

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



Atlanta Oversight Division
75 Spring Street, SW, Suite 972
Atlanta, Georgia 30303-3109

Classification Appeal Decision
Under Section 5112 of Title 5, United States Code

Appellant: [appellant]

Agency classification: Field Examiner
GS-1801-10

Organization: Veterans Services Division

OPM decision: GS-1801-10
(Title to be determined by the agency)

OPM decision number: C-1801-10-01

Kathy W. Day
Classification Appeals Officer

7/16/98

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:

[appellant]

[appellant's personnel office]

Deputy Assistant Secretary for
Personnel and Labor Relations
Department of Veterans Affairs
Washington, DC 20420

Introduction

On April 28, 1998, the Atlanta Oversight Division, Office of Personnel Management (OPM), accepted a classification appeal for the position of Field Examiner, GS-1801-10, Department of Veterans Affairs [city/state]. The appellant is requesting that his position be classified as Investigator, GS-1810-11.

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 appeal record reflects that the position occupied by the appellant was redescribed and classified in the current series and grade August 6, 1997. This redescription followed an audit of two of the Field Examiner positions at the [city\state] Department of Veterans Affairs Regional Office. The duties of the position were clarified, and the servicing personnel office determined that the position should remain in the General Inspection, Investigation and Compliance Series, GS-1801, at grade GS-10. The appellant appealed the classification of his position to his agency. The agency upheld this classification and the appellant subsequently appealed to OPM.

The appellant contends that the classification audit did not give appropriate consideration to the latitude he has to initiate independent investigations nor the complexity and sensitivity of certain cases that he has handled. The appellant believes, based on these factors, his assignments are of the same level of responsibility and complexity as those described in the General Investigating Series, GS-1810, at grade GS-11.

In reaching our classification decision, we have carefully reviewed all information furnished by the appellant and the agency, including information obtained from telephone interviews with the personnel staff who audited and classified the position, the appellant, and his current supervisor.

Position information

The appellant is assigned to Position Number [#]. The appellant, supervisor and agency have certified the accuracy of the position description.

The appellant is responsible for conducting complete initial and follow-up field investigations of incompetent adults entitled to Department of Veterans Affairs (DVA) benefits. These investigations determine the extent to which adult beneficiaries can manage their own affairs and properly handle their own benefits. Where it is determined that adult beneficiaries are incapable of managing their benefits, or when beneficiaries are minor children, the appellant is responsible for finding a suitable fiduciary to be responsible for handling the funds in the best interest of the beneficiaries. The appellant's investigations are also used to resolve matters such as dependency, marital status, capability to work, improper use of benefits by fiduciaries, fraud, and other related issues. He ensures

that those individuals entitled to DVA benefits are provided complete information, advice and assistance related to their entitlement and determines the most suitable payment arrangements.

The appellant works under the general and administrative supervision of the Coach, Claims Processing - Walk-in/Field Services. The appellant is responsible for independently planning and carrying out assignments in a manner that ensures section timeliness standards are met. The supervisor does not provide technical assistance or review cases prior to assignment to determine degree of investigation required. Completed work is reviewed by the Customer Liaison Service Representative who conducts monthly quality control reviews of randomly selected cases.

Series determination

The agency placed the position in the General Inspection, Investigation and Compliance Series, GS-1801. The appellant believes that his position should be classified in the General Investigating Series, GS-1810.

The GS-1810 series includes positions that involve planning and conducting investigations to determine the character, practices, suitability or qualifications of persons or organizations seeking, claiming, or receiving Federal benefits, permits, or employment when results of the investigation are used to make or invoke administrative judgments, sanctions, or penalties. The positions primarily require a knowledge of investigative techniques and of the laws, rules, regulations and objectives of the employing agency; skill in interviewing, following leads, researching records, and preparing reports; and the ability to elicit information helpful to the investigation from persons in all walks of life.

The GS-1801 series includes positions the primary duties of which are to administer, coordinate, supervise or perform inspectional, analytical, or advisory work to assure understanding of and compliance with Federal laws, regulations, or other mandatory guidelines when such work is not more appropriately classifiable in another series either in the Investigation Group, GS-1800, or in another occupational group.

