

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Julie Phillips,

Appellant,

v.

Case No. 2013-REC-10-0343

Department of Insurance, and
Department of Administrative Services, Human Resources Division,

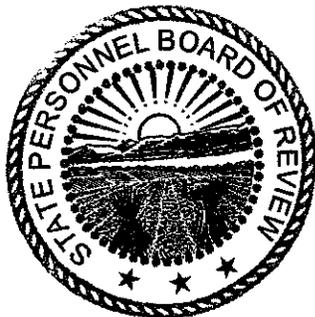
Appellees,

ORDER

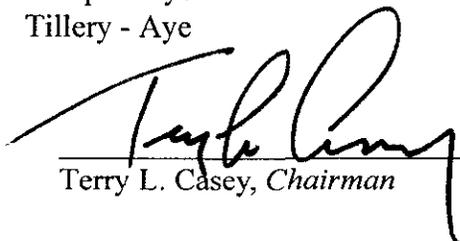
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the Department of Administrative Services' determination that Appellant's position be reclassified to Insurance Examination Data Specialist, classification number 67221, is **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14.



Casey - Aye
Lumpe - Aye
Tillery - Aye


Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, September 03 2014.


Erin E. Con
Clerk

NOTE: Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Julie Phillips,

Case No. 2013-REC-10-0343

Appellant

v.

August 1, 2014

Department of Insurance,
and
Department of Administrative Services,

Appellees

Elaine K. Stevenson
Hearing Officer

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on due to Appellant Julie Phillips' (Appellant) filing of a notice of appeal from the reclassification of her Management Analyst Supervisor 2 position with Appellee, Department of Insurance. The State Personnel Board of Review (the Board) has jurisdiction to hear Appellant's appeal pursuant to Ohio Revised Code (O.R.C.) §§ 124.03(A) and 124.14(D).

A record hearing was held on May 13, 2014, during which testimonial and documentary evidence was presented. Appellant was present at record hearing and appeared *pro se*. Appellee, Department of Insurance, was present through its designee, Human Resources Director Joan Olivieri. Appellee, Department of Administrative Services, was present through its designee, Human Capital Management Senior Analyst Laura Sutherland. Also present was Appellant's immediate supervisor, Angela Yoakum-Dingus.

FINDINGS OF FACT

Based upon a thorough review of the testimony of the witnesses and the documents admitted into evidence, and the entirety of the record, I make the following findings of fact:

1. Appellant has been employed by Appellee, Department of Insurance, for approximately twenty-eight years. Appellant's position was classified as Management Analyst Supervisor 2.

2. In 2012, the Department of Administrative Services notified Appellant that the Management Analyst Supervisor classification series would be eliminated from the state of Ohio's classification plan. Appellant completed a job questionnaire ("MAS Classification Project – Information Form") that provided a detailed description of her job duties. Appellant's immediate supervisor, Chief of Market Conduct, Angela Yoakum-Dingus, and the Department of Insurance's Human Resources Director, Joan Olivieri, reviewed and approved Appellant's completed job questionnaire. Based on the job information collected from Appellant, her supervisor, and the agency management designee, the Department of Administrative Services reclassified Appellant's position to Insurance Examination Data Specialist, classification number 67221. As a result of this job reclassification, Appellant's position is no longer exempt from collective bargaining. Appellant timely filed an appeal of the reclassification of her position on October 25, 2013.
3. Appellant's position is assigned to the Department of Insurance's Market Conduct Division. The Market Conduct Division monitors and examines insurance companies for compliance with state and federal insurance laws, rules, and regulations. The Market Conduct Division has established an analysis and surveillance program that monitors all types of products offered by insurance companies authorized to conduct business in Ohio. The process of market conduct monitoring and on-site examinations involves review of non-financial business practices in areas such as advertising, sales and marketing, policy rates, agent licensing, underwriting, and claims settlement practices.
4. Appellant reports directly to the Chief of Market Conduct, Angela Yoakum-Dingus. Ms. Yoakum-Dingus' position is classified as Insurance Compliance Manager, classification number 67216. Appellant conducts market analysis and surveillance involving the health insurance industry. Appellant develops procedures, designs rating and ranking lists and tools, and coordinates the analysis and surveillance program as it pertains to the health insurance industry. Appellant spends approximately 55% of her work time performing these job duties.
5. Appellant collects, interprets, and analyzes insurer submissions for the Annual Report of Ohio Health Insurance Business, the National Association of Insurance Commissioners' (NAIC) financial databases, NAIC's Market Conduct Annual Statement (MCAS), and the NAIC Consumer Data Source. Appellant develops and conducts industry surveys and gathers data designed to show possible issues relative to insurance laws and regulations. Appellant spends approximately 10% of her work time performing these job duties.

6. Appellant reviews and analyzes information from the Department of Insurance's online provider complaint system where health care providers may file prompt payment complaints. Appellant schedules, collects, interprets, and analyzes prompt pay report "data call" to monitor insurance companies' adherence to laws and regulations regarding the prompt payment of health claims. Appellant spends approximately 15% of her work time performing these job duties.
7. Appellant also attends meetings and responds to complex inquiries from insurance companies, consumers, and government staff. Appellant is the primary contact person for health insurance issues related to the functions of the Market Conduct Division. Appellant processes the executive tracking of complaints that come from the Department of Insurance's Executive Office. Appellant spends approximately 20% of her work time performing these job duties.

CONCLUSIONS OF LAW

Pursuant to O.R.C. § 124.03(A), the Board is empowered to hear appeals of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to, *inter alia*, the reclassification of an employee's position, with or without a job audit under O.R.C. § 124.14(D). O.R.C. § 124.14(D)(2) provides that the Board is to consider anew reclassifications and may order the reclassification of an employee's position to such appropriate classification as the facts and evidence warrant.

