

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

Appellants: [appellant's name]
[appellant's name]
[appellant's name]
[appellant's name]

Agency classification: Nursing Assistant
GS-621-5

Organization: Nursing Service
Patient Care Services
Department of Veterans Affairs (VA)
VA Healthcare Network
[name]
[location]

OPM decision: Nursing Assistant
GS-621-5

OPM decision number: C-0621-05-02

Robert D. Hendler
Classification Appeals Officer
/s/ 2/11/00

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR's), 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:

PERSONAL
[appellants names]

Patient Care Services
Department of Veterans Affairs
VA Healthcare Network
[name]
[address]
[location]

[representative's name]
[union name]
[address]

Medical Center Director
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VA Healthcare Network
Upstate New York at Syracuse
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Deputy Assistant Secretary
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Introduction

On October 19, 1999, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's names]. They occupy identical additional (IA) positions which are classified currently as Nursing Assistant, GS-621-5, position description (PD) #9731-A. The appellants requested their position be reclassified as Health Technician, GS-640-6. The position is located in the Nursing Service, Patient Care Services, Department of Veterans Affairs (VA), VA Healthcare Network, [name], [location], NY. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

General issues

The appellants make various statements in their appeal about the accuracy of their PD and the misclassification of their position. They believe that their PD is not a correct description of their position because it is written for a nursing assistant on the inpatient floors and they work in Medical/Surgical outpatient specialty clinics. Further, they state that their position should be classified differently based on the duties they perform in the Medical/Surgical outpatient clinics because they perform more complex, specialized procedures than nursing assistants on inpatient floors.

The appellants maintain that the duties they perform are exactly the same as the Health Technician, GS-640-6 position described in a merit promotion vacancy announcement (Merit Announcement 97-85) for the Surgical Service. They believe that since physicians have signed off and accredited their competencies that they say are the same as those of Health Technicians' credentials in all different surgical fields, their position should be classified as Health Technician, GS-640-6. As further evidence, they state that they assist physicians with surgical procedures on the 4W surgical unit three times a week.

On July 15, 1997, the activity personnel office redescribed several existing nursing assistant PD's that were all classified at the GS-5 grade level by merging them into a single PD. The rationale was that replacing several existing PD's with one PD (#9731-A) gave management more flexibility in utilizing personnel. That office found the Nursing Assistant Series, GS-621 was still appropriate since it covers positions involving a variety of personal patient care, nursing care or related procedures which do not require skills and knowledge represented by a licensed practical nurse or full professional nursing credentials. The PD was classified and implemented on July 16, 1997.

In their letter of September 8, 1999, the appellants asked the agency to reclassify their position to Health Technician, GS-640-6. On September 21, 1999, the appellants requested through the

[union name], the agency's human resources office, and their supervisor that OPM review the classification of their position.

Implicit in the appellants' rationale is that duties they perform in the Medical/Surgical clinics, such as assisting physicians with surgical procedures, are more complex and specialized than those performed by other nursing assistants, and are exactly the same as the duties performed by Health Technicians, GS-640-6. However, 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 published PCS's for related kinds of work. Since comparison to PCS's is the exclusive methods for classifying positions, we cannot use other methods or factors of evaluation such as comparisons to other positions that may or may not be classified correctly, e.g., Health Technician, GS-640-6 position, for classification purposes.

A PD is the official record of the major duties and responsibilities assigned to a position by a responsible management official, i.e., a person with authority to assign work to a position. A **position** is the combined duties and responsibilities that make up the work performed by an employee. Title 5, U.S.C. 5106 prescribes the use of these duties and responsibilities, and the qualifications required by these duties and responsibilities, as the basis for determining the classification of a position. The Introduction to the PCS's (Introduction) further provides that "As a rule, a position is classified on the basis of the duties actually performed." Additionally, 5 CFR 511.607(a)(1), in discussing PD accuracy issues, provides that OPM will decide classification appeals based on the actual duties and responsibilities assigned by management **and** performed by the employee. The point here is that it is a real operating position that is classified, and not simply the PD.

