



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
P.O. Box 40911 · Olympia, WA 98504-0911 · (360) 407-4101 · FAX (360) 586-4694

August 24, 2017

TO: Connie Goff
Rules and Appeals Program Section Chief

FROM: Christa Biasi
Director's Review Specialist

SUBJECT: Henry Cheng v. Department of Labor and Industries (L&I)
Allocation Review Request ALLO-17-001

DIRECTOR'S DETERMINATION

This position review is based on the work performed for the six-month period prior to April 14, 2016, the date that L&I Human Resources (L&I HR) received Henry Cheng's Position Review Request (PRR, Exhibit B-3) requesting his position be allocated to Actuary 3. As the Director's Review Specialist, I carefully considered all the exhibits. Based on my review and analysis of Mr. Cheng's assigned job duties; I conclude his position is properly allocated to Actuary 2.

BACKGROUND

On April 14, 2016, Mr. Cheng's PRR was received by L&I HR requesting allocation from Washington Management Service (WMS) Band III to Actuary 3. (Exhibit B-3)

By letter dated September 3, 2016, Vicki Kamin, Classification and Compensation Manager, notified Mr. Cheng that his request to be allocated from WMS III to Actuary 3 had been denied. (Exhibit B-1) Because Mr. Cheng's position at the time of the submission of the PRR was located within WMS, he had 15 days to request reconsideration of Ms. Kamin's allocation determination. On September 22, 2016, Mr. Cheng notified Ms. Kamin that he was requesting reconsideration of her determination. On December 20, 2016, David Puente, Jr., Assistant Director of L&I HR, provided Mr. Cheng with his determination. Mr. Puente determined that Mr. Cheng's position has been removed from WMS and had been allocated to an Actuary 2.

On January 2, 2017, Office of Financial Management State Human Resources (OFM SHR) received Mr. Cheng's request for a Director's Review of L&I HR's allocation determination.

RATIONALE FOR DIRECTOR'S DETERMINATION

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the

available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994).

ORGANIZATIONAL STRUCTURE

Mr. Cheng's position is located in the Financial Department of L&I. He reports to Dr. Bill Vasek.

POSITION OBJECTIVE

According to the PRR (Exhibit B-3) the position purpose is stated as follows:

The position is directly responsible for actuarial predictive modeling within the Actuarial Service. This work includes the research, planning, creation, training, testing, deployment and maintenance of the design of actuarial predictive models used within Insurance Services Division. Output from these predictive models, e.g., early claim case reserve, medical only claim closing date, will be used by staff in actuarial services, claims, integrated claims services, Employer services, Retro, and other areas as described below. The position is responsible to provide the latest actuarial predictive modeling and computing programming training to all staff within actuarial services.

Duties and Responsibilities and Summary of Mr. Cheng's Perspective (Exhibit A-1)

As a general rule when completing a Director's Review the duties and responsibilities and the summary of the employee's perspective will be separated into two sections. However, in Mr. Cheng's Request for Director's Review he provided a table outlining his present duties and how his duties correspond with the Actuary 1-4 classifications. As such, the following table outlines both Mr. Cheng's duties and responsibilities and his perspective.

Percentage	Present Duties	Actuary 2	Actuary 3	Actuary 4
35%	New Claims: Research, design, develop, test, and validate a new L&I auto-adjudication system. Explore methods to improve the actuarial predictive modeling for the agency. Run daily predictive results. Develop new statistical algorithm and update complexity codes for OCD9 and ICD10. Explore methods to improve the actuarial predictive modeling for accuracy.	Corresponds with: Item 2 – Full range of actuarial analyses includes reserving and accounting in estimating liabilities, ratemaking, loss adjustment, underwriting expenses, performance analysis of groups of insured, rate level of funds, and financial analysis of insurance entities which involve forecasting, cash flow analysis, and asset liability matching.	Corresponds with: Item 1 – Positions in this level service as the actuary for life, disability and/or health, or property and/or casualty insurance. Item 3 - Researches, develops and designs new and alternative actuarial methods for use by staff. Item 4 – Positions are also responsible for final completion	Partially corresponds with: Item 3 - Positions present analytical findings to the Governor, employers, legislators, labor organizations, and other stakeholder groups.