The GS-1801 series is a general series for the Investigation Group, GS-1800, which includes occupations established primarily to effect compliance of individuals or organizations with laws, rules, regulations, executive orders, or other mandatory guidelines. Compliance is assessed by such means as inspections, investigations, and analysis of reports. Compliance may be obtained by methods such as persuasion, negotiation, and technical assistance. Compliance may also require actions such as citation of violations, drafting of complaints, and referral of cases for administrative or legal proceedings.

Similar to the GS-1801 series, the appellant performs work which promotes an understanding of and compliance with Federal law and regulations. The appellant is responsible for conducting initial and follow-up field examinations to gather information and make determinations on the ability of incompetent veterans and other adult and minor beneficiaries to handle DVA benefits. When

beneficiaries are incompetent adults or minor children, the appellant must identify a suitable and responsible fiduciary, an individual or organization who is agreeable to being designated a custodian or guardian and is willing to and capable of managing the funds in the best interest of the beneficiaries. Through interviews with veterans, spouses, neighbors, friends, relatives, social service organizations, and other institutions, the appellant gathers information regarding income, assets, living arrangements and financial obligations of the beneficiaries. He assesses the capability of adult beneficiaries to work and live independently. Through follow-up visits, he determines whether or not the fiduciary is using the funds to the advantage of the beneficiaries as required by laws, rules, and regulations. The appellant is responsible for ensuring fiduciaries understand and comply with Federal laws, regulations, and guidelines applicable to their receipt and handling of benefits. Compliance is assessed through subsequent investigations. The GS-1801 series is appropriate for this position.

We find the appellant's position is properly classified in the GS-1801 series.

Title determination

The GS-1801 series does not specify titles for positions. Therefore, the agency may use an appropriate title consistent with the guidance in the Introduction to the Position Classification Standards. The position is properly classified as GS-1801, with the title at the agency's discretion.

Standard determination

General Inspection, Investigation and Compliance Series, GS-1801, October 1980.
Grade Level Guides for Classifying Investigator Positions, GS-1810/1811, February 1972.

Grade determination

The GS-1801 series does not include grade level criteria. The standard recommends that positions classified in this series be evaluated by reference to position classification standards for related kinds of work. In this instance, the Grade Level Guides for Classifying Investigator Positions, GS-1810/1811, is the most appropriate standard to use in evaluating this position.

The Grade Level Guides for Classifying Investigator Positions uses two criteria to distinguish between grade levels for nonsupervisory investigative positions GS-5 through GS-13: *Complexity of Assignment* (which measures the scope, complexity, and sensitivity of investigative assignments); and *Level of Responsibility* (which measures the kind and extent of supervision that is given to investigators and the degree of resourcefulness required in finding and verifying information pertinent to cases). The standard provides narrative descriptions at two-grade intervals from GS-5 through GS-11, and for GS-12 and GS-13. Below the GS-11 level, only the odd number grade levels described in the standard will typically be used because the intermediate grades, e.g., GS-10, are seldom appropriate for administrative-type positions. However, borderline cases that cannot be satisfactorily placed at an odd number grade can be placed in the intermediate grade if that is the best classification for the position being evaluated.

Complexity of Assignment

At the GS-9 level, assignments typically involve subjects on which information is readily available, cases that involve straightforward issues or persons that are not controversial, and routine exchanges of factual information with other agencies.

The work typically performed by the appellant exceeds the GS-9 level. The factual information needed by the appellant to make his determinations is not always easily obtained. Adult beneficiaries may provide confusing or conflicting information, make false allegations, and due to mental instability, become hostile or resentful of another party handling their benefits. Parties being considered as potential fiduciaries may provide false or misleading information to gain designation as custodian or guardian with the intent of using the benefits to their own advantage. Fiduciaries who have misused funds may conceal information regarding how funds were used to avoid discovery of the misuse and prevent designation of another fiduciary.

Although the complexity of the appellant's work exceeds the GS-9 level, it does not meet the GS-11 level. Grade GS-11 is distinguished from grade GS-9 primarily in: (1) the difficulty in resolving conflicts in facts or evidence; (2) the difficulty or complexity imposed by the subjects of the investigations; (3) the number of separate investigative matters that grow from original assignments; (4) the degree of skill required to establish the interrelationship of facts and evidence; (5) the sensitivity of assigned cases; and (6) the jurisdictional problems involved. To warrant classification at the GS-11 level, a position should substantially meet most or all of the following paragraphs:

1. Substantial difficulty in resolving conflicts in facts or evidence:

At the GS-11 level, cases will typically involve conflicting testimony or evidence. Some witnesses will describe or detail illegal activity which will be substantiated during document and records searches. Other witnesses, documents and records will provide no indication that the individual is any different from any other law abiding citizen. The GS-11 investigator must continue to develop information on such issues through further fact finding until he or she has obtained sufficient evidence to support a legal or administrative decision based on applicable laws, rules, or regulations.