The application of OPM PCS's must be accomplished within the confines of the position classification theories, principles, and practices established by OPM. The Introduction 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 continuing 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 knowledge and skills needed to perform the work would be required in recruiting for the position if it became vacant.

The classification appeal process includes a determination as to the duties and responsibilities assigned to the appellants' position and performed by the appellants, and constitute the proper application of PCS's to those duties and responsibilities. We have evaluated the work assigned by management and performed by the appellants according to these requirements. We conducted a telephone interview with the appellants on January 13, 2000, and an interview with their supervisor, [supervisor's name], on January 18, 2000. In reaching our decision, we carefully reviewed all information provided by the appellants and their agency, including the PD of record. Our audit with the appellants and the interview with their supervisor confirmed that the official PD contains the major duties and responsibilities the appellants perform.

Position information

The appellants' primary duties are to provide nursing care that covers personal patient care, diagnostic support procedures, treatment procedures, patient charting and patient teaching. Specific duties associated with these tasks include: helping patients dress and undress, taking and recording vital signs and patient complaints on chart, labeling specimens for the lab, performing procedures such as catheterizations and dressing changes, writing out and explaining doctors' instructions and proper health care procedures to patients and family members, setting up and assisting doctors with equipment and instruments for medical examinations and surgical procedures, and ensuring proper supplies are available for all types of examinations.

The appellants work in an outpatient setting in various clinics based on a schedule; two appellants work in the Medical clinics and two appellants' work in Surgical clinics, but all can work in any clinic if necessary. For example, in the Medical clinics, the Podiatry clinic is scheduled four days a week, while the Renal clinic occurs once a week. In the Surgical clinic, the Urology clinic is scheduled three times a week, while the Pain clinic occurs once a week. These clinics are offered at specific times each day. For example on Monday in the Medical clinics, the Diabetes clinic is in the morning and the Geriatric clinic is in the afternoon.

The appellants follow an assignment schedule specific to each clinic, the supervisor provides additional instructions for new tasks, assuring that finished work and methods used are technically accurate and in compliance with instructions or established procedures through daily rounds. The appellants carry out recurring tasks independently without specific instruction, but refer any problems and unfamiliar situations to the supervisor for assistance.

The appellants have stressed that their PD is not accurate. The Introduction to the PCS states that a PD is adequate for classification purposes when it is "supplemented by otherwise accurate, available, and current information on the organization, functions, programs, and procedures concerned." We find the appellants' PD of record, #9731-A, supplemented by the appeal record,

accurately reflects the major duties and responsibilities of this position, and incorporate it by reference into this decision.

Series, title and standard determination

Based on the analysis that follows, we find the appellants' work is allocated properly to the Nursing Assistant Series, GS-621, which covers positions that involve personal patient care, supporting diagnostic procedures, technical nursing treatments, patient charting and patient teaching which does not require a full professional nurse education or knowledges and skills represented by licensure. The Nursing Assistant Series, GS-621, requires a 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. As covered in the GS-621 PCS, the appellants' duties require them to prepare patients for examinations which involve anything from setting up equipment and instruments for medical examinations and surgical procedures to catheterizing patients.

The GS-621 PCS also covers positions that, in addition to patient care, require knowledge of surgical procedure terminology and skill to pass instruments to the surgeon, e.g., prepare an operating room for surgery ranging from hernia to extensive genito urinary surgery and sufficient knowledge of surgical procedures and terminology and manual dexterity to pass instruments to the surgeon. The appellants' surgical support duties compare favorably with those typical of GS-621 functions. All the tools used for the General/Minor surgery clinics in which the appellants work are labeled in packets. Therefore, if a staple removal is required, the physician asks the nursing assistant to pass the staple removal packet that contains all of the tools for that specific surgery. Thus, we find the appellants' tasks match the surgical and clinical support functions directly addressed and included in GS-621 PCS. Accordingly, the position is allocated properly as Nursing Assistant, GS-621.

Grade determination

The GS-621 PCS is written in 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 (FLD's) mark the lower end; i.e., the floor, of the ranges 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.

