



STATE OF NEW JERSEY

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

In the Matter of Coordinator,
Primary and Preventative Health
Services (PS5472H), Department of
Health

Request for Appointment Waiver

CSC Docket No. 2019-586

ISSUED: November 13, 2019 (EG)

The Department of Health requests permission not to make an appointment from the March 15, 2018, certification for Coordinator, Primary and Preventative Health Services (PS5472H).

The record reveals that the appointing authority provisionally appointed D.M. to the subject title effective September 17, 2016. As a result, an examination was announced with a closing date of August 21, 2017. The subject eligible list promulgated on March 15, 2018, with seven eligibles and expires on March 14, 2020. Thereafter, DOH requested a waiver of the appointment requirement. It indicated that due to an internal reorganization, the Integrated Health Services Branch was created and existing programs in Family Health Services (H400) were transferred to the newly established Community Health Division (H390) within the Integrated Health Services Branch. It stated that the examination for the subject title was announced for Family Health Services (H400) but the position is now located in Community Health Division (H390). Additionally, the appointing authority asserted that due to the internal reorganization and budget constraints it decided not to use the Coordinator, Primary and Preventative Health Services title in the Community Health Division (H390) at this time. Further, it contended that D.M. is no longer serving in the subject title. Finally, it asserts that it intends to use the subject eligible list within Family Health Services (H400) for future anticipated vacancies.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be

assessed for the costs of the selection process in the amount of \$1,602. The appointing authority did not provide a response to this advisement.

Agency records indicate that D.M. received a regular appointment to the title of Program Support Specialist 3, Assistance Programs. Further, records indicate that there are no provisional appointees in the subject title serving in the Community Health Division (H390).

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 for a list 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 title of Coordinator, Primary and Preventative Health Services was generated as a result of D.M.'s provisional appointment to the subject title. After a complete certification was issued, DOH indicated that due to its internal reorganization and budget constraints it decided not to use the Coordinator, Primary and Preventative Health Services title in the Community Health Division (H390) at this time. Further, official records indicate that D.M. received a regular appointment to the title of Program Support Specialist 3, Assistance Programs and there are currently no employees serving provisionally in the subject title in the Community Health Division (H390). Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

Although the appointment waiver is granted, 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 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.

However, the Civil Service Commission notes that the list in question will not expire until March 14, 2020. Moreover, the appointing authority has indicated that it hopes to utilize the subject eligible list prior to its expiration. 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. *See e.g., In the Matter of Supervising Administrative Analyst (PS1837I), Department of*

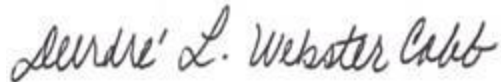
Corrections (MSB, decided March 22, 2006) (Not appropriate to assess the Department of Corrections for the costs of the selection process since it had indicated its intention to utilize the eligible list prior to its expiration date). Nevertheless, in the event the list is not utilized by its expiration date of March 14, 2020, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made. *See e.g., In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided April 11, 2007) (Costs assessed upon the expiration of the eligible list since the Department of Corrections failed to utilize the eligible list and there was no evidence that it had even attempted to utilize the eligible list).

ORDER

Therefore, it is ordered that the request for the waiver of the 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 6TH DAY OF NOVEMBER, 2019



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