

COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION

SUFFOLK, ss.

One Ashburton Place - Room 503
Boston, MA 02108
(617) 727-2293

APRIL MCKINNON,
Appellant

CASE NO: C-16-180

v.

EXECUTIVE OFFICE OF HEALTH
& HUMAN SERVICES,
Respondent

Appearance for Appellant:

Pro Se

Appearance for EOHHS:

Sheila Anderson, Esq.
Executive Office of Health &
Human Services
600 Washington Street
Boston MA 02111

Commissioner:

Paul M. Stein

DECISION

The Appellant, April McKinnon, appealed to the Civil Service Commission (Commission) pursuant to G.L.c.30,§49, from the denial of the Massachusetts Human Resources Division (HRD) of a request for reclassification of her position in the Department of Youth Services (DYS) within the Executive Office of Health & Human Services (EOHHS). A pre-hearing conference was held at the Commission's offices in Boston on November 15, 2016 and a full hearing was held at that location on December 20, 2016.¹ The hearing was digitally recorded and the parties were provided with copies of the CD.² Thirteen exhibits were introduced in evidence. EOHHS called one witness and Ms. McKinnon testified on her own behalf.

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.00, *et seq.*, apply to adjudications before the Commission with and conflicting provisions of G.L. c.30,§49, or Commission rules, taking precedence.

² If there is a judicial appeal of this decision, the plaintiff in the judicial appeal becomes obligated to use the CDs to supply the court with the written transcript of the hearing to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

FINDINGS OF FACT

Based on the Exhibits entered into evidence and the testimony of the following witnesses:

Called by EOHHS:

- Melanie Gurliaccio, EEHOS Employment & Staffing Manager

Called by the Appellant:

- April McKinnon, Appellant
- Francisco (“Frank”) J. Portela, Director of Fiscal & Administrative Operations

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes these facts:

Background

1. The Appellant, April McKinnon, currently holds the job title of Clerk IV in the Fiscal and Administrative Unit in the South East Region, Department of Youth Services (DYS) within the Executive Office of Health and Human Services. (*Exhs. J4, J11*)

2. The DYS is the juvenile justice agency for the Commonwealth. It serves and supports young men and women (ages 7 to 21) and provides detention, custody, diagnosis, education support and adolescent-focused rehabilitation through residential and de-institutionalized treatment programs. (*Exh. 13*)

3. Ms. McKinnon has worked for DYS for approximately 16 years, at least ten of which have been in the position of Clerk IV in a regional office’s administrative and business office. She holds a Bachelor’s Degree (Magna Cum Laude) from the University of Massachusetts at Dartmouth. She is proficient in Microsoft Windows, Microsoft Office (Word, Excel, Outlook, Access, PowerPoint) and the EOHHS’s Juvenile Justice Enterprise Management System (JJEMS). She has no subordinates who report directly to her. Her direct supervisor is Francisco J. Portela, the Director of the Fiscal & Administrative Operations. (*Exhs. J1, J4, J7, J11, 12 & 13; Testimony of Appellant & Portela*)

4. The Fiscal & Administrative Operation's staff includes two Accountant IIs, two Administrative Assistant IIs, one Office Support Specialist II, and one Clerk IV (Ms. McKinnon), all of whom reported directly to Mr. Portela. (*Exh. J11; Testimony of Portela*)

5. Mr. Portela reports to the DYS Southeast Region Director of Operations, Craig Curtin, who reports to the DYS Southeast Regional Director, Tina Saetti. (*Exhs. J1, J11, 12 & 13; Testimony of Portella*)

6. In March 2016, Ms. McKinnon, acting pursuant to G.L.c.30, §49, requested a reclassification of her position from Clerk IV to Office Support Specialist II. (*Exhs. J1, 12*)

