

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

MARIBETH HAZEL,
Appellant

v.

C-17-246

EXECUTIVE OFFICE OF HEALTH AND
HUMAN SERVICES,
Respondent

Appearance for Appellant:

Maribeth Hazel
Pro se

Appearance for Respondent:

Lauren Cleary, Esq.
Associate General Counsel
Executive Office of Health and
Human Services
One Ashburton Place, 11th Floor
Boston, MA 02108

Commissioner:

Cynthia A. Ittleman

DECISION

On December 2, 2017, the Appellant, Maribeth Hazel (Ms. Hazel or Appellant), pursuant to G.L. c. 30, § 49, filed a timely appeal with the Civil Service Commission (Commission), contesting the decision of the state’s Executive Office of Health and Human Services (EOHHS) to deny her request for reclassification from the position of Personnel Officer II (PO II) to the position of Personnel Analyst III (PA III). A pre-hearing was held on January 9, 2018 at the offices of the Commission. A full hearing was held at the same location on February 28, 2018.¹ Witnesses, except the Appellant, were sequestered. The hearing was digitally recorded and

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

both parties were provided with a CD of the hearing². The parties submitted post-hearing briefs. By email dated July 24, 2018, the Respondent submitted an update to its post-hearing brief indicating that the Appellant had applied for, and was appointed to the position of PA III in the SE Region, averring that the appeal is moot. By email August 8, 2018, the Appellant submitted an update to her post-hearing brief, opposing the Respondent's update, confirming that she had applied for, and was appointed to the position of PA III but asserted that the appeal is not moot because the Respondent should have granted her 2015 request for reclassification, entitling her to retroactive compensation. The appeal is denied because the Appellant has not proved that, at the time she filed for reclassification, she performed the tasks of a PA III a majority of the time.

FINDINGS OF FACT:

Joint Exhibits 1 through 12A and B and Appellants Exhibits 1 through 9 were entered into evidence at the hearing. Based on these exhibits, the testimony of the following witnesses:

Called by the Respondent:

- Patricia Scully, Employment Services Manager (ESM), EOHHS Southeast Region
- Veronica Gjino, Employment and Staffing Supervisor Statewide, EOHHS
- Ruth Kingston, Employment Services Director, EOHHS
- Jill Sampson, Employment Services Director for Disability, EOHHS
- Marilyn Tarmey, Director of Human Resources for Health, EOHHS

Called by the Appellant:

- Maribeth Hazel, Appellant

² If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this 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. In such cases, this CD should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

and taking administrative notice of all matters filed in the case and pertinent statutes, case law, regulations, policies, and reasonable inferences from the evidence; a preponderance of credible evidence establishes the following facts³:

1. The Appellant's functional title is Personnel/Payroll Processing Unit Supervisor in the Southeast Region for Health, Human Resources office (SE Region Health HR), of the Executive Office of Health and Human Services (EOHHS or Respondent). Her official title is Personnel Officer II (PO II). She has been employed in that capacity since December 2003 but she was a state employee prior to 2003. The Appellant supervises two (2) PO Is in the Personnel/Payroll Processing Unit (PPU). The Appellant's work is highly valued by Ms. Patricia Scully, her direct supervisor. (Testimony of Scully) Samples of the Appellant's work product, provided by the Appellant, indicate some of the payroll work she performs. (App.Exs. 2, 6 and 8⁴)
2. In addition to the PPU, the Taunton HR has a leave and benefits unit and an employment and staffing unit. (Testimony of Scully)
3. The Appellant's supervisor, Ms. Scully, is the Employment Services Manager (ESM) for the SE Region Health HR offices in Taunton and Canton. Ms. Scully works three (3) days a week in the Taunton office and two (2) days per week in the Canton office. When Ms. Scully is in the Canton office, the Appellant helps answer questions that staff in the three (3) units in Taunton may have, although Ms. Scully is available to the Taunton staff by phone and email when she is in the Canton office and on vacation. Ms. Scully relies on the Appellant for payroll information, especially when she is out of the Taunton office; she relies on Ruth Kingston, the Employment Services Director, who is Ms.

³ All of these findings relate to facts at the time the Appellant filed her request for reclassification.

⁴ Some of the samples of work that the Appellant offered are for time periods other than when she requested reclassification in 2015 and are given no weight.

