

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

PATRICK N. LONDERGAN,

Appellant,

v.

Case No. 06-REC-01-0009

DEPARTMENT OF HEALTH,
AND
DEPARTMENT OF ADMINISTRATIVE SERVICES,

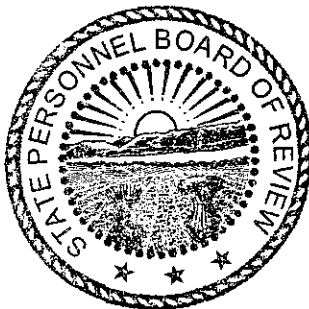
Appellees.

ORDER

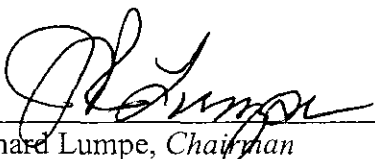
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and 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 Appellee Department of Administrative Services' determination that Appellant's position is properly classified as Management Analyst Supervisor 2, classification number 63216, be **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14.



Lumpe – Aye
Booth – Aye
Tracy – Aye

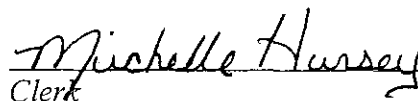


J. Richard Lumpe, *Chairman*

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 the foregoing is ~~(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, April 23, 2007.



Michelle Hursey
Clerk

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

4/23/07 MLH

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

Patrick N. Londergan,

Case No. 06-REC-01-0009

Appellant

v.

March 15, 2007

Ohio Department of Health

and

Ohio Department of Administrative Services,

Appellees

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on July 17, 2006, at 10:00 a.m. Present at the hearing were the Appellant, Patrick N. Londergan, appearing *pro se* and the Appellees, the Ohio Department of Health's designee, Cherene Watkins, a Management Analyst Supervisor 2 for the Office of Human Resources at the Ohio Department of Health, and the Ohio Department of Administrative Services' designee, Ms. Bobbi Lind, a Human Resource Analyst.

On October 18, 2005, the Appellant, Patrick Londergan, requested a job audit of his position as a Management Analyst Supervisor 2, classification specification number 63216. Subsequently, on or about December 14, 2005, the Appellant received the results of his job audit request, which notified him that his proper classification for his position was that of the Management Analyst Supervisor 2, classification specification number 63216, which represented no change in the current classification of his position. After receiving the Ohio Department of Administrative Services' decision, the Appellant timely filed his appeal to this Board on or about January 10, 2006. It should be noted that the aforementioned was stipulated to, as well as the subject matter jurisdiction of this Board was established prior to proceeding onto the record hearing.

Additionally, before proceeding onto the record hearing, the Appellant stated that although he is presently classified as a Health Planning Administrator 3 and/or a Fiscal Administrator with the Ohio Department of Health, a recent promotion that he took effective June 26, 2006, he feels he was not properly classified during the time period of October 18, 2005 through June 26, 2006, and was seeking at the time he put in for his job audit request that he be reclassified to either a Health Planning Administrator 3, classification specification number 65247 and/or a Health Planning Administrator 4, classification specification number 65248. The undersigned also explained to the Appellant at the time of the hearing that the above mentioned time frame and/or period or relevant time period listed above was the only time period that would be looked at in making a determination of this reclassification request. It should be noted that on June 26, 2006, the Appellant did voluntarily take a promotion into a Health Planning Administrator 3's position and/or a Fiscal Administrator's position and that he will remain in that position notwithstanding the determination of whether he was misclassified during the time period of October 18, 2005 through June 26, 2006.

STATEMENT OF THE CASE

The Appellant, Patrick Londergan, testified he is presently classified as a Health Plan Administrator 3 and has held that position since June 26, 2006. However, the witness did note that he was previously classified as a Management Analyst Supervisor 2 from sometime in late 2000 up through June 26, 2006. When questioned where his actual office is located, the witness explained the Department of Health is located at 246 N. High Street and that Dr. James Bryant, a Physician Administrator 2, is his direct supervisor. The witness testified Dr. James Bryant has been his direct supervisor dating back to 1998 when he held a different position and that Dr. Bryant's position is characterized as the Bureau Chief for the Bureau of Children With Medical Handicaps. Upon questioning, Mr. Londergan explained the Department of Health is divided into three divisions, and the one that they work in is the Family and Community Health Services Division. Within this division there are seven bureaus, including the Bureau for Children With Medical Handicaps. Further, the witness testified there were approximately eight direct reports to Dr. Bryant and referred to a table of organization located within Joint Exhibit 1. Furthermore, Mr. Londergan explained the overall mission of their section within the Department of Health is to act as a quality assurance agency and payer of healthcare benefits

incurred by the covered population that includes children under 21 years old who meet certain financial guidelines.

