

U.S. Office of Personnel Management  
Office of Merit Systems Oversight and Effectiveness  
Classification Appeals and FLSA Programs



Atlanta Oversight Division  
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**Classification Appeal Decision**  
**Under Section 5112 of Title 5, United States Code**

<b>Appellant:</b>	[Appellants]
<b>Agency classification:</b>	Social Insurance Specialist (Retirement) GS-105-11
<b>Organization:</b>	Social Security Administration
<b>OPM decision:</b>	Social Insurance Specialist (Parenthetical title at agency discretion) GS-105-11
<b>OPM decision number:</b>	C-0105-11-03

\_\_\_\_\_  
Kathy W. Day  
Classification Appeals Officer

\_\_\_\_\_  
1/15/98  
Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in the Introduction to the Position Classification Standards, appendix 4, section G (address provided in appendix 4, section H).

### **Decision sent to:**

[Appellants]

Bert Fowler  
Director, Center for Personnel Operations  
Social Security Administration  
G414 West High Rise Building  
6401 Security Boulevard  
Baltimore, MD 21235

## **Introduction**

On June 3, 1997, the Atlanta Oversight Division, Office of Personnel Management (OPM), accepted a group appeal for the position of Social Insurance Specialist (Retirement), GS-105-11, [organizational location], Social Security Administration (SSA), [geographic location]. The appellants are requesting that their position be changed to Social Insurance Specialist, GS-105-12.

The appeal has been accepted and processed under section 5112(b) of title 5, United States Code. This is the final administrative decision on the classification of the position subject to discretionary review only under the limited conditions and time outlined in part 511, subpart F, of title 5, Code of Federal Regulations.

## **General Issues**

The appellants believe parts of the Social Insurance Specialist Series, GS-105, standard are flawed and that they deviate from the basic concept of the Primary Standard. However, the accuracy of grade level criteria contained in an OPM classification guide or standard is neither appealable nor reviewable (section 511.607 of title 5, Code of Federal Regulations).

The appellants furnished a copy of a proposed position description for a Senior Social Insurance Specialist, GS-105-12, which they believe accurately reflects the duties and responsibilities of the position. The class, grade or pay system of a position to which an appellant is not officially assigned by an official personnel action is neither appealable nor reviewable by OPM (Section 511.607 of title 5, Code of Federal Regulations).

The appellants compare their position to other positions within the agency. They also make various statements about the agency's evaluation of the position. By law, OPM must make classification determinations solely by comparing the current duties and responsibilities of the position to OPM standards and guidelines (5 U.S.C. 5106, 5107, 5112). Since comparison to standards, not other positions, is the intended and exclusive method for classifying positions, we may not consider the classification of other positions as a basis for deciding an appeal. In addition, OPM's decisions are independent of any agency evaluations. Therefore, we have considered the appellant's statements concerning the agency evaluation only insofar as they are relevant to our decision.

To help decide the appeal, an Atlanta Oversight Division representative conducted telephone audits of the appellants' position on September 29, 1997. The audits included interviews with one appellant acting as representative for the group, his immediate supervisor, and agency program officials. We also requested individual workload data. However, the agency furnished a statement that the bargaining unit prohibits them from maintaining this type of information. Neither the appellants nor the supervisor were able to provide specific workload data. Therefore, in reaching our classification decision, we considered the audit findings and all the information furnished by the appellants and the agency, including their official position description of record and some case samples.

**Position Information**

The appellants are assigned to Position Number [#]. The appellants, supervisor and agency have certified to the accuracy of the position description for purposes of this appeal.

The appellants perform independent reconsideration of the full range of retirement, survivors, disability (other than medical aspects), and health insurance claims requested by or for the claimant, third parties, or those reopened by the Administration on its own initiative. The appellants reexamine all facts, evidence and issues previously adjudicated at the initial or revised initial determination; obtain additional evidence or information; investigate legal and regulatory requirements pertinent to the issues as necessary; and prepare a formal determination. The appellants determine fees payable to attorneys and representatives of claimants and prepare correspondence to claimants, other offices, and members of Congress.