7. By letter dated June 14, 2016, Melanie Gurliaccio, Employment and Staffing Manager with the EOHHS's Office of Human Resources, informed Ms. McKinnon of the preliminary denial of her appeal and invited her to submit a rebuttal, which she did. (*Exh. J5; Testimony of Gurliaccio*)

8. By letter dated August 26, 2016, Jeannine Zichella, Planning and Staffing Analyst with the EOHHS's Office of Human Resources, informed Ms. McKinnon that her reclassification request had been denied. (*Exh. J6*)

9. Ms. McKinnon duly appealed to the Massachusetts Human Resources Division (HRD) which, by letter dated October 3, 2016, concurred in the denial of her reclassification request and this appeal to the Commission duly ensued. (*Exhs. J8 through J10*)

Clerk Series Classification Specification

10. The Clerk Series Classification Specification was promulgated by HRD in 1987. The series includes six levels, Clerk I through Clerk VI. Clerk IV is described as the "first-level supervisory job" in the series, with responsibility to exercise direct supervisory responsibility over 1-5 clerical employee and indirect supervision of 6-15 clerical employees. (*Exh. J3*)

11. The basic purpose of the work of jobs in the Clerk Series is to provide “clerical support” for an assigned unit or agency:

“Incumbents of positions in this series maintain files and records; answer telephones; prepare and mail outgoing correspondence or parcels; prepare correspondence, forms, files, and reports for processing, storage, or forwarding; answer inquiries; operate standard office machines and equipment; and perform related work as required.”

(Exh. J3)

12. The duties common to all levels in the Clerk Series include typing in which “speed is not essential”; filing and retrieving documents from files; answering telephone calls and providing routine information; preparing standardized forms; handling mail; retrieving records using “electronic data display terminals” in order to respond to requests; operating standard office machines requiring “brief orientation” (e.g., photocopiers, mimeographs, adding machines, microfiche viewers) and reviewing forms and documents for accuracy. *(Exh. J3)*

13. At higher levels in the Clerk Series, up to Clerk IV, incumbents also may maintain records; compose routine correspondence; answer inquiries about agency rules, regulations, policies and procedures; explain provisions and contents of documents to employees and others; make calculations and prepare requisitions; schedule meeting and other event, and notify appropriate parties of events; issue licenses and permits; compile statistical information; conduct on-the-job training; operate machines “requiring training by the manufacturer”; interview applicants for clerical positions; and prepare personnel actions. A Clerk IV is expected to have the ability to type 40 words per minute. *(Exh. J3)*

14. At levels above Clerk IV (Clerk V and Clerk VI) incumbents also may develop and revise procedures, manage the work of the clerical staff and develop training programs. Supervisors at this level will exercise direct supervision of 6-25 clerical personnel. *(Exh. J3)*

15. A Clerk IV must have at least three years of full-time experience in office work, or equivalent experience and/or educational substitute, the latter may include a high school diploma in a business or commercial course of study, or a diploma from a two-year post-high school program in an non-degree granting business or secretarial school. (*Exh. J3*)

16. Ms. McKinnon is the only Clerk IV in the DYS Southeast Region. DYS no longer posts to hire for job titles in the Clerk Series. According to DYS Southeast Regional Director, Tina Saetti: “The Clerk IV position is rare to see now. It is an older outdated position that doesn’t really exist any longer.” (*Exhs. J8 & J13*)

Office Support Specialist Series Classification Specification

17. HRD issued the Classification Specification for the Office Support Specialist (OSS) in 2012. There are two levels in the series OSS I (entry level) and OSS II (first-level supervisor). The basic purpose of the OSS job series states that:

“Employees in this series perform administrative support functions such as preparing and analyzing correspondence, reports and other materials as needed; arrange meetings with internal and external contacts; respond to inquiries, assist in various office programs and perform related work as required. Employees are expected to pay attention to detail, have the ability to multi-task, and provide verbal and written communications effectively.”

