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In the Matter of Jacqueline Perry,
Program Specialist 3, Social/Human
Services (PS8580I), Department of
Corrections

CSC Docket No. 2015-2368

STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

Examination Appeal

ISSUED: APR 02 2015 (CAG)

Jacqueline Perry, represented by Robert O. Yaeger, Principal Staff Representative, Communications Workers of America, Local 1040, petitions the Civil Service Commission (Commission) for a make-up of the promotional examination for Program Specialist 3, Social/Human Services (PS8580I), Department of Corrections.

By way of background, the subject examination was administered on November 20, 2014. Eight applicants applied for the subject examination that resulted in a list of four eligibles, with an expiration date of December 17, 2017. The list was certified on December 22, 2014, with four eligibles and remains outstanding.

In her petition to the Commission, the petitioner refers to her letter requesting a make-up examination dated December 4, 2014 in which she states that she did not receive notification to appear for the subject examination. Further, she indicates that she only became aware of the examination when a co-worker notified her that there was a test November 20, 2014. She argues that she never received the notice and requests to be scheduled for a make-up examination. She also argues that she would not have missed the testing session since it is required to become permanent in her provisional position of Program Specialist 3, Social/Human Services. She submits a sworn notarized statement attesting that she did not receive the examination notification prior to its administration on November 20, 2014 and requests a make-up examination.

Official records indicate that Ms. Perry was provisionally appointed to the subject title on January 25, 2014 and is still serving in that position.

CONCLUSION

N.J.A.C. 4A:4-2.9(a) provides that make-up examinations, except for professional level engineering promotional examinations and public safety open competitive and promotional examinations, may be authorized for the following reasons:

1. Error by [this agency] or the appointing authority;
2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
3. Documented serious illness or death in the candidate's immediate family;
4. Natural disaster;
5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation; and
6. Other valid reasons.

In the present matter, the record demonstrates that the petitioner failed to appear for the examination for Program Specialist 3, Social/Human Services (PS8580I), stating that she did not receive the notification to appear. The petitioner provides a sworn notarized statement verifying that she did not receive the notification. The Commission acknowledges the presumption that mail correctly addressed, stamped and mailed is generally received by the party to whom it was addressed. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). It also recognizes that on occasion, such mail never reaches its intended destination. Generally, the Commission is willing to accept that if an individual is prepared to make a statement under oath, understanding all its implications and consequences, then it is proper to permit the presumption of receipt to be overcome. In actuality, there is no other alternative for an applicant. It is not possible to prove a negative, i.e., that mail was not received. If the Commission did not accept a sworn statement averring that mail was not received or that it was delivered late, there

would be no remedy at all for individuals who find themselves in this particular situation.

Therefore, the Commission finds that the petitioner has rebutted the presumption of mailing by submitting a sworn statement maintaining that she did not receive the mail. Thus, based on the foregoing, the petitioner should receive a make-up examination for the Program Specialist 3, Social/Human Services (PS8580I) examination.

ORDER

Therefore, it is ordered that this request be granted. If Ms. Perry achieves a passing score on the subject examination, her name should be added to the subject eligible list and current outstanding certification.

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 1ST DAY OF APRIL 2015



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