



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Desmond Chiodi,  
Battalion Fire Chief (PM1495T),  
Gloucester City

CSC Docket No. 2016-2292

Examination Appeal

ISSUED: **NOV 16 2016**

(RE)

Desmond Chiodi requests a make-up examination for the written portion of the promotional examination for Battalion Fire Chief (PM1495T), Gloucester City.

The petitioner was scheduled to take the written portion of the subject examination on November 19, 2015. He received a Notification to Appear for Examination approximately two weeks before the test date. This notification has a brief instruction regarding make-up examinations. It states, "For this exam, makeup requests, with supporting documentation, must be submitted in writing within five days of receipt of this notice to be considered. In situations involving death, natural disasters or an illness that occurs on or immediately before the test date, make-up requests must be made in writing within five days after the test date. Requests for make-ups based on medical grounds must include written documentation from your doctor explaining in layman's terms why you are unable to take the test. Requests will be denied if documentation is insufficient or incomplete."

On November 20, 2015, the petitioner requested to take a make-up examination. The petitioner stated that his request was based on a medical emergency preventing his attendance. His documentation was a note from his doctor indicating that he had severe epigastric pain and was unable to take the test.

As a result of this submission, the Division of Agency Services (DAS) sent a letter to the petitioner dated November 27, 2015. This letter indicated that the petitioner recently submitted a makeup request, and that DAS was giving the

petitioner the opportunity to resubmit his request. DAS also gave the petitioner a copy of page 10 of the 2015/2016 Battalion Fire Chief Orientation Guide, and the Medical Authorization for Make-Up-Promotional Examination (public safety or professional engineering) form. It indicated that, with medical documentation, the physician should make note of any medication taken as a result of illness or injury which might prevent the candidate from participating in the examination.

The Orientation Guide is available to all candidates online many months before the examination, and they are expected to read it in preparation to take the examination. Page 10 of the Orientation Guide provides the make-up policy including a copy of the Examination Make-Up Policy Rule, N.J.A.C. 4A:4-2.9. It states that the requests must be made in writing, with supporting documentation, and must be accompanied by the medical authorization for examination make-up form, which is completed by the treating physician. It further states that the treating physician must provide a separate detailed letter containing a diagnosis and statement clearly indicating why the physical condition would prevent the candidate from taking the examination as scheduled. The letter should include the date the injury or illness began, the date of the last office visit, and the earliest date the candidate could take test. Information on leave time from work because of the illness or injury must have been included as well. The documentation must be on official letterhead, written in layman's terms, and be legible. The guide indicated that if insufficient, untimely, or illegible information is provided, the request would be denied.

The petitioner responded with the Medical Authorization form signed by the physician, who indicated that the petitioner was unable to take the examination. In support, the physician indicated that the petitioner was seen in her office on November 19, 2015, and evaluated for severe epigastric pain. She stated that his symptoms began two days prior to the exam and that he was not taking any medication or therapies that would prevent him from taking a *make-up* examination. He was medically cleared by December 2, 2015. DAS denied the request as the petitioner's condition was not life-threatening and did not require extended convalescence.

On appeal, the petitioner argues that notification regarding the make-up criteria is inconsistent. He states that the Civil Service Commission's website, the Notification to Appear for Examination, and the Orientation Guide have insufficient or conflicting directions on compliance with the make-up examination rule. He goes on to explain that the Notification to Appear for Examination does not indicate any further explanation on how to find details regarding this policy and the application of this policy.

*N.J.A.C. 4A:4-2.9(c)* provides, in pertinent part, that for police, fire, correction officer, sheriff's officer, juvenile detention officer and other public safety open

competitive and promotional examinations, make-ups may be authorized only in cases of:

1. Death in the candidate's immediate family;
2. Error by the Civil Service Commission or appointing authority; or
3. A catastrophic health condition or injury, which is defined as either:
  - i. A life-threatening condition or combination of conditions; or
  - ii. A period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days.

### CONCLUSION

The record establishes that the petitioner was scheduled to take the subject examination on November 19, 2015 and did not do so. The petitioner filed a request for a make-up examination, and was given another opportunity to submit a proper request. He was also told that instructions for make-up examinations were provided on the orientation guide, available to all candidates several months before the examination, and he was told that the physician should make note of any medication taken as a result of illness or injury which might prevent the candidate from participating in the examination.

The petitioner believes he had inadequate instructions regarding compliance with the make-up policy. He contends that notifications from the Civil Service Commission are in conflict, but he does not provide any examples. The Notification to Appear for Examination is not meant to be a comprehensive or detailed instruction to file for a make-up examination. Rather, it is a reminder, along with other instructions, on the top of a small card which candidates are required to bring with them to the examination center in order to be admitted. Nevertheless, the petitioner's makeup examination request was not denied on the basis of his initial submission. The petitioner was given an opportunity by DAS to expand on his request along with sufficient information regarding the make-up policy, instructions, and the appropriate form. The petitioner's make-up examination request was denied based on the totality of his submission, which was sent in after he personally was given notification of the proper method of submitting such a request.

Lastly, the reason provided by the physician is inadequate. The physician was instructed to provide a clear statement indicating why the candidate's physical condition precluded him from taking the examination as scheduled. The physician responded simply that the candidate had a given condition. The documentation submitted did not explain how this condition would prevent the petitioner from taking an examination and it made no note of any medication which would prevent

him from taking the examination. The petitioner did not have a life-threatening condition, and there was no extended convalescence required. The sum of his documentation is insufficient to establish that the petitioner could not have taken the examination as scheduled.

A thorough review the record indicates that the petitioner has failed to support his burden of proof in this matter.

ORDER

Therefore, it is ordered that this request 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 10<sup>th</sup> DAY OF NOVEMBER, 2016

  
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