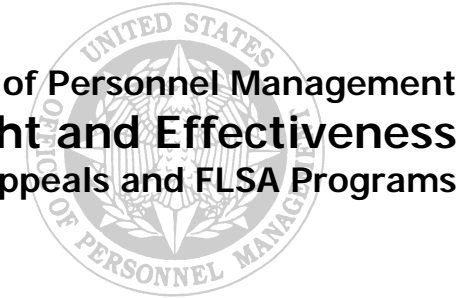


U.S. Office of Personnel Management  
**Office of Merit Systems Oversight and Effectiveness**  
Classification Appeals and FLSA Programs



Atlanta Oversight Division  
75 Spring Street, SW., Room 972  
Atlanta, GA 30303

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

**Appellant:** [Appellants}

**Agency classification:** Nursing Assistant  
GS-621-4

**Organization:** Department of Veterans Affairs

**OPM decision:** Nursing Assistant  
GS-621-4

**OPM decision number:** C-0621-04-01

/s/

\_\_\_\_\_  
Kathy Day  
Classification Appeals Officer

9/28/00

\_\_\_\_\_  
Date

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

**Decision sent to:**

[Appellants' Representative]

[Supervisory Labor Relations Specialist]

[Chief, Human Resources]

Mr. Ronald E. Cowles  
Deputy Assistant Secretary for  
Human Resources Management  
Department of Veterans Affairs  
Washington, DC 20420

## **Introduction**

On May 16, 2000, the Atlanta Oversight Division, U.S. Office of Personnel Management (OPM), accepted a group classification appeal for the position of Nursing Assistant, GS-621-4, [organizational location], Department of Veterans Affairs, [geographic location]. The appellants believe their position should be classified as Nursing Assistant, GS-621-5.

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

## **General issues**

The appellants maintain that the duties they perform warrant their position being classified as Nursing Assistant, GS-621-5. They also request that, should their position be upgraded, consideration be given to granting them pay at the higher grade retroactive to an unspecified period of time.

The appellants compare their position to GS-5 and GS-6 Nursing Assistant positions at other Veterans Affairs medical facilities. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellants' position to others as a basis for deciding this appeal.

In regard to retroactive pay, the U.S. Comptroller General states that an "...employee is entitled only to the salary of the position to which he is actually appointed, regardless of the duties performed. When an employee performs the duties of a higher grade level, no entitlement to the salary of the higher grade exists until such time as the individual is actually promoted." This rule was reaffirmed by the United States Supreme Court in *United States v. Testan*, 424 U.S. 392, at 406 (1976), where the court ruled that '...the federal employee is entitled to receive only the salary of the position to which he was appointed, even though he may have performed the duties of another position or claim that he should have been placed in a higher grade.' ...Consequently, backpay is not available as a remedy for misassignments to higher level duties or improper classifications" (CG decision B-232695, December 15, 1989).

## **Position information**

The appellants are assigned to position description number [#]. The appellants, their supervisor, and the agency have certified the accuracy of the position description.

The appellants function as Nursing Assistants at a [#] bed facility that provides both acute and extended care services. The appellants perform a variety of personal and nursing care activities to assist the medical staff in diagnosing and treating patient illnesses and medical conditions.

They provide or assist patients with personal care such as bathing, feeding, grooming, oral hygiene, repositioning to prevent bedsores, and elimination. They obtain and chart patient information such as height, weight, vital signs, condition and changes, care given, etc.

### **Series and title determination**

The agency classified the position in the Nursing Assistant Series, GS-621, which covers positions which involve a variety of personal care, nursing care, or related procedures which do not require (a) the knowledge and skills represented by the licensure of practical and vocational nurses by a state, Territory, or the District of Columbia, or (b) fully professional nurse education. The appellants do not contest their series determination, and we agree. The title *Nursing Assistant* is authorized for positions GS-3 and above involved in the performance of a variety of nursing care work concerned with personal patient care, diagnostic procedures, treatments, charting and patient teaching.

### **Standard determination**

Nursing Assistant Series, GS-621, May 1983.

