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STATE OF NEW JERSEY

In the Matters of Megan Kately and
Tracy Ferreira, Department of
Human Services

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

CSC Docket Nos. 2016-4076 and
2016-4077

Administrative Appeals

ISSUED: DEC 23 2016 (JET)

Megan Kately and Tracy Ferreira, represented by Joseph C. Nardini, Staff Representative, Communications Workers of America, Local 1039, request to participate in an intergovernmental transfer on a retroactive basis. The appeals have been consolidated due to common issues presented.

By way of background, official personnel records reflect that Kately separated from her position as a Human Services Specialist 2 with the Middlesex County Board of Social Services, effective November 2, 2012 and was provisionally appointed, pending open competitive examination procedures, as a Child Support and Paternity Specialist 2¹ with the Department of Human Services (DHS) effective November 3, 2012. Regarding Ferreira, this agency does not have a record that she served in local government. However, records reflect that she was provisionally appointed, pending open competitive examination procedures, as a Child Support and Paternity Specialist 2 with DHS effective September 7, 2013.

On appeal to the Civil Service Commission (Commission), the appellants state that DHS denied their requests to participate in the intergovernmental transfer process. Further, they argue that neither the sending agency nor the receiving agency informed them that they had the opportunity to submit a request for an intergovernmental transfer. They add that this agency's publication, "Guide to the Intergovernmental Transfer Process for Appointing Authorities," is silent regarding which appointing authority has responsibility for initiating the intergovernmental transfer. As such, they argue that they should not be held

¹ The name of this title changed to Child Support Specialist 2 on July 26, 2014.

accountable for not requesting an intergovernmental transfer. In addition, the appellants contend that the titles of Child Support and Paternity Specialist 2² and Human Services Specialist 2 are comparable titles which should make them eligible for the intergovernmental transfer.

CONCLUSION

N.J.A.C. 4A:4-7.1(A)a provides, in pertinent part, that an intergovernmental transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A, New Jersey Statutes. *N.J.A.C.* 4A:4-7.1(A)b provides that an intergovernmental transfer shall require the consent in writing of the sending jurisdiction, if any, the receiving jurisdiction, and the affected employee, and the approval of the Chairperson of the Civil Service Commission or designee.

In the instant matter, there is no basis on which to permit the appellants to retroactively participate in the intergovernmental transfer program. The intergovernmental transfer rules permit such transfers *subject to the approval of the transferring agency, the receiving agency, the transferring employee, and this agency*. In other words, participation in the intergovernmental transfer program is not an entitlement. As such, participation is at the discretion of the parties involved in the transfer. See *In the Matter of Kindred Brunson* (MSB, decided January 12, 2005). It is **not** the obligation of either a sending or receiving appointing authority to inform its employees of the existence of various intergovernmental transfer opportunities that may be available at a particular time. Rather, the program allows State and local Civil Service jurisdictions to post openings for specific titles, including unclassified titles, on this agency's website. These job openings can be searched by employees with permanent status who are looking for a new opportunity with a different appointing authority. Thus, the onus is on the individual looking for employment opportunities with other appointing authorities to initially request if he/she can be released from his/her current position as well as to obtain approval from the new jurisdiction. The record does not reflect that the appellants responded to any open intergovernmental transfer vacancies at the time of their provision appointments with DHS or obtained the required approvals from the respective appointing authorities.

Even assuming, *arguendo*, that the appellants responded to existing intergovernmental opportunities for Child Support and Paternity Specialist 2, if they existed at the time of their provisional appointments, their request would not have been approved by this agency. *N.J.A.C.* 4A:4-7.1A(c)2(ii) states that the education and experience requirements for the titles that are the subject of an intergovernmental transfer shall be the same or similar and the mandatory requirement of the new title shall not exceed those of the former title. The title of

² It is noted that both appellants are now serving provisionally in the title of Child Support Specialist 1.

Human Services Specialist 2 is not substantially similar to the title of Child Support and Paternity Specialist 2. In this regard, the education and experience requirements for Child Support and Paternity Specialist 2 are possession of a Bachelor's degree and two years of specific experience. Conversely, the education and experience requirements for Human Services Specialist 2 are possession of 60 college credits and one year of specific experience. Therefore, since the titles would not be considered substantially similar in accordance with *N.J.A.C. 4A:4-7.1A(c)*, the appellants could not intergovernmentally transfer to Child Support and Paternity Specialist 2 from Human Services Specialist 2. *See In the Matter of In the Matter of Diane M. Cannatella* (CSC, decided May 15, 2013).

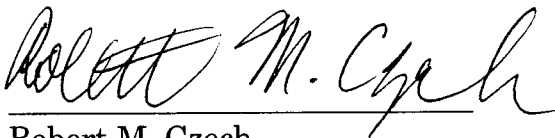
Accordingly, the appellants have not established a sufficient basis to allow them to participate in an intergovernmental transfer on a retroactive basis.

ORDER

Therefore, it is ordered that these requests 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 21st DAY OF DECEMBER, 2016



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