

	Tanata and the second sec	
	: STATE OF NEW JERSEY	
In the Matter of N.H., Sheriff's Officer (S9999R),	FINAL ADMINISTRATIVE ACTION OF THE	
Hudson County	<b>CIVIL SERVICE COMMISSION</b>	

Medical Examiners Panel Appeal

**ISSUED: MARCH 29, 2018** (DASV)

N.H. appeals the request by Hudson County to remove his name from the Sheriff's Officer (S9999R) eligible list for medical unfitness to perform effectively the duties of the position.

: :

> : : : :

This appeal was brought before the Medical Examiners Panel (Panel) on September 13, 2017, which rendered the attached report and recommendation on September 18, 2017. The appellant was present at the meeting. The appointing authority was not present. Exceptions were filed on behalf of the appointing authority.

N.J.A.C. 4A:4-6.5 provides for the Civil Service Commission (Commission) to utilize the expertise of the Panel to make a report and recommendation on medical disgualification issues. The Panel is composed of medical professionals, all of whom are faculty and practitioners of Rutgers New Jersey Medical School.

In this case, the Panel's Chairman, Lawrence D. Budnick, MD, Director of Occupational Medicine Service and Associate Professor of Medicine, Rutgers New Jersey Medical School, requested a medical specialist to perform a chart review and to make findings and recommendations regarding the appellant's medical fitness for the job in question. Based on the evaluation of submitted information and the medical consultant's review, the Panel recommended that the appellant undergo a repeat hemoglobin A1c lab testing to evaluate his level of control of diabetes mellitus.

CSC Docket No. 2017-2221

Hudson County

As set forth in the Panel's report, the appellant underwent a pre-appointment medical examination on November 6, 2016, which found him not medically fit for appointment due to laboratory and stress tests. Additionally, on November 18, 2016, the appellant's personal physician did not clear the appellant to proceed with training given his tests, which revealed that the appellant had a hemoglobin A1c of 11.3%. However, the appellant was subsequently evaluated via a treadmill nuclear stress test on December 14, 2016 and a transthoracic echocardiogram on December 15, 2016, which were both normal. Moreover, the appellant reported during the Panel meeting that he checks his blood sugar daily, which is in the 90 to 100 mg/dl range, and has had no episodes of hypoglycemia. He also advised the Panel that his physician started him on Metformin, which he took a few months, but then discontinued a few months ago, since he was well controlled on diet alone. The Panel concluded that although the appellant suffers from diabetes mellitus, the condition "has apparently NOT resulted in an impairment or functional limitation." However, the Panel was concerned that the appellant's condition may currently be poorly controlled or unstable, which could cause a direct threat to himself and others on the job. Therefore, as noted above, it recommended that the appellant undergo a repeat hemoglobin A1c lab testing.

In its exceptions, the appointing authority, represented by Robert J. Pompliano, Assistant Corporation Counsel, maintains that the appellant suffered from a physical ailment at the time of the pre-appointment medical examination. It indicates that the ailment still exists and the Panel's recommendation for further tests supports its determination that the appellant should be removed from the subject eligible list.

## CONCLUSION

Having considered the record and the Panel's report and recommendation issued thereon and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's report that the appellant's diabetes mellitus has not resulted in his impairment or functional limitation. More significantly, the Commission adopts the finding and conclusion that the appellant's diabetes mellitus may be poorly controlled or unstable, which could cause a direct threat to himself or others in the job of a Hudson County Sheriff's Officer. It is uncontested that at the time of the pre-appointment medical examination on November 6, 2016 the appellant was not medical fit to perform the duties of the title. Further, almost two weeks later, on November 18, 2016, the appellant's personal physician did not clear him to proceed with training given his tests, which revealed he had hemoglobin A1c of 11.3%. As such, in accordance with N.J.A.C. 4A:4-6.1(a)3, the appellant was physically unfit to perform the duties of the title at the time the appointing authority was considering his appointment as his diabetes mellitus did not appear to be under control. The fact that the appellant's condition may currently be poorly controlled or unstable provides further evidence to support the removal of his name from the subject eligible list and does not demonstrate that he was medically fit to undergo the required training at the time of initial appointment consideration. Therefore, under these circumstances, the appointing authority has met its burden of proof. Accordingly, the appellant's appeal is denied.

## ORDER

The Commission finds that the appointing authority has met its burden of proof that N.H. was not medically fit to perform effectively the duties of the title and, therefore, the Commission orders that his name be removed from the subject eligible list.

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 27<sup>TH</sup> DAY OF MARCH, 2018

Derrare' L. Webster Calib

Deirdre L. Webster Cobb Acting Chairperson Civil Service Commission

Inquiries and Correspondence Christopher S. Myers Director Division of Appeals and Regulatory Affairs Civil Service Commission P.O. Box 312 Trenton, New Jersey 08625-0312

Attachment

c: N.H.

Frank X Schillari Robert J. Pompliano, Assistant County Counsel Kelly Glenn