



United States
**Office of
Personnel Management**

Philadelphia Oversight Division
William J. Green, Jr. Federal Building
600 Arch Street
Philadelphia, Pennsylvania 19106-1596

In Reply Refer To:

Your Reference:

PH:OD:97-16

OPM decision number: C-0105-11-02, 1/6/98

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

Dear [appellant's name]:

This is our decision on the position classification appeal filed with our office, which we accepted under the authority contained in section 5112(b) of title 5, United States Code (U.S.C.).

This appellate decision constitutes a classification certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government. It is the final administrative decision on the classification of your position, and it is not subject to further appeal. It is subject to review only under the limited conditions and time limits specified in 5 Code of Federal Regulations (CFR) 511.605 and 511.613, and the Introduction to the Position Classification Standards (PCS's), Appendix 4. It must be implemented according to the provisions contained in 5 CFR 511.612.

POSITION INFORMATION

Appellants: [appellants' names]

Current Classification: Social Insurance Specialist (Retirement),
GS-105-11

Position Number: 5C411

Requested Classification: Social Insurance Specialist (Retirement),
GS-105-12

OPM Decision: Social Insurance Specialist (Parenthetical Title
Optional), GS-105-11

Organizational Information: Social Security Administration (SSA)
Office of the Deputy Commissioner, Operations
Office of the Regional Commissioner
Office of the Assistant Regional Commissioner,
Processing Center Operations (Center)
Reconsideration, Debt, and Disability Branch
Reconsideration Review Section
[geographic location]

ANALYSIS AND DECISION

In considering your appeal, we carefully reviewed all of the information submitted by you or on your behalf; information obtained from an audit with you and your co-appellants on September 16, 1997, and subsequent clarifying telephone calls; interviews with your supervisor, [supervisor's name], Unit Manager, Reconsideration Unit, and her supervisor, [supervisor's name], on September 17, 1997; information obtained from SSA headquarters' offices; and, other pertinent classification information provided by your agency at our request.

It is our decision that your position is classified properly as Social Insurance Specialist (Parenthetical Title Optional), GS-105-11. Accordingly, your appeal is denied.

In your appeal letter of May 21, 1997, you stated that the position that you and your co-appellants occupy should be upgraded because you dispute the finding of the SSA that the reconsideration reviewers (RR's) are properly classified to GS-11 and believe the SSA "has made fundamental errors in its classification of this position."

You stated in your appeal that you believe SSA has erred specifically "in its application in three (3) areas, those of guidelines, complexity, and personal contacts." The areas to which you refer are, in fact, addressed in the Social Insurance Specialist, GS-105 PCS under: Factor 3, Guidelines; Factor 4, Complexity, Factor 6, Personal Contacts; and Factor 7, Purpose of Contacts. You believe that each of these factors should be evaluated at a higher level than assigned by SSA. In support of your appeal, you quoted selected sentences from U.S. Office of Personnel Management (OPM) classification appeal decisions on other GS-105 positions and other OPM correspondence on the GS-105 PCS. You stated that you

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“accept the official position description . . . as sufficiently accurate” for purposes of this appeal, but note that you have contested the accuracy of it with SSA and have attempted to resolve the disagreement by giving SSA a proposed position description that, you note, was the subject of a national teleconference held in February 1996.

Your submissions have raised several procedural issues warranting clarification. All positions subject to the Classification Law contained in title 5, U.S.C., must be classified in conformance with published PCS's of OPM or, if there are no directly applicable PCS's, consistently with PCS's for related kinds of work. The classification appeal process is a de novo review that includes an official determination as to the duties and responsibilities assigned to your position and performed by you, and constitutes the proper application of published PCS's to those duties and responsibilities. As a result, any previous actions taken by your agency regarding your position are not germane to our de novo review.