### **Grade level determination**

The GS-621 standard uses the Factor Evaluation System (FES) which evaluates positions in terms of nine factors. A point value is assigned to each factor based on a comparison of the position's duties with the factor-level descriptions in the standard. The factor point values mark the lower end of the ranges for the indicated factor level. For a position factor to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor-level description. If the position fails in any significant aspect to meet a particular factor level description in the standard, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect which meets a higher level. The total points assigned are converted to a grade by use of the grade conversion table in the standard.

Under FES, positions which significantly exceed the highest factor level or fail to meet the lowest factor level described in a classification standard must be evaluated by reference to the Primary Standard, contained in Appendix 3 of the Introduction to the Position Classification Standards. The Primary Standard is the "standard-for-standards" for FES.

#### *Factor 1 - Knowledge Required by the Position:*

This factor measures the nature and extent of information or facts that a worker must understand to do acceptable work, such as the steps, procedures, practices, rules, policies, theories, principles, and concepts; and the nature and extent of the skills needed to apply this knowledge. The agency evaluated this factor at Level 1-3.

At Level 1-3, the work requires knowledge of a body of standardized rules and skill sufficient to perform procedures requiring considerable training and experience to carry out nursing care and resolve recurring problems. Nursing tasks require:

- knowledge of a body of standardized patient care and skill sufficient to perform procedures such as catheterizing, irrigating, and suctioning patients; and supporting procedures such as patient charting and patient/family teaching;
- knowledge of a body of standardized psychiatric patient care and skill sufficient to conduct procedures such as reality orientation, one-on-one therapy, small group therapy and large group therapy accompanied by supporting procedures such as patient charting and patient/family teaching;
- knowledge of equipment terminology (rotating frames, cardiac monitors, respiratory therapy machines, etc.); drug terminology (names from the drug formulary); and supply terminology (bandages, solutions, sterile trays, etc.) and skill sufficient to identify and use equipment, drugs and supplies properly and to communicate proper use with nurses, medical staff and family members;
- knowledge of surgical equipment, instruments and supplies setup and patient positioning and draping techniques and skill sufficient to prepare the operating room for surgery ranging from hernia to extensive genitourinary surgery and sufficient knowledge of surgical procedures and terminology and manual dexterity to pass instruments to the surgeon;
- an understanding of diseases and illnesses (such as diabetes) and skill sufficient to teach patients (diabetic self-care) and to impress upon patients and family members the necessity to continue the procedures as proper health care;
- knowledge of the standard medical terminology for the human body, physical and emotional reactions, nursing care, and contraindications to medications and skill sufficient to provide and gather information in patient care/family conferences with nurses, doctors, patient and family members; or
- equivalent knowledge and skill.

Level 1-3 is met. The work performed by the appellants requires them to have knowledge of and skill in performing a variety of standardized patient care procedures described at this level. The appellants perform recurring assignments requiring the repetitive application of established procedures. These include activities such as changing established catheters, performing pharyngeal suction, regulating oxygen flow, monitoring the level of intravenous fluids, charting patients, providing medical staff with information regarding changes in a patient's condition, etc.

At Level 1-4, described in the Primary Standard, the work requires:

- knowledge of an extensive body of rules, procedures or operations that require extended training and experience to perform a wide variety of interrelated or nonstandard procedural assignments and resolve a wide range of problems;
- practical knowledge of standard procedures in a technical field, requiring extended training or experience, to perform such work as adapting equipment when this requires consideration of the functioning characteristics of equipment; interpreting results of tests based on previous experience and observations; or extracting information from various sources when this requires considering the applicability of information and the characteristics and quality of the sources; or
- equivalent knowledge and skill.

Level 1-4 is not met. While the appellants' work requires considerable knowledge of a variety of established procedures, the procedures are similar in nature and present little, if any, opportunity for the exercise of independent decision-making on the part of the appellants. Their assignments are procedural in nature, do not involve the use of nonstandard procedures, the resolution of a wide variety of problems, or involve other work described at this level. Although the appellants' work requires some degree of experience and training, their assignments tend to be similar to previous assignments and require the application of similar knowledges and skills. Level 1-4 requires the ability to adapt and then apply knowledges and skills to nonstandard assignments requiring a significant degree of experienced judgment and discretion. The intent of this level is not met.

