



IN THE MATTER OF AN ARBITRATION

BETWEEN:

HEALTH EMPLOYERS ASSOCIATION OF
BRITISH COLUMBIA

(the "Employer")

AND:

HEALTH SERVICES AND SUPPORT FACILITIES
SUBSECTOR ASSOCIATION OF UNIONS

(the "Union")

CLASSIFICATION REFEREE: John Kinzie

COUNSEL: Carol McCord, for the Employer
Loni Mezzarobba, for the Union

DATES OF HEARING: April 12 and 22, 2010

PLACE OF HEARING: Burnaby, British Columbia

AWARD

I

As part of their 2006-2010 collective agreement, the Employer and the Union agreed to undertake a review of a number of benchmark class specifications that formed a part of their classification system. Included within that review were the Rehabilitation

Assistant benchmark, No. 15314; the Activity Worker III benchmark, No. 15003; and the Activity Worker IV benchmark, No. 15004.

That review process commenced on October 23, 2007 and concluded with a Final Settlement and Implementation Agreement signed on October 20, 2009. That process resulted in new benchmarks being drafted and new pay rates being established for a number of benchmark class specifications. Some changes to benchmarks were of only a housekeeping nature and these benchmarks did not receive any increases to their pay rates. Other benchmarks were changed qualitatively, i.e.,

“... reflecting increased responsibility and/or expanded scope as a result of increased complexity of duties and/or increased education and/or training requirements in the workplace.”

It was this latter group of benchmarks that received increases to their pay rates.

In the case of the Rehabilitation Assistant, Activity Worker III, and Activity Worker IV benchmarks, the parties agreed that the changes to their duties and responsibilities and/or their qualifications necessitated a rewriting of their benchmarks. A new Rehabilitation Assistant benchmark, and new Program Coordinator I and Program Coordinator II benchmarks, replacing the Activity Worker III and Activity Worker IV benchmarks respectively, were agreed upon. However, the parties were not able to agree upon new final pay rates for these three benchmarks, although they did agree on interim rates for them. Thus, in the Final Settlement and Implementation Agreement, the parties agreed that:

“... the revised wage grids for the Nursing Assistant II – Rehabilitation Assistant (15314) and Program Coordinator I [formerly Activity Worker III] (15003) and Program Coordinator II [formerly Activity Worker IV] (15004) are interim grid levels. The parties are in agreement that the Union may refer the issue of final grid rate placement for each of these three benchmarks to the Classification Referee in accordance with his jurisdiction as normally applicable under Section 9(5)(d) of the Maintenance Agreement.

The Classification Referee will be asked to determine the appropriate grid rate for each of the three benchmarks. It is understood that the final grid rate placement for each of these benchmarks will be no less than the interim grid rates set out in this agreement. In the event the Classification Referee establishes a different grid rate, that grid rate will be effective the date of publication of his award or April 1, 2010, whichever is later.

It is further agreed that in the event the Union does not refer the matter to the Classification Referee by September 1, 2010, the

agreed interim grid rate for each of these benchmarks will be deemed final.”

I have been appointed as the Classification Referee to hear and determine this matter. My jurisdiction in this matter is to exercise the authority of the Classification Referee under Section 9 (5)(d) of the Maintenance Agreement which provides that:

“where the Referee concludes that a position does not conform to an existing benchmark class specification, the Referee shall notify the HEABC and the Union of her/his decision. The HEABC and the Union shall endeavour to establish an appropriate benchmark class specification for the position. Failing mutual agreement by the parties, each party shall make a submission within thirty (30) days to the Referee as to the appropriate benchmark to be established. The Referee shall establish a new benchmark or amend an existing benchmark and the decision of the Referee shall be binding on the parties. The Referee shall also establish an appropriate wage level for the new or revised benchmark.”

It is not necessary for me in this proceeding to “establish a new benchmark or amend an existing benchmark” to capture the duties and responsibilities of, and the qualifications required for, the Rehabilitation Assistant, Program Coordinator I, and Program Coordinator II benchmarks since the parties were able to do that themselves under their benchmark review process. What I have to do under Section 9 (5)(d) is “establish an appropriate wage level” for these three new benchmarks.

Paragraph 4 of the Classification Manual describes the principles of classification applicable under the parties’ classification system. Paragraph 4 provides that:

“The purpose of benchmarks is to establish the means whereby jobs may properly be classified and distinguished under the broad banding classification system.