In applying the PCS's, the full intent of the standard must be considered. Care must be exercised to insure words, phrases, and paragraphs are not taken out of context. Similarly, words, phrases, and paragraphs contained in decisions issued to appellants or in guidance issued to agencies may not be taken out of the full context of the decision or guidance itself.

Implicit in your appeal rationale is a belief that RR work, by its very nature, warrants evaluation at a higher grade level than initial claims adjudication work. In the General Schedule classification system each grade represents a band of difficulty. Some positions entail performing work of difficulty and complexity that minimally meets the grade level requirements. Other positions perform work at the top of the grade band, but do not meet the minimum requirements for elevation to the next grade level. For example, all budget analyst positions performing work at the GS-11 grade level would be assigned to the same class; i.e., Budget Analyst, GS-560-11. This does not mean that all budget analyst positions at the GS-11 grade level perform identical work. The allocation of positions to that class is predicated on each position performing work of GS-11 grade level difficulty within a budget program requiring GS-11 budget system skills and knowledges.

In determining the level of work assigned to a position, consideration must be given to whether the highest level of work is performed by the employee a sufficient amount of time for it to be grade-controlling. The Introduction to the Position Classification Standards states that:

Some positions involve performing different kinds and levels of work which, when separately evaluated in terms of duties, responsibilities, and qualifications required, are at different grade levels. . . .

In most instances, the highest level of work assigned to and performed by the employee for the majority of time [emphasis added] is grade-determining. When the highest level of work is a smaller portion of the job, it may be grade controlling only if:

- The work is officially assigned to the position on a regular and recurring basis;
- It is a significant and substantial part of the overall position (i.e., occupying at least 25 percent of the employee's time); and
- The higher level of knowledge and skills needed to perform the work would be required in recruiting for the position if it became vacant.

Our audit with you, and our interviews with your immediate supervisor and your second level supervisor, confirmed that your PD of record contains the major duties and responsibilities that you perform and is hereby incorporated by reference into this decision. Our analysis of your position is based in large part on the information and the work sample that you provided during the audit. This sample consisted of 20 examples of reconsideration determinations, and included examples of many kinds of determinations you make. A number of different RR's made the determinations in the sample. They also span a wide time frame, from April of 1996 through September of 1997.

We believe that the sample cases adequately represent the broad range of decisions that you make. On that basis, we found that the samples were very useful in our analysis of the kinds of determinations RR's make, and of the varying levels of complexity that the cases involve. However, we cannot conclude that the sample necessarily represents the typical workload for any given reviewer or for any given time period. Therefore, we are unable to use the samples as a formal basis from which to decide the actual amount of time the variously complex cases occupy for an individual reviewer. Based on the limited workload data you provided during our on-site fact finding, and the backlog control practices in place in your office, we find it reasonable to conclude that your unit completes hundreds of cases in an annual work cycle. For purposes of this appeal, your case work includes reconsiderations, fee determinations, protest memoranda to the Appeals Council (AC), and effectuation decisions. These assignments occupy approximately 80 percent of your work time. The remaining time primarily is devoted to screening incoming work, referring misdirected work to appropriate Center units.

Your PD shows, and our audit confirmed that the primary and paramount functions of your position are to perform duties necessary for the independent reconsideration of the full range of retirement, survivors, disability (other than medical aspects), and health insurance claims. You examine claims of all types for which a reconsideration has been requested by or for the claimant, by third parties, or in cases reopened by SSA on its own initiative. The reconsideration includes a complete and independent reexamination of all facts, evidence, and issues, previously adjudicated at the initial or revised initial determination, rendered by employees of SSA, and also an examination of any new facts or evidence submitted with the appeal or developed or secured by you during the reconsideration process.

You prepare and release, without further review of any kind by a higher-level SSA employee, under the name of the supervisor of the Reconsideration Review Unit, a formal determination to be sent to the claimant (and his or her attorney) if the decision is not wholly favorable. You prepare, without further review by a higher-level SSA employee, a formal determination for claims file documentation if the decision is wholly favorable to the claimant. You also direct the appropriate processing component to effectuate the decision and identify the appropriate language necessary to notify the claimant of the action taken.

