

# MEMORANDUM

**State of Alaska**  
**Department of Administration**  
**Division of Personnel**

**To:** Mila Cosgrove  
Director

**Date:** September 1, 2005

**Thru:** Sarah Brinkley  
Classification Study Manager

**From:** Keith Murry  
Human Resource Specialist

**Phone:** 465-4074

**Fax:** 465-1029

**Subject:** Workers' Compensation Hearing  
Officer Study

## **Preamble:**

The Department of Labor and Workforce Development requested revision of the class specification for Workers' Compensation Hearing Officer and review of the salary range assignment.

## **Study Scope:**

This study covers the eight positions in the Workers' Compensation Hearing Officer job class (P4697/21).

## **Study Method:**

Information regarding the duties of the positions was provided by David Donley, Chief of Workers' Compensation Adjudication. Revised position descriptions were provided. Revisions to class structure and specifications were reviewed with Mr. Donley. He also provided information regarding changes in the Workers' Compensation Act approved by the Alaska Legislature in 2005.

## **History of Classes:**

Workers' Compensation Hearing Officer (P4697/21) was established November 1, 1981. The minimum qualifications for the class were revised on March 16, 1984. No other reviews or revisions have been conducted. These positions were excluded from the Office of Administrative Hearings established by AS 44.64.010.

## **Class Analysis:**

The positions in this study perform professional work to resolve disputes arising under the Alaska's Workers' Compensation Act. The work is performed exclusively in the Department of Labor and Workforce Development, Division of Workers' Compensation.

The work of the positions in this study has evolved in the last twenty years as the laws and regulations covering workers' compensation have changed and the case precedent has increased.

The incumbents in these positions preside at formal adversary hearings brought under the Alaska Workers' Compensation Act. Incumbents hear arguments, rule on legal issues, draft findings of fact and conclusions of law, and prepare synopses of decisions with appropriate cites of statutory authority and precedent cases for entry into the legal digest system.

The state's classification plan provides for the grouping of positions into job classes when they are sufficiently similar with respect to duties and responsibilities, degree of supervision exercised and received, and entrance requirements so that: 1) the same title can be used to clearly identify each position; 2) the same minimum qualifications for initial appointment can be established for all positions; 3) the same rate of basic pay can be fairly applied to all positions; and 4) employees in a particular class are considered an appropriate group for purposes of layoff and recall. Job classes should be constructed as broadly as is feasible as long as the tests of similarity are met.

The positions in the study are assigned the same nature, scope, and level of work. The authority exercised, level of review by peers and supervisor, nature of decisions, and consequence of error by a prudent employee are substantially similar. The similarities of the positions indicate they are appropriately grouped into a single job class.

The agency requested a training level class be established to aid in recruitment and to recognize the limitations on duties and authority that are characteristic of the training period. While there are no positions currently identified as at the training level, there is a vacancy which could reasonably be expected to be filled at the training level. When a training period is typically expected to take longer than the probationary period, establishing a trainee level class with different minimum qualifications and a different pay range is appropriate.

Class Title:

A class title should be the best descriptive title for the work. It is intended to concisely and accurately convey the kind and level of work performed and should be brief, easily recognized, gender neutral, and understood by potential applicants. The current title, Workers' Compensation Hearing Officer, accurately describes the nature, scope and level of work assigned the positions. The title is retained for the revised class series with the appropriate level indicators.

Minimum Qualifications:

The minimum qualifications established for a job class must relate to the knowledge, skills, and abilities needed to perform the work and must not create an artificial barrier to employment of individuals in protected classes. Required training should be limited to the basic formal training that customarily prepares individuals for work in the field. Experience requirements are intended to ensure new employees can successfully perform the work after a period of orientation or familiarization. Required experience should be directly related to the actual duties of positions in the class and should not be equivalent to the work to be performed.

