensure compliance with the Federal Omnibus Budget Reconciliation Act of 1987, Nursing Home Reform (OBRA).
5. Of all the duties performed by the Field Services Specialists, very few require that they have contact with or approval from their supervisor. Approximately 90% of the time the supervisor has no involvement with the activities of the Field Services Specialists. Supervisors deal mainly with fiscal issues. Larry Lovelace, a supervisor of some of the Appellants, meets with his employees once a month. Other supervisors of the Appellants meet with them on a weekly basis. The nature of the meeting is to discuss where the Field Services Specialists will be. Individual cases or circumstances are rarely discussed. Supervisors do not typically assign work, review work, give direction, direct how the Field Services Specialists should handle a particular situation, or get involved in the day to day operations of the Bureau.

6. Certain aspects of the Field Services Specialists' work are seldom reviewed, if at all. Those aspects include the writing of Individual Applied Behavioral Analysis (IABA), Individual Planning (IP) for behavioral programs, eligibility issues and their interaction with contractors and compliance issues.

7. The Field Services Specialists are the final authority on many issues. They have the final authority to commit the department when they authorize services, negotiate and execute contracts, interpret rules and policies, determine eligibility, consider eligibility waivers, screen and place clients, sign off on cost plans for child placement, complete waiver files, determine nursing home placement, determine level of care for SSI, determine and modify child placements, exit of clients, assess plans, monitor contracts, determine corrective action, and remove or transfer clients. These decisions are made without approval of a supervisor. Seldom are controversial issues referred to a higher authority for resolution.

8. Field Services Specialists' decisions are generally final unless a Fair Hearing appeal is initiated by a party adversely affected by their decisions. No hearing of such an appeal has occurred in over ten years. Their department refers to the Field Services Specialists as the "can-do crew", the "eyes and ears" in the field, and the department's "front-line representatives." The department considers the Field Services Specialists to be the technical experts. They are responsible for the final product. They are responsible for planning and organizing the details of work, and deciding upon the methods used to produce the desired results.

9. The Field Services Specialists work with certain basic general guidelines or handbooks. Some of those guidelines and handbooks were prepared by the Field Services Specialists. They set in place the abuse policy and screening rules, for example. They make proper interpretations of the rules, policies, and laws in their daily contacts with clients, families, health care workers, mental health care workers, contractors, providers, other care givers, or institutions. Because of the nature of the clientele, interactions with these people can become confrontational, hostile, and volatile. The Field Services Specialists are responsible to defuse these difficult situations. They must resolve placement issues, behavioral issues, medical issues and family issues. They decide whether the department will enter into contracts. They conduct home inspections. They are the final authority on all these issues.

10. In 1989, the Department of Health and Human Services benchmarked the Field Services Specialists' positions at grade 14. Another review was conducted in 1994. Since those determinations, the duties and responsibilities of the Field Services Specialists have expanded. The Field Services Specialists requested a review of their positions because of the many changes that had taken place in their duties and responsibilities. Respondent acknowledged that many changes had been made in these positions, including approximately ten items added or expanded in the current position description related to the Training/Technical Assistance aspect of their job; 14 items added or expanded to the Quality Assurance aspect of their job; 32 items added or expanded to the Service/Entry/Exit aspect of their job; and four items added or expanded to the Administrative and Liaison aspect of their job.

11. The Field Services Specialists have performed duties that were once assigned to positions that commanded the benchmark position of grade 15: QMRP (P#51364) and OBRA (P#14063), and the PASSAR coordinator. Although in some instances certain of those duties have been phased out, many are now being done by the Field Services Specialists.

12. The Field Services Specialists' duties and responsibilities are separated in three distinct yet interwoven areas: Training/Technical Assistance (30%); Quality Assurance (30%); and Service Entry/Exit (30%). When the Field Services Specialists' positions were reviewed by Donna Hansen, Personnel Specialist at the Department of Public Health and Human Services, she only considered two aspects of the predominant work in those positions: (1) Quality Assurance and (2) Service Entry/Exit.

13. Beth Strandberg, Personnel Specialist at the Department of Administration, also conducted a review of the Field Services Specialists' positions and issued her report on August 18, 2000. She concluded that the Field Services Specialists were properly classified as Human Services Specialists, class code 188106, grade 14. Strandberg used the established Benchmark Factoring Methodology in her analysis of the Field Services Specialists' positions, and determined that the Field Services Specialists' predominant work involved Training/Technical Assistance (30%) and Quality Assurance (30%).

