



B-81

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Efrain Marquez,  
Fire Captain (PM1131S), Newark

CSC Docket No. 2015-1750

Examination Appeal

ISSUED: FEB - 9 2015

(RE)

Efrain Marquez appeals the decision of the Division of Selection Services (DSS) which denied him a make-up examination for Fire Captain (PM1131S), Newark.

By way of background, the written portion of the subject promotional examination was administered on November 15, 2014, 188 candidates appeared for the exam, and the results are not yet available. The appellant was scheduled to take the test and did not appear. On November 13, 2014, Mr. Marquez sent in a request for a make-up examination to the Division of Selection Services, explaining that he will miss the examination due to the medical condition of his son, and stated that his hardship worsened in the past week. He included a note from the Neonatal Social Worker of the Medical Center where his son had been admitted. The note, dated November 11, 2014, stated that the appellant's baby was born on July 15, 2014 and transferred to the neonatal intensive care unit, where he remains. The baby had a surgery on November 6, 2014 and has had difficulty recovering. The Social Worker indicated that the appellant has been at his bedside the majority of days and nights, and has been visiting daily. DSS denied the request as the medical condition involved the candidate's son.

On appeal, the appellant argues that his son's numerous medical procedures have required his attention and involvement, and he has not been able to study or concentrate on anything but his son's care. He explains that his son was unstable and critical after his surgery on November 6, 2014, which has been a hardship, and

his son was still in the hospital on December 15, 2014, when the appellant submitted his appeal.

*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 appellant was scheduled to take the subject examination on November 15, 2014 and did not do so. The appellant provides a letter from a social worker confirming that his infant son had a medical condition requiring hospitalization. The appellant's situation did not involve his own injury or illness, but rather, his son's, who was in the hospital since his birth in July, and remains there. The appellant's son's surgery was nine days prior to the examination date, and clearly his son has an extremely serious medical condition.

*N.J.A.C.* 4A:1-1.2(c) provides that the Commission may relax a rule for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes. Although the circumstances of this matter do not fit precisely within the parameters of the make-up examination rule, in that it does not provide for a make-up due to illness of a candidate's immediate family member, it is clearly evident that appellant had compelling medical reasons to miss the examination. Thus, a review of the merits of the situation indicates that good cause exists to relax the rule on make-up examinations and permit the appellant to take a make-up examination.

### ORDER

Therefore, it is ordered that this appeal be granted, and that the appellant be given a make-up examination.

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 4<sup>th</sup> DAY OF FEBRUARY, 2015



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