To that end, a job should be classified according to:

- (i) the type of duty and level of responsibilities/skills which are performed to an extent material to reasonable standards of job classification; and
- (ii) qualifications that are required”

In *Health Labour Relations Association of British Columbia*, Award dated March 5, 1990, I had to consider the principles that should be applied by the Classification Referee in setting an appropriate wage level for a new benchmark developed pursuant to Section 9 (5)(d) in the context of the Cardiovascular Perfusionist position at the Vancouver General Hospital. The union advanced a submission premised on the level of

pay it said was “necessary to attract and retain perfusionists in British Columbia”. It also referred to “the price of housing in Vancouver which [it said] contributes significantly to the cost of working at Vancouver General Hospital.”

I concluded that these considerations were not germane to my determination of the appropriate wage level for a new benchmark under Section 9 (5)(d) of the Maintenance Agreement. Instead, I commented that:

“In these circumstances, where a new or revised benchmark has to be established as a result of a significant increase in the duties and responsibilities of a position, the increase in the rate of pay for that new or revised benchmark must be objectively related to the additional duties and responsibilities encompassed within it. The new rate of pay must fairly compensate those performing the work for undertaking those additional duties and responsibilities. Implicit in all of this, in my view, is that the increase will be based upon the current pay scale and its internal equities weighed against the significance of the change in duties and responsibilities reflected in the new or revised benchmark.”

(at 8)

In my view, the same principles would apply where the change has occurred with respect to the qualifications for a benchmark.

II

I now turn to consider “an appropriate wage level for the new . . . [Rehabilitation Assistant] benchmark.”

The former Nursing Assistant II (Rehabilitation Assistant) benchmark, No. 15314 read as follows:

I. Level Definition

Under the general supervision of a senior position such as a Physiotherapist, Occupational Therapist, or Registered Nurse, positions at this level assist designated patients with assigned rehabilitative activities.

II. Typical Duties

- (1) Assists assigned patients with established rehabilitative activities such as mobility and strengthening exercises, walking programs and activities of daily living as directed; demonstrates to patients the use of prescribed

treatment/adaptive devices such as braces, wheelchairs and walkers and modified eating utensils and personal care items, as directed.

- (2) Assists patients in dressing and toilet needs as required in preparation for and following rehabilitative treatment; assists with patient lifting/transfers and positioning as directed.
- (3) Transports patients to and from rehabilitative treatment area utilizing mechanical aids such as wheelchairs and stretchers.
- (4) Reports observations of patient's behaviour and progress to Therapist/Nurse; communicates concerns and/or changes to patient's condition.
- (5) Sets up and organizes furnishings and equipment for related activities as directed; cleans and maintains equipment and reports malfunctioning equipment to appropriate staff.
- (6) Maintains established inventory of equipment, devices and materials.
- (7) Performs other related duties as assigned.

III. Qualifications

(1) Education, Training and Experience

Completion of a Rehabilitation Assistant Program plus one year's recent, related experience or an equivalent combination of education, training and experience.

(2) Skills and Abilities

- (i) Ability to communicate effectively both verbally and in writing
- (ii) Ability to deal with others effectively.
- (iii) Physical ability to carry out the duties of the position.
- (iv) Ability to organize work.
- (v) Ability to operate related equipment."

Positions classified to this benchmark were being paid at the Grid 18 level as of the date the 2006-2010 collective agreement came into force.

The new Rehabilitation Assistant benchmark now reads:

I. Level Definition

Under the direction of a therapist such as a Physiotherapist, Occupational Therapist, and/or Speech Language Pathologist, the Rehabilitation Assistant implements rehabilitative treatment plans and programs, and assists the therapist in monitoring and evaluating patients'/residents' progression.

