

COMMONWEALTH OF MASSACHUSETTS

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

Clarence West,
Petitioner

v.

Docket Nos. CR-22-0591, CR-23-0197

State Board of Retirement,
Respondent

Appearance for Petitioner:

James H. Quirk, Jr., Esq.

Appearances for Respondent:

Jennifer Hunt, Esq.
Associate Board Counsel
Athila Soares-Nunes
Paralegal
State Board of Retirement

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

A Human Services Coordinator for the Department of Developmental Services spent the majority of his time arranging services for people with developmental disabilities and monitoring their receipt of these services. Because these duties did not constitute care, custody, instruction, or supervision of people with disabilities, he is not entitled to Group 2 classification.

DECISION

The petitioner, Clarence West, appeals the denial by the State Board of Retirement (SBR) of his two applications for Group 2 classification.

I held a hearing on November 20, 2024 by Webex, which was recorded and transcribed.

Mr. West testified, and called no other witness. I admitted nine exhibits at the hearing and Exhibit 10 (Mr. West's second appeal) after the hearing. Both parties submitted post-hearing briefs in June 2025.

Findings of Fact

Mr. West and his duties

1. Mr. West worked for the Department of Developmental Services (DDS). His title for most of his employment was Human Services Coordinator. (*E.g.*, Tr. 35; Ex. 5)

2. All DDS clients with whom Mr. West had contact had intellectual disabilities. (Tr. 33, 34, 39)

3. On July 1, 2001, the Human Resources Division issued a class specification for Human Services Coordinator. Part I: Job Characteristics / Summary of Work Performed at All Levels in this Series, reads in part:

Through direct contact, they assess, develop, coordinate, review, evaluate and monitor service/support plans; perform intake and eligibility assessments; provide direct outreach to the homeless; provide advocacy in human, civil, and legal rights; arrange or organize agency funded and generic support and placement services in response to the needs of individuals; provide information and referrals; facilitate linkage between the plan process and the support/services to be provided, purchased, or arranged; monitor the safety and well being of individuals by utilizing quality management systems...; and maintain outreach to the community.

(Ex. 1, p. 1)

4. The class specification for Human Services Coordinator contains a page headed "Interpersonal Responsibilities." It includes "Internal contacts," that is, DDS personnel with whom Human Services Coordinators interact, and "External contacts," which begins:

Typical external contacts are with individuals with mental, physical or developmental disabilities or mental retardation to develop individual service plans for them and monitor their progress....

(Ex. 1, p. 4) In other words, a human services coordinator's function involving people with development disabilities is to develop Individual Service Plans (ISPs) for them and monitor their progress.

5. On an Employee Performance Review Form (EPRF) in 2020 (the most recent EPRF that I could locate in the exhibits), Mr. West was evaluated on five duties:

A. "Coordinate and facilitate the development of Individual Support Plans, Semi-Annuals, Annual Reviews, [and] ISP Modifications...."

B. "Monitor the safety and well being of individuals by being cognizant of and responsive to quality of life safety issues, and arrange or provide crisis intervention as needed."

C. "Provide advocacy in the area of human, civil and legal rights, and education/information to individuals and family members/guardians...."

D. "Provide assistance with placement planning, program development and implementation...compile and disseminate referral information, update priority needs/wait list information...."

E. "Maintain accurate and up-to-date information in individuals' records"

(Ex. 5)

6. In an undated statement, Mr. West wrote:

As a Human Services Coordinator, I worked many days with individuals with Intellectual Disabilities. Early in my career, my job required me to perform direct care duties such as one to one case management and travel training. I currently perform regular home visits, many times in the apartments of the individuals on my case load. I also visit individuals at their job sites and day programs. My job has required me to accompany individuals to court and visit with incarcerated individuals. I have also had to meet with unstable family members of people on my caseload.

