



**STATE OF NEW JERSEY**

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

In the Matter of Social Work  
Supervisor (PC2725V), Bergen  
County Board of Social Services

CSC Docket No. 2021-303

Administrative Appeal

**ISSUED: DECEMBER 21, 2020 (AMR)**

*In In the Matter of Social Work Supervisor (PC2725V), Bergen County Board of Social Services (CSC, decided February 6, 2019), the Civil Service Commission (Commission) granted the request of the appointing authority for an appointment waiver for the September 10, 2018 certification and ordered that no selection costs would be assessed at that time since there was a possibility that the list could be utilized prior to its expiration. A copy of that decision is attached hereto and incorporated herein. However, the appointing authority did not utilize the subject eligible list and the matter of the assessment of costs is now before the Commission.*

By way of background, the subject promotional list was announced with a closing date of December 21, 2017. The resultant eligible list of eight names promulgated on September 6, 2018 and expired on September 5, 2020. During the life of the list, no appointments were made. The appointing authority requested an appointment waiver due to it needing to appoint an individual who was bilingual in Spanish and English. The Commission granted this request at its meeting on February 6, 2019. However, the Commission did not waive the costs of the selection process at that time. Rather, it indicated that since the appointing authority anticipated making an appointment prior to the expiration date of the eligible list,

the matter of the selection costs would be reviewed if the appointing authority failed to utilize the eligible list by the September 5, 2020 expiration date.<sup>1</sup>

In that regard, agency records reveal that one certification was issued from the subject eligible list on September 10, 2018. Per the Commission's decision, the certification was cancelled on February 15, 2019. No appointments were made, and no additional certifications were requested. Therefore, the Bergen County Board of Social Services was notified that since the eligible list was not utilized by its September 5, 2020 expiration date, the matter of the costs for the selection process in the amount of \$1,114 would be forwarded to the Commission for a determination.

In its response, the appointing authority indicates that due to the COVID-19 pandemic, its budget has been negatively impacted and its office has been operating with less than 60% of staff at any given time. Internal upward mobility has also been hampered due to the pandemic. The appointing authority asserts that, ultimately, until its staff is fully functioning at 100% and it has a better understanding of the budgetary impacts from 2020, it cannot move forward with an appointment until next year. Therefore, it is requesting to revive the eligible list through the end of 2021. The appointing authority indicates that it anticipates two retirements in 2021.

The Division of Agency Services supports the instant request. It is noted that there are no current promotional lists for the subject title within the unit scope. There are also no special reemployment lists or current or pending announcements for the title.

## CONCLUSION

*N.J.S.A. 11A:4-6* and *N.J.A.C. 4A:4-3.4* provide that an eligible list may be revived in order to implement a court order or decision of the Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. *N.J.S.A. 11A:4-6* and *N.J.A.C. 4A:4-3.3(b)1* provide that no list shall have a duration of more than four years.

In the present matter, the record establishes that on September 10, 2018, a certification was issued to fill a vacancy for the title of Social Work Supervisor with the Bergen County Board of Social Services. However, the certification was cancelled in accordance with the granting of an appointment waiver. Thereafter, due to the COVID-19 pandemic, the appointing authority has been hindered with budgetary constraints, and internal upward mobility of staff has also been hampered. The appointing authority states that, given these circumstances, it cannot move forward with an appointment from the eligible list until next year. However, it anticipates retirements in 2021. Upon review, the Commission emphasizes that filling a vacancy from an active list is preferable to, and more

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<sup>1</sup> In its decision, the Commission also declined the appointing authority's request to remove an eligible from the subject eligible list.

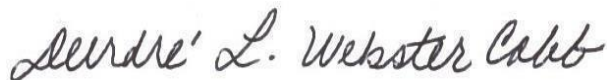
expedient than, announcing a new examination. Moreover, since the subject eligible list was only in existence for two years, it may be revived and extended to September 5, 2021. Therefore, based on the foregoing, good cause has been presented to revive and extend the eligible list for Social Work Supervisor (PC2725V), Bergen County Board of Social Services for one year. The Commission notes that there is not a sufficient basis to extend the eligible list to the four-year maximum as there are only anticipated vacancies. *See e.g., In the Matter of Social Work Supervisor (PC0752H), Monmouth County* (CSC, decided March 11, 2009). Should the appointing authority fail to utilize the list by the extended expiration date, the matter of the assessment of the selection costs will be reviewed by the Commission at that time.