Level 1-3 is credited for 350 points.

*Factor 2 - Supervisory Controls:*

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the extent of review of completed work. The agency evaluated this factor at Level 2-2.

At Level 2-2, at the beginning of the tour, the supervisor provides continuing or individual assignments by indicating generally what is to be done, limitation, quality and quantity expected, deadlines and priority tasks. The employee uses initiative in carrying out recurring tasks independently without specific instructions, but deviations, problems, and unfamiliar situations not covered by instructions are taken to the supervisor for decision or help. The supervisor assures that finished work and methods are technically accurate and in compliance with instructions or established procedures. Review of the work increases with more difficult tasks if the employee has not previously performed similar tasks.

Level 2-2 is met. The appellants receive their assignments, as well as any changes to normal routines and procedures, from the Charge Nurse during a meeting held prior to the beginning of their shifts. The appellants independently carry out routine daily assignments without supervision. Any situations or problems of an unusual nature or requiring deviation from established procedures are referred to a Licensed Practical Nurse who then notifies the Registered Nurse, who functions as the roving supervisor, for a decision or resolution. The appellants' supervisor reviews work for compliance with established procedures and appropriateness during daily rounds.

At Level 2-3, the supervisor makes the patient assignments at the beginning of the tour by defining the patient cases to the employee who is responsible for a patient load of critically ill patients. The employee sets priorities and deadlines for the patient care during the tour without prompting from the supervisor. The supervisor is available in the hospital to assist the employee with unusual situations which do not have clear precedents. The employee plans and carries out patient care independently in accordance with patient care/treatment plans, patient charts, and instructions from the nursing/treatment team throughout the tour without specific instruction for each patient's condition and modifies nursing care as conditions warrant. Upon completion of the tour, the employee is responsible for presenting the report on patient care to the oncoming nursing team since the employee usually performs alone. The employee's completed work is evaluated by the oncoming nursing team for conformity to nursing policy and requirements.

Level 2-3 is not met. The appellants do not approach the degree of independence of action envisioned at this level. They have little or no control over the setting of priorities or deadlines related to the care of their patients. Guidance and direction regarding what needs to be done are readily available from the licensed professionals and this provides little opportunity for the independent exercise of judgment and discretion in performing their work. The appellants perform recurring procedural tasks with little opportunity to adjust or alter the timing or sequence.

Level 2-2 is credited for 125 points.

*Factor 3 - Guidelines:*

This factor covers the nature of guidelines and the judgment needed to apply them. The agency evaluated this factor at Level 3-1.

At Level 3-1, specific guidelines covering all important aspects of assignments are provided to the employee. The employee works in strict adherence to the guidelines; deviations must be authorized by the supervisor. Little or no judgment is required in selecting guidelines for application to individual cases.

Level 3-1 is met. The appellants perform their assigned duties in accordance with established guidelines, standard operating procedures, and assignment sheets which cover all aspects of the

recurring tasks for which they are responsible. Changes to or deviations from established guidelines can only be authorized by a licensed professional and the appellants do not make judgments as to which guideline or established procedure is applicable to a given situation.

At Level 3-2, ward policies, practices and assigned procedures are well known by the employees so that reference to the guidelines is rarely necessary. Other guidelines include the tour report, patient care/treatment plan and the patient's medical history. The employee varies the order and sequence of procedures and uses judgment in selecting the most appropriate application of the guidelines based on the patient's condition and previous instructions. Unusual developments are referred to the supervisor.

Level 3-2 is not met. The appellants carry out their assigned duties in accordance with guidelines which are directly applicable to their assignments. They do not vary the order or sequence of procedures and have little or no opportunity to exercise judgment in determining the appropriate guidelines to use.

Level 3-1 is credited for 25 points.

*Factor 4 - Complexity:*

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work. The agency credited Level 4-2 for this factor.