You also consider: (1) claims involving the Administration's rules of administrative finality; (2) the reopening of previous determinations; (you determine whether an error exists in an original determination that constitutes a basis for reopening and make the final agency decision on such reopenings); (3) the establishment of protective filing dates; and (4) whether reconsideration are or are not timely filed. You make the final agency decision on the issue of good cause for late filing of reconsideration requests, and notify the claimant if good cause is not found.

You review all decisions made at the Administrative Law Judge (ALJ) or AC level, including disability decisions, determine parties entitled and date of entitlement, and instruct others within SSA of the action necessary to effectuate the decision. If, during this review, you find that an ALJ decision contains an error of law or misinterpretation of the evidence (except medical findings), you attempt to informally resolve the issues with the ALJ or with personnel at the AC. Otherwise, you prepare a "Protest Memo" to the AC; the memo explains the basis for the disagreement with the ALJ decision, and includes a detailed analysis of the law and regulations, facts and issues in the case.

You also make determinations, within limits set by law and procedures, as to propriety of fees charged by attorneys and other qualified representatives for services rendered to claimants concerning a benefit claim. You prepare a written

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evaluation of the authorized fee for claims folder documentation purposes and a written explanation for the attorney/representative and the claimant.

You approve/disprove contingency fee agreements and respond to inquiries from attorneys about their fees. You also review all fee agreements approved by the ALJ for compliance with regulations and prepare a "Protest Memo" if approval is inappropriate.

You analyze hearing decisions and court decisions for effectuation purposes, issuing instructions to SSA processing components and providing proper paragraph or language insertions for the award notice.

Series and Title Determination

Your agency has allocated your position to the Social Insurance Specialist Series, GS-105 and titled it Social Insurance Specialist (Retirement) in conformance with the titling practices contained in the GS-105 PCS and the Introduction to the PCS's. You have not disagreed with these determinations. The GS-105 PCS provides for a single basic title for a nonsupervisory position; i.e., Social Insurance Specialist, and provides for parenthetical titles according to the guidance contained in the Introduction to the PCS's, e.g., Retirement or Disability. The use of RR as an unofficial organizational title is discretionary by your agency. It does not, however, conform to the official titling practices stipulated in the GS-105 PCS and, therefore, may not be made part of the official title of your position. Accordingly, your position is allocated properly as Social Insurance Specialist (Parenthetical Title Optional), GS-105.

Grade Level Determination

The GS-105 PCS is in Factor Evaluation System (FES) format. Under the FES, positions are placed in grades based on their duties, responsibilities, and qualifications required as evaluated in terms of nine factors. Each factor is assigned a point value based on a comparison of the position's duties and responsibilities with the factor level descriptions and/or benchmarks in the PCS. The factor level descriptions assign point values that mark the lower end of the ranges for the indicated factor levels. For a position to warrant a given point value, it must be fully equivalent to the overall intent of the factor level description. If the position fails in any significant aspect to meet a particular factor level description in the PCS, the point value for the next lower level must be assigned unless the deficiency is balanced by an equally important aspect that meets a higher level. The total points assigned are converted to a grade level by use of the Grade Conversion Table in the PCS.

Your appeal is based on your disagreement with Factors 3, 4, 6 and 7. We carefully evaluated the levels assigned to the remaining factors for your position and find them appropriate. Our analysis of your position, therefore, focuses on the four factors at issue.

Factor 3 - Guidelines

This factor covers the nature of guidelines for the work and the judgment needed to apply them. Individual jobs vary in the specificity, applicability, and availability of the guidelines for performing assignments. Consequently, the constraints and judgmental demands placed upon employees also vary. For example, the existence of specific instructions, procedures, and policies may limit the opportunity of the employee to make or recommend decisions or actions. However, lacking procedures or under broadly stated objectives, employees may use considerable judgment in researching literature and developing new methods.

