



STATE OF NEW JERSEY

In the Matter of Scott McGill,
Manager 1, Vocational Rehabilitation
Services (PS4826N), Department of
Labor

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-235

Examination Appeal

ISSUED: AUG 15 2014 (WR)

Scott McGill requests a make-up for the Manager 1, Vocational Rehabilitation Services (PS4826N), Department of Labor examination.

By way of background, the subject promotional examination was conducted on July 8, 2014. A review of Mr. McGill's application reveals that he did not indicate the need for any accommodation. Agency records indicate that Mr. McGill took the examination. As of the date of this decision, an eligible list has not yet promulgated.

In his letter to the Civil Service Commission (Commission) dated July 18, 2014, Mr. McGill states that he has a medical condition which was not effectively addressed prior to the test administration. In support of his request, Mr. McGill provides a note from Ann Marie Mascellino, M.D., who indicates that Mr. McGill "recently has had some medications adjusted and seems to be able to focus better." Under these circumstances, Mr. McGill requests that he be given the opportunity to take the examination again.

CONCLUSION

Initially, *N.J.A.C.* 4A:4-2.14(a) provides that otherwise qualified applicants with disabilities may request an accommodation in taking an examination by indicating their request for accommodation on the examination application and, upon receipt, the Commission shall make reasonable accommodation where appropriate and notify the candidate of the arrangements. When a candidate

requests reasonable accommodation or ADA assistance by checking box 9 on the promotional application, the Division of Selection Services (Selection Services) sends the candidate a Special Accommodation Request form which includes a list of general accommodations on the first side of the form, and a section to be completed by a doctor or child study team member on the second side of the form. As noted above, a review of Mr. McGill's original application indicates that he did not request a reasonable accommodation for this examination.

Moreover, Mr. McGill did not raise the issue of his need for an accommodation at the test center even though he was provided an opportunity to do so. In *In the Matter of Zelva Hannibal* (MSB, decided December 17, 2003), Hannibal requested a make-up examination because during the examination she was having trouble with her eyes and was diagnosed six days later with a bleeding blood vessel in her right eye. Hannibal did not raise the issue of having a medical problem at the test center but requested the make-up one month after the examination. The Board determined that consistent with *N.J.A.C. 4A:4-2.9*, the appellant was not eligible for a make-up since she did not inform the monitors of her condition on the day of the examination, completed the examination and had been exposed to the test material, and filed an untimely appeal. The Board also noted that make-up examinations are for candidates who do not take the examination when they are originally administered and that, had Hannibal raised the issue before she was exposed to the test material, she may have been eligible for a make-up examination. Similarly, Mr. McGill was clearly cognizant of his medical needs while taking this examination and was not precluded from raising the issue of his needs at the examination center. Indeed, the issue of his need for an accommodation was only raised on appeal ten days after he took the examination. However, *N.J.A.C. 4A:4-6.4(c)* states that an examination candidate wishing to challenge the manner in which the examination was administered may file an appeal in writing at the examination site on the day of the examination. Since the appellant's appeal pertaining to the test administration issue was not submitted on the night of test administration, his appeal regarding this issue is untimely. In this regard, it is noted that all candidates for examinations are provided with an informational flyer called "Taking A Department of Personnel Examination" that specifically informs them of the need to appeal administration issues, including how the examination is conducted, at the examination center. The Appellate Division of Superior Court has noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered." See *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003). Under these circumstances, given that he has participated in the examination and has been exposed to the test materials, it is not possible to fashion a remedy in this case, nor is any remedy warranted.

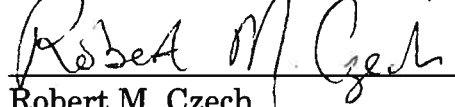
A thorough review of all material presented indicates that the appellant has failed to establish that he is eligible for a make-up examination or any other relief for the reasons set forth above. Thus, the appellant has failed to support his burden of proof in this matter.

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 ON
THE 13th DAY OF AUGUST, 2014



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