They review decisions rendered by Administrative Law Judges for legal or factual accuracy and may initiate a motion for review of the decision by the Appeals Council if they find that the decision is not one of a sound legal and evidentiary foundation. The appellants also review decisions made by the Appeals Council or the Federal courts, determine the course of action to be taken and route the decision to the appropriate technician for implementation within the time limitations set forth in the decision.

The appellants' supervisor provides administrative direction and sets the overall goals and objectives. The appellants independently work and review, evaluate, develop and make determinations on claims of all levels of difficulty and complexity. Results of the work are considered technically authoritative and are normally accepted without significant change. The work is subject to a quality control review to ensure uniformity in processing and to identify processing trends and problems.

**Standards Determination**

Social Insurance Administration Series, GS-105, December 1993.

**Series Determination**

The agency placed the position in the Social Insurance Specialist Series, GS-105. The appellants do not contest their title and series determination.

The GS-105 series includes positions that involve managing, supervising, or performing work concerned with the administration and operation of national social insurance and need-based benefit programs. This includes: (1) assisting people in establishing entitlement and receiving benefits; (2) adjudicating, authorizing, or reconsidering claims for benefits; (3) representing programs before the general public and providing information through various media; (4) studying operations, case processing, systems operations, methods, and procedures to improve the operation and delivery of programs and to assess the integrity and quality of program operations; (5) interpreting program

requirements and formulating policies, procedures, methods, work aids, technical guides, and other reference material for program operations; and (6) preparing training materials and providing training to staff. We agree the position is properly placed in the GS-105 series.

### **Title Determination**

The GS-105 standard is structured in two parts. Part I covers nonmanagerial positions and Part II covers managerial positions that involve responsibility for planning, administering, and managing social insurance programs. The appellants' position is nonmanagerial and involves reconsidering claims that require a thorough and independent reexamination of the claim, further development of facts and evidence, as well as a review of the adjudication and authorization decisions which may result in affirming or reversing the determination in whole or in part. Therefore, the position is properly covered by Part I. Positions covered by Part I are properly titled Social Insurance Specialist, with a parenthetical title at the agency's discretion.

### **Grade Determination**

The agency used the GS-105 series to evaluate the appellants' position. The appellants believe the agency should use the Paralegal Specialist Series, GS-950, to determine the grade level. The Introduction to the Position Classification Standards states criteria selected as the basis for comparison should be for a kind of work as similar as possible to that of the position being evaluated. For nonsupervisory work, if the work assigned to a position is covered by criteria in a standard for a specific occupational series, the work is evaluated by that standard. If there are no specific grade level criteria for the work, an appropriate general classification guide or criteria in a standard or standards for related kinds of work is used. Since the appellants' position is properly placed in the GS-105 series and that series standard contains criteria for determining the grade of the position, the work is evaluated by the criteria in the GS-105 standard.

Part I of the GS-105 standard is written in the Factor Evaluation System (FES) format. Under the FES, positions are placed in grades on the basis of their duties, responsibilities, and the qualifications required as evaluated in terms of nine factors common to nonsupervisory General Schedule positions.

A point value is assigned to each factor based on a comparison of the position's duties with the factor-level descriptions in the standard. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position factor to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor-level description. If the position fails in any significant aspect to meet a particular factor-level description in the standard, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect which meets a higher level. The total points assigned are converted to a grade by use of the grade conversion table in the standard. Positions which significantly exceed the highest factor level or fail to meet the lowest factor level described in a classification standard must be evaluated by reference to the Primary Standard, contained in Appendix 3 of the Introduction to the Position Classification Standards. The Primary Standard is the "standard-for-standards" for FES.

The appellants disagree with the agency's evaluation of Factors 3, 4, 6 and 7. We evaluated the levels assigned by the agency to the remaining factors and agree that they are appropriate. Therefore, our analysis will address the four factors at issue.