While some of the appellant's cases involve conflicting information and require further investigation in determining a beneficiary's situation or the suitability of a potential fiduciary, there is no information in the record to support that the appellant's typical cases routinely involve the degree of conflicting testimony or evidence described at this level. Therefore, this paragraph is not met.

2. The difficulty or complexity imposed by subjects of GS-11 investigations:

The subjects of GS-11 investigations are typically involved in a wide range of illegal activities, e.g., selling drugs, counterfeiting, or complex business arrangements with record-keeping systems that facilitate the concealment of illegal activity, e.g., money laundering, fraud.

The individuals investigated by the appellant may be involved in some criminal activity such as a fiduciary mismanaging a beneficiary's funds, but they are not normally involved in the type of cover-up or complex illegal activity described at this level which would seriously complicate the attainment of accurate information. Detection of illegal activity for the subjects of the appellant's investigations is not very difficult as the subject is known and is relatively accessible to the appellant.

The appellant cited three cases which he had been assigned in the past that he considers illustrative of the complexity found at the GS-11 level. One case involved a certified representative of the Paralyzed Veterans of America (PVA) who, through his possession of power of attorney, misused beneficiaries funds. The second case involved an executive at a State Veterans Commission who was found to be filing false medical expense adjustments for relatives who were beneficiaries. The last case involved an investigation to determine the entitlement of the beneficiaries of a veteran who murdered his physician, then committed suicide at the Jackson, Mississippi Veterans Affairs Medical Center. The appellant's supervisor stated that these particular cases are not indicative of those normally handled by the appellant. The first case, which was directed by the Regional Office Director, and later led to the decertification of the PVA representative, occurred prior to 1989. The second and third cases occurred during March 1995 and early 1997 respectively. According to the supervisor, cases are categorized as initials, revisits, other cases/exams, and specials. The cases cited by the appellant fall into the category of "specials" which are considered the most complex cases. For the period of October 1997 through May 1998, the agency caseload was broken out into 279 initials, 493 revisits, 15 other and no "specials". This paragraph is not met.

3. Several separate investigative matters normally grow from the typical assignment:

During the course of GS-11 investigative assignments, the investigator normally encounters evidence, e.g., conflicting witness statements, and data or information in record and documents, that require additional questions, witnesses or documentary research to resolve one or more issues to achieve closure of the assignment. In resolving these conflicts, the investigator may find evidence that discloses the involvement of other individuals or parties who were not a part of the original investigation.

The appellant's investigations do not typically grow into separate investigations of individuals and parties outside of the assigned case as envisioned at the GS-11 level. The matters of primary concern to the appellant are the beneficiary's situation and the suitability of the fiduciary in the cases assigned. According to the appellant's supervisor, the majority of the work is linked to compensation, benefits, and insurance related issues. Examiners may come across information on a beneficiary not involved with the case they are currently investigating; however, this information is referred to the adjudication staff for resolution. If resolution cannot be achieved by this means, an Examiner is assigned to the matter. As a rule, Examiner's do not initiate investigations beyond the scope of assigned cases without prior approval. This paragraph is not met.

4. Skill in establishing the interrelationship of facts or evidence:

Cases at the GS-11 level typically involve the development or resolution of facts in the face of denial. For example, the subject of an investigation denies any connection to or involvement with an illegal activity; witnesses who have information are unavailable or refuse to disclose what they know; and there are no obvious inconsistencies, but the investigator notes subtle reactions to questions that may indicate the concealing of facts and probes deeper to develop evidence that establishes the subject's involvement despite the denials.

The matters which the appellant is responsible for investigating normally do not require the level of probing to establish facts as described here. The issues typically involve determining the competency of beneficiaries to handle their own funds and establishing the suitability of fiduciaries. The facts needed to establish competency and suitability are relatively easily obtained through interviews with the parties involved and verified through others and through routine record checks, and inconsistencies are usually fairly easy to recognize. If the appellant cannot obtain information, he recommends action based on what he does know. This paragraph is not met.