Alaska Statute 44.62, the Administrative Procedure Act, sets standards for individuals appointed as hearing officers. AS 44.62.350(c) requires that hearing officers hired after April 29, 1959, except to conduct hearings under AS 23.20 (Alaska Employment Security Act), have been admitted to practice law for at least two years immediately before the appointment. As the

Workers' Compensation Hearing Officers conduct hearings under AS 23.30 (Alaska Workers' Compensation Act) they are not excepted from this requirement. AS 44.62.350(b) allows an agency to prescribe additional qualifications for hiring hearing officers in the agency. The customary preparation for admittance to practice law is a Juris Doctorate from an accredited school of law. To ensure candidates have the required professional knowledge, the minimum qualifications include the degree requirement. The level of independence and authority granted employees at the journey level indicates requiring experience in workers' compensation law is appropriate. The statutory requirement to have been admitted to practice law for the two years prior to appointment has been included in the special requirements section of the class specifications.

#### Class Code:

A Class Code is assigned based on the placement of the job class in the classification schematic of Occupational Groups and Job Families. Occupational Groups are made up of related Job Families and encompass relatively broad occupations, professions, or activities. Job Families are groups of job classes and class series that are related as to the nature of the work performed and typically have similar initial preparation for employment and career progression.

The Workers' Compensation Hearing Officer has historically been placed in the Labor and Employment Services family (46XX) in the Social Services Group. This family includes classes of positions that advise on, administer, supervise or perform work related to employment counseling, unemployment insurance, workers compensation, and other labor and employment services.

The role of the Workers' Compensation Hearing Officers as third-party triers of fact in adversarial hearings indicates the Labor and Employment Services family is not the most appropriate placement. The Legal, Judicial and Law Enforcement Group (7XXX) include the Administrative Law Judges, Adjudicators, and Hearing Officers family (72XX). This family includes classes of positions that conduct hearings to decide or recommend decisions on claims concerning government programs or other government-related matters and prepare decisions. The similarities in nature of work and career preparation and progression indicates the Workers' Compensation Hearing Officer classes are properly moved to this family and assigned code P7228 and P7229.

#### Fair Labor Standards Act

The positions in this study are covered by the minimum wage and maximum hour provisions of the Fair Labor Standards Act of 1938, as Amended (FLSA). While exemption from the provisions of the Act are determined based on the specific circumstances of an individual employee on a work-week basis, there are general aspects of the classes and their influence on the exemptions for employees in bona fide executive, professional, or administrative positions that can be addressed.

29 CFR §541.304 defines the professional exemption to include "any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof." This section also excludes these employees from other requirements of the professional exemption including the salary requirements. As appointment to a position in the Workers' Compensation Hearing Officer series

requires admittance to the Bar, employees performing the duties of a Workers' Compensation Hearing Officer are exempt from the minimum wage and maximum hour requirements of the FLSA.

**Internal Alignment:**

The salary range of a job class is determined based on internal consistency within the state's pay plans, in accordance with merit principles, with the goal of providing fair and reasonable compensation for services rendered and maintaining the principle of "like pay for like work." In evaluating internal consistency the difficulty, responsibility, knowledge, skills, and other characteristics of a job are compared with job classes of a similar nature, kind, and level in the same occupational group and job family or related job families.

In evaluating the internal alignment of the professional classes, this analyst evaluated the scope and nature of preponderant duties; the nature, variety, and level of research and analysis conducted; the nature, scope, and level of authority delegated; the level of independence in performing recurring duties; the nature of direct and indirect supervision received; the guidelines used in decision making; the nature and scope of originality required in decision making; the type, scope, and level of knowledge required; the nature and purpose of work relationships outside the supervisory chain; and the consequence of errors by prudent employees.