### Factor 3 - Guidelines:

This factor covers the nature of guidelines used and the judgment needed to apply them. The agency evaluated this factor at Level 3-3. The appellants believe their position should be credited at Level 3-4.

At Level 3-3, guidelines are voluminous and include governing legal and regulatory provisions; organizational policies; and procedural and operating instructions manuals. The guidelines may change, sometimes frequently, due to precedent case decisions and operational improvements. Employees need to keep current on these changes and also may need to refer to certain technical manuals, precedent cases, or court or other legal decisions. Employees use judgment in choosing, interpreting, or adapting available guidelines and precedents to arrive at a conclusion or to take or recommend action. For example, when adjudicating, authorizing, or reconsidering cases, the guidelines may not specifically apply to a particular case because they are designed for general or typical situations. Employees adapt the guidelines to suit the case in keeping with the intent of governing provisions.

Level 3-3 is met. The appellants' position description states guidelines include the Social Security Act; Federal, state and local laws; SSA policies and regulations; opinions of the General Council and regional attorneys; Administrative Law Judge and other tribunal decisions; court precedents; disclosure regulations and the Privacy Act. Guidelines may be broadly stated and vague, may be contradictory, unclear or not specifically applicable to particular cases which require the employee to exercise considerable sound judgment in interpreting and adapting them to make a decision or to take or recommend an action. Guidelines are subject to change, sometimes frequently. Our review found the appellants use procedural guidelines, laws, legal decisions, operating manuals, policy statements, and regulatory guidelines to adjudicate cases. While guidelines such as state and Federal laws and precedent case decisions are not always directly applicable to a case, the appellants use judgment in the selection of appropriate guidelines and interpret and adapt guides to make determinations. Highly complex legal interpretations are referred to the Regional Attorney. In determining fees, the appellants use the Program Operating Manual System (POMS) GN 03930.105. The manual outlines lists of items to consider in the award of fees such as local wage rates and other information but requires judgment in determining the appropriate guidelines to compute reasonable fee for services. In addition, the agency's letter dated July 29, 1997, states guidelines with regard to reconsideration claims, substantial case law and precedents have evolved over more than five decades and have been reduced to written regulations, policy and procedures, and provide substantial guidance for the appellants' consideration of entitlement issues and application of Social Security Act and SSA regulations to individual cases. In rare instances where written agency policy may be unclear or non-existent, guidance is available from policy analysts at both the regional and headquarters levels.

At Level 3-4, guidelines include laws, regulations, policies, court decisions, Congressional hearings and reports, and management decisions, often broadly stated. Because of the complexities of issues raised in certain requests for reconsideration of initial decisions (such as those that involve highly contested or unusual disability situations) or the need to develop new policies and operating instructions to implement initiatives, the existing policies and guides are often incomplete, contradictory, of limited use, or inadequate. Employees use initiative and resourcefulness in devising new or revised approaches to issues not resolved by use of existing guidelines or in developing, testing, and recommending new methods, policies, and procedures for implementing major program initiatives nationally and regionally.

Level 3-4 is not met. The appellants state that 80 percent of their time is spent on cases with broadly stated, vague, contradictory, unclear and nonspecific guidelines. However, neither the agency nor the appellants was able to furnish quantitative evidence that 80 percent of the appellants' time was spent on cases of this nature. In fact, the agency states they were not able to provide this information because they are prohibited by negotiated agreement from retaining information on individual production and that their management information system shows only total cases in and out of the Reconsideration Unit and does not provide individual workload data.

