

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.

N.J.A.C. 4A:4-2.9(f) provides, in pertinent part, that a candidate must submit a written request for a make-up examination within five days of receipt of the examination notice.

CONCLUSION

The record establishes that the appellant was scheduled to take the subject examination on March 7, 2015 and did not do so. According to his appeal, the appellant knew he would not take the examination on that day, but waited until March 20, 2015 to notify the Commission of his condition. As a result, this request is untimely. The appellant does not provide a reason why he waited 13 days before filing a make-up examination request indicating that he was not medically able to take the examination on March 7, 2015. He was required to request a make-up examination in writing within five days after the examination date, and did not do so. It is noted that this examination was the oral portion, requiring extensive resources to conduct. To administer this examination requires staff to escort the candidate, conduct the preparation, administer the examination and record the presentation. The rules allow for a five day window of notification upon non-appearance in case a medical condition is such that the candidate cannot respond on or before the test date, such as hospitalization. In this case, the candidate knew he would not attend, yet did not notify DAS so that his session could be otherwise utilized.

Additionally, the letter from DAS denying his request was dated April 22, 2015. The letter indicated that if the appellant wished to appeal this decision, he must submit a written appeal within 20 days of this notice, and that only written appeals would be accepted. The appellant should have responded by May 16, which is 20 days plus four days of mailing time. The appellant submitted an appeal of this issue in an undated letter, which was postmarked on May 19, 2015. The appellant's

appeal was received after the deadline for filing an appeal had passed, and thus, both the original request and the appeal are untimely.

Lastly, the reason provided by the physician is inadequate. The physician was instructed to provide a clear statement indicating why the candidate's physical condition precluded him from taking the examination as scheduled. The physician responded simply that the candidate was undergoing treatment. This is insufficient to establish that the appellant could not have taken the examination as scheduled.

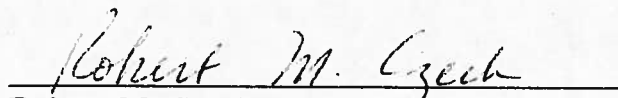
A thorough review the record indicates that the appellant has failed to support his burden of proof in this matter.

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
THE 3rd DAY OF JUNE, 2015



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