

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Mary Sorensen,
Petitioner,

Docket No.: CR-24-0600

v.

State Board of Retirement,
Respondent.

Appearances:

For Petitioner: Mary Sorensen, pro se
For Respondent: Matthew Szafranski, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner was a human services coordinator for the Department of Mental Health. She worked exclusively with mentally ill individuals. She provided a wide range of hands-on assistance that amounted to “direct care” and did so for over 50% of her working hours. She is thus entitled to Group 2 status.

INTRODUCTION

The Petitioner, Mary Sorensen, appealed the State Board of Retirement’s (“Board”) decision denying her application for Group 2 status. I held a virtual hearing on October 9, 2025. Ms. Sorensen testified, as well as Jeff Boyd, her supervisor from 2010-2023. I entered exhibits 1-

4 into evidence. The parties presented closing statements, at which point I closed the administrative record.

FINDINGS OF FACT

1. Ms. Sorensen worked for the Department of Mental Health (“DMH”) since 2004 as a human services coordinator (HSC).¹ She was a clinician working with clients receiving DMH services. (Ex 1; Sorensen.)
2. Her clients carried a range of mental health diagnoses that impacted their ability to care for themselves. Thus, they required DMH services and individual help from someone like Ms. Sorensen. (Sorensen; Boyd.)
3. Many of her clients were diagnosed with borderline personality disorder and/or had a history of suicide attempts. These specific issues required an experienced worker because these clients were particularly needy. Ms. Sorensen was assigned these cases because of her experience. (Sorensen; Boyd.)
4. Her work did not involve assessments. That task was reserved for people like her supervisor, Mr. Boyd. He did the eligibility assessments. Only after someone was found eligible for DMH services would they be assigned a case worker like Ms. Sorensen. (Boyd.)

¹ She may have had slightly different titles over the years as a “Human Services Coordinator A/B” and “Human Services Coordinator I.” There is no dispute that she worked in the same position with the same duties throughout her career and the different titles, if accurate, do not change anything.

5. As an HSC, her duties involved daily, direct client contact. Almost her entire day, every day, was spent working one-on-one with clients. (Sorensen; Boyd.)
6. Her clients were adults, ranging in age from approximately 20-65. She carried a caseload of about 18-23 clients at a time. (Boyd.)
7. While many case workers like her worked directly with clients, she was unique in how much time she spent with clients. Mr. Sorensen and her supervisor estimated she spent well over 75% of her time with her clients. (Sorensen; Boyd.)
8. She cared for her clients by doing just about anything they needed: monitor their treatment plans, take them shopping, help them manage their medications, help them find employment, take them to doctor appointments, teach them problem solving, help them develop health coping skills, and more. (Sorensen; Boyd.)
9. She would also meet with the clients and other treatment providers, such as workers from the Brien Center, the local mental health vendor. In these meetings they would collectively arrange the additional services the other workers might provide her clients. (Sorensen; Boyd.)
10. Ms. Sorensen had some clients who were in state hospitals, but on the cusp of being discharged. She would meet with those clients at the hospital to check in on them and see how they were doing. Sometimes the hospital would place them in her custody so she could escort them out of the hospital for a variety of errands. (Sorensen.)
11. She classified some of what she did as instructional, calling it “therapeutic case management.” She taught clients to manage their lives and mental health issues, how to

take care of themselves when no one was around to help them, and general problem-solving. (Sorensen.)