To support Level 3-4, the appellants furnished a letter from a senior attorney in the Office of Hearings and Appeals who provided his personal opinion of the kind of issues dealt with in reconsideration cases. However, the attorney's letter did not provide evidence that the appellants deal with the types of cases on a regular and recurring basis that meet the intent of Level 3-4. The appellants also furnished a representative sample of cases that illustrate the work typically performed. Some of these cases dealt with complex or politically sensitive issues that required the use of judgment and ingenuity in the selection and application of the appropriate guidelines and fact finding methodology or investigative techniques but none required the appellants to devise new methods, procedures, policies, or approaches to deal with issues where the existing guidelines were not applicable. For example, in determining marital relationships, the appellants defer to the state laws. The appellants must interpret these laws to determine marital status under the state law provisions or conduct document searches to determine the legality of a marriage to make a determination. In determining paternity and inheritance cases, the appellants must determine the legitimacy of the relationship of the beneficiary to the worker and determine whether the beneficiary was dependent upon the worker. The appellants make a determination based on legal documents or statements, medical evidence, and state laws and court decisions. When evidence is contradictory and inconclusive, the appellants must secure additional evidence through interviews, investigation and fact finding and discern the facts based on the evidence of record. For questionable retirement cases, the appellants analyze tax returns, business records, complex tax codes and laws, as well as other documents to determine retirement benefits.

Based on our review of the position, we found the appellants deal with hundreds of cases in a year and make a broad range of decisions involving varying levels of complexity including reconsiderations, fee determinations, protest memoranda to the Appeals Council, and effectuation decisions. From our fact finding and absent objective workload statistics, we have no basis to

conclude that the appellants' cases involve the degree of complexity envisioned at Level 3-4 with sufficient frequency to credit Level 3-4.

The appellants also state that they assist in developing guidelines. However, none of the evidence in the appeal record including the position description supports a requirement to develop new policies or operating instructions, or perform work resulting in the development of new or revised approaches to resolving problems in existing guidelines or the development, testing and recommendation of new methods, policies and procedures for national or regional program initiatives.

This factor is credited at Level 3-3, for 275 points.

#### Factor 4 - Complexity:

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work. The agency evaluated this factor at Level 4-4. The appellants believe their position should be credited at Level 4-5.

At Level 4-4, the work involves resolving cases and performing other work that is problem oriented. For example, entitlement, benefit, and disability determinations are complicated by unusual circumstances or events in the lives of claimants, beneficiaries, or recipients; decisions of other government agencies in benefit, entitlement, or tax liability matters; medical and vocational considerations; the need to override automated systems to accommodate specific requirements or to overturn previous claims decisions; or by procedural or operational obstacles. The work includes gathering and assessing conflicting information, identifying issues, sorting out the elements contributing to the complications, developing options, and arriving at decisions that resolve the problem without violating program and legal requirements. Features that complicate the work in some positions include the need to analyze or reevaluate intricate and questionable retirement situations involving special employment or self-employment; unusual types of living arrangements, income, and resources; claimed dependency; and potentially incorrect use of benefits by representative payees. In other positions, features that complicate the work include the need to weigh medical evidence and vocational factors in order to establish, deny, or cease periods of disability. Employees deal with situations where facts are disputed, records are lost or may never have existed, or where the mental or physical condition of the claimants, recipients, and beneficiaries frustrates resolution of the case. In staff assignments, employees seek to resolve specific systemic issues or problems. For example, they develop approaches to fit situations that may arise from new legal interpretations or policy requirements, new or revised systems, unusual combinations of circumstances, or the involvement of other agencies or other foreign or domestic government or nongovernmental organizations. In casework assignments, employees determine, develop, or otherwise make possible legally correct and accurate interpretations regardless of previous decisions or technical difficulties encountered. They sort out convoluted factual situations, apply a tangle of governing provisions, some of which may be subject to varying interpretations, and resolve discrepancies concerning the propriety of the entitlement or benefits. In noncasework assignments, employees resolve specific



systemic issues or problems, refine or adapt existing work procedures to increase organizational effectiveness, develop training plans and informational material about program operations and systems; refine or adapt existing work procedures; or improve compliance with instructions and procedures to increase operating effectiveness.