Next, Mr. Londergan reidentified Joint Exhibit 1; specifically the table of organization dated January 7, 2005, and noted that he had five individuals reporting to him under the table of organization. The witness explained there were two Management Analysts which reported to him, along with the Human Services Program Consultant, and an Account Examiner 2 and an Intern. The witness when questioned testified his unit, where it is located on the table of organization is called the "third-party unit" and that he does provide supervision to the individuals listed under him on the table of organization. The Appellant affirmed he does complete performance evaluations, approves leave time, effectively recommends discipline if needed, and acts on the behalf of his supervisor, Dr. Bryant, and does at time provide training. However, the witness explained not only did he act on the behalf of Dr. Bryant, it was mainly the Physician's Nurse Administrator, who performed this function in the absence of Dr. Bryant. Moreover, the witness explained he does work Monday through Friday on first shift from 8:00 a.m. to 4:30 p.m., a forty-hour workweek.

The Appellant then identified Joint Exhibit 1 and the information contained therein as the position audit questionnaire which the witness testified he did fill out in contemplation of having his job audit request completed. The Appellant testified the duties which he typed in are accurate and do actually reflect job tasks which he performed in the performance of his job when he filled this out on November 17, 2005. However, it should be noted that the Appellant did file and request his job audit back on October 18, 2005. Upon further questioning, the witness testified approximately sixty percent of his time in his position he did formulate, implement, and analyze the budget and spending policies of the bureau for children with medical handicaps. For example, the witness stated that he would determine what services and/or benefits limits and/or exclude an order for the bureau for children with medical handicaps would stay within its budget, project the various effects of various funding levels and propose state budgets and quantify their impact on the bureau for children with medical handicaps population and determine the economic impact of adding diagnosis to the list of eligible conditions. The Appellant did attach to his questionnaire an autism cost work-up sheet, along with the projections for adult cystic fibrosis program expenditures, which he explained was more than just actually acting as a quality assurance member and/or a payer of health care for those under twenty-one who would meet certain financial guidelines. The Appellant

explained some of these things had to be projected and looked into when requested and that he would perform these tasks as being more in line of just simply being a third-party payer of invoices. Moreover, Mr. Londergan testified a number of the children that would come before their program would have parents who would have insurance and that the goal of their department and/or unit was to maximize the usage of the third-party provider in making sure the bills were fully compensated. The witness also stated that he would help formulate, implement and analyze the policies pertaining to any of the benefit programs administered by BCMH or the Bureau for Children with Medical Handicaps, such as the treatment, diagnostic and service coordination with the adult cystic fibrosis and adult hemophilia programs. The witness testified he would also determine the financial eligibility guidelines for the adult hemophilia insurance premium payment program and once that was determined, he would write in the accompanying administrative rule and move it through the Ohio Department of Health's rule making process and help develop a policy and procedure for this, as well as train the appropriate staff to implement the program. The witness explained also of the sixty percent of his duties he would analyze various state and federal legislation to determine the effect on BCMH policies, procedures and operations.

Next, the Appellant testified approximately twenty percent of his time he would serve as the contract manager for the following contracts, pharmacy point of sale, clinical pharmacist, hospital audit, data sharing with the social security administration, and multiple personal service contracts for information technology consultants. The witness explained in this capacity, he would develop and negotiate the contract deliverables and budgets and get the contracts processed through the Ohio Department of Health's system, as well as initiate purchase orders that would provide payment for those contracts. Mr. Londergan explained he also provided supervision or guidance to the vendors in their daily operation and would monitor the progress made in the attainment of the deliverables in the contracts, as well. Additionally, the witness testified he also served as the BCMH representative on a number of committees, such as the financial/operations representative for the Medical Advisory Council, coordinator of the Hemophiliac Advisory Committee, and/or coordinator of the BCMH Pharmacy Advisory Committee.

Lastly, the Appellant explained that approximately twenty percent of his time was devoted to the supervision of the staff of the BCMH third-party unit which administered the following programs, BCMH Pharmacies Benefit Program, Adult Hemophilia Insurance Premium Payment Program, Medicaid Spending Down

Program, Treatment Insurance/Cobra Premium Payment Program, Insurance Coding and Investigation, and the coordination of third party benefits from public and private payers.

Mr. Londergan testified that what is called for in the Management Analyst Supervisor 2's classification specification was not really indicative of what he was doing in terms of the fiscal analysis of what he was performing in his position as an employee with the Ohio Department of Health. The witness explained that he would keep track of all the monies going into the programs mentioned above, as well as the monies going out, as well as performing fiscal analysis and budget projections for all of these programs and/or services.