12. She had some administrative duties, like writing reports or attending staff meetings. Because she spent so much time with clients, she often completed those duties after hours or during lunch. And regardless, they took up a small percentage of her time, and certainly much less than 50% of her working hours. (Sorensen.)
13. Just prior to retiring, she applied to be classified in group 2. The Board denied her application for Group 2 status without explanation in a letter dated August 30, 2024. (Ex. 3)
14. I take administrative notice that August 30, 2024 was a Friday before the Labor Day holiday.
15. Ms. Sorensen filed her appeal with DALA on-line on September 23, 2024. (Exs. 4-5.)
16. Other than the date of its letter, the Board did not present any evidence as to when it sent it to Ms. Sorenson. Nor did it present evidence about its general practice in processing outgoing mail.
17. On the other hand, Ms. Sorensen presented evidence as to when she received the Board's letter.
18. Ms. Sorensen recalls being very nervous and overwhelmed when she received the letter, not just because her application was denied, but because it said she had only 15 days in which to file an appeal. (Sorensen.)
19. She called someone at the State Board of Retirement but cannot remember with whom she spoke. Whoever it was, she spoke to them about the appeal and the deadlines. She

left the conversation with an understanding that she had until September 26, 2024 in which to file her appeal. She submitted her appeal on September 23, 2024, and recalled thinking she filed it with time to spare. (Sorensen.)

20. She recalls thinking she had 15 business days (as opposed to 15 calendar days) in which to respond. (Sorensen.)

21. I find that she received the Board's letter no earlier than 15 calendar days before she filed her appeal.

DISCUSSION

1. The Petitioner's appeal was timely

The retirement statute requires a person to appeal from a decision within 15 days of notification of the decision. G.L. c. 32, § 16(4). "[A] petitioner receives notification of a retirement board's decision when a notification letter is delivered to the petitioner's home or is available to the petitioner." *Bailey v. State Bd. of Ret.*, CR-07-724, 2012 WL 13406339 (Contributory Ret. App. Bd. Nov. 16, 2012). Notices "shall be presumably deemed received . . . if mailed, three days after deposit in the U.S. mail." 801 Code of Mass. Regs. § 1.01(4)(b).

However, this is just a presumption that can be rebutted by competent evidence. *Fernandes v. State Bd. of Ret.*, CR-17-942, 2018 WL 4334759 (Div. Admin. Law Apps. Jun. 1, 2018).

Here, the Board did not submit any evidence as to when it actually mailed out this specific denial letter. Nor did it submit any evidence as to its usual practice of processing outgoing mail. *Contrast DeGirolamo v. MTRS*, CR-22-0367, 2024 WL 2801079 (Div. Admin. Law Apps. May 24, 2024) (board submitted affidavit detailing its mail processing procedures). Given that the letter was dated a Friday before a long holiday weekend, it is possible it did not get

mailed out until the following Tuesday, or later. On the other hand, I have evidence from the Petitioner about what she did when she received the letter that allows me to infer that her response was timely.

First, I credit her testimony that she spoke with someone from the retirement board. Second, I infer that whomever she spoke with helped her understand the correct date by which her appeal was due, which inferentially must have included a conversation about when she received her letter. Lastly, I infer she correctly calculated the date by which her appeal was due because she was confident her appeal letter dated September 23, 2024, was in before the deadline to appeal had expired. *Contrast DeGirolamo, supra* (Petitioner did not recall whether she believed that sending form by specific date would have met the deadline for submission). For her appeal to have been timely, it means she needed to have received the Board's letter on Friday, September 6, 2024, or later.² That would have been possible if the Board was unable to mail it out before the Holiday weekend.

2. The Petitioner provided a variety of care, custody and instruction for more than half the time.

A member's retirement compensation is based, in part, on their group classification. Members are classified into four groups. G.L. c. 32, § 3(2)(g). Group 2 includes employees

² If she believed she had 15 business days from receipt, that does not change the analysis. When she submitted her appeal on September 23, 2024, she thought it was early. That makes sense because, if she received the letter on September 6, 2024, she would have thought she had until around September 26, 2024, to submit her appeal. However, having received the letter on September 6, 2024, her appeal would have been due 15 calendar days later, which was September 21, 2024. That was a Saturday, so she had until the following Monday, September 23, 2024, in which to file her appeal. 801 Code of Mass. Regs. § 1.01(4). Thus, she wrongly believed her appeal was filed early but nevertheless filed it right on time.