II. Typical Duties

1. Carries out designated components of a rehabilitative treatment plan and/or program, such as activities of daily living, mobility, strengthening and balance exercises, recreation, and/or communication therapy.
2. Observes and reports cognitive and functional changes in patient ability or behaviour that may warrant a progression or regression of the treatment; progresses treatment plan within the parameters established by the therapist; documents for the health record.
3. As part of a multidisciplinary team and in consultation with the therapist, provides input into the planning, implementation, modification, and evaluation of the rehabilitative treatment plan/program.
4. Performs various tests as assigned such as Berg Balance, Timed Up and Go (TUG), six-minute walk test and speech language screening. Records and reports relevant data for interpretation by the therapist.
5. Prepares and applies therapeutic treatment modalities as assigned such as transcutaneous electrical stimulation (TENS), neuromuscular electrical stimulation (NMES), hot packs, ice, and wax treatments.
6. Provides functional skills training to patients/residents and families in activities of daily living, mobility, and communication; demonstrates the use of assistive devices. Assists with power and manual wheelchair mobility training.
7. Assists in the fabrication and modifications of splints, seating and exercise devices, mobility and assistive devices. Sets up and adapts equipment such as changing wheelchair backs and adjusting wheelchair height.

8. Maintains therapy equipment and supplies by methods such as cleaning equipment and maintaining inventories; provides input regarding purchase of new equipment and supplies, general maintenance and repair of equipment.
9. Performs other related duties as assigned.

III. Qualifications

(1) Education, Training and Experience

Completion of a Rehabilitation Assistant Program or an equivalent combination of education, training and experience.

(2) Skills and Abilities

- (i) Ability to communicate effectively both verbally and in writing.
- (ii) Ability to deal with others effectively.
- (iii) Physical ability to carry out the duties of the position.
- (iv) Ability to organize work.
- (v) Ability to operate related equipment.”

Positions classified to this benchmark are currently being paid the interim rate of Grid 22. The Union contends that I should establish the wage level for this benchmark at Grid 28. The Employer maintains that the interim pay rate of Grid 22 is the appropriate wage level for this benchmark.

Benchmark No. 15314 came into being as a result of a job review request filed at Royal Columbian Hospital by the incumbent in the Physiotherapy Aide position, Lydia Sobotka. Her position had been classified to the PC 3 benchmark, 8-19.1, titled Nursing Assistant I (Therapy Aide).

I considered the Union’s appeal in respect of that position in my award in *Royal Columbian Hospital*, Award dated January 21, 1992. I recorded Sobotka’s evidence concerning the work she performed in her job this way:

“... she spent most of her time walking with patients along the corridors of the various wards in the Employer’s facility. The patients ranged from the elderly to the younger recovering from various injuries or operations.

With respect to this activity, Sobotka said she was given instructions by the physiotherapist responsible for the particular ward regarding the length of time she was to walk each patient

and what assistance the patient was to have, if any, in his walking by way of crutches, cane, walker, or wheeled walker. Generally, the physiotherapist would be on the ward while Sobotka was doing her walking with patients, but not actually physically with her. If she required the physiotherapist during the activity, she would call for her or have her paged. However, when physiotherapists were away on vacation or for reasons of illness, they often were not replaced due to a shortage of physiotherapists. In these circumstances, Sobotka would carry out her directed walking activities on the ward concerned, but without any physiotherapist being physically present on the ward. It may be that Sobotka was given this additional responsibility because she was a trained practical nurse.”

(at 15)

I concluded that this work was not captured by the Nursing Assistant I (Therapy Aide) benchmark, nor any of the other existing benchmarks. Consequently, I notified the parties to the then Master Agreement pursuant to the provisions of Section 9 (5)(d) of the Maintenance Agreement. Subsequently, they agreed on a new benchmark, i.e., Benchmark No. 15314, to capture this position and agreed that the pay rate for that benchmark should be established at the PC 9 level. I was requested to incorporate their agreement into a consent award which I did in *Health Labour Relations Association of British Columbia*, Award dated December 7, 1992. The rate of pay for the benchmark subsequently became Grid 18.

What has changed with respect to the duties and responsibilities performed by rehabilitation assistants and the qualifications required to perform that work?

In my view, the most significant of the changes is the requirement that rehabilitation assistants must now complete a two year diploma program before being able to work in that capacity. The 2009-2010 Okanagan College Calendar describes its Therapist Assistant Diploma program this way:

“The Therapist Assistant Diploma will prepare the graduate to work as an Assistant to Occupational Therapists, Physiotherapists and Recreational Therapists. It is a two-year diploma of full-time study including four semesters of coursework plus 16 weeks of practical experience in clinical settings.