At Level 3-3 (275 points), 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 may need to refer to certain technical manuals, precedent cases, or court or other legal decisions. They use judgment in choosing, interpreting, or adapting available guidelines and precedents to arrive at a conclusion or to take or recommend action, e.g., 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. The employees adapt the guidelines to suit the case in keeping with the intent of governing provisions.

In contrast, guidelines at Level 3-4 (450 points) include laws, regulations, policies, court decisions, congressional hearings and reports, and management decisions that are often broadly stated. Because of the complexity of issues raised in certain requests for reconsideration, e.g., those involving 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.

Your PD states that your guidelines include the Social Security Act, Federal, state, and local laws, Social Security policies and regulations, opinions of the General

Counsel and regional attorneys, ALJ and other tribunal decisions, court precedents, disclosure regulations, and the Privacy Act. You also use procedural manuals such as the Program Operations Manual (POM) System. You exercise considerable sound judgment in interpreting and adapting them to decide or to take or recommend a decision, since many guidelines are broadly stated and are vague. Others are specific to the circumstances of the many variables in an individual case.

Your appeal rationale stresses your belief that you use considerable initiative and resourcefulness in interpreting and applying guidelines and precedents in nonroutine situations. You maintain that you rely on past personal experience to evaluate the applicability of guidelines on issues where conflicting guidelines have not been resolved or where factual situations vary so widely that it is highly questionable which precedents can be adapted to specific matters. You also claim that sound independent judgment must be exercised in evaluating unique and highly complex cases and cite as examples: (1) analyzing legal maneuvers used by highly paid individuals to hide their income to avoid deductions under the annual retirement test and workers' compensation offset provisions; (2) determining if a missing individual may be presumed to be deceased; and (3) determining legal family relationships when there are conflicting statements and no documents or court order exist.

We find that the numerous guidelines you use are sometimes precise and specifically applicable to the issues in the case at hand; at other times, they are less applicable and of less use because they contain language or provisions that are vague, broadly stated, and/or contradictory. When this latter situation occurs, you and your co-appellants must choose, interpret, and adapt relevant guidelines, using considerable judgment. For example, in deciding whether a claimant meets applicable legal family relationship requirements when no documents or court orders exist, you must use resourcefulness, experience, and sound judgment to determine the veracity of claims made by individuals regarding the paternity of a child; e.g., a case, reopened more than six years after an initial adverse reconsideration determination, in which a child, born almost nine months after the death of an individual domiciled in a state requiring "clear and convincing" proof of paternity, was determined to have been the child of that individual, based upon evidence that included photographs showing a striking resemblance of the child to the deceased individual and letters from the individual's mother, brother, and sister. Another example of a family relationship case required the RR to determine whether one state's court decision awarding a share of the insured's estate to a child suffices as evidence of paternity under the laws of another state where the insured resided at the time of his death or meets the alternate requirements established by SSA.

Another example where considerable resourcefulness and use of good judgment must be used in applying guidelines would include the determination of excess earnings a beneficiary has earned when the beneficiary receives remuneration from a family-owned business in the form of wages, stocks, loan interest payments, storage rents, or other means. Such determinations require the RR to decide the reasonable value of the services rendered and to review the corporate and personal tax returns of the beneficiary and his or her family members, to determine whether the family member is receiving additional payment to compensate the beneficiary for his continued services to the corporation.

Both Levels 3-3 and 3-4 state that the employee must use judgment in choosing, interpreting, or adapting guidelines and precedents to arrive at a decision. However, Level 3-4 conveys that, in addition to judgment, the employee must use initiative and resourcefulness in devising new or revised approaches to issues or in developing, testing, and recommending new methods, policies, and procedures or apply equivalent judgment in highly contested case situations. The language within the GS-105 PCS does not, as you appear to claim, pertain to typical reconsideration cases; i.e., "certain requests for reconsideration . . . such as . . . highly contested or unusual disability situations." It is not material whether these cases are assigned to your unit or reconsidered by the initial adjudicator as you discussed in your August 20, 1997, letter.