The Appellant's attention was then drawn to the Management Analyst Supervisor 2's classification specification and was questioned regarding the same. Mr. Londergan explained he did plan and direct the entire management evaluation and monitoring system for a specified program of the assigned agency, such as quality assurance and being a payer of third-party benefits and/or headed up the third-party payer or benefit unit and in fact supervised lower level Management Analyst Supervisors. However, the witness testified although he developed and implemented usage of various evaluation tools, instruments and methodologies needed for effective program assessment, he did this just not for one being a third party payer unit, but for various programs under the service coordination program, treatment programs and diagnostic programs, which in his opinion was more of a global approach, as opposed to just being for a single or solely implemented program.

With respect to the Health Planning Administrator 3's classification specification, the witness testified he did not supervise any Health Planning Administrator 2s, or any similar professional/technical exempt classification such as a Public Health Nurse Supervisor in contemplation of the classification specification.

However, the witness testified that it was his belief that he did administer the daily operations of the bureau in that he was responsible for putting all of the pieces together to make sure all the programs ran smoothly. Moreover, the Appellant testified he did act at times as the Assistant Bureau Chief as he explained he went to meetings in the stead of Dr. Bryant when he could not attend. Further, the Appellant explained although the agency did not have an actual Assistant Bureau Chief, it was his belief that he was acting as the Assistant Bureau Chief at times. Mr. Londergan also explained as far as administering all of the activities in an

assigned section of each unit headed by a subordinate supervisor personnel would be an example of when a new service came out, he would be the one to oversee the implementation of this activity. Upon further questioning, with regards to the table of organization, Mr. Londergan explained he did in fact administer the daily operations of the bureau in that he would assign William Boehm, an Administrative Officer 2, to various tasks and would coordinate with others to achieve a result. However, it should be noted that the undersigned understood that the Appellant did not administer the daily operations of the bureau, but that he may have given work direction and/or lead work to a couple of other units within the bureau, but not the overall daily operations of the bureau.

When questioned about the Health Planning Administrator 4 classification specification, Mr. Londergan testified he does not act as the chief of the bureau, as that is Dr. Bryant's position, nor did he act as the assistant chief of the division by planning, directing or evaluating nursing services and employee health services network.

When questioned about what his most important duties are at the agency, Mr. Londergan explained that it is divided between operations management and analysis of all of the programs, and emphasized that his position is more global in nature and just not simply acting as a third-party collector/payer of sorts. The witness then identified Appellant's Exhibits 1 through 7, identifying each one as something that he either authored or put together in contemplation of the job duties and/or tasks. When referring to Appellant's Exhibit 1, he explained this was simply a breakdown of expenditures by county, which referred to treatment expenditures, as well as diagnostic expenditures, which he was responsible for putting together. The witness also identified Appellant's Exhibit 2 as the Medication Therapy Management Codes for Pharmacist Access for the Pediatric Asthma Management Program which he completed in early February 2006. Mr. Londergan explained he saw this program from the start to the finish, as he set all of the compensation levels and encoded these and worked with the pharmacists and nurses to come to this result. The Appellant then identified Appellant's Exhibit 3 as an example of when requested he was in charge of letting others in the agency know of various codes and that he was responsible for that with respect to different changes in the programs. The witness then identified Appellant's Exhibits 4, 5 and 6, as examples of Dr. Bryant asking himself to attend the chiefs' meetings in his absence, dating from October 2005 through April 2006. Mr. Londergan then identified Appellant's Exhibit 7 as an example of when he was asked by Dr. Bryant to look at staff

reductions and he went and did an analysis for the Bureau for Children with Medical Handicaps, just not for the third-party unit but for the Bureau for Children with Medical Handicaps as a whole, dated September 6, 2005. The witness explained he along with the nursing administrator put these figures and analysis together for Dr. Bryant.

Upon questioning by Ms. Bobbi Lind, Mr. Londergan testified he did in fact assign the work of the Administrative Officer 2, Mr. William Boehm, and an Administrative Assistant 2, Pamela Leimbach. With respect to other supervisors under the direct supervision of Dr. Bryant, it was explained by the witness that he would give them work, not necessarily work to do, but things such as letters that needed to be mailed out in terms of notifying pharmacies of different encodings and the like. When questioned further, the Appellant explained it would not be an accurate depiction of duties that the other supervisors would give him work or assign him work to do as they did not do that, but that he was in the position of acting more in a global sense in coordinating all of the units together. Furthermore, the Appellant explained there were other supervisors who would attend meetings for Dr. Bryant when requested.