(Ex. 5)

7. In another statement, Mr. West wrote:

Group 2 Narrative June 2000 to August 2014¹

As a Human Service Coordinator A/B with the Department of Developmental Services (DDS), I worked in 4 Area Offices in 4 diverse cities. I worked in the Harbor Office in Boston, the Central Middlesex office in Arlington, the North Central office in Fitchburg and most recently, the Franklin/Hampshire Area Office in Northampton. I served as a primary advocate for up [to] 55 individuals with intellectual and developmental disabilities. Many of these individuals had a tertiary diagnosis of mental illness. These individuals were in our care and we Human Service Coordinators were required to supervise all areas of their daily lives. My Employee Performance Review Form of 2014 shows that I regularly performed outreach tasks in the field in lieu of updating and submitting paperwork. It was estimated² that I spent 3 days/week providing outreach to individuals and families.

.... [T]he Human Services Coordinator job tasks include assisting an individual and family in many hands-on tasks such as travel training and transportation. In some cases, I was the only person in the individual's life who could support them. I have taken many individuals to medical appointments and relayed information to family members and guardians. I have visited individuals in the hospital and provided transportation home and ongoing supervision of their medical status.³

Over the years, I transported several men to be evaluated by the Forensic Psychiatrist contracted by DDS who specialized in sex offending behaviors. I supported and transported individuals to and from the hospital during psychiatric inpatient admissions. I accompanied individuals from nursing homes and rehabilitation facilities to neuro-psychological appointments at hospitals in the Boston area.

My tasks also involved supporting court involved individuals. I transported and accompanied individuals facing charges....My job required contact with the parole officers and police as some of my recently released individuals had to register as sex offenders.

As a Human Service Coordinator, I was responsible for monitoring services and the living conditions of DDS eligible individuals....I was responsible for visiting,

¹ It is unclear when Mr. West wrote this. It accompanied his second application for Group 2 classification, which I describe below.

² This statement does not reveal who so estimated and at what relevant time.

³ It is unknown what it means to supervise someone's medical status.

observing and working with individuals who lived in DDS residential programs. Some of these individuals had challenging behaviors that required attention during these visits. I have restraint and de-escalation training and have been asked by residential staff to intervene during incidents and assist during crisis.

....

My work has taken me into questionable neighborhoods in Chelsea, Revere, Dorchester, East Boston, Fitchburg and Athol. I have met with individuals and families in unstable homes where drug use was prevalent. On several occasions, I had to pick up a woman who chose homelessness and spent nights in a Boston park that had been the site of sexual assaults....

....

Over the years, I also had many individuals who were in nursing homes and members of the Rolland Class Action lawsuit.⁴ I was required to visit and oversee their care each week. My job required me to work with nursing home staff to ensure that the personal care and daily activities of my individuals was more than adequate. I worked under the guidance of the Court Monitor on providing services and eventually finding residential placement outside of the nursing facilities for the people on my caseload.

Much of my caseload in recent years had been with individuals and families who received DDS services through the Participant Directed Program (PDP). I was the sole staff person to these individuals as they had no paid providers assisting them in managing their programs. I assisted individuals and family members in identifying needs, creating a budget, working with the Area Office on funding, finding and hiring staff and implementing day and residential services. I helped individuals manage the program by meeting with and advising them regularly. This often involved supporting them in conversations with the financial agency, Public Partnerships, Limited (PPL).

As a Human Service Coordinator, I have assisted people in maintaining their benefits as well as helped them find appropriate services. I took individuals to the offices of Social Security and MassHealth and advocated on their behalf. I transported individuals to day program visits and other community resources, such as clinical services and group activities.

Over the years, I have maintained regular contact with individuals in supported day programs. My job was to facilitate Individual Support Plan (ISP) meetings for the individuals on my caseload. Most of these meetings were held at day programs. Throughout the year, I would meet individuals at their day programs at least weekly, to evaluate their progress on goals. Some of these visits entailed

⁴ The record does not explain this reference.

hard conversations that resulted in upset individuals. My job was often to intervene and de-escalate a situation at a day program.

....