At Level 4-2, the work consists of duties that involve related steps, processes or methods. The decisions regarding what needs to be done involve various choices requiring the employee to recognize the existence of and differences among a few easily recognized situations. Actions to be taken or responses to be made differ in such things as the source of information, the kind of transactions or entries, or other factual differences. In each case, the type of nursing care and the type of patient under consideration determine what steps are to be taken.

Level 4-2 is met. The appellants' work is largely repetitive and involves recurring use of related steps, methods, and procedures which vary with the type of care involved (e.g., giving a full versus a partial bed bath, repositioning a patient on a bed, changing out a catheter, posting patient charts, performing pharyngeal suction, etc.).

At Level 4-3, described in the Primary Standard, the work includes various duties involving different and unrelated processes and methods. The decision regarding what needs to be done depends upon the analysis of the subject phase, or issues involved in each assignment, and the chosen course of action may have to be selected from many alternatives. The work involves conditions and elements that must be identified and analyzed to discern interrelationships.

Level 4-3 is not met. The appellants' work is primarily repetitive with variations resulting



from the activity involved. The work does not require analysis or evaluation of each situation to determine a course of action. The course of action to be taken is based on established guidelines and standard procedures which cover virtually all phases of their assignments.

Level 4-2 is credited for 75 points.

*Factor 5 - Scope and Effect:*

This factor covers the relationship between the nature of the work (i.e., the purpose, breadth, and depth of the assignment) and the effect of work products or services both within and outside the organization. The agency evaluated this factor at Level 5-2.

At Level 5-2, the purpose of the work is to provide nursing care that covers personal care, diagnostic support procedures, treatment procedures, patient charting and patient teaching. The work contributes to a base of standard nursing care upon which further nursing care may be planned and/or provided by nurses.

Level 5-2 is met. The purpose of the appellants' work is to perform a variety of personal and nursing care activities that assist the nursing and medical staff in diagnosing and treating illnesses and conditions of medical center patients. Their work contributes to the success of the center's medical professional staff in treating and caring for its patient population.

At Level 5-3, described in the Primary Standard, the work involves treating a variety of conventional problems, questions, or situations in conformance with established criteria. The work product or service affects the design or operation of systems, programs, or equipment; the adequacy of such activities as field investigation, testing operations, or research conclusions; or the social, physical, and economic well being of people.

Level 5-3 is not met. Although the work of the appellants contributes to the physical well being of patients, the work does not involve treating a variety of conventional problems, questions, or situations. Their primary concern is to provide nursing and personal care services which permit the center's licensed and professional staff to focus on more complex matters related to diagnosing and treating patients.

Level 5-2 is credited for 75 points.

*Factor 6, Personal Contacts:*

Factor 6 includes face-to-face contacts and telephone and radio dialogue with persons not in the supervisory chain. Levels described under this factor are based on what is required to make the initial contact, the difficulty of communicating with those contacted, and the setting in which the contact takes place (e.g., the degree to which the employee and those contacted recognize their relative roles and authorities). The agency credited this factor at Level 6-2.

At Level 6-2, personal contacts are with patients, nursing personnel, and the medical staff in the hospital and with the family members of patients.

Level 6-2 is met. The appellants' regular and recurring contacts are primarily with individuals within their work environment. These contacts include patients, their family members and visitors, and members of the medical center's nursing and medical staff.

At Level 6-3, described in the Primary Standard, contacts are with individuals and groups from outside the employing agency in a moderately unstructured setting, (e.g., they are not established on a routine basis; the purpose and extent of each contact is different; and the role and authority of each party is identified during the course of the contact). Typical of contacts at this level are those with individuals in their capacities as attorneys; contractors; or representatives of professional organizations, the news media, or public action groups.

Level 6-3 is not met. There are no indications that the appellants have personal contacts with persons from outside their medical center on other than a routine basis.

Level 6-2 is credited for 25 points.

*Factor 7, Purpose of Contacts:*

Factor 7 addresses the purpose of personal contacts, which may range from factual exchange of information to situations involving significant or controversial issues and differing viewpoints or objectives. The agency credited this factor at Level 7-1.