In that letter, responding to your agency's appeal administrative report, you appear to claim that since your agency has not presented objective evidence to the contrary, it is reasonable to conclude that you deal with reconsideration cases that meet Level 3-4 a sufficient portion of your work time to warrant the crediting of that level to your position. As part of our fact finding, we attempted to establish the fundamental character of the workload assigned by management and performed by you and your co-appellants. Neither you nor your agency were able to provide specific figures as discussed previously in this decision. We may not accept this claim as proof since, as you opine, that type of conclusion is not based on objective fact. We must, therefore, look at the basic mission of your organization; i.e., dealing with any and all requests for reconsideration. Based on the nature of that mission, and the backlog figures developed during the fact finding process, we do not find it reasonable to conclude, absent objective workload evidence, that the reconsideration cases and equivalent assignments envisioned at Level 3-4 occur with sufficient frequency to warrant evaluation of your position to Level 3-4.

We concur that the kinds of cases you reconsider require you to be resourceful and to use experienced and sound judgment in your analysis of the evidence presented in the cases you consider. However, your work is primarily casework and you have

an abundance of guidance available, ranging from the POM System to the latest court cases distributed by higher echelon SSA components. Program officials in those components are available to provide interpretive guidance and must be considered as part of the agency resource and guidance structure available to your organization whether you routinely contact them or decline to do so. The record shows that you do not get involved in developing, testing, and recommending new methods, policies, and procedures. Thus, while you use considerable resourcefulness and sound judgment in your work, you do not apply those skills to the kinds of work contemplated at Level 3-4, either in developing new policies and operating instructions to deal with major issues or in dealing with the type of case work contemplated at that level. Accordingly, we find that your position is credited properly at Level 3-3 (275 points).

Factor 4 - Complexity

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods for the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work.

At Level 4-4 (225 points), 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. 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 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 contrast, Level 4-5 (325 points) work involves analyzing and evaluating broad and significant aspects of agencywide 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 reconsiderations. Other work involves providing agencywide 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 socioeconomic, 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 decide 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.

Your PD states that you perform an independent reexamination and reevaluation of all aspects of cases that deal with the reconsideration of the initial decisions of retirement, survivors, disability (except medical aspects), and health insurance claims. The PD acknowledges that the work is complicated by unusual circumstances, variations in approach, incomplete or conflicting data, and incompatible results. The work requires the interpretation of a variety of data, regulations, laws, and precedents, which are often broadly stated and vague.

You claim your work meets Level 4-5 because the very "purpose of the position is exactly to resolve the unusually complex case," such as those described at that level. Furthermore, you maintain that such cases are not merely "incidental to reconsideration work," but rather that you "spend a great majority of your time on the fundamental, highly contended cases contemplated at Level 4-5."

Level 4-5 contemplates work that, for the most part, evaluates agencywide policy or operations, or provides agencywide advice and guidance. Most of the factor level description expands upon these agencywide responsibilities. However, Level 4-5 also refers to some *positions* that involve resolving unusually complex cases. Your appeal rationale relies upon that portion of Level 4-5. The GS-105 PCS does not limit "unusually complex cases" to disability cases. However, neither does the GS-105 PCS elaborate further on such positions nor such cases, except those involving disabling conditions. Correct interpretation of the standard, therefore, relies upon an understanding of the basic underlying principles of position classification. The intent of the standard is to indicate that, since casework is ordinarily assigned Level 4-4, Level 4-5 must be reserved to those positions that handle the most difficult, unusually complex cases that arise in the reconsideration process a sufficient portion of the work time to control evaluation at that level based on the mixed grade principles of the position classification system.