14. There are five rules for properly applying the Benchmark Factoring Method classification methodology. These rules are in the Manual, Part II, The Benchmark Factoring Method and Classification Procedures, pages 1-4. The rules follow:

(1) The predominant work principle. The work, or level of work performed 50% of the time or more must be applied to the predominant work factors.

-Complexity and Supervision Received are predominant work factors

(2) The predominant work must be fully equivalent to the intent of the factor level chosen.

-intent is defined in the benchmarks

(3) The same body of work should be applied to all predominant work factors.

(4) Start at the first factor level, read up, and stop at the first level that fully describes the work.

(5) Comparison to the Benchmark is essential. This is the benchmark factoring methodology. The factors cannot be applied in a vacuum. Benchmarks define broad manual language in terms of different kinds of jobs. Benchmarks define the full intent of the factor levels.

15. In those instances where the benchmark lacks a particular characteristic, benchmarks for other occupations can be consulted pursuant to the Benchmark Factoring Methodology Manual, Part II, Page 3, section D, and where the predominant work is described by portions of two levels, the Benchmark Factoring Methodology Manual, Part II, p. 2, section C, indicates that it is appropriate to apply the first level that accurately describes the work.

16. In comparing the Field Services Specialists' factoring to the benchmark, Human Services Specialist, class code 188106, grade 15, under Supervision Received, the position has a factor level 4. Supervision Received is described as follows:

Assignments from the supervisor are stated in terms of goals and objectives. The incumbent is responsible for planning and organizing all details of the work, for deciding upon the methods to use to ensure client compliance with program regulations, and for independently making policy determinations and changes. The supervisor exerts control over long-range planning and only reviews new and modified policies in order to keep informed.

17. In reviewing another comparison, Program Specialist, class code 187115, grade 15, Supervision Received is also level 4:

The position works independently to self-initiate most assignments. The incumbent plans and organizes details of the work, decides upon methods to use to produce the desired result, and acts as the final authority on the adequacy of the work. The supervisor is involved in long range planning and expenditure of funds. Federal and state regulations are available for reference and technical assistance is available from colleagues within the agency or externally.

Further, Scope and Effect is level 4, and very similar to the Field Services Specialists.

18. The Field Services Specialists received a level 4 on the Personal Contacts factor. A level 4 on Personal Contacts reads:

Contacts are to present or exchange abstract ideas or complex information, to convince others to take a particular course of action, to resolve abstract problems and work out complex implementation strategies, or involve justifying and defending actions to individuals or groups who feel aggrieved or are committed to different goals. Contacts are with individuals or groups who are generally, but not always, cooperative. Some debate or even hostility may be characteristic of the contact. Individuals or groups are generally committed to the same goals or broad objectives. Contacts are usually on behalf of the organization, and the employee has a definite definable impact on the result and can influence achievement of outcomes.

**OR**

Requires skill in explaining abstract concepts through use of analogies, metaphors, or similar means; speaking persuasively; conciliating; discerning others' underlying concerns; or diffusing volatile situations.

19. In the Classification Manual under Personal Contacts level 5, it reads in pertinent part:

Contacts may be so frequent, intensive, or critical to the work that skill in communication is a primary requirement for successful performance. Requires considerable skill in discerning others' underlying concerns, persuading, conciliating, and devising appropriate strategies and timing. It may also require considerable skill in negotiating, facilitating discussion, forging a common understanding, and determining when and how to disseminate sensitive information.

The Personal Contacts factor describes the level of communication used in a position. There is only one non-managerial benchmark that is a level 5 on Personal Contacts and it is a position where communication is the predominant duty of the position. After auditing certain of the Field Services Specialists, Strandberg factored them at level 4 on Personal Contacts, which the Field Services Specialists originally requested.

20. One of the introductory paragraphs in the Benchmark Factoring Methodology Manual states:

The more responsibility the supervisor assumes for the quality and timeliness of the work, the less accountability the employee shoulders and, consequently, the less scope and effect exercised by the position.

The documents further provide:

The factors Scope and Effect and Supervision Received are related factors and the choice of factor level chosen should reflect this relationship.

The Respondent ranked Scope and Effect at a level 4 but ranked Supervision Received at a level 3.