The inclusion in the Administrative Law Judges, Adjudicators, and Hearing Officers job family and the extensive similarities with the classes in the family indicates these comparisons are properly given considerable weight in determining the internal alignment of the classes under review. The family includes the Motor Vehicle Hearing Officer (P7210/18), Disability Hearing Officer (P7220/19), Chief of Workers' Compensation Adjudication (P7230/24), Chief Administrative Law Judge (P7231/27), Administrative Law Judge I (P7232/22), and Administrative Law Judge II (P7233/24). Other classes used for comparison include Hearing Officer (P1925/21), Hearing Examiner (P2380/24), Appeals Referee I (P4662/17), Appeals Referee II (P4663/19), Appeals Referee III (P4664/21), Attorney I (P7142/18), Attorney II (P7143/20), Attorney III (P7144/22), and Attorney IV (P7145/24).

The adversarial hearings adjudicated by the positions in the classes under review exhibit greater complexities than is characteristic of the Motor Vehicle Hearing Officer, Disability Hearing Officer, and Appeals Referee II job classes. The variety of cases heard and level of complexity is not as great as the Administrative Law Judge II, whose jurisdiction crosses multiple state agencies and may include hearings referred from outside state government, and who hear cases which lack clear precedents, involve difficult policy issues, and have the potential for significant ramifications.

The variety of cases is not as great as the Administrative Law Judge I but the knowledge required in administrative law proceedings and rules of court is similar and the authority exercised in proceedings is similar. The positions under review are delegated specific authorities as Board members that is not characteristic of the Administrative Law judges. The scope and level of medical knowledge required to adjudicate Workers' Compensation cases also provides an level of complexity not typical of other hearing officers.

The significant similarities in complexity, authority, and responsibility with the class in the job family assigned range 22 indicates assigning the same range for the journey level is appropriate. The significant differences in complexity and authority with classes assigned lower ranges indicates the higher range is appropriate. The significant differences in complexity, authority, and scope of responsibility with classes at higher ranges indicates a higher range is not appropriate.

Comparison of the characteristics of the legal work with the Attorney series reveals similarities in variety, issues of precedence and policy, and difficulty legal problems addressed is substantively similar to the work that characterizes the Attorney III job class. This comparison supports assigning salary range 22, as determined by comparison within the job family.

The scope and level of difference between the journey and trainee levels of the Workers' Compensation Hearing Officer series, the nature and variety of cases assigned incumbents while at the training level, and the level of authority exercised, indicates a single range difference is appropriate.

Following receipt of the draft internal alignment, the agency submitted an analysis of the similarities between the WCHO and the Hearing Examiner, Administrative Law Judge II, and Attorney IV classes to support their recommendation the WCHO I and II be assigned salary ranges 22 and 24, respectively. A copy of a final decision and order was also provided as an example of the complexity of cases heard and decisions made.

Careful analysis of the classification factors, the history of the classes, and the reasoning applied in assigning the salary ranges to the other job classes indicates assigning the ranges recommended by the agency would not be appropriate. As the other job classes were assigned salary ranges based, in part, on comparisons with the same group of classes, assigning the higher ranges would result in an escalation of the ranges across the hearing officer job classes.

Assigning the Workers' Compensation Hearing Officers salary ranges 21 and 22 recognizes the evolution of the work and increased complexity of cases, and does not damage the internal alignment of other hearing officer job classes.

**Conclusions:**

The Workers' Compensation Hearing Officer is revised and a two level series established. The classes are moved to the Administrative Law Judges, Adjudicators, and Hearing Officers job family (72XX).

The trainee level, Workers' Compensation Hearing Officer I, is assigned class code P7228 and salary range 21. The class is established effective September 1, 2005.

The journey level, Workers' Compensation Hearing Officer II, is assigned class code P7229 and salary range 22. The class is revised effective September 1, 2005. This action constitutes a range change under GGU Article 21.06.F.4 for the employees in positions allocated to the journey level. The anniversary date and step placement of such employees shall remain unchanged.

Attachments:

Final class specifications

cc: Paul Lisankie, Director  
Division of Workers' Compensation  
Department of Labor & Workforce Development

Guy Bell, Assistant Commissioner  
Department of Labor & Workforce Development

David Donley, Chief of Workers' Compensation Adjudication  
Division of Workers' Compensation  
Department of Labor & Workforce Development

Management Services – General Group  
Employee Services