Your position involves casework. You reconsider all cases appealed to you. The cases are not pre-screened in any way. Some cases involve unusual and complex claims. Others are fairly straightforward claims appealed for any number of reasons. You described and provided to us examples of some very complex cases: e.g., some questionable retirement cases where you must decide complex factual issues regarding wages and other compensation, services provided, etc., in light of many, sometimes incompatible rules and regulations, i.e., the Internal Revenue Code, Workers' Compensation laws, state and Federal laws, etc. You work with cases that sometimes involve convoluted factual situations or are complicated by unusual circumstances in the lives of claimants, e.g., children born slightly less than nine months after the death of their alleged father; disputed facts and/or nonexistent records, e.g., claims of family relationships based on common-law marriages or

acknowledgments of paternity. Your cases often require the application of a tangle of governing provisions, e.g., the validity in certain states of divorces issued by foreign countries. Such work fully meets Level 4-4.

To the extent that unusually complex cases exist, such as those envisioned at Level 4-5, we are unable to conclude, absent workload data that demonstrates the contrary, that such cases occupy a sufficient portion of your work time to control the evaluation of this factor or your position as a whole; i.e., occupying at least 25 percent of your time. Our conclusion considers fully fee petitions and other casework as defined in this decision that also vary in difficulty and complexity. Accordingly, we find that your position is credited properly at Level 4-4 (225 points).

Factor 6 - Personal Contacts

This factor covers the face-to-face and telephone contacts that are essential for successful performance of the work and that have a demonstrable impact on the difficulty and responsibility of the work performed.

At Level 2, contacts are with employees in various parts of the agency; claimants, recipients, and beneficiaries and their representatives; employers in all segments of the economy, Federal, State, and local government employees; physicians, attorneys, and others. The contacts are routine, e.g., those required for a general exchange of information to resolve entitlement and benefit matters, and usually take place at the employee's work place.

At Level 3, two kinds of "situations" are described: (1) contacts with the public and their representatives in locations outside the office; and (2) contacts that include representatives of the news media; elected or appointed officials of Federal, State, or local governments; representatives of public or private advocacy groups, or of professional organizations; staff of congressional committees, or representatives of foreign governments who are not elected or appointed. These contacts may occur inside or outside the employee's office. For both situation (1) and (2), the contacts are not routine and may expose the agency to coverage in the media or to political repercussions. The purpose and extent of each contact are different, and the role and authority of each party are identified and developed during the contact.

Your PD states that you deal:

via telephone or in writing, with agency employees at various locations, attorneys, employers, welfare offices, OHA, ALJs, Office of the General Counsel, other government agencies, congressional offices, RRB, AC,

claimants and/or their representatives, and other parties who may have information pertinent to the claim.

In your appeal, you claim that you have extensive contacts with claimants and/or their representatives dissatisfied with SSA's initial decision on their claim for benefits. You point out that, after the claim has been filed, you initiate the contact with the claimant or their representatives, at their homes or places of business, and that you make this contact to obtain information not obtained originally. You also claim that you regularly "contact third parties who can provide information, witnesses, custodians of records, law enforcement officials, physicians, accountants, and others," stating that many of these non claimants are unwilling to cooperate. You believe that your contacts meet Level 3, because (1) many people you contact may not expect the contact, may not know why the contact is made, and/or may not be willing to cooperate; (2) the role and authority of the RR are not understood at the outset of the contact; and (3) these contacts are "investigatory in nature."

We do not agree. The main criteria that differentiates Level 3 from Level 2 is the requirement that the contact is non-routine and that there is a potential for exposing the agency to coverage in the media or political vulnerabilities. While the purpose and extent of your contacts differ, depending on the facts of the case at hand, your contacts may not be described as non-routine. While you do have contact with attorneys, they are acting in their role as representatives of individual claimants, not as representatives for private or public advocacy groups. While you must frequently explain your role and authority during the contact, such clarification is readily provided. Your contacts do not have the potential for exposing the agency to coverage in the media or political vulnerabilities, with the frequency inherent at Level 3. Accordingly, Level 2 is assigned.