The next witness to testify was Dr. James Bryant, a Physician Administrator 2, employed by the Ohio Health Department, in the Bureau for Children with Medical Handicaps for approximately the last eleven years. Dr. Bryant testified he has been the Appellant's direct supervisor since late 1997 or early 1998 and most recently his direct supervisor as a Management Analyst Supervisor 2. Specifically, when questioned if Mr. Londergan's testimony regarding his job duties and/or responsibilities were accurate, the witness answered in the affirmative, as he was in the hearing room and heard the same. However, the witness did clarify a couple of points that the Appellant had previously discussed, Dr. Bryant explained that one of the major differences in the testimony of the Appellant was the fact that they all work as a team and that they make decisions as a team and that he has never directed or assigned an administrative chief to a position underneath him during his tenure with the bureau. Moreover, Dr. Bryant explained that he closely works with four of his direct subordinates, that being Ms. Starr, Mr. Chapman, Ms. Leimbach and Mr. Londergan. Moreover, the witness explained he also has, addition to Mr. Londergan, assigned others to work on his behalf or attend chiefs' meetings, that being Mr. Chapman and Ms. Starr. Furthermore, Dr. Bryant explained that maybe as an overstatement, the Appellant might have stated he makes the decisions, but he classified those as recommendations, as they all make recommendations and

there is a certain order of hierarchy that must be followed within the division and within the department. The witness then that explained approximately two years ago they had approximately three fiscal specialists who aided and were instrumental in helping out with administrative help within the bureau, which they do not have now. As a result, Dr. Bryant explained he has been using Mr. Londergan to handle these fiscal matters and that most recently with the last biennium budget, Mr. Londergan had been an instrumental player in the Bureau for Children with Medical Handicaps task force and that a lot of assignments were assigned to Mr. Londergan as a result of being on this task force. Further, the witness explained Mr. Londergan had been asked how this one matter would impact that matter and so on and so forth. Moreover, Dr. Bryant testified that generally speaking, the work that Mr. Londergan had been assigned, maybe five years ago has changed more from a daily basis of processing claims or third-party claims to now more of a reliance on more policy issues that need to be handled by Mr. Londergan. The witness explained as a result of Mr. Londergan handling more and more issues on policies, as opposed to simply directing his subordinate staff in the third party unit, the bureau had reorganized and offered him a position which he took as a Health Planning Administrator 3, relying on his fiscal talents.

Upon questioning by the Appellant, Dr. Bryant testified that Mr. Londergan did act as a Bureau Chief, but only on occasion.

Upon questioning by Ms. Lind, Dr. Bryant clarified his previous testimony, stating that there was not specifically three Fiscal Specialists that worked in the Bureau for Children with Medical Handicaps, but that there was a support unit in the division which they employed to handle certain tasks which are no longer there.

The last witness to testify was Ms. Bobbi Lind, a Human Resource Analyst for the Ohio Department of Administrative Services for approximately the last eighteen years. The witness testified she was the one who in fact performed the audit of the Appellant's position. Ms. Lind explained it was her determination that Mr. Londergan was properly classified as a Management Analyst Supervisor 2, classification specification number 63216. Furthermore, Ms. Lind testified while she reviewed the Management Analyst classification series she also reviewed the Health Planning Administrator 3 and Health Planning Administrator 4 classification specifications in formulating her rationale. When questioned, Ms. Lind testified it was her understanding and belief that the Appellant was clearly classified as a Management Analyst Supervisor 2, as the Appellant administered the activities and

supervised personnel assigned to one unit, that being the third-party unit within the Bureau for Children with Medical Handicaps. Additionally, the witness explained the Appellant did not oversee the daily operations of all the sections for the bureau, but only one unit, and that he did not act as a Bureau Chief, as a supervisor functioning in that capacity, nor did he act as an Assistant Division Chief. Moreover, Ms. Lind explained the position, in her belief, was properly classified as a Management Analyst Supervisor 2 since the incumbent in that position acted as an agency manager, supervised lower level analysts positions and developed operational policies for administration of funds and monitored the fiscal activity of the bureau. As a result, the witness explained she felt there was no need to reclassify the Appellant.

