

B-42



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Courtney McNulty,  
Human Services Specialist 1  
(C0448S), Monmouth County

List Removal Appeal

CSC Docket No. 2017-893

ISSUED: MAR 09 2017 (HS)

Courtney McNulty appeals the attached decision of the Division of Agency Services (Agency Services), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the eligible list for Human Services Specialist 1 (C0448S), Monmouth County on the basis that she failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the open competitive examination for Human Services Specialist 1 (C0448S), which had a closing date of June 6, 2014. The resulting eligible list promulgated on November 6, 2014 and expires on November 5, 2017. The appellant's name was certified to the appointing authority on December 12, 2014. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that she failed to respond to the certification notice. The appellant appealed to Agency Services. Agency Services upheld the removal of the appellant's name.

In support of her appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement indicating that she did not receive the certification notice.

The appointing authority, despite being provided the opportunity, did not present any arguments or documentation for the Commission's review.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove her name from an eligible list was in error.

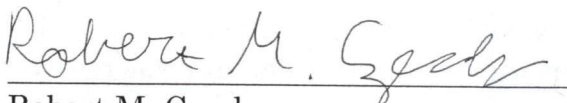
The appointing authority requested the removal of the appellant's name from the eligible list for Human Services Specialist 1 (C0448S) on the basis of her failure to respond to the December 12, 2014 certification. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that she did not receive the certification notice. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her sworn, notarized statement. 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). Thus, it is appropriate that her name be restored to the subject eligible list.

## ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for Human Services Specialist 1 (C0448S), Monmouth County for prospective employment opportunities only.

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 9<sup>TH</sup> DAY OF MARCH, 2017



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

Attachment

- c. Courtney McNulty  
Frank J. Tragno, Jr.  
Kelly Glenn



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
AGENCY SERVICES  
P. O. Box 313  
Trenton, New Jersey 08625-0313

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair/Chief Executive Officer

September 6, 2016

**Courtney McNulty**

**Title: Human Services Specialist 1**  
**Jurisdiction: Monmouth County**  
**Symbol: C0448S**  
**Certification No: OL141632**  
**Certification Date: 12/12/2014**

**Initial Determination: Removal – Failure to respond as required**

This is in response to your correspondence contesting the removal of your name from the referenced eligible list.

The Appointing Authority requested removal of your name in accordance with *N.J.A.C. 4A:4-4.7(a)6*, which permits the removal of an eligible candidate's name from the eligible list for "Non-compliance with the instructions listed on the notice of certification."

You state that you did not receive the Notice of Certification sent by this office on December 12, 2014. That notice was sent to the same address as the Notice of Disposition, which is the same address to which this letter is addressed.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's decision to remove your name has been sustained and your appeal is denied.

In accordance with Merit System Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 C.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, C. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

Address all appeals to:

Henry Maurer, Director  
Division of Appeals and Regulatory Affairs  
Written Appeals Record Unit  
PO Box 312  
Trenton, NJ 08625-0312

Sincerely,  
For the Director,

A handwritten signature in black ink, appearing to read "Elliott Cohen", with a long horizontal flourish extending to the right.

Elliott Cohen  
Human Resource Consultant  
Certifications Unit

Frank J. Tragno, Jr  
Monmouth County Hall of Records  
1 East Main St  
Freehold NJ 07728 - 1255