Factor 7 - Purpose of Contacts

This factor covers the purpose of the face-to-face and telephone contacts that served at the basis for the level selected for Factor 6.

At Level b, the purpose of contacts is to question people to decide 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 decide 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.

In contrast, the purpose of contacts at Level c 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, mentally ill, and possibly dangerous. Despite the behavior of clients, employees must control the interview and keep on track to achieve the desired goal.

Your PD states that your contacts are to obtain, clarify, or give facts or information directly related to work on individuals claims for benefits that are before the SSA. Tact, sensitivity, and diplomacy are required in dealing with the public and in securing sensitive information on relationships, finances, over-payments, potential fraud, etc.

In your appeal, you state that contacts are frequent; that many involve difficult and very personal situations; that hostility and frustration are often encountered since all contacts relate to contested matters; that contacted persons are frequently evasive or are third parties who have no incentive to cooperate with SSA; and that anger and unwillingness to cooperate are often present in cases where one individual will be disadvantaged by another individual's entitlement. You claim that your contacts meet Level c. You cited an appeal decision on PD #5C438, classified as Social Insurance Specialist (Disability), GS-105-11 as proof that Level c is appropriate because you work in a reconsideration unit.

Our fact finding confirmed that you frequently deal with contentious, uncooperative, and frustrated individuals. We find that your work, consisting of formal reconsiderations based on the denial of initial claims, occurs with the frequency, encounters the antagonism and attempts to conceal information, and entails the fundamental difficulty of motivation, influence, interrogation, or control that meets the intent of Level c. The sensitivity of these contacts include such socially sensitive issues as acknowledgment of paternity with potentially significant family consequences, and the discussion of financial data subject to review and action by other agencies. These types of contacts occur on cases of varying difficulty and complexity, and occur with the frequency stipulated at Level c in the GS-105 PCS to warrant the crediting of that Level c to you position.

We believe it is necessary and appropriate to address your citation of OPM appeal decisions in support of your appeal. OPM appeal decisions do not have the force of legal precedents. They also are not appropriate for direct application in the

classification of other positions without the presence and benefit of the full appeal record. Your citation of those cases is tantamount to classification based on position-to-position that is contrary to law and regulation. The decision that you cited recognized the presence of Level c work in reconsideration organizations. It did not conclude that work existed in all GS-105 positions in reconsideration units to warrant evaluation of all reconsideration unit positions at Level c. Accordingly, the combination of Level 2c for Factors 6 and 7 results in the crediting of 145 points to your position.

Summary

In summary, we have evaluated your position as follows:

Factor 1 - Level 1-7	=	1,250 points
Factor 2 - Level 2-4	=	450 points
Factor 3 - Level 3-3	=	275 points
Factor 4 - Level 4-4	=	225 points
Factor 5 - Level 5-4	=	225 points
Factors 6 and 7 Level 2c	=	145 points
Factor 8 - Level 8-1	=	5 points
Factor 9 - Level 9-1	=	5 points
Total		2,580 points

A total of 2,580 points falls within the GS-11 grade level point range of 2,355-2,750 points on the Grade Conversion Table in the GS-105 PCS.

Therefore, based on the preceding analysis, that considered all program functions assigned to and performed by you, we find that your position is evaluated properly as Social Insurance Specialist (Parenthetical Optional), GS-105-11.

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Please be assured that this decision is not intended to reflect on your ability, qualifications, or the quality of your performance. Rather, it reflects our evaluation based on a comparison of the duties and responsibilities with the appropriate PCS.

Please inform your co-appellants of our decision.

Sincerely,

/s/ 1/6/98

Robert D. Hendler
Classification Appeals Officer

cc:

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Social Security Administration
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Baltimore, MD 21235

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