

B-12



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Kimberly Dortch,
et al., Supervisor Child Care Quality
Assurance Inspections (PS1509K),
Department of Children and Families

Examination Appeals

CSC Docket Nos. 2015-2674
2015-2629
2015-2711
2015-2667
2015-2622

ISSUED: **AUG 03 2015** (RE)

Kimberly Dortch, Emily Gear, Barbara Hasen, Michael Lenehan and Tashia Owens-Muhammad appeal the decisions of the Division of Agency Services (DAS) that they did not meet the experience requirements for the promotional examination for Supervisor Child Care Quality Assurance Inspections (PS1509K), Department of Children and Families. These appeals have been consolidated due to common issues presented by the appellants.

The subject promotional examination announcement was issued with a closing date of November 21, 2014 and was open to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the closing date as a Child Care Quality Assurance Inspector 2, or to employees in any competitive title who met the open competitive requirements. These requirements included possession of a Bachelor's degree from an accredited college or university and five years of experience in the licensing, regulation, inspection or evaluation of childcare centers, family day care homes, child placement agencies, residential or shelter facilities, group homes, resource family homes, or other facilities or homes for children or, as a manager, director, administrator, and supervisor or comparable position in a childcare placement agency, child care center, residential facility, shelter, group home or other facility/home for children, or five years of experience in social work, direct support counseling, guidance and/or casework involving high risk child abuse and neglect or other problematic socioeconomic situations involving counseling services to clients with social, emotional, psychological, or behavioral problems including gathering and analyzing information, determining needs, and planning and carrying out treatment plans. One of the five years of experience

must have been in a lead worker capacity. It was noted that graduation from an accredited college or university with a Master's degree in Sociology, Social Work, Psychology, Counseling, Education, Early Education, Public Health/Health Care, Nursing or other area related to human services could be substituted for one year of the required experience. The appellants were found to be ineligible based on a lack of experience.

It is noted that each appellant met the educational requirement but failed to meet the specific requirement of one year of experience as a lead worker. In addition, Ms. Gear lacked two months of general experience. Ten candidates appear on the eligible list, which has been certified, but no appointments have yet been made.

The appellants listed experience in the State titles Quality Assurance Specialist Health Services, DCF; Child Care Quality Assurance Inspector 1; Family Service Specialist 2 and 3; Habilitation Plan Coordinator; Guardianship Services Specialist 2; and Residential Services Specialist 2.

Additionally, Ms. Dortch listed positions as a Caseworker with Saint Joseph's Hospital and Medical, and Substitute Teacher with the Newark Board of Education. She received credit for general experience as a Caseworker with Saint Joseph's Hospital and Medical. Her experience as a Substitute Teacher was found to be inapplicable.

Ms. Gear listed positions as a Center Director of the Kindercare Learning Center, and Adjunct Instructor at Salem Community College. She also listed a position with an elementary school, but provided no further information such as the title or duties. These positions were found to be inapplicable.

Ms. Hasen listed positions as a Quality Assurance Specialist, Director of Professional Services, and Staff Trainer with Catholic Charities-Disabilities, and Group Home Manager with New Concepts for Living. She received general credit for her experience as a Quality Assurance Specialist with Catholic Charities-Disabilities. No credit was given for her positions as a Director of Professional Services and Staff Trainer with Catholic Charities-Disabilities, and as a Group Home Manager.

On appeal, Mr. Lenehan and Mss. Dortch and Owens-Muhammed state that, at its meeting of November 22, 2011, the Civil Service Commission approved a title consolidation action in the Office of Licensing. This action also included an upward salary reevaluation and title creation. At that time, the Quality Assurance Specialist Health Services, DCF was redesignated archaic so as to avoid layoff activity and hold all affected incumbents harmless. They conclude that this "out-of-title" work situation was approved by the Commission. Additionally, they state that

they performed lead worker duties while in the title Child Care Quality Assurance Inspector 1. The appointing authority responded in support of these appeals with essentially the same information regarding the archaic designation.

Ms. Gear states that she should be credited with one year of lead worker experience due to her supervisory experience as a Center Director of the Kindercare Learning Center. She relies on *In the Matter of Patricia Cluelow* (Merit System Board, decided February 8, 2006), wherein Ms. Cluelow was found to be ineligible for lacking one year of supervisory responsibilities in investigation and control, and her experience as a Principal Environmental Specialist, Coastal Resources involved occasional performance of lead worker duties, but was not the equivalent of supervisory responsibilities. The appointing authority supports this appeal, stating that it believes she has the public and private sector experience to establish eligibility.