		But it does not include research design and deploy of all actuarial studies.	and presentation of actuarial staff's analyses in ratemaking, reserving, management reporting and special studies.	
35%	Existing open claims age 1 to 9 months old: Research, design, develop, train, test and deploy over several hundred advanced predictive models. Develop these models, complete about 300,000 claims case reserve with open claim age from 1 to 9 months. Quarterly, independently update, tune and make changes to all the predictive models based on predictive model testing results. Summarize the important variables of each model and the accuracy of prediction to all stakeholders, e.g. retro employer services, services, insurance services, and actuary services.	Item 1 – Full range of actuarial analyses includes reserving and accounting in estimating liabilities, ratemaking, loss adjustment, underwriting expenses, performance analysis of groups of insured, rate level of funds, and financial analysis of insurance entities which involve forecasting, cash flow analysis, and asset liability matching. But it does not include research design and deploy of all actuarial studies.	Item 1 – Positions in this level serve as the actuary for life, disability and/or health, or property and/or casualty insurance. Item 3 - Researches, Develops designs new and other and alternative actuarial methods for use by staff. Item 4 – Positions are also responsible for final completion and presentation of actuarial staffs' analyses in ratemaking, reserving, management reporting and special studies.	Partially corresponds with: Item 3 – Positions present analytical findings to the Governor, employers, legislators, labor organizations, and other stakeholder groups.
15%	Provide actuarial predictive modeling training to two Actuary III and one Actuary II, two IT staff and one actuarial analyst ... e.g. basic and advanced R programming, using package ROD BC, plyr.		Item 2 – Positions provide training, support and assistance to actuarial analysts.	
5%	Provide feedback and inform actuarial service team on the latest literature, current and effective research methods on handling assumption, bias and suggested improvement approach.		Item 2 – Positions provide training, support and assistance to actuarial analysts. Item 3 - Researches, develops and designs new and	

			alternative actuarial methods for use by staff.	
5%	Develop scripts on data extraction and filtering procedures to automatically extract and filter duplicated records of 14 commonly used tables in actuarial research as well as develop the transactional database in R for all these tables. Recommend hardware and software needs to handle the processing of all these tables.		Item 3 - Researches, develops and designs new and alternative actuarial methods for use by staff.	
5%	Attend quarterly state fund financial oversight meetings, review and provide comments ... maintain communication with all claim managers, and claim technology service section daily for continuous improvement to existing actuarial predictive models.	Item 1 – Performs full range of actuarial analyses and interprets calculations for rate-making, reserving management reporting and special studies.	Item 1 - Positions in this level serve as the actuary for life, disability and/or health, or property and/or casualty insurance. Item 3 - Researches, develops and designs new and alternative actuarial methods for use by staff.	

Although Mr. Cheng provided a more in depth analyses of his duties as they relate to the Actuary 3 classification, I have not included that analyses within this memorandum. I have, however, taken all information into consideration during my review and analyses and based my decision on all of information contained in the exhibits.

SUMMARY OF L&I'S PERSPECTIVE

Determination Letter (Exhibit B-1)

As stated previously, this Request for Director's Review is a result of Mr. Cheng's request to be reallocated from WMS III, to Actuary 3. During the initial review, Ms. Kamin determined Mr. Cheng's duties fit within WMS because the majority of his duties fit within WMS guidelines. Among other things, Ms. Kamin determined that Mr. Cheng establishes standards on agency business practices and/or programs; is authorized to negotiate and bind the agency of significant impact; and is an individual contributor with significant policy authority and/or the point of contact for staff in a specific area of expertise.

Conversely, Mr. Puente found that Mr. Cheng's duties fell outside the scope of WMS because although the "specialized field of Predictive Modeling is not described. However, I believe the work you perform is actuarial and should be classified as such, regardless of whether the Class Spec identifies it specifically." Mr. Puente continued by stating:

In determining the appropriate level within the Actuary series we look to the Definitions and Typical Work. When considering a Class Spec within a series we must assess each level in the series separately. If the lowest level is not the appropriate allocation, we move to the next level and so on. We cannot select pieces of each level to decide on an appropriate allocation. In considering the depth and breadth of scope in your assigned duties I must determine the best fit within either the Actuary 2, Actuary 3 or Actuary 4 definition. The Typical Work section of the Class Spec is not generally used to determine the allocation, but can lend insight into the best fit of the duties.

While the Desirable Qualifications section of the Class Spec is important to ensure appropriately qualified and successful candidates are hired into positions, it is not generally an allocation consideration. I am making my determination on your appeal based on the best fit within the Definition and not the Desirable Qualifications. And though other Actuarial positions within L&I, when recruited, contained Required Qualifications which you do not possess, we are not bound to those qualifications when making allocations decisions for existing employees. Additionally, given that you've occupied this position since February 2014 and performed the work appropriately as outlined in your position description there is reason to adjust the qualifications within your Position Description due to a reallocation while you occupy the position.