(*Exh. J2*)

18. Duties common to both OSS job titles include: administrative support to assigned personnel; schedule and attend meetings; research; maintain electronic meeting and events calendars; use computer software or databases to prepare reports and compile data; create and maintain database and spreadsheet files; respond to inquiries and provide information to internet and external contacts; coordinate unit or departmental programs and activities; ensure office activities are operational and in compliance with standards or guidelines; liaison with local, state and federal agencies to exchange information and coordinate activities; screen phone calls; organize and maintain filing systems. (*Exh. J2*)

19. At the OSS II level, the incumbent assigns work to and reviews performance of other clerical and technical personnel. The level distinguishing duties are: provide “guidance and supervision” to subordinates; “oversee coordination” of office activities, meetings and events; and provide training to new employees (*Exh. J2*)

20. The minimum entrance requirement for the OSS I position is two years of full-time administrative work experience and, for the OSS II position , three years of such experience. An Associate’s or higher degree may be substituted for the experience. (*Exh. J2*)

21. In a May 2016 posting by the DYS for an OSS II position in the Central Region, the specific duties of the position of OSS II to be filled were described to include:

“Type . . . proof-read . . . manage electronic and paper files. . . ;schedule meetings . . . ; create and maintain spreadsheets and data bases; compile statistical information and prepare reports as requested; maintain accurate records of all communications and paperwork submission; respond to inquiries internally and externally. Order supplies. . . . Serve as keeper of the records . . . Responsible for the collection and distribution of client information”

“Provide assistance to administrative staff with human resources related duties. Prepare mileage reports. Complete and submit hiring packages for new employees at Central Region to be processed by CYF; Prepare weekly Regional Review Team (RRT) agenda/schedule and records of RRT hearings; Confer with agency staff; Perform data entry, maintain fiscal documentation, inventory, requisition of supplies and internal controls. Respond to requests for clothing allowance vouchers in a timely fashion. Receive, inventory and process MassHealth cards.”

“Develop and maintain a good working relationship with Regional Office, Central Office, DYS programs, vendor and other departmental member as well as external agencies with whom the Region has contact or business. Assist with evaluating and revision of office procedure including the issuance of forms to improve efficiency. Assist other administrative personnel with duties assigned.”

“Travel to meetings to provide administrative support as needed.”

“Provide front reception desk coverage and greet visitors. Provide general departmental information when inquiries are made to the regional office from outside sources and clients and families.”

(*Exhs. J8 & J3*)

22. The OSS I and OSS II job titles have many “overlapping duties” with the Clerk Series job titles. (*Exhs. J2, J3 & J3; Testimony of Portela & Gurliaccio*)

23. DYS's May 2016 posting also listed "Preferred Qualifications", which included, in part:

- Proficient knowledge of Microsoft Office
- Ability to type 40 wpm
- Ability to coordinate workshops/conferences
- Ability to interface with Executive level staff members
- Ability to perform simple math and understand budgeting
- Professional telephone skills
- Ability to establish and maintain accurate records
- Knowledge of invoicing and payment schedules
- Knowledge of the principles of the Juvenile Detention Alternatives Initiative (JDAI)
- Ability to maintain the strictest confidentiality

The position posting did not specify any supervisory duties or experience. (*Exhs. J8 & 13; Testimony of Gurliaccio*)

The Appellant's Current Job Duties

24. Ms. McKinnon's current job is to "support the Southeast Region Administration Office and Business Office. I assist Administrators in their various daily functions and help to ensure business is handled in a timely and professional manner. I . . . back-up . . . the reception desk ensuring phones and doors are answered and things are running smoothly." (*Exh. J1*)