Ms. Hasen states that she possesses 10 years of experience in licensing Resource Family Homes for children, 15 years in supervision of directors/manager for Residential and day programs in non-profit agencies providing services to children and adults with developmental disabilities, and 29 years total working in social work.

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides that except when permitted for good cause, applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy eligibility requirements.

CONCLUSION

In order for experience to be considered applicable, it must have as its primary focus full-time responsibilities in the areas required in the announcement. See *In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004). An experience requirement that lists a number of duties which define the primary experience requires that the applicants demonstrate that they *primarily* performed *all* those duties for the required length of time. Performance of only one or some of the duties listed is not indicative of comprehensive experience.

Further, when an applicant indicates extensive experience in titles established under the State Classification Plan for an examination, it is appropriate to utilize the job specifications to determine the primary focus of the duties of incumbents serving in career service titles. In the eligibility screening process, reliance on the job specifications to determine the primary focus of duties for incumbents of a particular title or title series provides a standardized basis on which Selection Services can compare what an applicant indicates on his or her

application to what incumbents in a particular title series generally perform. See *In the Matter of William Moore* (MSB, decided May 10, 2006). In order to maintain the integrity of the State Classification Plan, DAS cannot simply accept *carte blanche* how an applicant describes his or her experience when such a barometer exists. In this regard, it is noted that *N.J.A.C. 4A:3-3.4* contemplates that employees are appointed to a title appropriate to the duties to be performed in the title and will not be assigned duties other than those properly pertaining to the assigned title which the employee holds.

The designation of Quality Assurance Specialist Health Services, DCF as an archaic title has no bearing on this issue, as experience as a Quality Assurance Specialist Health Services, DCF was accepted for the general experience requirement. The primary focus of the title Quality Assurance Specialist Health Services, DCF is to perform program and/or facility evaluations of clinical care and administrative services, and assess and evaluate reports or incidents of client safety and neglect. Similarly, the primary focus of the title Child Care Quality Assurance Inspector 1 is to conduct inspections and evaluations of various facilities, programs, homes, residences, centers, organizations and agencies to ensure their compliance with state and federal statutes and regulations and with department standards. These are not lead worker titles. In contrast, the Child Care Quality Assurance Inspector 2 is a lead worker title, as the definition includes "functions as a team leader in overseeing the inspection, review, evaluation and investigation of physical facilities and/or programs." None of the State titles listed in the appellants' histories include lead worker titles. Thus, if the appellants were functioning as lead workers, it is considered out-of-title work and cannot be used to satisfy eligibility requirements. The appellants have not presented a basis for accepting out-of-title experience.

Ms. Gear's experience as a Center Director of the Kindercare Learning Center was described as overseeing the families, children and staff to ensure compliance with state regulations; supervising instructional planning and assessment processes; cultivating respect; deploying policies in a safe, relaxed and enjoyable learning environment; establishing and maintaining relationships and communicating with families; recruiting, interviewing, hiring, developing, training, and evaluating staff members; implementing enrichment programs; being a member of the LEAP committee; being district trainer for 14 centers; managing an operational budget; advising staff; and involving others in community service projects. The primary focus of this position does not match the announced experience requirement, and Ms. Gear cannot receive general credit for this experience, nor lead worker experience. Performing lead worker or supervisory duties in positions which do not have the announced experience requirement as the primary focus cannot be accepted. The findings in *Cluelow, supra* are not germane to this issue. In sum, this position is inapplicable. Ms. Gear possessed 4 years, 10

months of experience as a Childcare Quality Assurance Inspector 1 as of the November 2014 closing date, and thus, she lacks 2 months of general experience.

Ms. Hasen is similarly situated. Her positions as Director of Professional Services and Staff Trainer with Catholic Charities-Disabilities, and Group Home Manager with New Concepts for Living, also do not have the announced experience as the primary focus. She and the remaining appellants each lack one year of qualifying lead worker experience.

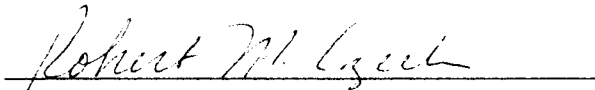
An independent review of all material presented indicates that the decisions of DAS that the appellants did not meet the announced requirements for eligibility by the closing date are amply supported by the record. The appellants provide no basis to disturb these decisions. Thus, the appellants have failed to support their burden of proof in these matters.

ORDER

Therefore, it is ordered that these appeals be denied.

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
THE 29th DAY OF JULY, 2015



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