



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of Human Services Specialist 1, Bilingual in Hindi and English (C0086R), Middlesex County Board of Social Services

Administrative Appeal

CSC Docket No. 2017-19

ISSUED: DEC 14 2016 (SLK)

In In the Matter of Human Services Specialist 1, Bilingual in Hindi and English (C0086R), Middlesex County Board of Social Services (CSC, decided April 23, 2014), the Civil Service Commission (Commission) granted the request of the Middlesex County Board of Social Services for an appointment waiver for the July 2, 2013 certification and ordered that no selection costs were to be assessed at that time since there was a possibility that the list could be utilized prior to its expiration. A copy of that decision is attached hereto and incorporated herein. However, the appointing authority did not utilize the subject eligible list and the matter of the assessment of costs is now before the Commission.

Agency records reveal that no further certifications were issued from the subject list. Therefore, the appointing authority was notified that since the eligible list was not utilized by its expiration date, the matter of the costs for the selection process in the amount of \$2,048 would be forwarded to the Commission for a determination.

The appointing authority, despite being provided the opportunity, did not respond.

CONCLUSION

N.J.S.A. 11A:4-5 and N.J.A.C. 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to

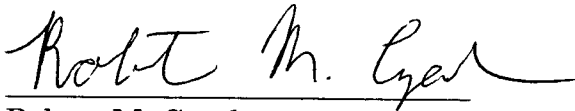
reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. The amount of \$2,048 has been determined to be the cost of the selection process for open-competitive examinations for local government positions. In the instant situation, although the appointing authority had shown a valid reason for not making an appointment from the subject eligible list, it failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list. Thus, it is appropriate that the appointing authority be assessed the costs of the selection process.

### ORDER

Therefore, it is ordered that the appointing authority be assessed the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 7<sup>th</sup> DAY OF DECEMBER, 2016



Robert M. Czech  
Chairperson  
Civil Service Commission

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and  
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Director  
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Attachment

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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Human Services  
Specialist 1, Bilingual in Hindi and  
English, (C0086R), Middlesex County  
Board of Social Services

Appointment Waiver

CSC Docket No. 2014-1637

ISSUED: APR 23 2014 (SLK)

Middlesex County Board of Social Services, represented by Eric M. Aronowitz, Esq., requests permission not to make an appointment from the July 2, 2013 certification for Human Services Specialist 1, Bilingual in Hindi and English (C0086R).

The record reveals that on August 11, 2012, the appointing authority provisionally appointed Jigna Patel, pending open competitive examination procedures, to the subject title. The examination was announced with a closing date of February 4, 2013. The examination resulted in an employment roster of twenty eligibles which promulgated on June 27, 2013 and expires on June 26, 2016. It is noted that Patel was admitted to the subject examination but did not achieve a passing score on the test. On July 2, 2013, a certification was issued which contained the names of eight eligibles.

The appointing authority returned the certification on December 6, 2013, indicating that Patel was removed from the title and no permanent appointment was made from the certification. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. See *N.J.A.C. 4A:10-2.2(a)1*. On December 18, 2013, the appointing authority requested an appointment waiver indicating that the position was not needed at this time due to appointing authority reorganization. On December 31, 2013, the Division of Appeals and Regulatory Affairs (DARA) acknowledged Middlesex County's request for a waiver of the appointment and the assessment of costs in the above matter. Moreover, it was advised that if an appointment waiver was granted, it could be assessed for the costs of the selection

process in the amount of \$2,048 and that the appointing authority could submit within 20 days from the receipt of this notice reasons why costs of the selection process should not be assessed. The appointing authority responded by stating that Patel was appointed on a provisional basis in the subject title as it anticipated a need for someone who was fluent in Hindi. The appointing authority presents that between the time of the provisional appointment and the issuance of the certification, it had undergone a reorganization eliminating the need for the position. Therefore, Patel was removed from the provisional title. It asserts that it acted in good faith when Patel was provisionally appointed as it originally anticipated the need for a permanent appointment and it had no way of anticipating that circumstances would change. The appointing authority highlights that county welfare agencies are being asked to provide increased services with fixed financial resources. Consequently, the appointing authority argues that requiring it to appoint an individual as well as requiring it to pay for the examination costs would have a damaging effect. Further, the appointing authority presents that should the need arise for the position, it will utilize the list. Therefore, it requests that the appointment waiver be granted and that it not be required to pay the costs of the examination.

A review of agency records indicates that there are no other employees recorded as serving provisionally pending open competitive examination procedures in the subject title in Middlesex County.

### CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as the result of the provisional appointment of Jigna Patel to the subject title. However, after a complete certification was issued, the appointing authority returned the certification and indicated that Patel was removed from the subject title. Consequently, since there is no provisional serving in the title at issue, there is sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted

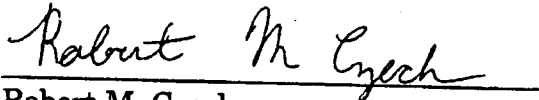
when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. However, the appointing authority indicates that there is a possibility that the list could be utilized prior to its expiration date of June 26, 2016. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event the appointing authority fails to utilize the list by its expiration date of June 26, 2016, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

### ORDER

Therefore, it is ordered that the request for the waiver of appointment requirement be granted and no selection costs presently be assessed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 23<sup>rd</sup> DAY OF APRIL, 2014



Robert M. Czech  
Chairperson  
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