At Level 7-1, contacts with patients and hospital staff are for the purpose of giving, clarifying, and obtaining facts or information. Contacts are highly structured, such as providing patients with ice water or asking patients straightforward facts for the initial part of the nursing care plan (e.g., patient's name, next of kin, major complaint).

Level 7-1 is met. The appellants' regular and recurring contacts are typically with patients, their family members, and members of the medical staff. Contacts with patients are for the purpose of obtaining factual information when initiating the nursing care plan (e.g., name, next of kin, nature of their complaint, etc.) and providing a variety of nursing care. Contacts with staff nurses and physicians are for the purpose of exchanging and obtaining information related to matters such as the status of or changes in the condition of patients, and the coordination of their care and treatment.

At Level 7-2, contacts with patients are for the purpose of 1) motivating the patients to accept their illness and persuade them to stay with the treatment regimen; 2) demonstrating to the patients how to provide self-care (e.g., changing a colostomy bag); and 3) explaining to and advising the patients on proper follow up care, the consequences of improper care, or general diet and nutrition for health maintenance.

Level 7-2 is not met. The appeal record contains no information that the appellants' normal patient contacts involve the use of persuasion or other techniques to influence the behavior of their patients. The Business Manager, Geriatrics and Extended Care Service Line, stated that the appellants routinely supervise and reinforce patients in learning basics such as movement from a wheel chair to a bed and from a bed to a wheel chair, and how to bathe and dress themselves, etc. The teaching of more complex activities, such as the proper methods for changing wound dressings and colostomy bags, etc., are the responsibility of licensed nurses on the medical staff.

Level 7-1 is credited for 20 points.

*Factor 8 - Physical Demands:*

This factor covers the requirements and physical demands placed upon the employee by the work assignment. This includes physical characteristics and abilities and the physical exertion involved in the work. The agency credited this factor at Level 8-2.

At Level 8-2, the work involves long periods of moving about the work unit. The work requires regular and recurring bending, lifting, stooping, stretching, moving and repositioning patients, or similar activities.

Level 8-2 is met. The appellants spend significant periods of time moving throughout their work areas and perform recurring lifting, bending, stretching and other movements requiring some physical exertion in the normal bathing, dressing, grooming, moving, and repositioning of patients.

At Level 8-3, the work requires regular and recurring ability to physically control or defend against emotionally ill patients.

Level 8-3 is not met. The appeal record contains no information to indicate that the appellants regularly interact with emotionally unstable patients who must be controlled through the use of physical force.

Level 8-2 is credited for 20 points.

*Factor 9 - Work Environment:*

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required. The agency evaluated this factor at Level 9-2.

At Level 9-2, the work involves regular and recurring exposure to infection and contagious diseases. Special gloves, gowns, or masks are required as safety precautions.

Level 9-2 is met. The appellants work in a hospital environment where they are regularly exposed to the possibility of infection. Gloves are routinely used and universal precautions to prevent infection are observed. Activities involving work with patients requiring isolation require the use of gloves, masks, and gowns.

At Level 9-3, the work environment involves high risk from regular and recurring exposure to dangerous situations such as noxious gases, fumes, or explosives, and the potential of physical attacks by patients.

Level 9-3 is not met. The appeal record does not indicate that the appellants' work environment regularly exposes them to noxious gases, fumes, or explosives, or routinely requires interaction with patients who pose a threat of physical attack.

Level 9-2 is credited for 20 points.

<b>SUMMARY</b>		
<b>FACTOR</b>	<b>LEVEL</b>	<b>POINTS</b>
1.-Knowledge Required By The Position	1-3	350
2.-Supervisory Controls	2-2	125
3.-Guidelines	3-1	25
4.-Complexity	4-2	75
5.-Scope and Effect	5-2	75
6.-Personal Contacts	6-2	25
7.-Purpose of Contacts	7-1	20
8.-Physical Demands	8-2	20
9.-Work Environment	9-2	20
	<b>TOTAL</b>	<b>735</b>

A total of 735 points falls within the GS-4 range, 655 to 850 points, according to the Grade Conversion Table in the GS-621 standard.

### **Decision**

The appellants' position is correctly classified as Nursing Assistant, GS-621-4.