5. Degree of sensitivity:

At the GS-11 level, the subject of an investigation is of such prominence as to create the potential for local publicity that could embarrass the agency and create hostility in the local community by casting suspicion on a respected individual. Additionally, the success of the investigation depends on not disclosing the fact that an investigation is in progress.

The subjects of the appellant's investigations are not generally individuals whose prominence is such that their being investigated would generate any local publicity, cause embarrassment to the agency, or hinder the investigation by its disclosure. The results of the investigation impacts primarily the beneficiary only and is of little interest to the general public or other investigations. This paragraph is not met.

6. Degree of jurisdictional problems:

The investigative assignments at the GS-11 level involve subjects whose criminal activities in other areas may be of concern to or are being investigated by other Federal, State, or local agencies. This will require close coordination between the agencies involved to avoid jurisdictional problems and adversely impacting or hindering the investigations of those agencies.

The investigations conducted by the appellant may require some routine coordination with other agencies to verify or obtain information but do not typically result in situations where adverse impact is an issue or where jurisdictional problems may arise. This paragraph is not met.

The GS-9 level is clearly exceeded but the GS-11 level is not met. Therefore, the GS-10 level is credited for this factor.

Level of Responsibility

The GS-9 investigator has assistance available throughout the initial, interim, and concluding stages of assignments. Only on assignments similar to those that have been carried out previously does the GS-9 investigator independently plan and conduct his or her work. On assignments involving unfamiliar issues or unusual techniques, more supervisory guidance is given at the outset to include problems that may be encountered. Completed work is reviewed in terms of technical accuracy, adequacy, and compliance with operating instructions, guides, rules, and regulations.

The appellant works under the general and administrative supervision of the Coach, Claims Processing - Walk-in/Field Services. Assignments are carried out independently, and the appellant is responsible for scheduling and completing investigations in a manner to meet organizational timeliness requirements. The appellant's supervisor stated that the State has been divided into geographical territories and the Field Examiners are assigned a territory. The assignment of cases is not reviewed as they are automatically given to the Examiner in whose territory the beneficiary resides. Determinations of what needs to be investigated and the extent of the investigation is at the discretion of the appellant. The supervisor also stated that he does not provide technical assistance or guidance to the appellant. Any assistance given in regard to technical issues is provided, when requested, by the Customer Liaison Veteran Service Representative. This individual is responsible for the quality control review of 15 randomly selected investigations each month from those completed by all Examiners. This exceeds the GS-9 level of responsibility.

Assignments at the GS-11 level are received from superiors or self- initiated. The investigator is expected to develop and follow leads without periodic supervisory guidance. Completed work is reviewed for overall adequacy, accuracy, completeness, and accomplishment of objectives. Investigators at this level must use more initiative and resourcefulness to find witnesses who will admit to knowing the subject of the investigation or to interview witnesses who are reluctant to talk or otherwise become involved in the investigation. The records needed for the investigation are harder to find and require the investigator to reconstruct information from sources such as interviews with family members and other parties.

The work performed by the appellant does not typically involve cases requiring this degree of initiative and resourcefulness. The GS-11 level of responsibility assumes that the employee is performing assignments equivalent to the GS-11 level and would, therefore, have responsibility for adapting a general font of knowledge and interpreting precedents to handle complex assignments requiring the exercise of considerable judgment. As a rule, the cases the appellant handles typically involve issues strictly related to establishing the capability of beneficiaries to handle their own benefits or determining the suitability of a second party to do so. There are few instances where he will encounter parties who are reluctant to discuss a beneficiary or where he is forced to reconstruct information from other sources. Conflicting issues encountered normally involve matters pertaining to an adult beneficiary who is hostile to the appointment of a fiduciary or a fiduciary primarily interested in having access to the beneficiary's funds. The appellant's work does not meet the level of responsibility envisioned at grade GS-11.

This factor exceeds grade GS-9 but does not meet grade GS-11. Therefore, grade GS-10 is credited.

Both *Complexity of Assignments* and *Level of Responsibility* equate to grade GS-10.

Decision

This position is properly classified as GS-1801-10, with the title at the discretion of the agency.