25. Ms. McKinnon's specific assigned duties include:

- Clothing Vouchers – receive requests; prepare voucher paperwork for approval; log and track all vouchers; prepare vendor correspondence; submit paperwork to accounts payable; coordinate handling of vouchers with community staff [15%]
- Client-Related Scheduling – collect data on who needs Revocation Hearings, prepare and distribute schedules; receive RRT hearing requests, prepare and distribute schedules; attend and keep RRT meeting minutes (as back-up to Administrative Assistant II), update JJEMS for outcome of RRT meetings; receive daily information on youth brought in for revocation; prepare Notice of Counsel forms; notify counsel daily of which clients need representation; set up interviews [10% – 25%]
- Client-Related Records – receive, review and distribute information to Managers and other Community personnel on new commitments received from Detention Coordinators, prepare and process Commitment Notification Letter for Clients' Guardians and scan copy of Commitment Notification Letter to client's JJEMS file; collect data daily on client movement, compile data into Community Movement Form and e-mail to Community personnel and assure that client movement data has been accurately entered into JJEMS; receive daily information on youth brought in for revocation, prepare Notice of Counsel Form and notify counsel of which clients need

- representation; collect data from various sources to reflect youth held on bail and related information, search out relevant data in JJEMS and organize data into spreadsheet for Director of Operations; collect data from various sources to reflect youth held on bail and related information, search out relevant data in JJEMS and organize into a spreadsheet quarterly for Director of Operations; receive, print and distribute weekly census to Community personnel [10% to 14%]
- Client Record Retention - receive, organize, retain and retrieve client discharge files as needed [10%]
 - Reception Desk Coverage – Back up receptionist; answer phones and door/camera (secure facility); greet and direct visitors and callers; receive and distribute mail and deliveries; maintain voice-mail (redirect messages, password changes) [10%]
 - Travel Reimbursements – Receive and review all mileage requests for Region, submit to Director of Operations for approval; enter mileage on spreadsheets and submit to payroll for payment; filing all mileage-related paperwork [15%]
 - Miscellaneous Personnel Activities – Update voluntary OT forms, receive, respond and document weekly and distribute to on-call Manger and other personnel; track and distribute SSTACards (time cards) for the region; receive and distribute pay advices and ensure delivery of hard checks; maintain and furnish agency forms and letterhead to Community staff and other personnel [1% to 8%]
 - Miscellaneous Office Services – Package, label and apply postage to departmental mail, update postage machine and add funds as needed; retrieve and distribute faxes, replace paper and toner in printer, handle malfunction issues and calls for service; replenish supplies [2%]

(Exhs. J1, J4, J7 through J9 & 13)

26. Ms. McKinnon assumed her current duties approximately two years ago. She had previously served as the region's principal receptionist. After she was assigned responsibility for handling Travel Reimbursements and Clothing Vouchers, she was moved to an office and, while she remained as a back-up receptionist, she has since devoted most of her time to those duties and the other fiscal and administrative duties described above. *(Testimony of Appellant)*

27. DYS filled the receptionist position formerly held by Ms. McKinnon with another DYS employee who held the position of a Clerk III whom DYS upgraded to an OSS II upon her employment in the functional job of receptionist. Ms. McKinnon trained that employee, who

now serves as a back-up to Ms. McKinnon. The receptionist also performs other administrative duties but has no supervisory responsibilities. (*Testimony of Appellant, Gurliaccio & Portela*)

28. Ms. McKinnon points out that duties she now performs were reassigned to her within the past two years from other personnel of higher grade and some for which she serves as “back up” are regularly performed by persons of higher grade, including, for example:

- Scheduling revocation hearings was assigned to the Director of Placement Services and reassigned to Ms. McKinnon when that manager retired.
- The “notice to counsel” duties had been the responsibility of Detention Coordinators (another higher grade position) until temporarily reassigned to Ms. McKinnon. She continues to serve as “back-up” in this function.
- The responsibility to track and distribute TCD Swipe Cards was transferred from the region’s Facility Administrator, who was promoted to a position in a different region.
- Ms. McKinnon is “back up” to an Administrative Assistant II to cover RRT meetings.