Mr. Puente also compared the duties performed by Mr. Cheng to those of both the Actuary 2 and 3 classes. Mr. Puente found that Mr. Cheng met the definition of the Actuary because he perform the full range of actuarial analyses and interprets calculations for rate-making, reserving, management reporting and special studies. This according to Mr. Puente is outlined by the fact that Mr. Cheng performs "actuarial analysis and make recommendations regarding rate-making, case reserving, reporting and other studies."

While the aforementioned is not the full scope of analyses performed by Mr. Puente as outlined in Exhibit B-1, nor is it the full reasoning of Mr. Puente's determination. Mr. Puente, through a thorough analysis of both Actuary 2 and 3 classes compared to the duties listed on Mr. Cheng's PRR (Exhibit B-3) determined the majority and scope of duties performed by Mr. Cheng met the Actuary 2 class.

COMPARISON OF DUTIES TO CLASS SPECIFICATIONS

I carefully reviewed the exhibits submitted by the Parties. Allocating criteria consists of the class specification's class series concept (if one exists), the definition and the distinguishing characteristics.¹ Typical work is not an allocating criterion, but may be used to better understand the definition or distinguishing characteristics.

¹ In *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008), the Personnel Resources Board (Board) stated that the following standards are the hierarchy of primary considerations in allocating positions: a) Category concept (if one exists); b) Definition or basic function of

Actuary 2

Class Series Concept

Positions in this occupational category resolve complex actuarial problems. Researches, develops and designs new and alternative actuarial methods for use by staff. Some positions manage the department's actuarial unit, supervising and directing actuarial staff. Provides training, support, and assistance to actuarial analysts. Reviews and analyzes benefits, reserves, rating plans, underwriting procedures and statistical plans. Performs analysis in rate-making for classification ratings, experience rating, retrospective rating and scheduled rating.

Definition

Performs full range of actuarial analyses and interprets calculations for rate-making, reserving, management reporting, and special studies. Full range of actuarial analyses includes reserving and accounting in estimating liabilities, rate-making, loss adjustment, underwriting expenses, performance analysis of groups of insured, rate level of funds, and financial analysis of insurance entities which involve forecasting, cash flow analysis, and asset liability matching.

Actuary 3

Definition

Positions in this level **serve as the actuary for life, disability and/or health, or property and/or casualty insurance**; review insurance policy provisions and rate filings. Positions provide training, support and assistance to actuarial analysts. Researches, develops and designs new and alternative actuarial methods for use by staff. Positions are also responsible for final completion and presentation of actuarial staff's analyses in rate-making, reserving, management reporting and special studies. [emphasis added]

As stated in *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008), the PRB set out the hierarchy for position allocations. The first allocating criteria is the Category Concept (Class Series Concept). In this matter the majority of Mr. Cheng's duties clearly meet the class series concept for the Actuary series. Additionally, although typical work statements can be used to gain a better understanding of some of the duties performed by a specific job class as stated previously, they are not allocating criteria.

As stated in the Class Series Concept for the Actuary series, "Positions in this occupational category resolve complex actuarial problems... Researches, develops and designs new and alternative actuarial methods ...Provides training, support, and assistance to actuarial analysts. Reviews and analyzes benefits, reserves, rating plans, underwriting procedures and statistical plans. Performs analysis in rate-making for classification ratings, experience rating,

the class; c) Distinguishing characteristics of a class; and d) Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question.

retrospective rating and scheduled rating.” The scope and function of the duties performed by Mr. Cheng meet the class series concept. He researches, designs, develops, tests, and validates a new L&I auto-adjudication system, he provides actuarial predictive modeling training, etc.

Because it has been established that Mr. Cheng meets the class series concept for the Actuary series, pursuant to *Norton-Nader v. Western Washington University* the next consideration is the definitions of the Actuary 2 and 3. Furthermore, although Mr. Cheng contends that some of his duties meet the Actuary 4 class, I find the overall majority of his work is best described in the Actuary 2 class.

In order for Mr. Cheng to be allocated to the Actuary 3 class, he must **serve as the actuary for life, disability and/or health, or property and/or casualty insurance**. In other words, Mr. Cheng not only must serve as the actuary for life and disability, but he must also serve as the actuary for health or property, and/or casualty insurance. The definition for an Actuary 3 clearly states he needs to meet all these criteria. In Mr. Cheng's Request for Director's Review, he clearly states, "...my primary role focuses on WA L&I casualty insurance to estimate all early case reserves for all new claims, that is a standard best practice in handling casualty insurance." His focus is casualty insurance. While his predictive modeling may touch all allocating criteria, he is not serving as the actuary for all actuary disciplines.