Principles, theory and practice will be taught at the Assistant level in the disciplines of Occupational Therapy, Physiotherapy and Recreation Therapy. Students will obtain an academic and practical foundation in the areas of health and rehabilitation science, and will take introductory-level university courses in English, Biology and Psychology. The Therapist Assistant

Diploma curriculum is reflective of the growing and evolving scope of practice for Therapist Assistants. It has been developed in consultation with therapists, therapist assistants, and employers province-wide and is informed by national trends and practices.

Past graduates with a Rehabilitation Assistant certificate may take Therapist Assistant Diploma courses to upgrade to the diploma level.

After Graduation

Graduates will be prepared to work at (sic) as entry-level Assistants in the three disciplines of Occupational Therapy, Physiotherapy and Recreation Therapy in a wide variety of healthcare settings throughout B.C. and Canada. There are job opportunities in a wide variety of health care settings including hospitals, rehabilitation centres, multi-level care facilities, community care, community mental health, child development centres and private practice.

The role of the Therapist Assistant includes the implementation of rehabilitation programs, under the supervision of a therapist, to maintain and enhance functional abilities, independence and quality of life.

When working with clients some examples of duties include:

Physiotherapists Assistants: joint range of motion, muscle stretching and strengthening, balance and mobility training, and application of thermal modalities such as heat and ice.

Occupational Therapist Assistant: the use of activities and treatment techniques to develop motor, sensory, cognitive, perceptual and psychosocial skills needed to function as independently as possible.

Recreational Therapist Assistant: planning and implementation of leisure activity programs to promote physical, social, mental and spiritual well-being.

Assistants are expected to perform support-related duties such as equipment cleaning and maintenance, inventory management, and clerical duties.”

Capilano University and Vancouver Community College offer similar diploma level programs.

This increased educational requirement has resulted in some increased work responsibilities as well. For example, see paragraphs 4 and 5 in the Typical Duties section of the new Rehabilitation Assistant benchmark which provide that:

- “4. Performs various tests as assigned such as Berg Balance, Timed Up and Go (TUG), six-minute walk test and speech language screening. Records and reports relevant data for interpretation by the therapist.
5. Prepares and applies therapeutic treatment modalities as assigned such as transcutaneous electrical stimulation (TENS), neuromuscular electrical stimulation (NMES), hot packs, ice, and wax treatments.”

However, the overall role of the rehabilitation assistant in providing physiotherapy, occupational therapy and speech language pathology services to patients has not changed. They are there to assist the physiotherapist, the occupational therapist, and/or the speech language pathologist with the plans those professionals have developed for their patients by implementing components of those plans and reporting back to those professionals and the multidisciplinary team what they have observed in the process of doing so.

However, the professionals remain responsible for the assessment of patients, the development of rehabilitation treatment plans based on those assessments, the evaluation of those plans based on the patient's progress, and any modifications to those plans. None of these activities can be assigned to rehabilitation assistants. In this regard, the Practice Guidelines published by the College of Occupational Therapists of British Columbia in March, 2004 provide that an occupational therapist cannot assign any of the following components of their practice to a non-professional:

- “ • interpretation of a referral;
- initial assessments and reassessments;
- administration of standardized diagnostic tests;
- interpretation of assessment findings;
- intervention planning, and determination of goals, and objectives;
- selection of treatment strategies or procedures;
- modification of an intervention beyond established limits;
- decisions regarding interventions where continuous clinical judgment is necessary to closely monitor and guide client progress.
- determination of caseload;
- personal counseling of clients, parents, primary caregivers, spouses, and significant others;
- decisions about the initiation or termination of intervention;

- referral of a client to other professionals or agencies; and
- discharge planning.”

The College of Physical Therapists of British Columbia imposes similar restrictions on physiotherapists.

The Employer submits that the new Rehabilitation Assistant benchmark should be paid at Grid 22. I do not agree with this submission. The PC 3 benchmark, 8-19, titled Nursing Assistant I, now Benchmark No. 15301, is now paid at Grid 22. The duties and responsibilities of, and qualifications required for, positions captured by that benchmark have not changed since the time of my decision in *Royal Columbian Hospital, supra*. In that case, the employer argued that the Physiotherapy Aide position under consideration should be matched to that benchmark. I did not agree for the following reasons:

“Paragraph 1 [of the PC 3 benchmark] deals with the provision of personal care to patients and, in my view, the patient exercise routines must be read in light of that qualification. From the evidence I heard, the activities that Sobotka is engaged in have more than just a personal care element involved in them. In many cases, they have a rehabilitative component which explains the physiotherapist’s involvement. In my view, her activities were at a higher level than that contemplated by the PC 3 benchmark, 8-19.”