Factor 1, Knowledge required by the position

This factor measures the nature and extent of information or facts which the employees must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, theories, principles, and concepts) and the nature and extent of the skills needed to apply that knowledge. To be used as a basis for selecting a level under this factor, a knowledge must be required and applied.

Level 1-3 (350 points), the highest level described in the GS-621 PCS, requires a knowledge of a body of standardized patient care and skill, equipment and supply terminology, surgical equipment and instruments, surgical procedure terminology, and standard medical terminology for the human body, physical and emotional reactions. This knowledge enables a nursing assistant to perform procedures such as catheterization, dressing changes, patient charting, assisting physicians by passing instruments during surgery, and reinforcing proper health care procedures to patient and family members.

Our fact-finding revealed that a sufficient portion of the appellants' work time entails performing the duties reflecting the application of Level 1-3 knowledge and skill, the highest level described in the PCS. For example, the appellants are required to have the knowledge and experience to change simple and complex dressings such as UNAboots, a dressing impregnated with medication wrapped around a patient's leg to help leg sores heal. The dressing must be wrapped so as not to adversely affect the patient's circulation. The appellants must have sufficient knowledge and experience to perform a catheterization upon request. The appellants' duties require preparing patients for examinations which involves: helping patients dress and undress, taking and recording vital signs and patient complaints on charts, writing out and explaining doctor's instructions to patients and family members, setting up equipment and instruments for medical examinations and surgical procedures, and ensuring proper supplies are available for examinations. When a patient has a complaint, like dizziness, the appellants may measure the amount of oxygen in blood, using an oximeter, and notify their immediate supervisor if there is a problem. Therefore, Level 1-3 (350 points) is credited.

Factor 2 - Supervisory controls

This factor covers the nature and the 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 are defined. Responsibility of the employee depends upon the extent to which the employee is expected to work independently as instructed and the use of initiative in the performance of routine assignments. 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; or spot check of finished work or work in process for accuracy.

We find that the appellants' work meets Level 2-2 (125 points). At Level 2-2, the supervisor provides assignments, additional instructions for new tasks, and assures that finished work and

methods used are technically accurate and in compliance with instructions or established procedures through daily rounds. The employee carries out recurring tasks independently without specific instruction, but refers any problems and unfamiliar situations to the supervisor for assistance.

As at Level 2-2, the appellants' work requires that they take the patient information, vital signs, height and weight, and urine samples, if required, before every examination. They carry out these tasks on a regular basis without much supervision. If the appellants are applying a UNAbboot, the supervisor may periodically check to see if the procedure was properly done. If the appellants are working with a patient and they have a problem that they are not certified or trained to handle, such as administering shots, they must call for their supervisor to perform the task.

Although there is a low level of direct supervision, this alone does not control the crediting of this factor. As stated in the *Classifier's Handbook*, pages 24-25:

The nature and extent of review of positions range from close and detailed, to spot check, to general review. Note that it is not just the degree of independence that is evaluated, but also the degree to which the nature of the work allows the employee to make decisions and commitments and to exercise judgment. For example, many clerical employees perform their work with considerable independence and receive very general review. This work is evaluated, however, at the lower levels of this factor because there is a limited opportunity to exercise judgment and initiative.

Work at Level 2-3 (275 points) requires the employee to prioritize the tasks they will perform without specific instruction for each patient's condition. However in this case, the appellants may only perform tasks that are outlined in the clinic schedule. Patient tasks are determined by the nurse manager and physician for each clinic. For example, in the Renal clinic the nurse manager and physician would determine that the tasks to be performed by the appellants would be taking vital signs, height and weight, and urine samples. If the supervisor needs additional tasks performed they will advise the appellants accordingly. Also, the appellants are not permitted to perform tasks in which they are not trained; they must defer to their supervisor. Since the tasks are outlined in the clinic schedule, and they are recurring in nature, the employees do not prioritize tasks independent of the supervisor. Therefore, Level 2-2 (125 points) is credited.

Factor 3 – Guidelines

This factor covers the nature of guidelines and the judgment needed to apply them. Guides may include, for example, manuals, established procedures and policies, traditional practices, and reference materials such as dictionaries and operating manuals.