21. Strandberg factored the Field Services Specialists' positions as follows:

<b>Factor</b>	<b>Level</b>	<b>Points</b>
Complexity	6	427
Working Conditions	0/1	0/13
Knowledge, Skills & Abilities	6	313
Management & Supervision of Others	N/A	0
Supervision Received	3	141

Scope & Effect	4	103
Personal Contacts	4	47
Total Points 1,031/1,044		
Grade 14 (979-1,076 points)		

22. The Field Services Specialists disagreed with Strandberg and filed an Employee Classification and Wage Appeal with the Board, noting that inappropriate levels had been assigned to the classification levels of Working Conditions, Supervision Received, and Personal Contacts. The Field Services Specialists maintain that the factor level assigned for Working Conditions should be 1 instead of 0, Supervision Received should be at least 4 instead of 3, and Personal Contacts should be 5 instead of 4.

#### IV. DISCUSSION

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 Classification Manual, Vol. III, outlines the procedures developed by the Department to evaluate or classify a position:

**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 or 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 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.

In those instances where the predominant work is described by portions of two factor levels, the classifier is directed to apply the first level that accurately describes the work. To assess the proper level, the classifier must start at Level 1 and progress to the first level that accurately describes the work.

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 rating 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. The classifier also may refer to the factor-level ratings given to other positions in the class to verify the proper factor-level assignment.

"[T]he [Board of Personnel Appeals] is limited to determining whether a position is properly classified. If a position is improperly classified, the Board may then order the Division to reclassify the position in accordance with the existing policy." Mead v. Board of Personnel Appeals, 235 Mont. 208, 766 P.2d 1300 (1988).

### **WORKING CONDITIONS**

A level 0 on the Working Conditions factor describes normal office conditions. The record shows that only three of the Field Services Specialists travel over 1,000 miles per month when averaged annually as required by a level 1 on Working Conditions. Those three Field Services Specialists are correctly rated at level 1. The remaining 13 are a level 0.

### **SUPERVISION RECEIVED**

The Respondent improperly assigned a level 3 to the classification factor Supervision Received for the Field Services Specialists' positions. The Field Services Specialists are not closely supervised by their immediate supervisors. Their daily work is typically not reviewed by their immediate supervisors or other supervisors, and the Field Services Specialists are responsible for the final product. They do not always follow set procedures outlined in available manuals but rather, at times, must devise their own methods to achieve the desired result. They are considered the authority and the experts in all phases of their duties and responsibilities and others rely on their work product.

The Field Services Specialists compare well under the Supervision Received factor with the Program Specialist, grade 15 benchmark as rated by the Respondent. The Program Specialist does not independently make "policy" decisions.

### **PERSONAL CONTACTS**

The record shows that the Field Services Specialists at level 4 are a good match under the descriptive language for that level. Their contacts may be so frequent, intensive, or critical to the work that skill in communication is a primary requirement for successful performance. They are required to have considerable skill in discerning others' underlying concerns, persuading, conciliating, and devising appropriate strategies and timing, and in negotiating, facilitating discussion, forging a common understanding, and determining when and how to disseminate sensitive information. Although the Field Services Specialists requested a level 5, they failed to show a Benchmark level 5 that credibly supported their argument on this factor. The Field Services Specialists are correctly rated at level 4.

### **Summary:**

Based on the overall record, the Field Services Specialists meet with the following factor levels and points:

<b>Factor</b>	<b>Level</b>	<b>Points</b>
Complexity	6	427
Working Conditions (Three are level 1)	0/1	0/13

Knowledge, Skills & Abilities	6	313
Management & Supervision of Others	N/A	0
Supervision Received	4	189
Scope & Effect	4	103
Personal Contacts	4	47
Total Points		1,079/1,092
		Grade 15 (1077- 1180)

**V. CONCLUSIONS OF LAW**

1. The Board of Personnel Appeals has jurisdiction in this matter pursuant to § 2-18-1011, et seq., MCA.
2. The Field Services Specialists' positions are not properly classified and they have therefore been aggrieved by the operation of the State Employee Classification, Compensation and Benefits statutes, Title 2, Chapter 18, MCA.

**VI. RECOMMENDED ORDER**

Respondent, State Personnel Division, Department of Administration, is ORDERED to correct the classification factors for the Field Services Specialists pursuant to the above chart, which shows that the appropriate levels for these positions fall within the point range of 1077 - 1180.

DATED this 18th day of December, 2001.

BOARD OF PERSONNEL APPEALS

By: /s/ GORDON D. BRUCE

GORDON D. BRUCE

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 January 10, 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