(*Exhs. J7 through J9; Testimony of Appellant*)

29. Ms. McKinnon accurately points out that her current duties and qualifications are substantially identical to the job duties and preferred qualifications listed in the job posting for the May 2015 DYS Central Region position of OSS II. Tina Saetti, the DYS Southeast Regional Director believes that Ms. McKinnon is doing “about 85% of the Office Support Specialist Form 30” and deserves to be reclassified to an OSS II. (*Exhs. 7 through J9 & 13; Testimony of Appellant, Portela & Gurliaccio*)

30. Mr. Portela, who was Ms. McKinnon’s direct supervisor at the time she sought this reclassification, confirmed that many of the principal duties performed by Ms. McKinnon fit the description of the distinguishing characteristics of an OSS II. Specifically, the work associated with the Clothing Vouchers required considerable coordination on fiscal matters to obtain approval for vouchers, arranging with case workers to meet clients and shop with them for clothing, and follow-up to ensure compliance. Similarly, Ms. McKinnon did most of the “leg work” associated with Revocation Hearings, which were “big events” and had “many moving

parts, including researching information to determine when a hearing was needed, coordinating with internal and outside parties, including legal counsel required to attend the hearing, and scheduling the hearings, which ordinarily occurred twice a week. Ms. McKinnon also provided “training” and “guidance” to other staff on such matters as how to properly complete travel vouchers and other forms, ensuring compliance and correcting errors when they occurred. She was the “point person for maintaining the region’s weekly calendar. (*Exh. J2; Testimony of Appellant & Portela*)

31. About six years ago, Mr. Portella, who was then assigned to the DYS Central Region, assisted a Clerk III in that region to be upgraded to an OSS II. That employee had no supervisory responsibility and performed “almost identical” duties as assigned to Ms. McKinnon. (*Testimony of Portello*)

32. Craig Curtin, the DYS Southeast Region Director of Operations, certified that he agrees that Ms. McKinnon’s description of her job duties as she described in her Interview Guide was accurate, but had concerns about the percentages she attributes to specific tasks and took issue with the suggestion that Ms. McKinnon’s work included “supervising” anyone. (*Exh. 12*)

APPLICABLE CIVIL SERVICE LAW

G.L.c.30, §49 provides:

Any manager or employee of the commonwealth objecting to any provision of the classification affecting his office or position may appeal in writing to the personnel administrator. . . Any manager or employee or group of employees further aggrieved after appeal to the personnel administrator may appeal to the civil service commission. Said commission shall hear all appeals as if said appeals were originally entered before it. If said commission finds that the office or position of the person appealing warrants a different position reallocation . . . it shall be effective as of the date of appeal . . .

“The determining factor of a reclassification is the distribution of time that an individual spends performing the function of a job classification.” Roscoe v. Department of Environmental

Protection, 15 MCSR 47 (2002). In order to justify a reclassification, as a general rule, an employee must establish that she performs duties encompassed within the higher level position the majority (i.e., at least 50% or more) of the time. See, e.g., Pellegrino v. Department of State Police, 18 MCSR 261 (2005) (at least 51%); Morawski v. Department of Revenue, 14 MCSR 188 (2001) (more than 50%); Madison v. Department of Public Health, 12 MCSR 49 (1999) (at least 50%); Kennedy v. Holyoke Community College, 11 MCSR 302 (1998) (at least 50%).

ANALYSIS

As is often true in most classification appeals, Ms. McKinnon is, by all accounts, a dedicated public servant who works hard at her job. However, reclassification of a position requires proof that the specified duties of the higher title are, in fact, actually being performed as the major part of her current position. Accordingly, the issue before the Commission is limited to that narrow question.