I can also acknowledge that a minimal amount of Mr. Cheng's work does meet some of the definition for the Actuary 3 class. However, in order to be allocated to the higher level, his duties and responsibilities by a majority must meet the class definition. I also understand Mr. Cheng's argument that enterprise risk management, predictive modeling, ratemaking and reserving are the four core areas in actuarial field, yet to be allocated as an Actuary 3, Mr. Cheng's work must also meet the definition of serving as "the" actuary **"for life, disability and/or health, or property and/or casualty insurance."** This is substantively different from an actuary's core areas.

It also important to note the PRB has also stated, "Most positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. See *Dudley v. Dept. of Labor and Industries*, PRB Case No. R-ALLO-07-007 (2007). It is therefore, normal for some of Mr. Cheng's duties to fall within multiple classes, however, "[his] position must be considered in [its] entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities." As is the case with this matter, Mr. Cheng's duties fall within more than one class, however, the entirety of his position (or the majority of duties) meet the Actuary 2 class.

I also want to touch on other arguments posed by Mr. Cheng in his Request for Director's Review. First, while his education is impressive and the fact he has authored materials regarding predictive modeling, these are not allocating criteria unless specifically required. Both the Actuary 2 and Actuary 3 class have "Desirable Qualifications" listed. These are desirable and the agency itself may put these standards on specific positions or recruitments within their agency. Mr. Puente clearly explained that while Mr. Cheng has not completed the associate or fellowship of the Casualty Actuarial Society, he did not use this as allocating criteria because of

Mr. Cheng's experience. Mr. Puente also found that although Mr. Cheng is not responsible for a "full range" of actuarial analyses, he is the "... expert for the full range of actuarial analyses involving every aspect of Predictive Modeling in that you build the models, perform continual testing and training and improve the models. Furthermore, your work serves as the basis for others to perform other types of ratemaking, reserving and enterprise risk management." It is for these reasons, that I too found the duties performed by Mr. Cheng to meet the Actuary 2 class.

Based on the foregoing information and after careful review of the information contained in the file, I have determined the primary function of Mr. Cheng's position and his duties in their entirety, fall within the scope and level of responsibility stated in the Class Series Concept and Definition for the Actuary 2 class. Therefore, his overall level and scope of assigned duties and responsibilities are consistent with Actuary 2 level work.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation or the agency utilizing the position, may appeal the allocation or reallocation to the Washington Personnel Resources Board. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is PO Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the Raad Building, 128 10th Avenue SW, Olympia, Washington. The main telephone number is (360) 407-4101 and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

c: Henry Cheng, Appellant
David Puente, Jr., Assistant Director of L&I HR
Tony Jones, Washington Federation of State Employees

Enclosure: List of Exhibits

HENRY CHENG v LNI
ALLO-17-001

LIST OF EXHIBITS

A. Henry Cheng Exhibits

1. Cheng's allocation appeal to the OFM HR Director Jan 3, 2017
2. History of Cheng main duties, Feb 28, 2017
3. Additional information on providing research and training to Actuary II/III , actuarial analyst, and leadership in case reserving and other special projects, Feb. 28, 2017

B. LNI Exhibits

- BA1: Agency Level Appeal Hearing Determination Letter, December 20, 2016
- B1: Reallocation Confirmation Letter to Actuary 2, January 4, 2017
- B2: Initial Allocation Determination Letter (to retain WMS status), September 3, 2016
- B3: Position Review Request, April 14, 2016
- B4: WMS Position Description Form #W2496, August 9, 2013
- B5: Organizational Chart
- B6: Research notes created by Kamin during allocation review and analysis
- B7: Excerpt from WMS Evaluator's Handbook
- B8: Actuary 2 and 3 Class Specifications
- B9: Notes compiled by Trickle and Kamin during interviews with Cheng and supervisor Vasek
- B10: Cheng's allocation appeal hearing to the L&I Director, October 5, 2016
- B11: Actuary 3 position description #1438, March 23, 2016
- B12: Actuary 3 position description #3626, October 6, 2009
- B13: Actuary 3 position description #4455, June 6, 2011
- B14: Information and work samples provided by Cheng during agency level appeal process
- B15: Peer and supervisor letters provided by Cheng during agency level appeal process
- B16: Additional information, education and experience provided by Cheng during agency level appeal.

C. Class Specifications

1. Actuary 2
2. Actuary 3