

COMMONWEALTH OF MASSACHUSETTS

**Division of Administrative Law Appeals
14 Summer Street, 4th Floor
Malden, MA 02148
www.mass.gov/dala**

Patrick McGuire,
Petitioner

v.

Docket No. CR-22-0175

State Board of Retirement,
Respondent

Appearance for Petitioner:

Patrick McGuire
[REDACTED]
Plymouth, MA 02360

Appearance for Respondent:

Andrew Dickey
State Board of Retirement
One Winter Street
Boston, MA 02108-4747

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

State Board of Retirement's denial of Group 2 classification is affirmed because employee assessed whether people were mentally ill and eligible for care, rather than caring for them directly.

DECISION

The petitioner, Patrick McGuire, appeals the denial by the State Board of Retirement of his application for Group 2 classification.

I held a hearing on November 8, 2023 by Webex, which I recorded. Mr. McGuire

represented himself with the help of Kathleen Howard, a former supervisor. He testified and called Jean McClure, with whom he used to work at the Department of Mental Health, as a witness. I confined the testimony to Mr. McGuire's last 12 months at DMH and did not hear from witnesses who would testify about his work earlier in his career. I admitted seven exhibits, Respondent's Exhibits 1 through 6, and 10. Both parties submitted post-hearing briefs in December 2023.

Findings of Fact

1. Mr. McGuire worked for DMH from August 12, 2001 to December 15, 2001 as a Social Worker III; from December 16, 2001 to January 14, 2006 as a Social Worker C; from December 15, 2006 to September 28, 2019 as a Human Services Coordinator C; and from September 29, 2019 to May 1, 2022 as a Human Services Coordinator II. (Resp. Ex. 3)

2. On January 17, 2022, Mr. McGuire wrote a To Whom It May Concern letter, recounting his work history, but not comprehensively. (Resp. 4) The job titles and time periods that he provided did not exactly match those provided by his employer in the previous paragraph. (Resp. Ex. 3)

3. Mr. McGuire's duties, including during his last 12 months at DMH, largely entailed conducting crisis evaluations, screening interviews, or both, which entailed assessing people for their eligibility for DMH Services. (Resp. Ex. 4; McGuire testimony)

4. Mr. McGuire assessed whether people had chronic mental illness, such as schizophrenia, bipolar disorder, schizoaffective disorder, and borderline personality disorder. (McGuire testimony)

5. In the last 12 months of his employment at DMH, Mr. McGuire spent 50 to 60 percent of this time conducting evaluations and screening interviews. (McGuire testimony)

6. Mr. McGuire conducted evaluations and screening interviews in, among other places, private and state hospitals, probate court, and people's homes. (McGuire testimony)

7. The people whom Mr. McGuire assessed were not DMH clients yet. About 10 percent of them did not become DMH clients because they were not eligible for DMH services. (McGuire testimony)

8. The Form 30 for the Human Services Coordinator position that Mr. McGuire filled, dated July 30, 2019, contains a Detailed Statement of Duties and Responsibilities, 19 of them. (Resp. Ex. 5)

9. Most of the duties and responsibilities are administrative. These duties and responsibilities that are at least partly relevant to Mr. McGuire's application for Group 2 classification are as follows:

8. Monitors the implementation of Individual Service Plans (ISP) as a member of an interdisciplinary team; organizes and schedules client treatment programs; reviews and assess[es] treatment progress and service delivery; meets with clients and families to coordinate service delivery, to assess treatment results and improve services when needed; make referrals to other programs and facilities as needed.

9. May assume direct practice responsibilities[,] including assessment and ISP development, and on going case assignments.

(Resp. Ex. 5)

10. On January 17, 2022, Mr. McGuire applied for Group 2 classification. (Resp. Ex. 3)

11. The approximate dates of employment for which he sought Group 2 classification were July 1, 2001 to June 1, 2022. (Resp. Ex. 3)

12. On April 28, 2022, SBR denied Mr. McGuire's request for Group 2 classification for his service as a Human Services Coordinator. On May 2, 2022, SBR sent Mr. McGuire a letter to that effect. (Resp. Ex. 1)

13. On May 2, 2022, Mr. McGuire timely appealed. (Resp. Ex. 2)

Discussion

For retirement purposes, Commonwealth employees fall into four groups. Group 1 is the general group. G.L. c. 32, § 3(2)(g). Group 2 is the group for various employees, including those “whose regular and major duties require them to have the care, custody, instruction or other supervision of...persons who are mentally ill...” G.L. c. 32, § 3(2)(g). Group 2 is a more advantageous classification for retirement purposes than Group 1.

For an employee to have contact and interactions with mentally ill people does not in and of itself constitute having care, custody, instruction, or supervision of them. *See, e.g., Florence Grace v. State Board of Retirement*, CR-01-712 (DALA 2002); *Desautel v. State Board of Retirement*, CR-18-0080 (CRAB 2023).

An employee’s group generally depends on his or her duties when he or she retires. *Maddocks v. Contributory Retirement Appeal Board*, 369 Mass. 488, 494 (1976). *See also* G.L. c. 32, § 3(2)(g) (an employee “must be actively performing the duties of said position for which the member seeks classification for not less than 12 consecutive months immediately preceding ...retirement”).

“A key factor in assessing a member’s ‘regular and major’ duties is the member’s job title and description.” *Peter Forbes v. State Board of Retirement*, CR-13-146 (CRAB 2020). *See Maddocks*, 369 Msas. at 495 (title and description of duties can be used to determine group classification). A job description can

Serve as helpful evidence of actual duties but are not dispositive factors. [Footnote omitted.] ...[I]ndividuals who serve in a supervisory capacity but are required to provide direct care on a regular basis for more than half of their working hours are eligible for Group 2 classification even though their job also involved supervision and administration.

Desautel v. State Board of Retirement, CR-18-0080 (CRAB 2023) (footnote omitted). Mr. McGuire’s job description contains mostly administrative duties.

The crisis evaluations and screening interviews that Mr. McGuire conducted did not entail his *caring* for mentally ill people. He was *evaluating* them, not treating them. He was screening them to assess whether they were eligible for *other* people to care for them. Nor did the crisis evaluations and screening interviews constitute Mr. McGuire’s instructing or supervising mentally ill people. Nor did Mr. McGuire have custody of mentally ill people whom he evaluated and screened them. They were not DMH clients yet; they were not in DMH’s custody. Many of them were in the custody of private and state hospitals, probate court, and their families, not DMH or Mr. McGuire.

Mr. McGuire’s position is that his evaluations and interviews of mentally ill people constituted direct care for and custody of them. His definition of direct care of mentally ill people is direct contact with them. However, “[d]etermining eligibility of clients for services...is an administrative duty and not direct care.” *Ellen Alfaro v. State Board of Retirement*. CR-17-229 *10-11 (DALA 2020) (citation omitted). *Accord, Bruce Frazer v. State Board of Retirement*, CR-18-0318 (DALA 2021) (decision involving Human Services Coordinator).

Conclusion and Order

I affirm SBR’s denial of Mr. McGuire’s application for Group 2 classification.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/

Kenneth Bresler
Administrative Magistrate

Dated: April 26, 2024