(Ex. 7)

8. From September 2022 to September 2023, Mr. West's last year of employment, he worked at DDS's Franklin/Hampshire office in Northampton. (Tr. 70-71)

9. In a typical week, he spent 10 hours driving between duties; five hours on paperwork; two hours talking to clients' relatives; one hour in meetings; and unspecified amount of time communicating with vendors and talking with group homes' managers and staff. (Tr. 71-75)

10. From August 2013 to August 2014, the last year of his second application, Mr. West also worked at the Franklin/Hampshire office in Northampton. (Tr. 75)

11. In a typical week, he spent three to four hours driving; one-and-a-half hours writing individual service plans; one-and-a-half hours in meetings; and four hours managing ISOs.⁵ (Tr. 75-76, 79, 80, 84-85)

12. Over the years, "the job...was always the same." (Tr. 33)

13. Mr. West provided some direct care to clients, such as by giving them emotional support and picking up one client from an unsafe park. (Tr. 47, 58; Ex . 7)

14. However, most of Mr. West's direct contact with clients entailed learning their needs, referring them to services, and monitoring their receipt of services. (Tr. 37 ("I am providing whatever they need. But it is generally meeting with them and finding out what their needs are and helping them....[I]f someone needs a ride to the store, I'll give them a ride to the store. But if somebody just needs to tell me what is going on in his life and me helping figure out what he

⁵ Mr. West did not know what this acronym stood for. (Tr. 83)

needs, then that's the job"); 37 ("I am coordinating the services"); 38 ("it's me ascertaining that they need this, this, and this. And they could use this that"; 39 ("referring somebody for therapy"); 41-42 ("Talking to them, evaluating how they're doing and getting a sense of how they are – what they need...to be successful in life"); 46 ("I had to spend time with them, find out if they were getting good services....But mostly it was me observing them, making sure that they are getting the services that was mandated by the court"); 49 ("The job has always been a job [to] coordinate services...."); 58 ("finding out what people need...what is working for them, what isn't"); 89 ("...I'd follow up with the individuals and make sure they are getting the services that the State is paying for...."))).

Mr. West's first application

15. On June 24, 2022, Mr. West applied for Group 2 classification for his work at the Department of Developmental Services from approximately June 5, 2000 to June 24, 2022. Although he stated that he sought prorated service, he also stated that he was submitting one application. (Ex. 5)

16. On November 23, 2022, SBR denied Mr. West's application. (Ex. 3)

17. On December 2, 2022, Mr. West timely appealed. (Ex. 10)

Mr. West's second application

18. On December 15, 2022, Mr. West applied for Group 2 classification for his work at the Department of Developmental Services from approximately June 5, 2000 to August 5, 2014. He sought prorated service and stated that he was submitting one application. (Ex. 5)⁶

19. In Part 2 of his application, filled out by Mr. West's employer, DDS listed his positions as follows: Service Coordinator I from June 5, 2000 to December 15, 2001 (full time);

⁶ Exhibit 5 contains two separate applications.

Human Services Coordinator A/B from December 16, 2001 to July 26, 2008 (full time); Human Services Coordinator A/B from July 27, 2008 to November 28, 2009 (not full time); and Human Services Coordinator A/B from November 29, 2009 to June 24, 2022 (full time). (Ex. 5, p. 2)

20. On February 23, 2023, SBR denied Mr. West's application. (Ex. 2, p. 8; Ex. 3)⁷

21. On March 1, 2023, Mr. West timely appealed. He asked that his appeal be consolidated with his appeal from December 2022. (Ex. 4)⁸

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 or mentally defective.” G.L. c. 32, § 3(2)(g).

“Mentally defective” is the outdated term that formerly described people with developmental disabilities. *Anne Koch v. State Board of Retirement*, CR-09-449 *2 (Contrib. Retire. App. Bd. 2014).

For an employee to have contact and interactions with 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 (Div. Admin. L. App. 2002); *Desautel v. State Board of Retirement*, CR-18-0080 (Contrib. Retire. App. Bd. 2023).

For an employee not seeking prorating, 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

⁷ Exhibit 3 contains two separate denials.

⁸ This accounts for the case having two docket numbers.

the duties of said position for which the member seeks classification for not less than 12 consecutive months immediately preceding ...retirement”).

