

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

Philadelphia Oversight Division  
600 Arch Street, Room 3400  
Philadelphia, PA 19106-1596

**Classification Appeal Decision**  
**Under section 5112 of title 5, United States Code**

**Appellant:** [appellant's name]

**Agency classification:** Health Insurance Specialist  
GS-107-13

**Organization:** [name] Group  
Center for [name]  
Center for Medicare and Medicaid Services  
Department of Health and Human Services  
Baltimore, Maryland

**OPM decision:** Health Insurance Specialist  
GS-107-13

**OPM decision number:** C-0107-13-01

/s/ Robert D. Hendler

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Robert D. Hendler  
Classification Appeals Officer

August 8, 2002

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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* (PCS's), appendix 4, section G (address provided in appendix 4, section H).

**Decision sent to:**

[appellant's name]  
[appellant's address]

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## **Introduction**

On April 1, 2002, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. His position is currently classified as Health Insurance Specialist, GS-107-13. He believes the classification should be Lead Health Insurance Specialist, GS-107-14. The appellant appealed to his agency, which issued its final decision on December 14, 2001. He works in the [name] Group, Center for [name] ([acronym]), Center for Medicare and Medicaid Services (CMS), Department of Health and Human Services, Baltimore, MD. We received the complete appeal administrative report on April 22, 2002. We have accepted and decided his appeal under section 5112 of title 5, United States Code (U.S.C.).

## **General issues**

The appellant stated that his position should be credited at Level 2-5, resulting in reclassification to the GS-14 grade level. He said that he is the Drug Rebate Program (DRP) team leader with complete responsibility for determining the appropriateness of resolutions of disputes involving millions of dollars between pharmaceutical manufacturers and State Medicaid agencies. As the lead mediator, he stated that he had signatory responsibility for the agency on those agreements. The appellant said that his supervisor is not at DRP meetings, negotiations, or settlements, and that he and his team members do not seek technical involvement from his supervisor. He said that his supervisor is not technically qualified and does not exercise substantial program control, such as analyzing program policies, formulating policies which govern the program, issuing policy statements, establishing procedures for efficient operations of the program, and giving program guidance. Instead, the appellant said that he performs these functions as the DRP team leader without any technical guidance, input or technical review by his supervisor.

The appellant's March 28, 2002, appeal letter, provided descriptions of work supporting his rationale. He claims that the agency did not adequately consider this documentation and credible sources in either the initial review or the subsequent appeal. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM PCS's and guidelines (5 U.S.C. 5106, 5107, and 5112). Because our decision sets aside all previous agency decisions, the appellant's concerns regarding his agency's classification review process are not germane to this decision.

The appellant said that his position description (PD) does not adequately describe his team leader duties. He stated that the description of the technical authority over the program area assigned to him is inaccurate and distorts the fact that he has full technical authority. A PD is the official record of the major duties and responsibilities assigned to a position by an official with the authority to assign work. A position is the duties and responsibilities that make up the work performed by an employee. Position classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the actual duties and responsibilities assigned by management and performed by the employee. An OPM appeal decision grades a real operating position and not simply the PD. Therefore, this decision is based on the actual work assigned to and performed by the appellant.

### **Position information**

The appellant serves as the primary staff member in CMS responsible for managing the DRP as it pertains to Medicaid. The DRP is a national health insurance program which the appellant helped design and implement during the mid 1990's. The DRP is a cost effective method of assisting States and pharmaceutical manufacturers to resolve disputed rebate payments. Resolutions are reached through meetings of both sides with CMS staff as mediators. The appellant and a matrix team of 10 staff in other CMS offices work together for a specified DRP project. Each member is focused on a specific issue, (e.g., data collection, correspondence) and functions independently. They contact the appellant for technical advice and to keep him abreast of all the issues. The appellant is responsible for exploring other areas in the overall Medicaid program where dispute resolution methods and procedures might prove effective.

