STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Norma Tirado

Appellant

Case Nos. 2021-MIS-10-0138
2021-REC-10-0139

v.

Ohio Department of Medicaid

Appellee

ORDER

These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

After a thorough examination of the entirety of the records, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the **JOB AUDIT DETERMINATION** of Appellee Department of Administrative Services that Appellant's position is properly classified as Medicaid Health Systems Administrator 1, 65295, is **AFFIRMED** pursuant to R.C. 124.03 and R.C. 124.14.

Casey - Aye
McGregor - Aye
Strahorn - Aye

Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, JUNE 17, 2022.

Clerk

NOTE: *Please see the reverse side of this Order* ***or*** *the attachment to this Order for information regarding your appeal rights.*

NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. After the board has received the deposit, the transcript and copies of the file will be prepared and the cost of those items will be calculated. If the deposit exceeds the costs of these items, then a refund of the excess will be issued; if the deposit does not cover the full amount, then the appealing party will be billed for the outstanding balance. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD. Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

METHOD OF PAYMENT: for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system. The State Employment Relations Board Fiscal Office will initiate the ISTV after receipt of the Notice of Appeal. The Fiscal Office can be contacted at (614) 466-1128.

IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE June 24, 2022. You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

If you have any questions regarding this notice, please contact the Board at 614/466-7046.

Case Number: 2021-MIS-10-0138/0139

Transcript Costs: $309.00 Administrative Costs: $25.00

Total Deposit Required: * $334.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: July 5, 2022

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Norma Tirado

Appellant

Case Nos. 2021-MIS-10-0138
2021-REC-10-0139

v.

April 14, 2022

Ohio Department of Medicaid

Appellee

James R. Sprague
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

These causes come on due to Appellant's timely filing regarding a Job Audit Determination from the Ohio Department of Administrative Services (DAS) that Appellant's position was properly classified as Medicaid Health Systems Administrator (MHSA) 1, 65295 (Pay Range 14). Appellant believes her position would be more appropriately classified as MHSA 2, 65296 (Pay Range 15).

On March 2, 2022, this Board conducted a record hearing in these matters. Present at the hearing was Appellant, Norma Tirado. Appellee Ohio Department of Medicaid (ODM) was present through its designee, Julie Davis, MHSA 3, who serves as ODM's Nursing Facility Policy Section Chief. Ms. Davis supervises Appellant's supervisor. Appellee DAS was present through its designee, Renee Norris, Human Capital Management Manager.

On or before March 14, 2022, the parties filed written closing arguments. ODM was then instructed to and did timely file a Bureau Level Table of Organization, after which the parties were given an opportunity to provide written commentary on same. The instant records were then closed on April 8, 2022.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

Appellant's position is currently classified as MHSA 1. Appellant serves as ODM's Pre-Admission Screening Resident Review (PASRR) administrator/manager and as ODM's PASRR subject matter expert. PASRR is a program mandated by the federal government for states utilizing Medicaid. PASRR is in place to ensure that individuals with serious mental illness and/or developmental disabilities or related conditions are not placed in Nursing

Facilities (NF) unless they are found to have been properly screened and evaluated for these conditions.

There are two principal reasons for this screening. The first is to ensure that these individuals are receiving the proper and appropriate level of care. The second is to ensure that the federal government is not expending funds on NF patients who should not be at the NF and may not be receiving the proper care for their serious condition(s).

The Centers for Medicare and Medicaid (CMS) reimburse ODM for 50 percent of the cost of qualifying NF stays. If it is determined that improper oversight or non-compliance occurred concerning these affected individuals, then ODM would be subject to recoupment of up to 50 percent of the cost of the NF stay.

As the ODM PASRR administrator, Appellant meets with and works as a team member with representatives of the Ohio Department of Developmental Disabilities and the Ohio Department of Mental Health and Addiction Services. Appellant also uses several data collection systems to aid her in reporting to her superiors and to CMS. Among these is a data collection system administered by the Ohio Department of Aging. Additionally, she works with individual NFs to ensure compliance.

As the PASRR administrator, she is responsible for helping to ensure that ODM's PASRR reports to CMS are accurate and up to date. Proper reporting helps to ensure that the PASRR program is properly functioning and that CMS will not attempt to recoup funds either for inadequate reporting or for a failure to properly screen potential candidates for qualifying NF stays.

Appellant's PASRR sub-unit falls under ODM's Front Door Policy unit headed by MHSA 2 Michael Hampton-Simpkins, who serves as Appellant's immediate supervisor. The Front Door Policy Unit falls under the Nursing Facility Section, headed by MHSA 3 Julie Davis (Appellee ODM's designee at hearing). The Nursing Facility Policy Section falls under the Bureau of Long Term Services and Supports, currently headed by MHSA 3 Amy Eaton, who is serving in a Temporary Working Level.