Scully's supervisor, for information regarding staffing. (Testimony of Scully) The Appellant does not approve or deny Family Leave Act (FMLA) requests. (Testimony of Appellant) Staff questions regarding FMLA or benefits must be addressed by Ms. Scully. (Testimony of Scully)

4. At the time of the Commission hearing, the PA III position in the SE Region in Taunton and one (1) PO I, an "HR Generalist", position were vacant. Those employed at the Taunton office at the time, beside the Appellant, included two (2) PO Is assigned to the Personnel and Payroll Unit who are supervised by the Appellant; two (2) PO Is assigned to the Employment and Staffing Unit; one (1) PO I, an "HR Generalist"; and one (1) PO I assigned to the Benefits and Leave Unit. The Boston-Metro office had no PA IIIs. The following regional offices had one (1) PA III: a second Boston office, Worcester and Western Mass Hospital (Westfield). The Central Office in Boston had two (2) PA IIIs. The NE Region (in Tewksbury) had one (1) PA II (not a III). (Jt.Exs. 12 A and B)

Appellant's Request for Reclassification

5. On November 19, 2015, the Appellant asked the Respondent to be reclassified from PO II to PA III. (Jt.Ex. 1)
6. By letter to the Appellant dated December 1, 2015, Ms. Veronica Gjino acknowledged the Appellant's request for reclassification. (Jt.Ex. 2) Ms. Gjino is a PA III in the Boston central office; her functional title is Statewide Classification Coordinator and Employment and Staffing Supervisor. She has processed approximately one hundred (100) reclassification requests. (Testimony of Gjino)
7. The Appellant completed an Interview Guide in this regard and submitted it to Ms. Gjino on January 15, 2016. In the Interview Guide, the Appellant stated, in part, that the basis

of her appeal is that “Personnel Analyst III positions posted in recent months more accurately describe my duties and responsibilities in my current position.” (Jt.Ex. 3)

8. In her Interview Guide, the Appellant described her relationship with others, in pertinent part, as follows,

Ensure that all managerial and supervisory staff for the DMH SE Area are informed of any new payroll related policies and procedures
Make requests through OSC for paylines to be shut off in instances where an employee may be overpaid
Request deferral in error refunds through Smart Plan
Assist [Ms. C] with travel payment issues
Request tax pay overrides ...
Request Medicare tax refunds through OSC ...
Notify CommonHelp when employees (sic) leave balances are out of sync and advise them of resolution ...
Answer employee and supervisor questions about contractual situations/benefits
...
Calculate and request W-2C's through OSC....
(Jt. Ex. 3)

9. Asked the basic purpose of her position, the Appellant wrote in the Interview Guide, in pertinent part, “[t]he overall mission is to assure that all personnel and payroll processing programs and operations function effectively to support accomplishment of EOHHS programs.” (Jt. Ex. 3)
10. Asked about significant job changes in her position, the Appellant wrote in the Interview Guide, in pertinent part, that she provided training to SE Area HR staff for HRCMS to go live, she provided HRCMS (Human Resources Compensation Management System) technical assistance to SE Area HR staff and she provided training to staff for SSTA (Self-Service Time and Attendance). (Jt.Ex. 3)
11. In her Interview Guide, the Appellant described her duties, in pertinent part, and estimated the percentage of her time on each duty as follows,

“Plan, direct and oversee and approve the day to day operations of the personnel payroll processing unit for DMH SE Area” (Jt. Ex. 3) for a variety of facilities involving approximately 850 employees. 20%” (Id.)

“Analyze on a continuing basis, EOHHS personnel and payroll processing needs; design and implement change management processes; identify business process improvement opportunities and implementation strategies and initiate appropriate action. 20%” (Id.)

Advise managers, supervisors and staff regarding established rules and regulations to ensure compliance and that all involved have the current and correct information ... 20%” (Id.)

“Interact with DMH and EOHHS Central Office staff, Managers and state and federal agencies on personnel and payroll processing policies and program implementation issues and strategies.” 20% (Id.)

“Provide technical HRCMS assistance to SE Area HR staff as needed.” (Id.) 19%

“Act as point person in absence of Employment Services Manager. 1%” (Id.)

12. Asked in the Interview Guide to describe major problems she faces in her current position, the Appellant wrote, in full,

Analyzing SSTA payroll processing needs on a continuing basis has been a major issue. I have made many on site (sic) visits to meet with managers and staff to address concerns and try and resolve issue and complaints regarding SSTA. This is accomplished by providing additional training and establishing internal procedures and deadlines to assure that process runs smoother. This is a work in progress.
(Jt.Ex. 3)

13. With regard to her assignments, the Appellant indicated in the Interview Guide, in pertinent part, that Ms. Scully “assigns, reviews and approves [her] work. ... I also receive direct assignments through CommonHelp, ... DMH and EOHHS Central Office staff and Managers, SE Area staff and managers, ... and various collective bargaining unions.” (Id.)

14. Asked to describe the personnel that report to her for only part of their assignments, the Appellant wrote, in full, “[p]rovide functional supervision to all SE Area time approvers by answering policy and procedure questions pertaining to collective bargaining

agreements and SSTA as well as additional SE Area staff who have responsibility for ensuring that overtime slips are completed correctly and submitted to the PPU within the established time frames. Provide function supervision to non-SSTA time reporter by ensuring that collective bargaining unit language is followed for payroll reporting purposes.” (Id.)