As part of the appeal administrative report process, the appellant's PD of record (PD # [number]) was revised. The appellant's immediate supervisor certified the accuracy of the revised PD on October 16, 2001. We conducted telephone audits with the appellant on July 2 and 31, 2002, and a telephone interview with the appellant's immediate supervisor, [name], Director, [name] Group, [acronym], on July 17. We conducted telephone interviews with others knowledgeable of the CMS regional DRP operations including [name] and [name], Health Insurance Specialists, and [name], Supervisor, [name] Branch, on July 18; [name], Director of [name] Divisions, on July 30; and [name], Health Insurance Specialist, on July 31. In deciding this appeal, we fully considered the audit and interview findings and all information of record furnished by the appellant and his agency. Our audit with the appellant and our interview with his supervisor and other staff members confirmed that the PD of record contains the major duties and responsibilities performed by the appellant which we incorporate by reference into this decision.

### **Series and title determination**

The agency placed the appellant's position in the Health Insurance Specialist Series, GS-107, for which there is a published PCS, and titled it Health Insurance Specialist. The appellant did not disagree with these determinations, and we agree. Therefore, the appealed position is allocated properly as Health Insurance Specialist, GS-107.

### **Standard determination**

The GS-107 series does not have published grade level criteria. The agency applied the Administrative Analysis Grade Evaluation Guide (AAGEG) for grade level evaluation. The appellant did not disagree. The *Introduction to the PCS's* states that when there is no directly applicable PCS a position should be classified using criteria that are comparable in scope and difficulty and that describe similar subject matter and functions.

The Social Insurance Administration Series, GS-105, belongs to the same occupational family as the appellant's position and shares similar characteristics in terms of the required analytical, writing, and judgmental skills. While the GS-105 PCS describes Government social program administration work related to the appellant's own, it does not contain certain factor level criteria necessary to address the appellant's grade level concerns. The AAGEG contains criteria designed to evaluate staff analytical duties of positions primarily engaged in program

administration. Because it offers criteria germane to the appellant's program development and administration work at levels above those defined in the GS-105 PCS, the AAGEG will be used to extend the criteria of the GS-105 PCS as required in the *Introduction to the PCS's*.

The appellant's appeal rationale is that he spends the majority of his time functioning in the role of a team leader for 10 CMS regional office staff who perform DRP duties. He states that he makes assignments, stays abreast of the status and progress of the work being performed, sets deadlines and work requirements, provides specific instructions for completing work, and provides final review for all assignments. The appellant said that he nominates or recommends team members for awards and provides performance evaluations to the respected manager.

Implicit in the appellant's rationale is that his team leader duties are covered by the General Schedule Leader Grade Evaluation Guide (GSLGEG). The GSLGEG, Part II, covers positions that spend at least 25 percent of their duty time leading a team of other General Schedule employees in accomplishing two-grade interval work. As discussed under Notes to Users, the GSLGEG is intended to be used to grade team leader positions that evolved with the Governmentwide effort to reduce the number of supervisory positions. Team leaders covered by the GSLGEG function as alternatives to traditional supervision and support layering and reductions in supervisory levels over a permanently assigned group of employees for which both technical and administrative leadership responsibilities are performed on a continuing basis. The Exclusions section of the GSLGEG states that positions which have functional "project" responsibility but do not lead other workers on a continuing basis and positions that lead cross-functional matrix teams are not covered by the GSLGEG.

While the appellant may spend a considerable amount of time performing in a leadership role, his position is covered by the project exclusion. The appellant does not have continuing responsibility for leading a permanently assigned group of employees. Rather, he leads matrix teams formed to work on drug dispute resolution issues arising between the States and drug manufacturers. Decisions as to the composition of the teams are made when teams are formed with consideration being given to such factors as availability of staff, past experience, and complexity of the assignment. All of the employees who work on the drug dispute resolution issues are overseen by their respective managers and have specific roles related to dispute resolution. The appellant may ask if they have time to complete the project at hand, but it is the individual managers who are responsible for the assigned work. Each team member functions independently and only contacts the appellant when necessary. The appellant has no line control over team members. The appellant does not approve leave. He recommends awards under the peer recognition program, not as part of the line award nomination process. Because the appellant's team leader duties do not meet the criteria for classification under the GSLGEG, we may not apply that PCS for grade determination purposes.