Level 4-4 is met. The appellants are assigned to cases where the issues are complex or sensitive and require interpretation and application of different points of law, court decisions and regulations to ensure a sound legal determination is made. The issues are further complicated by the need for fact finding to determine the legitimacy and validity of documents requiring a substantial depth of analysis to discern facts and resolve contradictory and conflicting evidence and statements.

At Level 4-5, the work involves analyzing and evaluating broad and significant aspects of agency wide claims, policy or operations to develop new operating instructions and policy, to implement new legislation or court case results, or to resolve major problems in program operations. Some positions involve resolving unusually complex cases such as those concerning the most difficult disability reconsideration. Other work involves providing agency wide advice and guidance on new systems, policy, operational experiments, and/or precedent case decisions.

Features that complicate the work include uncertainties resulting from continuing changes in social insurance programs (legislative, judicial, budgetary, political); unexpected socio-economic, medical or disease phenomena; or other unusual or unexpected developments that require creative investigation, examination, and analysis. Employees explore and sort out subtle or tenuous legal, technical, and/or program related elements. They delve into conflicts among program goals and objectives, governing provisions, and management agenda to make recommendations that change policies and practices. They distill and refine esoteric specifications for others to use; assess constraints, implications, and effects of new or revised automated or manual systems on programs; or develop definitive technical positions. In some assignments, employees reevaluate conflicting medical and vocational opinions to determine the point at which a disabling condition became sufficiently severe to preclude all substantial work activity, the possible relationship of a currently disabling impairment to earlier medical findings, and combinations of disabilities (none of which are presumptively disabling) that prevent claimants from being gainfully employed.

Employees develop new information, identify incompletely explored or overlooked issues, and generate innovative analyses of contested issues to resolve seemingly insoluble claims disputes. They originate new methods and techniques to address emerging social, vocational, and medical developments; develop policy proposals and criteria in such areas as providing service to the homeless, determining the disabling characteristics of diseases, and establishing foreign social insurance agreements. They evaluate new policies and methods and originate interpretations that change the way problems are perceived or solved. Their actions establish new ways of accomplishing the agency's social insurance mission, reorder priorities, change operating practices, and improve the effectiveness with which social insurance programs are administered.

Level 4-5 is not met. The appellants do not analyze or evaluate agency wide claims policy or operations or implement policy, new legislation, resolve major problems in program operations or provide agency wide advice and guidance on new systems, experiments, or precedent case decisions.

This type of work is performed by program officials within the agency. The appellants do adjudicate unusually complex cases. The work samples they furnished show they develop new information, resolve conflicting or contradictory issues, interpret laws and make determinations on cases previously adjudicated where information was not considered and where cases involved some uncertainty in methodology, e.g., the court case where one of the appellants had to develop a formula to compute the amount of earnings for an insurance salesman, or the case where paternity was based on DNA test results and profile. The appellants consider all cases appealed. Their cases are not prescreened for difficulty, therefore, each appellant handles some that are complex and some that are very straightforward. While the appellants do handle some unusual or complex issues, there is no workload data or statistical evidence in the appeal record that indicates that they perform the most difficult, unusually complex work for a substantial portion of time, i.e., at least 25 percent, which is necessary to credit Level 4-5.

This factor is credited at Level 4-4, for 225 points.

Factor 6 - Personal Contacts and Factor 7-Purpose of Contacts:

These factors measure the regular and recurring contacts that the appellants have and the directly related purpose of the contacts.

*Persons Contacted*

At Level 2, contacts are with employees in various parts of the agency; claimants, recipients, and beneficiaries and their representatives; employers in all sectors of the economy; Federal, state, and local government employees; physicians, attorneys, and others. The contacts are routine, such as those required for a general exchange of information in order to resolve entitlement with the public and their representatives in locations outside the office.

Level 2 is met. The appellants have contacts either via telephone or in writing with agency employees at various locations, attorneys, employees of welfare offices and hearing offices, administrative law judges, general counsel, other government agencies, congressional offices, Railroad Retirement Board, claimants and/or their representatives and other parties who may have information pertinent to the claim.