15. Ms. Gjino reviewed the Appellant’s Interview Guide but did not discuss it with her.

(Testimony of Appellant and Gjino)

16. After discussing the Appellant’s reclassification request with Ms. Marilyn Tarmey,

Director of Human Resources for EOHHS, Ms. Gjino sent a letter to the Appellant, dated June 20, 2016, stating that the Appellant’s request was denied.⁵ (Jt.Ex. 4; Testimony of Gjino)

17. By letter dated June 22, 2016, the Appellant asked Ms. Ms. Gjino to reconsider the denial of her reclassification request. (Jt.Ex. 5)

18. Ms. Gjino sent the Appellant’s Interview Guide to Ms. Scully, the Appellant’s supervisor, for her comments. On December 27, 2016, Ms. Scully wrote a memo to Ms. Gjino adding information about the Appellant’s work. (Jt.Ex. 12A and B) When asked for information about employees seeking reclassification, Ms. Scully provides information without recommending whether the employee should be reclassified. (Testimony of Scully) In her memo to Ms. Gjino, Ms. Scully wrote, for example,

... [the Appellant] ensures the coordination between the units in the HR office to ensure that employee (sic) are accurately reflected in HRCMS and SSTA. She ensures she has the HR transactions from the employment & staffing unit and reviews them to ensure the paperwork is complete and accurate, she works

⁵ The Appellant testified that Ms. Gjino did not meet with the Appellant after receiving the Appellant’s Interview Guide although it is unclear if Ms. Gjino was required to do so. The record here established that Ms. Gjino reviewed the Appellant’s Interview Guide, Form 30 and FY2015 EPRS and obtained input from the Appellant’s direct supervisor, Ms. Scully, prior to making her decision.

directly with the E & S [Employment and Staffing] to trouble shoot and resolve issues. She also works closely with the Benefits & leave (sic) unit to ensure staff are (sic) coded properly in HRCMS and their timesheet; ...

[the Appellant] monitor[s] the coordination of work to the PPP [Personnel Payroll Processing] from the E & S and B & L [benefits and leave] units to ensure HRD [the state's human resources division] actions are being processed accurately and timely and staff are paid correctly...

While Maribel does not officially supervise the Personnel Office (sic) I's in the E&S and B&L units, she coordinates the work between these units and the PPU.

... Her suggestions are thoughtful and concise and often implemented.

She also provides assistance and guidance to the Personnel Officer II at the Canton office.

In closing I value Maribeth's contribution to the operation of this office, she is an asset to this office and I rely on her knowledge, experience and expertise.

(Jt.Exs. 12A +B)(emphasis added)

19. Although the Appellant is highly knowledgeable about the payroll unit, and her work there is a strong asset for the SE Region, and she effectively coordinates her work with the benefits and leave unit and the employment and staffing unit, if the Appellant was promoted to PA III, she would need to become more knowledgeable about the employment and staffing unit, learn how to use MassCareers, gain criminal offender records access, learn to process (for approval or denial) FMLA leave requests, and how to officially supervise the three (3) human resources personnel in the SE Region, all of which can take approximately one (1) year to accomplish. (Testimony of Kingston)
20. PO IIs in some other regions also sought reclassification to PA III but their requests were denied. (Testimony of Kingston)
21. By letter dated February 21, 2017, Ms. Gjino informed the Appellant that the decision to deny her reclassification request was final. (Jt.Ex. 6)
22. By letter dated March 20, 2017, the Appellant appealed the Respondent's decision to HRD. (Jt.Ex. 7)

23. By letter to the Appellant, dated November 14, 2017, HRD denied the Appellant's reclassification request. (App.Ex. 3)

24. On December 2, 2017, the Appellant filed the instant appeal. (Administrative Notice)

Appellant's PO II Form 30

25. The Appellant's Form 30 job description provides the following General Statement of Duties and Responsibilities for POs, in pertinent part,

The primary responsibilities of the Personnel and Payroll Processing Supervisor are to develop and exercise an efficient system of control for ... cluster personnel and payroll processing programs and services. The overall mission of the Personnel and Payroll Processing Supervisor is to assure that all personnel and payroll processing programs and operations function effectively ... Major activities include: analyze ... EOHHS personnel and payroll processing needs; design and implement change management processes; identify business process improvement opportunities and implementation strategies ...; ensure that employment and personnel and payroll processing priorities and strategies are established; ensure collaborative problem solving and decision-making processes are utilized to maximize the effectiveness of personal and payroll processing priority service initiatives."

(Jt.Ex. 3)

26. The Appellant's Form 30 duties and responsibilities include, in pertinent part,

Plan, direct and oversee personnel and payroll processing process including: input new hires; promotions; demotions; changes in hours; Alternative Work Schedules; W-2, pay advices; time and attendance; overtime; deductions; audit and reporting; ...

Advices; time and attendance; overtime; deductions; audit and reporting

Audit and monitor payroll for compliance with HRCMS; collective bargaining agreements and Office of State Comptroller rules and procedures ...

Work with HRIS⁶ staff in the development and implementation and administration of relevant support technology systems ... assist in identifying training needs and in the design and delivery of end-user training and curriculum. Supervise personnel/payroll specialists and other functional unit staff has (sic) determined by Employment Service Manager ...