The records reflect that ODM places a great deal of trust and confidence in Appellant and in her work. Moreover, as ODM's PASRR administrator/manager and subject matter expert, Appellant and her work and position touch a variety of areas in ODM.

Based on the testimony presented and evidence admitted at hearing, upon the written closing arguments submitted by the parties, and upon the Table of Organization timely filed by ODM and any optional commentary filed thereon, I make the following Findings:

First, I incorporate any finding set forth, above, whether express or implied.

I also find that, in her capacity as ODM PASRR administrator/manager of the PASRR program, Appellant oversees and evaluates the "health systems access" component of Medicaid health care delivery systems.

Moreover, in that capacity, Appellant helps to ensure that potential NF residents with serious qualifying conditions are properly screened and properly evaluated and are receiving appropriate care. Further, in that capacity, Appellant helps to ensure that proper tracking and reporting is completed so that ODM will not face CMS fund recoupment for non-complaint reporting.

As noted, the records reflect that Appellant's principal focus of work is directed at "health systems access". It is true that Appellant's work does touch on the areas of statistical analysis, policy analysis and formulation, rules making, legal analysis, and IT. However, she is not the principal individual overseeing any of these areas nor has she been delegated with final or dispositive authority over any of these areas. Nor is she involved in preparing high-level analysis of proposed legislation or in bureau-wide legislative language drafting.

The records reflect that Appellant's efforts, while both important and highly valued, do not significantly impact other components within ODM's Bureau of Long Term Services and Supports.

CONCLUSIONS OF LAW

In a reclassification appeal, this Board is to review the duties and responsibilities of the affected employee and is to determine the most appropriate Classification for the affected employee's position. "The decisions of the state personnel board of review shall be consistent with the applicable classification specifications." (R.C. 124.03 (A) (1))

In these cases, the undersigned reviewed both the MHSA 1 and MHSA 2 Classifications, as did the parties prior to and at hearing. As noted, above,

following its Job Audit, DAS determined that Appellant's current Classification of MHSA 1 was the most appropriate Classification for her position and duties.

The Class Concept for **MHSA 1** states, in pertinent part:

> The supervisory level works under general direction & requires thorough knowledge of Medicaid health systems, health care delivery systems & public medical assistance program & Medicaid federal laws & regulations in order to … serve as agency manager of Medicaid program(s) &/or initiatives to oversee and evaluate one statewide component of Medicaid health care delivery systems (e.g., *health systems access*; provider selection & contract monitoring;, program analysis & application; Medicaid consumer outreach program administration, Medicaid health systems information network, Medicaid resources & reference materials, Medicaid health systems surveillance or policy analysis & development), formulate policy & recommend legislative changes; (emphasis added)

The Class Concept for **MHSA 2** states, in pertinent part:

> The first managerial level class works under general direction & requires extensive knowledge of Medicaid health systems, health care delivery systems & public medical assistance program & Medicaid federal laws & regulations in order to…serve as agency manager of Medicaid program(s) &/or initiatives impacting multiple components within one bureau (e.g., develop program rules, policies & procedures & prepare draft legislation language impacting service delivery within one bureau, conduct high-level analysis of proposed legislation, prepare proposals & recommendations & direct internal & external wok teams); (emphasis added)

I have found, above, that Appellant serves as ODM's PASRR administrator/manager and, in that capacity, she serves as an agency manager of a Medicaid program. Moreover, she oversees and evaluates one statewide component of Medicaid health care delivery systems involving "health systems access".

Because Appellant has no subordinates, we must use the option in the MHSA 1 Class Concept that is underlined, above. Clearly, Appellant fits well within the MHSA 1 Class Concept.

Further, because Appellant has no subordinates, we must use the option in the MHSA 2 Class Concept that is underlined, above. As we can see from an examination of the examples listed therein, for Appellant to qualify as an MHSA 2, Appellant would have to oversee/manage a Medicaid program that impacted multiple components within the Bureau of Long Term Services and Supports.

Appellant performs none of the examples of bureau-wide level duties set forth in the MHSA 2 Class Concept. Neither does she perform other duties commensurate with a bureau-wide level of impact.

Thus, the MHSA 2 Classification does not provide the best fit with Appellant's duties and responsibilities. Conversely, the MHSA 1 Classification does provide a good fit with Appellant's duties and responsibilities.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the **JOB AUDIT DETERMINATION** of Appellee Department of Administrative Services that Appellant's position is properly classified as Medicaid Health Systems Administrator 1, 65295, pursuant to R.C. 124.03 and R.C. 124.14.

/s/ James R. Sprague

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James R. Sprague
Administrative Law Judge