For an employee seeking prorating, an employee’s group generally depends on his or her duties throughout the period for which he or she seeks proration. G.L. c. 32, § 5(2)(a); *Susan Burnes v. State Board of Retirement*, CR-21-0084, 2023 WL 7018537 (Div. Admin. L. App. Oct. 20, 2023). Although I did ask Mr. West about his duties in his last year of employment and from August 2013 to August 2014, the last year of his second application (Tr. 75), he testified that over the years, his job was the same. (Tr. 33)

“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 (Contrib. Retire. App. Bd. 2020). *See Maddocks*, 369 Mass. 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.” *Desautel v. State Board of Retirement*, CR-18-0080 (Contr. Retirement App. Bd. 2023) (footnote omitted).

In general, to obtain Group 2 classification, Mr. West had to prove three things by a preponderance of the evidence, *Bagley v. Contributory Retirement Appeal Board*, 397 Mass. 255, 258 (1986): (1) He provided care to, had custody of, instructed, or supervised (Mr. West’s theory of the case was that he did all four things (Tr. 55-56)); (2) developmentally disabled persons; (3) more than 50% of his time during his career and, for his second application, during his employment before August 2014.

Mr. West proved #2. (Tr. 33, 34, 39) Mr. West did not prove #3. Mr. West’s driving, administrative duties, and meetings not involving clients consumed about half of his time in the last year of his employment. Add his other duties that did not involve contact with clients and

that consumed unspecified time, and it is *not* more likely than not that West spent more than half of his time in contact with people with developmental disabilities. *Sargent v. Massachusetts Accident Co.*, 307 Mass. 246, 250 (1940) (“preponderance of the evidence” means more likely than not). Since Mr. West’s duties were the same over the years, it is not more likely than not that his duties during his career and before August 2014 involved contact with clients for more than half of his time.

And, of course, an employee’s contact with developmentally disabled people does not necessarily mean care, custody, instruction, or supervision of them. Mr. West did not prove #1.

DALA has consistently concluded that an employee’s assessing members of the relevant Group 2 population for eligibility for government assistance and to determine appropriate services is an administrative job that is not eligible for Group 2 classification. *Bruce Frazer v. State Board of Retirement*, CR-18-0318 (Div. Admin. Law App. Nov. 19, 2021). Similarly, an employee’s *locating* those services and *monitoring* whether members of the relevant population are receiving them is an administrative job that is not eligible for Group 2 classification. Mr. West spent the majority of his time locating services for and monitoring their receipt by people with developmental disabilities. Therefore, he is not eligible for Group 2 classification.

Mr. West did not specify which acts he performed constituted care and how, constituted custody and how, constituted instruction and how, and constituted supervision and how. (*E.g.*, Tr. 45, 49) As stated above, he wrote:

As a Human Services Coordinator, I worked many days with individuals with Intellectual Disabilities. Early in my career, my job required me to perform direct care duties such as one to one case management and travel training. I currently perform regular home visits, many times in the apartments of the individuals on my case load. I also visit individuals at their job sites and day programs. My job has required me to accompany individuals to court and visit with incarcerated individuals. I have also had to meet with unstable family members of people on my caseload.

(Ex. 5) Mr. West did not specify how many days constituted “many days” and what percentage of his time the days constituted. His examples of “direct care duties” – case management and travel training – were not direct care. What travel training entailed went unexplained in the record. During home visits, Mr. West did not have custody of developmentally disabled people in their own homes. Nor does it sound as if Mr. West cared for, supervised, or instructed people at their job sites and day programs; that was for people at the job sites and day programs. Mr. West also did not have custody of people at their job sites and day programs. When Mr. West accompanied people to court, it is unknown whether he had custody of them. He did not so state, in writing or in testimony. When he visited incarcerated people, he did not have custody of them. If he cared for them, instructed them, or supervised them, he did not so state, in writing or in testimony. His meeting with “unstable family members” did not constitute care, custody, instruction, or supervision of developmentally disabled people.

Much of Mr. West’s testimony was anecdotal and general. An example:

Q. During this period of time [which was unspecified], were you directly involved with the clients?

A. Often, yes.

(Tr. 90) Some of Mr. West’s anecdotes demonstrated that he occasionally cared for people with developmental disabilities. He might also have instructed them; he might have supervised them. But he did not specify how, when, and how often.

Conclusion and Order

The State Board of Retirement's denials of Mr. West's applications for Group 2 classification are affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/

Kenneth Bresler
Administrative Magistrate

Dated: August 29, 2025