However, Ms. Lind explained she also in formulating her rationale, looked at the Health Planning Administrator 3's classification specification and specifically within its class concept which set forth the following that the one holding that position was to manage the daily operations of the bureau and act as an Assistant Bureau Chief or administer all activities of an assigned section comprised of two units headed by a subordinate supervisory personnel. The witness explained even though the Appellant did testify at today's hearing that he had responsibilities for individuals in the Administrative Officer and the Administrative Assistant, the witness characterized that as coordinating the activity between those units and sections and not that he was assigning work or acting in the capacity of a supervisor of those two units. Additionally, Ms. Lind explained Mr. Londergan was primarily acting in program analysis. With respect to the Health Planning Administrator 4 classification specification, Ms. Lind testified that one holding that position as set forth in the class concept is to act as a chief to the bureau, or act as an assistant chief of a division. Clearly, these two activities were not something that the Appellant did, and that she simply rejected this classification as being the best fit for the Appellant.

Thus, Ms. Lind testified the best fit for the Appellant would be the classification that he was classified in at the time of his audit request, that being a Management Analyst Supervisor 2 classification specification.

FINDINGS OF FACT

There was no real discrepancy between the Appellant's characterization and the duties that he performed and those of the testimony of his supervisor, Dr. James

Bryant, the Physicians Administrator for the Bureau for Children with Medical Handicaps. Thus, I find as a matter of fact, the Appellant performed the duties about which he testified.

CONCLUSIONS OF LAW

This Board is required to perform several functions when determining the most appropriate classification for an Appellant coming before it. The Board must always review relevant classification specifications to determine which classification best describes the Appellant's actual job duties for the pertinent period time. *Ford v. Ohio Department of Natural Resources* (1990), 67 Ohio App. 3d 755. In making this determination, the Board considers the classification specification and the job duties outline therein, as well as the percentages of time that Appellant devotes to each group of job duties. *Klug v. Ohio Department of Administrative Services* (May 19, 1988), Franklin County 87AP-306, unreported, 1988 WL54277. This Board's consideration is not solely limited to the duties contained within the classification specification, but may also embrace other relevant facts submitted by the affected parties. *Gordon v. Ohio Department of Administrative Services* (March 31, 1988), Franklin County 88-AP-0122, unreported, 1988 L37094

As a general rule, the Appellant seeking a reclassification to a higher position must demonstrate that his or her respective duties substantially satisfy those of the higher classification. *Mounts v. Ohio Department of Administrative Services* (1984), 17 Ohio App. 3d 125; *Diest v. Kent State University* (May 23, 1978), Franklin County 87AP-28, unreported.

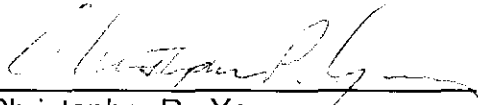
As was previously stated, the Appellant although he presently classified as a Health Planning Administrator 3, classification specification number 65246, was classified as an a Management Analyst Supervisor 2, classification specification number 63216 at the time of his job audit request in October 2005. However, as was noted by the undersigned the Ohio Department of Administrative Services found that Mr. Londergan was properly classified as a Management Analyst Supervisor 2 when it made its determination. After a thorough review of the above-mentioned classification, along with the classification specifications of a Health Planning Administrator 3 and Health Planning Administrator 4, it is the recommendation of the undersigned that the Appellant was properly classified as a Management Analyst 2 at the time that he put in for his job audit request.

When reviewing the class concept for a Health Planning Administrator 3 it became apparent that Mr. Londergan did not manage the daily operations of a bureau, while acting as an assistant bureau chief or administered all activities of assigned sections comprised of two units headed by subordinate personnel. The evidence revealed that the Appellant did not oversee the daily activities of all sections of the bureau, but only one unit, along with the fact that he did not act as the bureau chief or assistant division chief. Thus, the classification specification of a Health Planning Administrator 3 was rejected by the undersigned Administrative Law Judge. Additionally, when reviewing the classification specification of a Health Planning Administrator 4, this was rejected by the undersigned Administrative Law Judge since the evidence did not reveal that the Appellant acted as the chief of the bureau, as called for in that specification's class concept.

However, when reviewing the classification specification of a Management Analyst Supervisor 2, this appeared to be the best fit for the Appellant herein. As was revealed by the evidence the Appellant did act as an agency manager, supervised lower level management analyst positions while developing operational policies for the administration of funds while monitoring the financial activity of the bureau. Therefore, after careful consideration of the evidence presented at the record hearing, by a preponderance thereof, the classification specification of a Management Analyst Supervisor 2, best describes the duties which the Appellant, Patrick Londergan, performed in his job.

RECOMMENDATION

Therefore, it is my recommendation that the Appellant, Patrick Londergan, was **PROPERLY CLASSIFIED** in his position as a Management Analyst Supervisor 2, during the relevant time period in question, and that the Appellant's appeal be **DISMISSED**.


Christopher R. Young
Administrative Law Judge