### ORDER

Therefore, it is ordered that the eligible list for Social Work Supervisor (PC2725V), Bergen County Board of Social Services, be revived and extended to September 5, 2021 and no selection costs be presently assessed.

This is the final administrative determination in this matter. Any further review should be pursued in the judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 16<sup>TH</sup> DAY OF DECEMBER 2020




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Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

Attachment

c: Adina Yacoub  
Division of Agency Services  
Division of Appeals and Regulatory Affairs  
Records Center



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

In the Matter of Social Work  
Supervisor (PC2725V), Bergen  
County Board of Social Services

Appointment Waiver

CSC Docket No. 2019-1218

**ISSUED: FEBRUARY 8, 2019** (HS)

The Bergen County Board of Social Services requests permission not to make an appointment from the September 10, 2018 certification for Social Work Supervisor (PC2725V).

The record reveals that the appointing authority provisionally appointed Luisa Marquez, pending promotional examination procedures, to the title of Social Work Supervisor, effective October 10, 2017. As a result of this provisional appointment, an examination for the title was announced with a closing date of December 21, 2017. Marquez, a non-veteran, and seven other non-veteran applicants were admitted to the examination, which was administered via the Supervisory Test Battery. The resulting eligible list of eight names promulgated on September 6, 2018 and expires on September 5, 2020. On September 10, 2018, the names of all eight eligibles, including Marquez as the first ranked eligible, were certified (PL181175) from the eligible list. Subsequently, the appointing authority requested an appointment waiver. In its request, the appointing authority stated that upon further consideration, it realized that it needed to appoint an individual who is bilingual in Spanish and English. Thus, it requested that the eligible list for Social Work Supervisor Bilingual in Spanish and English (PC2726V), Bergen County Board of Social Services be certified (PL181231) and ended up with two certifications for "one opportunity," which it acknowledges was its error. Marquez, who also appeared on the PC2726V list as the first ranked eligible, received a permanent appointment from certification PL181231, effective October 1, 2018. In addition to its request for an appointment waiver, the appointing authority

requested that Marquez's name be removed from the PC2725V list in light of her appointment from the PC2726V list.

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 \$1,114. In response, the appointing authority reiterated its reason for requesting an appointment waiver and indicated that it anticipates making an appointment from the PC2725V list before its expiration.

Agency records indicate that currently there are no individuals serving provisionally in the title of Social Work Supervisor with the appointing authority.

### 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 this matter, the examination for the title of Social Work Supervisor was generated as a result of the provisional appointment of Marquez. However, after a complete certification was issued from the Social Work Supervisor (PC2725V) eligible list, the appointing authority indicated that no appointment would be made since, upon consideration, it realized a need to appoint an individual who is bilingual in Spanish and English. Thus, it requested that the Social Work Supervisor Bilingual in Spanish and English (PC2726V) list be certified and appointed Marquez from that list. Marquez ranked first on both lists. Moreover, there is no one currently serving provisionally in the title of Social Work Supervisor with the appointing authority. Accordingly, based on the foregoing circumstances, 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. Nevertheless, the Civil Service Commission (Commission) notes the appointing

authority's indication that it anticipates making an appointment before the expiration date of the eligible list. 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. In the event it fails to utilize the list by its expiration date of September 5, 2020, this matter can be reviewed in such a situation 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 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); *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).

As a final matter, the Commission declines the appointing authority's request that Marquez's name be removed from the PC2725V list at this time in light of her appointment from the PC2726V list. As discussed above, the Commission is granting the appointing authority's request for an appointment waiver in this case. In so doing, the Commission is only permitting the September 10, 2018 certification (PL181175) from the PC2725V list to be cancelled, not ordering the recording of any other disposition for the eligibles on that certification. If Marquez appears on a future certification from the PC2725V list, the appointing authority is not precluded from requesting that her name be removed from the list at that time should it believe such action to be warranted. However, for the reasons described, it is unnecessary for the Commission to take a position on the merits of such a potential request at this time.

### **ORDER**

Therefore, it is ordered that the appointment waiver 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 6<sup>TH</sup> DAY OF FEBRUARY, 2019



Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
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Written Record Appeals Unit  
Civil Service Commission  
P.O. Box 312  
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c. Adina Yacoub  
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Records Center  
Diane Lukasewycz





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### CONCLUSION

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### **ORDER**

Therefore, it is ordered that the appointment waiver be granted and no selection costs presently be assessed.

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