

June 15, 2011

TO: Claudette Mitzel

FROM: Teresa Parsons
Director's Review Program Supervisor

SUBJECT: Claudette Mitzel v. Department of Social and Health Services (DSHS)
Remedial Action REMA-11-001

On March 17, 2011, the Department of Personnel (DOP) received your request for a Director's review asking the Director to take remedial action to confer permanent status. Prior to the review, our office requested copies of your non-permanent appointment letter and DSHS's letter to DOP requesting an extension of your non-permanent appointment, as referenced in your request. Your co-worker, Human Resources Consultant Lisa Buccarelli, filed a similar request. On June 2, 2011, I conducted a telephone conference with you and Ms. Buccarelli, as well as DSHS's Human Resources Director Glen Christopherson, Office Chief of Operations Margaret Maddox, and Position Management Office Chief Wendy Long.

WAC 357-19-430 provides the following:

The director may take remedial action to confer permanent status, set base salary, and establish seniority when it is determined that the following conditions exist:

- (1) The employer has made an appointment that does not comply with rules on nonpermanent appointment; or
- (2) The duration of a nonpermanent appointment as defined in WAC [357-19-360](#) (1) through (4) has exceeded twenty-four months without director approval.

Director's Determination

As the Director's designee, I carefully considered all of the documentation and exhibits in the file. Although your non-permanent appointment exceeded twenty-four months prior to receiving DOP approval, DSHS had requested an extension of the non-permanent position consistent with the rules and in advance of the twenty-four month period's end date. As a result, I conclude DSHS made a good faith effort to be compliant with the rules. Therefore, I am denying your request for remedial action to confer permanent status.

Rationale for Director's Determination

WAC 357-19-430 provides, in part, the Director “**may take remedial action** to confer permanent status . . .” (**Emphasis added**). In this case, I conclude DSHS followed the steps outlined in the rules regarding non-permanent appointments. On February 17, 2009, Mr. Christopherson provided you with a letter detailing your non-permanent appointment to position number B058 as a Human Resources Consultant 2, effective March 1, 2009. Mr. Christopherson originally indicated an end date of February 28, 2010 (Exhibit 7). However, he extended your non-permanent appointment through February 28, 2011. On February 8, 2011, Mr. Christopherson sent a letter to DOP requesting an extension of your non-permanent appointment, in part, because the position had no permanent incumbent and you provided primary human resources support to Echo Glen Children's Center (Exhibit 5). Mr. Christopherson sent the letter to DOP in advance of the twenty-four month period's end date, which DOP received on February 16, 2011 (Exhibit 8-a). Therefore, DSHS reasonably took steps to be compliant with WAC 357-19-370(2), which states that a non-permanent appointment “must not exceed twenty-four months unless the director has approved the extension . . .”

On March 11, 2011, Carol Wyckoff, DOP Recruitment, sent an email to Mr. Christopherson approving DSHS's February 8, 2011 request to extend your non-permanent appointment. Ms. Wyckoff included DSHS's request as an attachment to the email, which had been received by DOP on February 16, 2011. Specifically, Ms. Wyckoff wrote, in part, the following (Exhibit 8):

I have reviewed your requests for the extensions of the non-permanent appointments for Lisa Buccarelli and Claudette Mitzel. Since these positions appear to be critical and you plan to request exemptions to the hiring freeze, I am approving the extensions for both positions through February 29, 2012.

On March 30, 2011, Mr. Christopherson provided you with a letter confirming the extension of your non-permanent appointment, effective March 1, 2011, through February 29, 2012 (Exhibit 6).

When considering the overall facts and circumstances in this case, I conclude DSHS intended to extend your non-permanent appointment in concert with the rules. Therefore, I am denying your request for remedial action to confer permanent status.

Appeal Rights

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board (board) by filing written exceptions to the Director's determination in accordance with Chapter 357-52 WAC.

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WAC 357-52-015 states that an appeal must be received in writing at the office of the board within thirty (30) calendar days after service of the Director's determination. The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington.

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

c: Glen Christopherson, DSHS
Connie Goff, DOP

Enclosure: List of Exhibits

CLAUDETTE MITZEL v DSHS
REMA-11-001

LIST OF EXHIBITS

1. Claudette Mitzel's letter requesting Director's review received March 17, 2011
2. Director's Review REMA-11-001 acknowledgement letter dated March 25, 2011
3. Claudette Mitzel's letter requesting update on Director's review processing of her case, received April 18, 2011
4. May 6, 2011 email from Teresa Parsons updating parties on Director's Review process
5. Mr. Christopherson's February 8, 2011 letter to DOP requesting extension of non-permanent appointments for Ms. Mitzel and Ms. Buccarelli
6. March 30, 2011 letter to Ms. Mitzel from Mr. Christopherson confirming the extension of her non-permanent appointment
7. February 17, 2009 appointment letter to Ms. Mitzel from Mr. Christopherson for non-permanent position B058
8. March 11, 2011 email from Carol Wyckoff, DOP, to Glen Christopherson, DSHS, approving extension for non-permanent appointment with attachment
 - a. Mr. Christopherson's February 8, 2011 letter to DOP requesting extension of non-permanent appointments for Ms. Mitzel and Ms. Buccarelli, received by DOP February 16, 2011