Our fact-finding revealed that the appellants work a substantial portion of the time with situations that reflect the application of guidelines typical of Level 3-2 (125 points), the highest level described in the GS-621 PCS. At that level, specific guidelines for doing the work have been established and are available to the appellants for reference purposes. The appellants must use judgment in selecting among and applying the appropriate methods to deal with any situation that would affect the quality and safety of patient care that is provided. Significant deviations or situations to which the guidelines do not apply are generally referred to the supervisor. As at Level 3-2, the appellants use various guidelines such as: the nursing manual, universal precautions manual, safety procedures, medical center professional memos, ambulatory care policy, and infection control practices. Also represented of work at Level 3-2 is working with patients that come in with a variety of diseases and illnesses, known and unknown, that require different handling procedures based on each patient's case. As at Level 3-2, the appellants work with patients that require different care depending on the clinic. Therefore, Level 3-2 (125 points) is credited.

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.

We find a substantial portion of the appellants' work meets, but does not exceed, Level 4-2 (75 points), the highest level described in the GS-621 PCS. At that level, work consists of duties that involve related steps, processes or methods, requiring the employee to recognize the existence of and difference among a few easily recognized situations. The appropriate 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. The appropriate set up of the examination rooms, medical or surgical, is determined by the appellants according to the nature of the patient's appointment. There is a variety of equipment and tools required for different examinations and the necessary tools and set up required are easily recognized.

As at Level 4-2, the appellants must determine the proper instruments needed for examinations, perform the proper procedure for the type of treatment assigned, and record the pertinent patient information on the patient's chart. Typical of Level 4-2, the appellants take and record height and weight measurements and vital signs, as well as record patients' complaints on the charts, and perform the appropriate procedure such as catheterization or a dressing change. If there is a problem, the appellants determine the appropriate course of action and either correct the problem, or notify their immediate supervisor if the problem is beyond their level of authority. Therefore, Level 4-2 (75 points) is credited.

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.

Effect measures such things as whether the work output facilitates the work of others, provides timely services of a personal nature, or impacts on the adequacy of research conclusions. The concept of effect alone does not provide sufficient information to properly understand and evaluate the impact of the position. The scope of the work completes the picture, allowing consistent evaluations. Only the effect of properly performed work is to be considered. No credit is given for the consequences of employee error.

We find the appellants' work meets Level 5-2 (75 points), the highest level described in the GS-621 PCS. At that level, the purpose of the work is to provide nursing care that covers personal patient 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. As at Level 5-2, the appellants' work, providing basic patient care, enables the physicians to perform medical examinations and surgical procedures efficiently and effectively. Therefore, Level 5-2 (75 points) is credited.

Factor 6 - Personal contacts

This factor includes face-to-face contacts and telephone 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). Above the lowest level, points may be credited under this factor only for contacts which are essential for successful performance of the work and which have a demonstrable impact on the difficulty and responsibility of the work performed.

We find the appellants' contacts meet those described at Level 6-2 (25 points), the highest level described in the GS-621 PCS. At Level 6-2, personal contacts are primarily with patients, nursing personnel, appropriate medical staff in the hospital and with the patient's family members. This may include recurring contacts with the patient's family members, nursing personnel within and outside of the various clinics, and physicians. Contacts are routine and normally occur in the employee's immediate workplace.

As at Level 6-2, the appellants' personal contacts include: patients, patients' family members, nursing personnel inside and outside the various clinics, and physicians. The appellants' contacts with the nursing personnel, the patient's family, and physicians are fundamental to the success and quality of patient care. For example, if a physician writes out instructions for the patient to follow and the patient's family does not understand, the appellants will reinforce the physician's instructions until the family understands what needs to be done in order to properly care for the

patient. Contacts are routine and the roles and responsibilities of the parties are easily established. Therefore, Level 6-2 (25 points) is credited.

Factor 7 - Purpose of Contacts

This factor ranges from factual exchange of information to situations involving significant or controversial issues and differing viewpoints, goals, or objectives. The personal contacts which serve as the basis for the level selected for this factor must be the same as the contacts which are the basis for the level selected for Factor 6.