⁶ I take administrative notice that HRIS appears to involve human resources information systems.

Advise Employment Services Manager on program policy and implementation strategies; interact with Central Office Managers, Satellite Site Managers and Cluster HR Director and civil Rights Manager, Workers' Compensation Director, ... and state and federal agencies on personnel and payroll processing policies and program implementation issues and strategies ...

Performs related duties as required including cross function unit tasks.

(Jt.Ex. 3)(emphasis added)

27. The Form 30 qualifications required at hire include,

... Knowledge of the methods of general report writing.

Knowledge of the principles, practices and techniques of supervision.

Ability to understand, explain and apply provisions of the laws, rules, regulations, policies, procedures ... governing assigned unit activities and the state personnel system. ...

Ability to analyze and determine the applicability of statistical data ...

Ability to perform mathematical calculations using formulae to solve problems.

...

Ability to conduct interviews.

Ability to supervise, including planning and assigning work according to the nature of the job to be accomplished, the capabilities of subordinates and available resources; controlling work through periodic reviews and or evaluations; determining subordinates' training needs and providing or arranging for such training; motivating subordinates to work effectively; determining the need for disciplinary action and either recommending or initiating disciplinary action. ...

(Jt.Ex. 3)

There is no indication in the record whether the Appellant determines the need for disciplinary action of those whom she directly supervises. (Administrative Notice)

28. The Form 30 MERs include, "at least (A) four years of full time, or other equivalent part-time, professional or paraprofessional experience in personnel work, the major duties of which include personnel and payroll management, (b) of which at least one year must have been in a professional capacity, or (c) any equivalent combination of the required experience and substitutions below." (Jt.Ex. 3) "This section allows for an associate's

degree to substitute for one (1) year of the required (A) experience or a bachelors (sic) degree or higher to substitute for two (2) years of the required (A) experience. (Id.)

29. There is no reference in the Appellant's Form 30 to staffing and benefits and leave.

(Administrative Notice)

Appellant's EPRS

30. The Appellant's FY 2015 EPRS, completed by her supervisor, Trish Scully, Employment Services Manager (ESM), lists the Appellant's duties and her rating for each duty:

1. "Plans, direct (sic) and oversee (sic) the personnel and payroll processing unit[]" for which the Appellant was rated "exceeds".
2. "Provides training to all payroll, managerial, supervisory and timekeeping staff as it relates to personnel and payroll activities, policies and procedures[]" for which the Appellant was rated "exceeds".
3. "Monitors a variety of reports to ensure the PPU reps are performing up to standards, issues are recognized and concerns are address (sic) and corrected", for which the appellant was rated "exceeds".
4. Identifies business and change process improvement of opportunities and implementation strategies[], for which the Appellant was rated "exceeds".
5. "Oversee and may participate in the processing of HR transactions (xfers, promo, separations) and payroll process into HRCMS and LCM", for which the Appellant was rated "meets".
6. "Promotes mission of EHS Human resources. Provides backup and or assistance to other Functional Units as required to ensure smooth operation of office[]", for which the Appellant was rated "meets" and it appears that Ms. Scully wrote here that the Appellant "is always willing to assist other units and is professional at all times."
(Jt.Ex. 3)(emphasis added)⁷

Personnel Analyst Specification (Spec)

31. The PA Spec was issued in 1987.⁸ It provides the following summary regarding the series:

⁷ The Appellant asserts, without more, that the words in her FY2015 EPRS relating to "backup" means that she is Ms. Scully's "backup", that Respondent removed that text from her FY2017 EPRS, and that she refused to sign her FY2017 because of the alleged change. There is no indication that the purported change altered her duties and it occurred two (2) years after the Appellant requested classification. For these reasons, I give this unsupported assertion no weight.

Incumbents of positions in this series make recommendations on position classification and related personnel actions; conduct personnel studies such as job analyses, classification studies, job evaluation studies, organization analyses, and wage and salary surveys; write and revise job specifications; advise other agencies on personnel policies and procedures; and perform related work as required. The basic purpose of this work is to ensure the proper maintenance of the statewide personnel classification system.

(Jt.Ex. 9)

32. The PA III is the second-level supervisory job in this Spec, including direct supervision and indirect supervision. (Jt. Ex. 9) The Appellant directly supervises two (2) PO Is but does not indirectly supervise anyone. (Testimony of Appellant; Jt.Ex. 3; Administrative Notice)

33. Duties common to all levels of PAs in the Spec include:

Analyzes requests from assigned state agencies for such personnel actions as changes in staffing, the establishment and classification of new positions, classification appeals, the establishment of new classification titles and the authorization of special recruitment rates and rates of pay for consultant services by reviewing accompanying documentation, agency staffing patterns, current proposed job specifications, and other reference materials ...

Writes and revised job specifications by gathering information from job analysis studies, agency requests, desk audits and other sources and by incorporating such information into standard formats to provide accurate descriptions of job content and qualification requirements. ...