### **Grade determination**

The GS-105 PCS and AAGEG are written in the Factor Evaluation System (FES) format. Positions graded under the FES format are compared to nine factors. Levels are assigned for each factor and the points associated with the assigned levels are totaled and converted to a grade level by application of the Grade Conversion Table contained in the PCS. Under the FES, factor level descriptions mark the floor threshold for the indicated factor level. If a position fails in any

significant aspect to meet a particular level in the standard, the next lower level and its lower point value must be assigned, unless the deficiency is balanced by an equally important aspect that meets a higher level.

The agency credited Levels 1-8, 3-5, 4-5, 5-5, 6/7 3d, 7-d, 8-1, and 9-1. After careful analysis of the record, we concur with the agency's analysis of the uncontested factor levels and have so credited the position. The appellant believes that his position should be credited at Level 2-5, our analysis of which follows.

### *Factor 2, Supervisory controls*

"Supervisory Controls" covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work. Controls are exercised by the supervisor in the way assignments are made, instructions are given to the employee, priorities and deadlines are set, and objectives and boundaries are defined. Responsibility of the employee depends upon the extent to which the employee is expected to develop the sequence and timing of various aspects of the work, to modify or recommend modification of instructions, and to participate in establishing priorities and defining objectives. The degree of review of completed work depends upon the nature and extent of the review, e.g., close and detailed review of each phase of the assignment, detailed review of the finished assignment, spot-check of finished work for accuracy, or review only for adherence to policy.

Both Levels 2-4 and 2-5 describe positions of highly skilled personnel who carry out their work largely independently. At Level 2-4, the employee works within a program framework and receives project assignments. In contrast, Level 2-5 includes program authority with the employee responsible for designing the plans and strategies by which broad projects will be undertaken, including studies or other major program functions. At Level 2-4, work receives some degree of technical review for feasibility of the program approach. In contrast, review at Level 2-5 is for broader considerations such as impact on the overall program and achieving the functional program's objectives. Full technical authority is delegated to the employee.

The exercise of technical supervision by a position does not mean that the supervisor must be as skilled as the subordinate in a subject matter area. For example, supervisory scientists and engineers routinely supervise employees in highly specialized professional positions in which they are not fully credentialed. As technical supervisors, however, they have authority and responsibility to accept, reject, or direct that the work be modified to meet program requirements. The Director, [name] Group, position is vested with both technical and administrative control over the DRP. Although the appellant's first and second level supervisors do not provide technical guidance to the appellant, they are held both technically and administratively responsible for the appellant's program as reflected in his performance standards and have responsibility for accepting or rejecting work. In the appellant's case, this included determining how well the ADR program is meeting defined management needs. This clearly exceeds the type of administrative supervision normally expected at Level 2-5. In addition, the appellant's work cannot be said to be technically authoritative in that his position is not assigned the authority upon which this would be predicated. For example, mediation agreements do not have to be signed by the appellant nor is he granted any authority on which to make an agreement. Signing memoranda on technical issues does not constitute the exercise of

Level 2-5 authority. Work examples provided by the appellant confirm that his work is subject to more than administrative review. Neither the absence of immediate supervision for day-to-day operations, nor the fact that technical recommendations normally are accepted, serves to support a level above Level 2-4. Accordingly, this factor is credited at Level 2-4 (450 points).

### *Summary*

In summary, we have credited the position as follows:

<b>Factors</b>	<b>Level</b>	<b>Points</b>
1. Knowledge required by the position	1-8	1,550
2. Supervisory controls	2-4	450
3. Guidelines	3-5	650
4. Complexity	4-5	325
5. Scope and effect	5-5	325
6. Personal contacts and 7. Purpose of contacts	3d	280
8. Physical demands	8-1	5
9. Work environment	9-1	<u>5</u>
	<b>Total Points</b>	<b>3,590</b>

A total of 3,590 falls within the GS-13 grade level point range of 3,155-3,600 points in the Grade Conversion Table.

### **Decision**

The appellant's position is properly classified as Health Insurance Specialist, GS-107-13.