The primary criteria for the Board to consider when determining the most proper classification for a position are the relevant classification specifications, including the class concepts, the job duties outlined, and the percentages of time devoted to each job duty. The Board's decision must be consistent with the applicable classification specifications. *Klug v. Dept. of Admin. Services*, No. 87AP-306, slip op. (Ohio Ct. App. 10th Dist., May 19, 1988). See also *Ohio Dept. of Mental Retardation & Dev. Disability v. Ohio Dept. of Adm. Serv.* (1988), 44 Ohio App.3d 144.

* * *

Both Appellant and Appellee, Department of Insurance, assert that the Insurance Examination Data Specialist classification does not provide a complete description of Appellant's job duties. Neither Appellant nor the Department of Insurance proposed another job classification as a more appropriate "fit" for Appellant's position. Upon review of the information contained in the record and the job classifications contained in the state's classification plan, the following class series were considered: (1) Insurance

Compliance Examiner, Series Number 6721; (2) Insurance Examiner, Series Number 6672; and (3) Insurance Examination Data Specialist, Series Number 6722.

The purpose of the Insurance Compliance Examiner series is to perform market conduct examinations of non-financial insurance business practices in areas such as advertising, sales and marketing, policy rates, agent licensing, underwriting and claims settlement practices for companies authorized to conduct business in Ohio to ensure compliance with applicable insurance laws, rules, and regulations. The purpose of the Insurance Examiner series is to audit insurance companies authorized to conduct business in Ohio in order to assess compliance with state regulations and to determine solvency. A review of the testimony and documentary evidence regarding Appellant's job duties reveals that Appellant does not perform market conduct examinations as required by the Insurance Compliance Examiner series, nor does she conduct audits of insurance companies as required by the Insurance Examiner series.

The remaining job classification under consideration is Insurance Examination Data Specialist. Initially, it is noted that this classification series consists only of one full performance level and one supervisory level. The series purpose and class concept for the Insurance Examination Data Specialist classification are as follows:

The full performance level class works under direction & requires considerable knowledge of insurance laws governing general non-financial business practices (e.g., advertising, sales & marketing, policy rates, agent licensing, underwriting, claims settlement) of insurance companies authorized to conduct business in state of Ohio, computer science & systems programming in order to systematically analyze preliminary market conduct review/examination plans to resolve complex data transfer problems, set parameters for divisional computer data to enable insurance compliance examiners to meet review/examination objective to efficiently & effectively test for violations of insurance laws & design complex computer data requests & submit to insurance company management information officer for insurance company production of computer data & documents necessary for completion of review/examinations by compliance examiners.

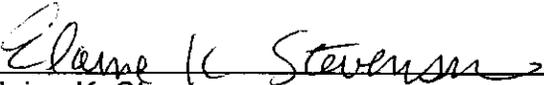
A review of the class concept and illustrative job duties set forth in the Insurance Examination Data Specialist classification indicates that the function of this classification is to monitor and examine insurance companies for compliance with applicable insurance laws, rules, and regulations. This classification is focused on data collection and analysis of market conduct review plans in preparation for the conduct of onsite

examinations to test for insurance law violations. The testimonial and documentary evidence indicates that the Insurance Examination Data Specialist classification describes, to a limited extent, certain data collection and analytical tasks performed by Appellant. Both Appellant and her immediate supervisor confirmed that Appellant conducts market analysis and surveillance involving the health insurance industry. Appellant collects, interprets, and summarizes market information and indicators from various sources. Appellant analyzes data to identify and prioritize insurance companies for on-site market conduct examinations performed by insurance compliance examiners. Appellant develops procedures, designs rating and ranking lists and tools, and monitors market indicators to identify emerging health insurance industry trends. Appellant also develops and conducts industry surveys and collects data to develop industry norms and make recommendations regarding areas of possible non-compliance to state and federal insurance laws and regulations. Appellant spends approximately 75% of her work time performing these job duties.

Since the above-noted job duties are centered upon the monitoring and examination of insurance companies to ensure adherence to applicable state and federal insurance laws and regulations, I find that the Insurance Examination Data Specialist classification describes the focus of Appellant's overall job responsibilities. However, it is noted that both Appellant and her immediate supervisor testified that the Insurance Examination Data Specialist classification does not describe the Market Conduct Division's current processes, which involve initial complex data analysis to identify emerging trends in the industry and prioritize companies for market conduct examinations to address compliance issues. Appellant explained that when she began her employment in the Market Conduct Division approximately ten years ago, the industry was transitioning to a proactive market conduct surveillance model that emphasizes initial data analysis rather than conducting a large number of routine examinations. Appellant's immediate supervisor further testified that the Insurance Examination Data Specialist classification has not been updated to reflect the significant changes in technology or the changes in processes in the Market Conduct Division.

While I agree that the Insurance Examination Data Specialist classification does not adequately describe the level of complexity of the market analysis and surveillance conducted by Appellant, this Board's statutory authority in a job reclassification appeal is limited to consideration of the existing job classifications. In this case, the evidence contained in the record has established that the Insurance Examination Data Specialist classification describes the focus of Appellant's overall job responsibilities and certain data collection and analytical tasks performed by Appellant. Therefore, since no other job classification provides a more accurate description of Appellant's job duties, the Insurance Examination Data Specialist classification is appropriate for Appellant's position.

Based on the foregoing, I respectfully recommend that the Department of Administrative Services' determination that Appellant's position be reclassified to Insurance Examination Data Specialist, classification number 67221, be **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14.


Elaine K. Stevenson
Hearing Officer