At Level 7-3 (120 points), the highest level described in the GS-621 PCS, work involves regular and recurring contact with patients who are unusually difficult to care for or communicate with because of such problems as lack of self-control, resistant or abusive behavior, or impediments in ability to understand or follow instructions. The employee must exercise skill in influencing and communicating with these patients.

The appellants' contacts with patients and their family members are to reinforce the physician's instructions, help the patient understand why it is important to follow the physician's instructions, and the rules of general hygiene, diet and nutrition for good health maintenance. The appellants' patient population is comprised of approximately 70 to 90 percent elderly veterans who often experience confusion, disorientation, and have a difficult time understanding instructions for a variety of reasons such as age, memory loss, and the nature of their illness. The appellants frequently have to explain to the patient why they are at the clinic, gain their cooperation in the treatment process, and reinforce a physician's instructions to ensure the patients and their family members understand what needs to be done. In most clinics, the appellants are the primary point of contact with the patient and work with the physicians on a two-person team to identify the patient's care needs. The skill required to influence and communicate with these patients, including obtaining their cooperation in the health care process meets the floor for crediting at Level 7-3 (120 points), the highest level described in the GS-621 PCS.

Factor 8 - Physical Demands

This factor covers the requirements and physical demands placed on the employee by the work assignment. This includes physical characteristics and abilities (e.g., specific ability and dexterity requirements) and the physical exertion involved in the work (e.g., climbing, lifting, pushing, balancing, stooping, kneeling, crouching, crawling, or reaching). To some extent the frequency or intensity of physical exertion must also be considered, e.g., a job requiring prolonged standing involves more physical exertion than a job requiring intermittent standing.

At Level 8-2 (20 points), the work requires some physical exertion such as extended periods of standing, frequent bending, reaching, stooping, or similar activities necessary for assisting the

patients with their clothing and stocking the different clinics and examination rooms with necessary equipment and supplies.

As at Level 8-2, the appellants' work requires them to lift, on a recurring basis, any patient who is unable to get up on the examination table, assist any patient to and from their wheelchair, and push carts full of supplies and put the items in inventory. Further, the appellants are required to maintain a work pace according to the physician's appointment schedule and the number of patients in the clinic. These physical demands, in conjunction with the long periods of time standing, meet Level 8-2.

In contrast, Level 8-3 (50 points) requires that the appellants defend themselves against emotionally ill patients. If a patient becomes uncontrollable for any reason, the appellants call trained staff to apply restraints and control the patients as needed. Therefore, this factor is credited at Level 8-2 (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. Although the use of safety precautions can practically eliminate a certain danger or discomfort, such situations typically place additional demands upon the employee in carrying out safety regulations and techniques.

At Level 9-2 (20 points), the work involves regular and recurring exposure to infection and contagious diseases. Special gloves, gowns, or masks are required as safety precautions. As at this level, the appellants work with an extremely ill patient population in the various clinics and have to follow strict safety procedures such as wearing gloves.

At Level 9-3 (50 points), the work environment involves a high risk of regular and recurring exposure to potentially dangerous situations such as noxious gases, fumes and explosives. There are regular and recurring situations where physical attack by patients requires safety training. While the appellants are at risk of physical attack, there are other employees trained in safety procedures for the purposes of putting on restraints and handling difficult patients. The appellants' exposure to the other dangers typical of Level 9-3 are similarly limited. Therefore, Level 9-2 (20 points) is credited.

Summary

In summary, we have credited the position as follows:

Factor	Level	Points
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1. Knowledge required by the position	1-3	350
2. Supervisory controls	2-2	125
3. Guidelines	3-2	125
4. Complexity	4-2	75
5. Scope and effect	5-2	75
6. Personal contacts	6-2	25
7. Purpose of contacts	7-3	120
8. Physical demands	8-2	20
9. Work environment	9-2	<u>20</u>
Total points:		935

A total of 935 points falls within the GS-5 grade level point range of 855-1100 points in the Grade Conversion Table provided by the PCS.

Decision

The position is classified properly as Nursing Assistant, GS-621-5.