“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). “[A]n employee who spends more than half of his or her time ‘engaged in care, custody, instruction, or other supervision’ of a population included in Group 2 engages in these responsibilities as part of his or her ‘regular and major duties.’” *Desautel v. State Bd. of Ret.*, CR-18-0080, *3 (Contributory Ret. App. Bd. Aug. 2, 2023).

The board did not really dispute that the Petitioner served a Group 2 population—persons with mental illnesses. And the evidence supports that conclusion. All the Petitioner’s clients received services from DMH. Their mental illnesses made it difficult (if not impossible) for them to take care of themselves and required the intense, hands-on care the Petitioner provided. In fact, she was assigned some of the more difficult clients who required intensive support, like people diagnosed with borderline personality disorder or who had previous suicide attempts. In short, their diagnoses drove their care. *Popp v. State Bd. of Ret.*, CR-17-848, 2023 WL 11806173 (Contributory Ret. App. Bd. Nov. 16, 2023); *O’Neil v. State Bd. of Ret.*, CR-23-0154, 2025 WL 1529241 (Div. Admin. Law App. May 23, 2025).

That just leaves the question of whether the Petitioner provided care, custody, instruction or other supervision to these clients more than half her time. “Care,” for purposes of G.L. c. 32, § 3(2)(g), means providing “direct care.” *Desautel, supra*, at *4; *Clement v. State Bd. of Ret.*, CR-15-299, at *6 (Div. Admin. Law App. Dec. 8, 2017).³ Direct care is not merely

³ Some of what the Petitioner did might be considered “instruction.” When she took clients out of the hospital, she also likely had “custody” of them. I however focus on care because even when she was providing instruction or had custody of her clients, she was also providing direct care.

“performing some discrete service but taking on responsibility for some aspect of an individual’s well-being.” *Long v. State Bd. of Ret.*, CR-21-0287, at *4, 2023 WL 6900305 (Div. Admin. Law App. Oct. 13, 2023). “It connotes ‘charge, oversight, watchful regard, and attention.’” *O’Neil, supra*. That said, care “does not include administrative or technical duties.” *Larose v. State Bd. of Ret.*, CR-20-357, at *2, 2023 WL 4548411, (Div. Admin. Law App. Jan. 27, 2023).

I recently decided a case in which I held the Petitioner merited group 2 status. My reasoning in that case applies equally here, as I explained in some detail:

Almost all of the Petitioner’s time (and certainly way more than 50% of it) was spent performing a variety of direct care duties: she personally provided her clients with rides to and from medical/social appointments, advocated on their behalf to medical providers, assisted clients in completing their bills, filled out service applications on their behalf, ensured clients were following their personal treatment plans, and conducted random client check-in assessments. The Petitioner engaged in one-on-one interactions with her clients daily . . . She was “not merely conferring a benefit or performing some discrete service, but taking on responsibility for some aspect of [the clients’] well-being.” She had “personal and direct” interactions with a Group 2 population, with “breadth and depth” of responsibility, and “watchfulness and attention.”

O’Neil, supra (citations omitted). See *Cassidy v. State Bd. of Ret.*, CR-21-0440, 2024 WL 1739372 (Div. Admin. Law App. Apr.12, 2024) (taking client to appointments is direct care); *Pina v. State Bd. of Ret.*, CR-21-0387, 2024 WL 1048144 (Div. Admin. Law App. Mar. 1, 2024) (assisting with interpersonal issues is direct care).

That perfectly describes the Petitioner’s duties here and why she is entitled to Group 2 status. In fact, if anything, it appears Ms. Sorensen provided more direct care than Ms. O’Neil, in terms of the percentage of time she provided it. As her supervisor somewhat jokingly explained, Ms. Sorensen perhaps provided direct care for too much time, since she often had to finish her

administrative work after hours or during lunch. In short, her days were spent directly caring for her clients' needs, whatever they may have been.

CONCLUSION AND ORDER

The Board's decision denying the Petitioner's application is **reversed**

DIVISION OF ADMINISTRATIVE LAW APPEALS

Date: October 31, 2025

Eric Tennen

Eric Tennen
Administrative Magistrate