(at 18)

I remain of the same view today.

The Union claims that the new Rehabilitation Assistant benchmark should be paid at Grid 28. I do not agree that the changes reflected in the new benchmark merit that level of increase in its pay rate.

I am of the view that the Nursing Assistants class series of benchmarks represents the best comparator for determining the appropriate wage level for the new Rehabilitation Assistant benchmark and more particularly those benchmarks involved in providing direct patient care to patients. At one end of that class series is the Nursing Assistant I benchmark which is paid at Grid 22, the old PC 3 benchmark. At the other end is the Nursing Assistant III (Supervisor) benchmark which is paid at the SA 29 rate which is close to Grid 33. In between is the Licensed Practical Nurse benchmark, Benchmark No. 15316, which is paid at the SA 26 rate which is close to Grid 30. This benchmark captures positions which:

“... assess, plan, implement and evaluate nursing care for their work assignment in accordance with competency guidelines within the standards of practice as outlined by the College of LPNs of BC and current legislative scope of practice.”

It also requires “current full practice licensure with the College of Licensed Practical Nurses of B.C. (CLPNBC).”

In my view, the duties and responsibilities of, and the qualifications required for, the Rehabilitation Assistant benchmark are not comparable to those expected of Licensed Practical Nurse positions. Licensed practical nurses function within their own legislated scope of practice and they are able to assess, plan and evaluate nursing care as well as implement it. Rehabilitation assistants, on the other hand, are only involved in implementing plans developed by others and reporting their observations regarding resulting changes in patients to the therapists responsible for the plans. They are not entitled to assess patients, develop rehabilitation plans for them, or evaluate the treatment being given under those plans. Further, their practice is not subject to scrutiny by any licensing body.

Having considered all of the evidence and argument, while I am satisfied that the level of responsibility under the Rehabilitation Assistant benchmark exceeds that laid out in the Nursing Assistant I benchmark, Benchmark No. 15301, I am of the view that that level of responsibility is closer to the level reflected in that benchmark than it is to the level of responsibility captured by the Licensed Practical Nurse benchmark.

For all of these reasons, I have concluded that the appropriate wage level for the new Rehabilitation Assistant benchmark is Grid 25. That wage level maintains the “higher level” relationship with the Nursing Assistant I benchmark, and captures the increased responsibilities and qualifications expected of rehabilitation assistants under the new benchmark. However, the significance of those increased responsibilities is limited in that the general nature of a rehabilitation assistant’s work has not changed, and while completion of a two year diploma course is now required, the former requirement of “one year’s recent, related experience” has been dropped. Finally, the increased responsibilities and qualifications described in the new Rehabilitation Assistant benchmark do not bring it close to those described in the Licensed Practical Nurse benchmark in terms of the provision of care to patients.

III

I now turn to consider “an appropriate wage level” for the Program Coordinator I and Program Coordinator II benchmarks.

These new benchmarks replace the former Activity Worker III benchmark, No 15003, and the former Activity Worker IV benchmark, No. 15004, respectively.

The Activity Worker III benchmark read as follows:

“I. Level Definition

Positions at this level supervise up to four Activity Workers I and/or II and/or develop and implement an activity program.

II. Typical Duties

- (1) Plans and implements an activity program involving activities such as arts and crafts, sports, music, woodworking, cooking, gardening and exercises; consults with family and nursing/medical staff in order to determine the activities which meet the patient's/resident's needs; sets up calendar of events/activities and teaches the techniques of related activities; contacts external agencies for program resources.
- (2) Monitors and evaluates patient/resident progress through activity programs and reports observations such as emotional well being and social behavior to nursing/medical staff as required.
- (3) Oversees inventory of equipment, tools and materials and recommends purchase of same.
- (4) Schedules work assignments of and provides direction to designated volunteers; contacts facility administration for additional volunteer resources as required.
- (5) Supervises Activity Workers I and/or II as well as other designated staff by performing duties such as scheduling and co-ordinating work assignments, evaluating employee performance and determining related training and orientation requirements.
- (6) Performs other related duties as assigned.