Performs related duties such as reviewing and updating personnel files and computer records; maintaining records of the staffing of assigned agencies; scheduling assigned projects; preparing progress reports; and answering salary and classification surveys from other governmental jurisdictions and professional organizations.

(Jt.Ex. 9)

⁸ The age of the PA Spec and the PO Spec, compared to the current functioning of the titles in each, makes a direct comparison difficult, as noted herein. However, the Form 30s for PO and PA are more current and, in conjunction with the applicant's EPRS at the time that reclassification was requested, provide a more accurate picture of the duties and requirements of each.

There is no indication in the record that the Appellant performs the duties unrelated to payroll. (Jt.Ex. 3; Administrative Notice)

34. Under this Spec, PA IIIs "... may also participate in training activities by preparing and presenting lesson plans and instructional materials ... [and] supervise assigned groups of workers by developing procedures consistent with agency policies and objectives, instructing staff in policies and procedures and approving work to ensure appropriate technical content and compliance with policy, laws, rules, regulations, and target dates. ... (Jt. Ex. 9) The Appellant is involved in training staff, developing appropriate procedures, instructing staff about policies and procedures to ensure compliance with policy, laws, rules and regulations although the record does not indicate that she performs these duties a majority of the time. (Testimony of Appellant; Jt.Ex. 3; Administrative Notice)

35. Qualifications required at the time of hire for the PA III Spec include,

- Knowledge of the principles and correct usage of the English language ...
 - Knowledge of the methods of general report writing.
 - Ability to understand, explain and apply provisions of the laws, rules, regulations, policies, procedures, specifications, standards and guidelines governing assigned unit activities and the State personnel system.
 - Ability to analyze and determine the applicability of personnel data ...
 - Ability to review and compare like data ...
 - Ability to conduct interviews. ...
 - Ability to deal tactfully with others. ...
 - Ability to adapt to varying work situations.
- (Jt.Ex. 9)

Sufficient evidence in the record suggests that the Appellant at least these qualifications. (Testimony of Appellant; Jt.Ex. 3)

36. Qualifications required at the time of hire for PA II and PA III in this Spec include,

- Knowledge of the principles and practices of classification and staffing....

Knowledge of the principles and practices of wage and salary administration.
Knowledge of the principles underlying Affirmative Action and Equal
Opportunity goals ...
Ability to conduct statistical surveys and studies.
(Jt.Ex. 9)

There is insufficient information in the record to establish that the Appellant meets these qualifications. (Administrative Notice)

37. Qualifications required at the time of hire for PA IIs for this Spec include,

... knowledge of the procedures, forms and documents involved in requesting and affecting personnel changes.
Knowledge of the State budgetary procedures relating to positions, salaries and personnel services.
Knowledge of sources of occupational information
(Jt.Ex. 9)

There is insufficient information in the record to establish that the Appellant meets these qualifications. (Administrative Notice)

An additional qualification for a PA III is “[k]nowledge of the techniques of conducting Employee performance evaluations.” (Id.) Although the Appellant supervised two (2) PO Is, she does not prepare their performance evaluations. (Testimony of Appellant; Jt.Ex. 3)

38. The MERs for the Spec for PA III are,

Applicants must have at least (A) four years of full-time or equivalent part-time, professional or paraprofessional experience in personnel work, the major duties of which include classification, staffing, job analysis and/or job evaluation, (B) of which at least two years must have been in a professional capacity, and (C) of which at least one year must have been in a supervisory, administrative, or managerial capacity; or (D) any equivalent combination of the required experience and the substitutions below.
(Jt.Ex. 9)

The substitutions include an associate’s degree for one year of the required (A) experience, pro-rated, and a Bachelor’s degree or higher for two (2) years of the required.

(Id.) No substitutions are permitted for the required (B) and (C) experience. (Id.) The Appellant’s work does not include classification, staffing, job analysis and/or job evaluation. (Jt.Ex. 3; Administrative Notice)

39. The Spec PA III Spec refers to required qualifications for PA II and PA III, which include the “knowledge of the principles and practices of wage and salary administration”, though it does not refer to payroll which consumes most of the Appellant’s work as a PO II. (Jt.Exs. 3 and 5; Administrative Notice)

PA III Form 30

40. The general Form 30 for the PA III title provides, in pertinent part, “ The primary responsibilities of the Employment Services Coordinator (ESC) [PA III title] are to develop and exercise an efficient system of control for planning, communication, program development and implementation, accountability, coordination, monitoring and evaluation of human resources functions include: Employment & Staffing, Benefits and Leave and personnel/Payroll to assure that all human resources operations function effectively to support accomplishment of EOHHS programs ... “ and “to maximize the effectiveness of Employment (sic) & Staffing, Personnel/Payroll processing and benefit and leave priority service initiatives” (Jt.Ex. 11)

41. The general PA III Form 30 indicates that a PA III directly supervises five (5) PO Is and IIs and indirectly supervises one (1) PO I. (Id.)

