

B-28



STATE OF NEW JERSEY

In the Matter of Cristina Olivieri :  
 Department of Children and Families : **FINAL ADMINISTRATIVE ACTION**  
 : **OF THE**  
 CSC Docket No. 2014-2227 : **CIVIL SERVICE COMMISSION**  
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Request for Reconsideration

**ISSUED: October 1, 2014 (PM)**

Cristina Olivieri, a former Family Service Specialist Trainee with the Department of Children and Families, petitions the Civil Service Commission (Commission) for reconsideration of the attached final administrative decision, rendered on May 14, 2014, in which the Director of the Division of Appeals and Regulatory Affairs (DARA) denied her request for a hearing with respect to her release at the end of her working test period.

By way of background, the appointing authority issued a Report on Progress of Probationer to the petitioner on February 7, 2014. The petitioner received an unsatisfactory rating upon completion of her working test period as a Family Service Specialist Trainee and was released effective February 7, 2014. Thereafter, in a letter postmarked February 28, 2014, the petitioner appealed this action to the Commission. On May 14, 2014, the Director of DARA denied her request for a hearing, finding that the petitioner’s appeal was beyond the 20-day time period to file an appeal.

In her May 21, 2014 request for reconsideration, the petitioner states that when she was given her last Progress Report and letter of termination, the letter did not indicate that an appeal had to be filed by a specific deadline. Upon filing her appeal, the appellant asserts that she communicated with Commission staff via telephone and was told her appeal had been received, but she needed to submit a fee and a copy of her Progress Report and letter of termination. She states that she expressed concern if this would affect her in any way and was told that her appeal was received and submitted in a timely manner. As such, the petitioner requests

that the matter be transmitted to the Office of Administrative Law (OAL) for a hearing.

In response, the appointing authority, represented by Kia Inman, Northern Region Supervisor, states that their records indicate that the petitioner was provided with notice of her appeal rights upon being terminated from her position at the conclusion of her working test period on February 7, 2014. Moreover, the petitioner was notified of the requirement to file an appeal within 20 days after receipt of the notice of termination. As such, the appointing authority maintains that the petitioner appealed this matter outside of the permitted timeframe and her request for reconsideration should be denied.

### CONCLUSION

*N.J.A.C.* 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. Additionally, *N.J.S.A.* 11A:2-15 provides that appeals from the release at the end of the working test period shall be made in writing no later than 20 days from receipt of the final written determination of the appointing authority. Further, *N.J.A.C.* 4A:2-4.2 provides that an appeal shall be made in writing no later than 20 days from the employee's receipt of written notification from the appointing authority of the termination from service or return to a former permanent title, and if the appointing authority fails to provide the employee with notice, an appeal may be made directly to the Commission within a reasonable time. It is noted that the 20-day time limitation is jurisdictional and cannot be relaxed. *See Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); *See also Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978).

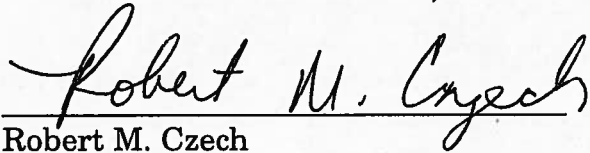
A review of the Report on Progress of Probationer demonstrates that the petitioner refused to sign the document on February 7, 2014. Moreover, the Report on Progress of Probationer specifically advises employees to file appeals directly with the Commission within 20 days from receipt of the notice. Thus, any appeal postmarked after the 20-day statutory time limit will be denied. The petitioner provides no valid explanation as to why the appeal was not filed within the permitted timeframe when she was clearly apprised of the procedural requirements for filing an appeal. Accordingly, the Commission finds that the petitioner has not met the standard for reconsideration and has not sustained her burden of establishing the timeliness of her appeal. Thus, her request for a hearing was properly denied.

ORDER

Therefore it is ordered that this petition for reconsideration 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 ON  
THE 1<sup>ST</sup> DAY OF OCTOBER, 2014



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Chairperson  
Civil Service Commission

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and  
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Attachment

c: Cristina Olivieri  
Kia Inman  
Ila Bhatnagar, Director of Employee Relations  
Joseph Gambino