III. Qualifications

(1) Education, Training and Experience

Graduation from a recognized recreational program plus one year's recent, related experience or an equivalent combination of education, training and experience.

(2) Skills and Abilities

- (i) Ability to communicate effectively both verbally and in writing.

- (ii) Ability to deal with others effectively.
- (iii) Physical ability to carry out the duties of the position.
- (iv) Ability to supervise.
- (v) Ability to teach.
- (vi) Ability to organize work.
- (vii) Ability to operate related equipment.”

The Activity Worker IV benchmark essentially mirrored the Activity Worker III benchmark with the following changes. The Level Definition read:

“Positions at this level supervise five or more Activity Workers I, II and/or III and develop and implement an activity program.”

Paragraph 5 of the Typical Duties section of the Activity Worker IV benchmark also encompassed the supervision of Activity Workers III. Finally, the Education, Training and Experience paragraph of the Qualifications section called for “three years’ recent, related experience including one year in a supervisory capacity” instead of “one year’s recent, related experience”.

The new Program Coordinator I benchmark provides that:

I. Level Definition

Positions at this level supervise up to four Activity Workers I and/or II and/or develop, implement and evaluate recreation/leisure program(s) designed to support patients’/residents’/clients’ health and well being in settings such as residential, acute and/or adult day programs.

II. Typical Duties

1. Plans, implements and evaluates recreation/leisure program(s), including activities such as crafts, music, woodworking, mental aerobics, exercises, and sensory stimulation, to meet patients’/residents’/clients’ physical, social, emotional, intellectual, and spiritual needs and interests; develops the goals and objectives of the program.
2. Supervises Activity Worker I and/or II as well as other designated staff by performing duties such as scheduling and coordinating work assignments, evaluating employee performance and determining related training and orientation requirements.
3. Determines the recreation/leisure program(s) which meet the patient’s/resident’s/client’s needs and abilities by reviewing

the referral or care plan, interviewing the patient/resident/client regarding their social/leisure history, and consulting with family and nursing staff; identifies, evaluates, implements, and documents recreation/leisure goals and objectives based on individual interests and abilities.

4. Sets up a calendar of events/activity programs and teaches the techniques of related activities; contacts external agencies for program resources.
5. Monitors, evaluates and documents patient/resident/client progress within the recreation/leisure program(s) and reports observations such as emotional well being and social behaviour to nursing/medical staff as required. Participates in multi-disciplinary team meetings and care conferences. Identifies and makes recommendations regarding community and facility resources that may be of additional interest or need to the resident/patient/client.
6. Monitors program expenditures and provides input to the program budget; oversees inventory of equipment, tools and materials and recommends purchase of same.
7. Schedules work assignments of and provides direction to designated volunteers; contacts facility administration or volunteer services for additional volunteer resources as required.
8. Performs other related duties as assigned.

III. **Qualifications**

(1) Education, Training and Experience

Graduation from a recognized recreational program plus one year's recent, related experience or an equivalent combination of education, training and experience.

(2) Skills and Abilities

- (i) Ability to communicate effectively both verbally and in writing.
- (ii) Ability to deal with others effectively.
- (iii) Physical ability to carry out the duties of the position.
- (iv) Ability to supervise.

- (vi) Ability to organize work. (sic)
- (vii) Ability to operate related equipment. (sic)”

Just as the Activity Worker IV benchmark essentially mirrored the Activity Worker III benchmark so does the Program Coordinator II benchmark essentially mirror the Program Coordinator I benchmark. The Level Definition for the Program Coordinator II benchmark reads:

“Positions at this level supervise five or more Activity Workers I, II and/or Program Coordinators I and develop, implement, and evaluate recreation/leisure program(s) designed to support patients’/residents’/clients’ health and well being in settings such as residential, acute and/or adult day programs.”

All of the paragraphs in the Typical Duties section of the Program Coordinator I benchmark are repeated in the Program Coordinator II benchmark except that paragraph 2 in the Program Coordinator II benchmark also includes the responsibility for supervising Program Coordinator Is. Finally, the Education, Training and Experience section of the Qualifications section of the Program Coordinator II benchmark provides that:

“Graduation from a recognized recreational program plus three years’ recent, related experience or an equivalent combination of education, training and experience.”