The analysis of the issue in this appeal, however, is not a simple matter of comparing the “level distinguishing duties” of an employee’s current job title with the “level distinguishing duties” of another higher job title in the same job classification series. Here, Ms. McKinnon seeks to be reclassified from Clerk IV (in the Clerical Job Classification Series) to an Office Support Specialist II position in a different job series. The issue is further complicated because the Clerical Series and OSS Series have “overlapping” job duties and DYS has been phasing out job titles in the Clerk series, which DYS management considers “outdated”, and has elected to fill positions that formerly might have been filled as Clerical Series positions with a position in the OSS job series instead. Finally, it appears that DYS has not consistently adhered to the “level distinguishing” requirements of the OSS job series strictly, and has repeatedly and routinely posted, and hired, administrative support staff at the OSS II level, despite the fact that

the positions do not require and do not involve supervisory duties as expressly required by the OSS II Job Classification Specification.

As a general rule, the Commission's jurisdiction in a reclassification appeal is exclusively limited to addressing the merits of reclassification of the position of the appellant – a so-called “position reallocation” appeal – as opposed to addressing more global cases of “misclassification” of a group of employees, which is the exclusive purview of collective bargaining. See G.L.c.30, §49; Derosa v. Department of Revenue, 23 MCSR 686 (2010), aff'd sub nom, Derosa v. Massachusetts Civil Service Comm'n, SUCV2010-04679 (Mass.Sup.Ct. 2012) (Brassard, J.); Gaillard v. Department of Correction, 11 MCSR 334 (1998). See also, Pizzi v. Department of Public Health, 29 MCSR 233 (2016) (fact that other employees may be misclassified cannot, alone, form the basis for reclassification); Bouchard v. Chelsea Soldiers' Home, 23 MCSR 508 (2010) (same); Murphy v. Department of Personnel Administration, 7 MCSR 40 (1995) (position reallocation properly denied despite “a picture of rampant misclassification” in the Department of Correction)

That said, the Commission is not bound to apply the classification specifications literally in every case. See, e.g., Blodgett v. Massachusetts Highway Dep't, 24 MCSR 588 (2011); Lefebvre v. Department of Early Education, 22 MCSR 149 (2009). When analyzing a reclassification appeal, it is within the Commission's discretion to weigh all of the facts and to make a determination based on the evidence presented.” Noyes v. North Shore Community College, 12 MCSR 55 (1999); Kennedy v. Holyoke Community College, 11 MCSR 302 (1998). See also Thompson v. Human Resources Div., 29 MCSR 565 (2016) (Commission applied a modified analysis to account for unique nature of newly created Counsel Series specifications); Bouchard v. Chelsea Soldiers' Home, 23 MCSR 508 (2010) (comparison with employees within work

group or in other units who hold same title helpful to provide practical understanding of what the level distinguishing duties actually are); Hodge v. Department of Correction, 18 MCSR 165 (2005) (reclassification ordered based on the petitioner's testimony, documents and her own work notes); Saulenas v. Framingham State College, 10 MCSR 237 (1997) (classification specifications are not rigid requirements but flexible guidelines when determining the proper classification).

A practical approach to the reclassification appeal presented here is particularly apt, given the appellant's request that her support staff position be reclassified from the Clerk Series issued in 1987 to the much more recently promulgated Office Support Specialist Series. The job of clerical support personnel has come a long way since the days of typewriters, mimeograph machines and Dictaphones found in the Clerical Series specifications. Thus, it is not surprising that it was not seriously disputed, and I agree, that Ms. McKinnon's job duties can be fairly matched to a position in either Clerical Series, the Office Support Specialist Series, and, probably, other series as well, such as Administrative Assistant. Where the duties overlap more than one job series, the Commission has recognized that reclassification from the older series to a newer one is often appropriate. See, e.g., Lefebvre v. Department of Early Education, 22 MCSR 149 (2009); Emanuello v. UMass Dartmouth, 21 MCSR 64 (2008); Auger v. Massachusetts Highway Dep't, 19 MCSR 62 (2006); Madison v. Department of Public Health, 12 MCSR 49 (1999)