At Level 3, contacts are with the public and their representatives in locations outside the office. Contacts may also include representatives of the news media; elected or appointed officials of Federal, state and local governments; representatives of public or private advocacy groups, or professional organizations; staff of Congressional committees, or representatives of foreign governments who are not elected or appointed. These contacts may occur inside or outside of employees' offices. In both situations, the contacts are not routine and may expose the agency to

coverage in the media or political vulnerabilities. The purpose and extent of each contact is different, and the role and authority of each party is identified and developed during the course of the contact.

Level 3 is not met. The appellants believe that the controlling issue which differentiates Level 2 from Level 3 is that at Level 2, people come to the employee seeking a product or service or to resolve simple issues. At Level 3, the appellants believe the employee must go to the person, as the employee is seeking information. We do not agree. The criteria differentiating Level 2 from Level 3 is contact which is nonroutine and which has the potential to expose the agency to unwanted media or political attention. The appellants do not have regular and recurring contacts with persons in the situations depicted at this level.

This subfactor is evaluated at Level 2.

### *Purpose of Contacts*

In General Schedule occupations, the purpose of personal contacts ranges from factual exchanges of information to situations involving significant or controversial issues and differing viewpoints, goals, and objectives. The personal contacts which serve as the basis for the level selected for this factor must be the contacts which are the basis for the level selected for Factor 6. The agency credited Level b. The appellants believe Level c is correct.

At Level b, the purpose of the contacts is to question people in order to make decisions on claims and to counsel them on acceptable kinds and sources of evidence to support claims. Employees obtain information through probing interviews with various parties to determine the veracity and validity of statements and evidence in support of claims. They elicit information on income and resources, contributions to support, and medical conditions. Although the goals of the persons contacted are essentially similar to those of the employee, and their attitudes are basically cooperative, eligibility for, or suspension or termination of benefits may be in question. Other contacts are to plan and coordinate work or to resolve operating problems or technical issues.

At Level c, the purpose of contacts is to obtain sensitive information on finances, relationships, medical problems, or treatment; to investigate allegations of fraud; or to recover incorrect claims benefits. Contacts are with people who are often hostile, uncooperative, antagonistic, fearful, concealing information, mentally ill, and possibly dangerous. Despite the behavior of clients, employees must control the interview and keep it on track to achieve the desired objectives.

The appellants state that the claimants they contact have usually been denied benefits and some are trying to obtain benefits for which they are not eligible. The appellants must obtain sensitive information, delve into personal financial matters, explore relationships, and determine facts which may require embarrassing or unpleasant discussions. Our fact finding confirmed that they frequently deal with uncooperative and frustrated individuals. In handling the formal reconsiderations based on denial of initial claims, the appellants often face individuals who are antagonistic and attempt to conceal information thus creating situations which meet the intent of Level c. They deal with socially

sensitive and personal information. These types of contacts occur in cases of varying difficulty and with sufficient frequency to credit Level c.

Level 2c is credited for these factors, for 145 points.

<b>SUMMARY</b>		
<b>FACTOR</b>	<b>LEVEL</b>	<b>POINTS</b>
1. Knowledge Required By The Position	1-7	1250
2. Supervisory Controls	2-4	450
3. Guidelines	3-3	275
4. Complexity	4-4	225
5. Scope and Effect	5-4	225
6. Personal Contacts	6-2	145
7. Purpose of Contacts	7-c	
8. Physical Demands	8-1	5
9. Work Environment	9-1	5
	<b>TOTAL</b>	<b>2580</b>

A total of 2580 points falls within the range for a GS-11, 2355 to 2750 points, according to the Grade Conversion Table in the GS-105 standard.

### **Decision**

This position is properly classified as Social Insurance Specialist, GS-105-11, with a parenthetical title at the agency's discretion.