The pay rates for the Activity Worker III and IV benchmarks were Grid 25 and Grid 28 respectively. The interim rates for the Program Coordinator I and II benchmarks are Grid 26 and Grid 30 respectively.

In this proceeding, the Union asks that I establish Grid 29 for the Program Coordinator I benchmark and Grid 31 for the Program Coordinator II benchmark. The Employer maintains that the interim rates established for these benchmarks should be confirmed as the final rates.

How have these benchmarks changed from the previous two Activity Worker benchmarks?

In my view, there have been two qualitative changes. First of all, positions captured by these benchmarks are now responsible for developing, implementing and evaluating therapeutic “recreation/leisure program(s)” that address “physical, social, emotional, intellectual, and spiritual needs and interests” as opposed to just activity programs in the past. Secondly, Program Coordinator positions are no longer just supervisors. They also have program responsibilities. In this regard, see paragraph 6 of the Typical Duties section of both Program Coordinator benchmarks which provides that a position covered by them

“Monitors program expenditures and provides input to the program budget; oversees inventory of equipment, tools and materials and recommends purchase of same.”

I am not persuaded by the Union’s contention that these benchmarks have changed in that positions covered by them are now responsible for evaluating and modifying programs. In my view, the responsibility to evaluate and modify was always a part of the Activity Worker III and IV benchmarks’ responsibility to “develop and implement” activity programs.

However, I am of the view that it is also significant that while there have been these qualitative changes to the new Program Coordinator benchmarks, there has been no significant change to the Education, Training and Experience paragraph of the Qualifications section of the old Activity Worker benchmarks. The parties have obviously concluded that the education and experience required to obtain positions covered by these benchmarks were sufficient to permit incumbents in these positions to perform the expanded scope of work encompassed within these new benchmarks.

What is the appropriate wage level for the new Program Coordinator I benchmark?

I observe that the responsibility for monitoring expenditures and making recommendations concerning the budget for an assigned area can be found in benchmarks at a level below Grid 25. See, for example, the Clerk VI, Clerical Supervisor benchmark, No. 10313, which is paid at Grid 24. Thus, I am of the view that this additional responsibility does not justify an increase to the Program Coordinator I benchmark beyond the pay rate for the Activity Worker III benchmark.

With the shift in focus from activity programs to more goal-oriented, therapeutic programs, program coordinators have moved closer to nursing assistant positions which have the responsibility for caring for and treating patients. One of the positions it is now similar to is that of the Rehabilitation Assistant. The Rehabilitation Assistant benchmark now requires completion of a two year diploma program. The Program Coordinator I benchmark requires completion of a recognized recreational program which the parties agree is also a two year diploma program. However, in addition to completion of this program, the Program Coordinator I benchmark also requires “one year’s recent, related experience”.

In my view, the duties and responsibilities encompassed within the Program Coordinator I benchmark are wider than those covered by the Rehabilitation Assistant benchmark. They include the development and evaluation of plans or programs in addition to their implementation and the benchmark requires that one year of recent, related experience as well. When this benchmark is now considered alongside the nursing assistant benchmarks, I am of the view that a one grid increase to its pay rate is not sufficient to establish “an appropriate wage level” for it. In my view, a two grid increase to Grid 27 would be more appropriate.

I am not persuaded that an increase to Grid 29, as asserted by the Union, would be appropriate. In my view, this benchmark does not approach the level of care being provided by licensed practical nurses. It does not independently operate within a legislated scope of practice, nor are its practitioners subject to licensing by a professional body as are the licensed practical nurses.

The differential between the Activity Worker III benchmark and the Activity Worker IV benchmark was three grid levels. The changes to the Program Coordinator II benchmark are the same as the changes to the Program Coordinator I benchmark. In these circumstances, I am of the view that it makes sense to maintain the same differential between the Program Coordinator I and Program Coordinator II benchmarks. Thus, the appropriate wage level for the Program Coordinator II benchmark, in my view, is Grid 30.

In conclusion, and for the reasons set out above, I have determined that the appropriate wage levels for these three new benchmarks are:

Rehabilitation Assistant	Grid 25
Program Coordinator I	Grid 27
Program Coordinator II	Grid 30

It is so awarded.

Dated this 23rd day of July, 2010.


 JOHN KINZIE
 CLASSIFICATION REFEREE