It is a closer call as to whether Ms. McKinnon should be reclassified to the entry-level position of OSS-I or to the higher position of OSS-II that she requested. The evidence presented established that there is actually little difference in the duties of the two titles, both as described in the OSS Series classification specification, and as applied in fact by DYS. The job performed

by Ms. McKinnon fits, in substantially all respects the OSS-II position as DYS has posted it, and has hired other personnel, including in Ms. McKinnon's office (the receptionist was hired as an OSS-II to replace Ms. McKinnon) and in the Central Region (where Ms. McKinnon's supervisor had succeeded in obtaining that job title for Ms. McKinnon's counterpart when he worked in that region). A number of the duties recently assigned to Ms. McKinnon were transferred from other employees who held management job titles that were higher than hers.

Ms. McKinnon's job expressly meets the three "level distinguishing" duties" specified for an OSS-II, namely, she does provide training, guidance and supervision to others, both as "back-up" to her, as well as more broadly in performing the travel reimbursement functions and in coordinating the clothing allowance and revocation hearing assignments. The only potentially missing pieces to Ms. McKinnon's OSS-II job portfolio are the fact that she has no direct "reports" and does not perform personnel evaluations of any other employees. It does not appear that such direct supervision is part of the required duties of any of the other OSS-IIs identified at DYS, largely due to the structure and small number of support staff assigned to a regional office, all of whom are supervised by management personnel. In addition, I note that Ms. McKinnon's current classification of Clerk IV also describes her as a first-line supervisor. Accordingly, under the particular circumstances presented, I am persuaded that Ms. McKinnon does meet the intent of the supervisory requirements for the OSS-II position as DYS applies it. See, e.g., Cohen v Massachusetts Highway Dep't, 23 MCSR 120 (2010) (although not a direct supervisor, appellant did have "functional" supervisory duties expected for a first-line supervisor); Kurker v. Department of Conservation & Recreation, 22 MCSR 357 (2009) (supervision of contract workers sufficient to meet requirement for supervision of "state employees", noting specifications were 21 years old); Harand v. Soldiers' Home in Holyoke, 21 MCSR 173 (2008)

(acting as a floor “charge nurse” sufficient to meet supervision requirement, despite lack of any responsibility for performance reviews); Wyche v. Division of Insurance, 11 MCSR 132 (1998) (direct supervision discounted since no employees at any level in series actually performed that responsibility); Seger v. Westfield State College, 10 MCSR 109 (1997) (appellant’s minimal supervisory role did not prevent reclassification when other like positions in the department failed to meet the supervisory criteria)

Finally, I note that the reclassification of Ms. McKinnon to OSS-II does not present any question that such a reclassification would be “organizationally disruptive”, which would present an entirely different concern. See, e.g., Paprocki v. Department of Revenue, 30 MCSR ---, CSC No. C-15-190 (2017); Simmons v. Department of Conservation & Recreation, 24 MCSR 585 (2011); Straub v. Department of Conservation & Recreation, 23 MCSR 587 (2010); Blodgett v. Massachusetts Highway Dep’t, 24 MCSR 588 (2011); Acquilano v. Massachusetts Maritime Academy, 12 MCSR 98 (1999). To the contrary, here, such a reclassification would have no discernable operational impact and would actually bring Ms. McKinnon’s title substantially in line with other similarly situated employees within DYS.

Accordingly, for the reasons stated above, the appeal of the Appellant, April McKinnon, under Docket No. C-16-180, is **allowed**. Ms. McKinnon’s her job title shall be reclassified to Office Specialist II in accordance with G.L.c.30, §49 & §57.

Civil Service Commission

/s/ Paul M. Stein

Paul M. Stein
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Tivnan & Stein, Commissioners) on April 27, 2017.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(1), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

April McKinnon (Appellant)
Sheila Anderson, Esq. (for Respondent)
John Marra, Esq. (HRD)