42. The general PA III Form 30 qualifications are similar to the Appellant’s PO II Form 30 qualifications. (Id.)

43. The PA III Form 30 MERs are similar to those of the PA III Spec MERs except that the Form 30 MERs adds that the applicant must have experience in “personnel work, the major duties of which include Personnel and payroll management” (*Id.*)⁹

PO Spec

44. The PO Spec, dated 1987, appears to be far more general than the Appellant’s PO II Form 30 and EPRS. The Spec states, in pertinent part, that “[t]he basic purpose of this work is to ensure that agency personnel functions are in compliance with established laws, rules, policies, regulations and contractual agreements.” (App.Ex. 7)

45. In the 1987 PO spec, the PO II position is the “second-level supervisory job in this series.” (App. Ex. 7) The Appellant directly supervises PO 1s but does not indirectly supervise anyone. (Jt. x. 3)

46. Some of the duties common to the two (2) levels in the PO Spec are:

Perform personnel functions for an assigned agency such as planning recruitment activities; screening employment applications and resumes to determine if a candidate meet position requirements; interviewing applicants for employment to match qualifications with job requirements; performing background checks on applicants; making hiring or job placement decisions subject to the approval of the appointing authority; conducting interviews to determine reasons for termination; and reviewing personnel actions for compliance with affirmative action guidelines.

... Mediate grievances ...

Reviews requests for personnel actions from agency managers and staff ...

Verifies the interpretation and implementation of Civil Service rules and regulations by conferring with Department of Personnel Administration staff ...

Processes requests for promotion, transfer, leaves of absence and account transfers ...

Performs related duties such as reviewing, updating, maintaining and inspecting printouts, records, files... personnel folders ... manuals and documents ...

(App.Ex. 7)

⁹ The Respondent also produced the PA III posting for the Southeast Region (Respondent’s Update, Attachment), for which the Appellant applied and was appointed, as well as the Form 30s from four (4) other regions, all of which were substantially similar to the information provided in the general PA III Form 30 (Jt. Ex. 11).

The record here indicates that the Appellant at maybe involved in the processing of requests for leaves of absence but the amount of time she does so is unclear. (Jt.Ex. 3; Administrative Notice)

47. Under the PO Spec, a PO II also “present[s] policy recommendations to agency management[.]”, “approve[s] annual objectives and plan of staff” and “draft[s] or develop[s] personnel programs and policies for the agency.” (App.Ex. 7) The Appellant apparently makes recommendations to agency management about payroll related matters. (Jt.Ex. 3; Administrative Notice)

48. Unlike a PO I, pursuant to the PO Spec, a PO II “exercise[s] direct supervision (i.e. not through an intermediate supervisor) over, assign[s] work to and review[s] the performance of 1 – 5 [POs] or other professional personnel; and indirect supervision (i.e. through an intermediate level supervisor) over 1 – 5 clerical personnel.” (App.Ex. 7) The Appellant does not prepare EPRSs for those she directly supervises. (Testimony of Appellant) The Appellant does not indirectly supervise 1 – 5 clerical personnel or anyone else. (Jt.Ex. 3)

49. PO Spec qualifications include,

- Knowledge of interviewing techniques.
- Knowledge of the principles and practices of employee benefits administration.
- Knowledge of the principles and practices of personnel recruitment. ...
- Knowledge of the methods of general report writing.
- Ability to explain the procedures, guidelines and policies governing agency operations. ...
- Ability to supervise, including planning and assigning work to the nature of the job (sic) to be accomplished ...; controlling work through periodic reviews and/or evaluations

(App.Ex. 7)

In addition, in this Spec PO IIs are required to have knowledge of “the principles, practices and techniques of supervision.” (App. Ex. 7) The Appellant appears to meet at least most of these qualifications. (Jt.Ex. 3; Administrative Notice)

50. The Minimum Entrance Requirements (MERs) in the Spec for a PO II are that “applicants must have at least (A) three years of full-time, or equivalent part-time professional experience in personnel work, or (B) any equivalent combination of the required experience and the substitutions below.” (App. Ex. 7) The substitutions are that a Bachelor’s degree or higher may be substituted for a maximum of two years of the required experience and that a graduate degree with a major in Personnel Management, Personnel Administration or Public Administration may be substituted for the required experience. (Id.) There appears to be no dispute that the Appellant satisfies the PO II Spec MERs.

51. There is no reference in the PO Spec to payroll. (Administrative Notice)

Post-Hearing

52. By email dated July 24, 2018, the Respondent submitted an update to its post-hearing brief indicating that the Appellant had applied for, and was appointed to the position of PA III in the SE Region, averring that the appeal is moot. (Administrative Notice)

53. By email August 9, 2018, the Appellant submitted an update to her post-hearing brief confirming that she had applied for, and was appointed to the position of PA III but asserted that the appeal is not moot because the Respondent should have granted her 2015 request for reclassification. (Administrative Notice)

Applicable Law

Pursuant to G.L. c. 30, s. 45, HRD shall, in pertinent part,

“ ... establish, administer and keep current and complete an office and position classification plan and a pay plan of the commonwealth.” Id.

In addition, this statute provides further, in pertinent part,

[i]n pursuance of his said responsibilities as to the said classification plan, the said administrator shall classify all appointive offices and positions in the government of the commonwealth ... and he may from time to time reclassify any such office or position. In so classifying or reclassifying any such office or position the said administrator (a) shall ascertain and record the duties, responsibilities, organizations relationships, qualifications for, and other significant characteristics of the office or position; (b) shall group into single classes all such offices and positions, regardless of agency or geographical location, which are substantially alike in the duties, responsibilities, organizational relationships, qualifications, and other significant characteristics; (c) for each such class shall establish specifications which shall include (i) an appropriate descriptive title and code number for the class, which shall be the official title of all offices and positions in the class and shall be set forth on all payrolls by name or code, and (ii) the common features of the duties, responsibilities and organizational relationships of, qualifications for, and other significant characteristics of all offices and positions in the class; and (d) may from time to time establish new classes and alter, divide, combine or abolish existing classes....

Id.

Under G.L. c. 30, s. 49, any state manager of state employee may seek to have their titles reclassified under appropriate circumstances. Specifically, this statute provides, in part,

Any manager or an employee of the commonwealth objecting to any provision of the classification affecting the manager or employee's office or position may appeal in writing to the personnel administrator. If the administrator finds that the office or position of the person appealing warrants a different position reallocation or that the class in which said position is classified should be reallocated to a higher job group, he shall report such recommendation to the budget director and the house and senate committees on ways and means in accordance with paragraph (4) of section forty-five. 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 or that the class in which said position is classified should be reallocated to a higher job group, it shall report such recommendation to the budget director and the house and senate committees on ways and means in accordance with paragraph (4) of section forty-five. If the personnel administrator or the civil service commission finds that the office or position of the person appealing shall warrant a different position allocation or that the class in which said position is classified shall be reallocated to a higher job group and so recommends to the budget director and the house and senate committees on ways and means in accordance with the provisions of this section, and if such permanent allocation

or reallocation shall have been included in a schedule of permanent offices and positions approved by the house and senate committees on ways and means, such permanent allocation or reallocation shall be effective as of the date of appeal to the personnel administrator....

Id.

A history of Commission decisions has established that in an appeal of the denial of a request for reclassification, the Appellant must prove, by a preponderance of evidence, that they perform the functions of the reclassification they seek a majority of the time. *See, e.g., Roman v. Department of Revenue*, 14 MCSR 184 (2001)(Counsel II – appeal denied); *Gruber v. Department of Revenue*, 14 MCSR 100 (2001)(Attorney – appeal denied); *Formichella v. Massachusetts Highway Department*, 21 MCSR 261 (2008)(Engineer – appeal denied); *Straub v. Department of Conservation and Recreation*, 22 MCSR 689 (2009)(Environmental Analyst III – appeal denied) *aff’d*, *Straub v. Civil Service Commission & another*, Superior Court C.A. No. SUCV2010-04143 (2013); *Kurker v. Department of Conservation and Recreation*, 22 MCSR 357 (2009)(Ranger II – appeal allowed); *Guidmond v. Department of Correction*, 27 MCSR 327 (2014)(Correction Program Officer – appeal denied); *Messier v. Department of Correction*, 13 MCSR 204 (2000)(Clerk III – appeal denied); *Lefebvre v. Department of Early Education and Care*, 22 MCSR 149 (2009)(Administrative Assistant II – appeal allowed); *McCollum v. Department of Environmental Protection*, 15 MCSR 23 (2002)(Environmental Engineer VI – appeal denied); *Towns v. Department of Mental Retardation*, 21 MCSR 17 (2008)(Vocational Instructor C – appeal denied); *Palmieri v. Department of Revenue*, 26 MCSR 180 (2013)(Management Analyst II – appeal denied); *Skinner v. Department of Revenue*, 21 MCSR 379 (2008)(Systems Analyst II – appeal denied); *O’Neill v. Department of Revenue*, 19 MCSR 149 (2006)(Tax Auditor I – appeal denied); *Erb v. Department of Revenue*, 18 MCSR 202 29 (2005)(Program Coordinator III – appeal denied); *Cote v. Department of Revenue*, 18 MCSR

189 (2005)(Tax Examiner III – appeal denied); Velez v. Department of Revenue, 14 MCSR 93 (2001)(Child Support Enforcement Worker – appeal denied); Kasprzak v. Department of Revenue, 13 MCSR 120 (2000)(Child Support Enforcement worker – appeal denied); Guidara v. Department of Transitional Assistance, 24 MCSR 133 (2011)(EDP Systems Analyst III – appeal allowed); Baddeley v. Bristol Community College, 12 MCSR 103 (1999)(Clerk – appeal denied); Guarente v. University of Massachusetts at Lowell, 27 MCSR 102 (2014)(Clerk IV – appeal denied); and Kimball v. Metropolitan District Commission, 12 MCSR 155 (1999)(Park Foreman – appeal allowed). Straub v. Civil Service Commission & another, Superior Court, C.A. No. SUCV2010-04143 (2013) is the sole Superior Court decision that directly references an appellant’s burden in a reclassification appeal in detail. In this Superior Court decision, the court wrote, addressing the issuance of a revised decision by the Commission, “The conclusion reached in the [Commission’s] Revised Decision, indicating that Straub did not ‘exercise supervisory functions over permanent professional staff, he has failed to establish that he performed (sic) majority of the level distinguishing functions of an [Environmental Analyst IV] more than 50% of the time,’ was a necessary clarification.” Id., at 9.¹⁰

Analysis

The Appellant has not proved by a preponderance of the evidence that she performs the functions of a PA III a majority of the time. In her Interview Guide, the Appellant herself described her duties, in pertinent part, and estimated the percentage of her time she spends on each duty as follows,

¹⁰ There is no caselaw from the Supreme Judicial Court, nor of the Appeals Court, of which I am aware that addresses this point regarding an individual’s request for reclassification.

Plan, direct and oversee and approve the day to day operations of the personnel payroll processing unit for DMH SE Area for a variety of facilities involving approximately 850 employees. 20%

Analyze on a continuing basis, EOHHS personnel and payroll processing needs; design and implement change management processes; identify business process improvement opportunities and implementation strategies and initiate appropriate action. 20%

Advise managers, supervisors and staff regarding established rules and regulations to ensure compliance and that all involved have the current and correct information ... 20%

Interact with DMH and EOHHS Central Office staff, Managers and state and federal agencies on personnel and payroll processing policies and program implementation issues and strategies. 20%

Provide technical HRCMS assistance to SE Area HR staff as needed. 19%

Act as point person in absence of Employment Services Manager. 1%

Jt.Ex. 3.

In her testimony, the Appellant relied heavily on her performance as the “point person” when Ms. Scully is absent to substantiate her claim that she performs the functions of a PA III a majority of the time. However, in her Interview Guide, she wrote that she performs as “point person” only 1% of her time. In addition, it has been established that even when Ms. Scully is absent, she is available by phone and email to staff needing her supervision and/or assistance. As a result, it has not been proved that the Appellant acts as a point person whenever her supervisor is working in the Canton office or is on vacation.

The Appellant also argued that she performs a majority of the work of a PA III because she supervises all three units of the SE Region HR as a PA III does. However, her EPRS and Form 30 clearly indicate that the Appellant is required to coordinate her efforts regarding payroll with the employment and staffing unit and the benefits and leave unit for the purpose of ensuring that payroll is accurate. In this coordinated effort, the Appellant functionally supervises some staff and does not prepare their EPRSs. Moreover, there is no indication in the record that the Appellant performs this function a majority of the time.

A comparison of the primary responsibilities of a PO II and a PA III illustrates the significant differences between the titles. The Appellant's Form 30 states, in part,

... The overall mission of the Personnel and Payroll Processing Supervisor is to assure that all personnel and payroll processing programs and operations function effectively ... Major activities include: analyze ... EOHHS personnel and payroll processing needs; design and implement change management processes; identify business process improvement opportunities and implementation strategies ...; ensure that employment and personnel and payroll processing priorities and strategies are established; ensure collaborative problem solving and decision-making processes are utilized to maximize the effectiveness of personal and payroll processing priority service initiatives.”

App.Ex. 7.

By comparison, it is clear that having responsibility for and overseeing all three (3) personnel units is of foremost importance and central to the job of a PA III. The PA III Form 30 provides, in part,

The primary responsibilities of the Employment Services Coordinator (ESC) [PA III] are to develop and exercise an efficient system of control for planning, communication, program development and implementation, accountability, coordination, monitoring and evaluation of human resources functions include: Employment & Staffing, Benefits and Leave and personnel/Payroll to assure that all human resources operations function effectively to support accomplishment of EOHHS programs ... “ and “to maximize the effectiveness of Employment (sic) & Staffing, Personnel/Payroll processing and benefit and leave priority service initiatives” Jt.Ex. 11.

The MERs for the Appellant's Form 30 and the MERs for the PA III Spec also reflect the differences between the PO II and PA III titles. The Appellant's Form 30 requires, *inter alia*, “professional or paraprofessional experience in personnel work, the major duties of which include personnel and payroll management” Jt.Ex. 3. The MERs for a PA III, pursuant to the Specification therefor, require, in part, “professional or paraprofessional experience in personnel work, the major duties of which include classification, staffing, job analysis and/or job evaluation” Jt.Ex. 9. The Appellant has not established that she meets the MERs of a PA III.

Conclusion

Accordingly, for the above stated reasons, Ms. Hazel's appeal, filed under Docket No. C-17-246, is hereby *denied*.

Civil Service Commission

/s/Cynthia A. Ittleman

Cynthia A. Ittleman, Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on August 16, 2018.

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)(l), 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 this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission 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:

Maribeth Hazel (Appellant)

Lauren Cleary, Esq. (for Respondent)