

On appeal to the Civil Service Commission (Commission), the appellant states that, until she spoke with HDC's Human Resources Department on October 1, 2018, she did not know that her promotion to the subject title was provisional or that she would need to apply for a promotional examination in order to remain in that position. She acknowledges that the appointing authority sent her an email with the examination announcement on August 31, 2018. However, she submits that between August 31, 2018 and September 4, 2018, she was on leave from work due to a death in her immediate family and she indicates that she did not see the email with the examination announcement until after the closing date.

CONCLUSION

N.J.A.C. 4A:4-2.1(e) provides that unless otherwise provided for by the Chairperson of the Commission or designee, applications for promotional examinations shall be submitted to the Commission no later than 4:00 p.m. on the announced application filing date. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the instant matter, the appellant was not admitted to the subject examination because she did not submit an application by the closing date. The Commission notes that the dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. *See Communications Workers of America v. New Jersey Department of Personnel*, 154 *N.J.* 121 (1998). Here, the appellant acknowledges that the appointing authority sent her an email with the subject examination announcement on August 31, 2018. However, she submits that she was on leave due to the death of an immediate family member between that date and September 4, 2018 and missed the email upon her return to work. The appellant also asserts that she did not realize that her appointment to the subject title was provisional and that she would be required to go through the examination process in order to remain in the position permanently. The Commission generally denies requests to accept late examination applications, as *N.J.A.C.* 4A:4-2.1(e) requires applicants to file their applications by the closing date. Nonetheless, the appellant is currently serving provisionally as a Principal Physical Therapist and the examination situation is not competitive since the subject eligible list only contains the name of one eligible. Under these limited circumstances, the Commission finds that there is good cause to relax *N.J.A.C.* 4A:4-2.1(e) and allow the appellant to submit a late application for the subject examination.

on May 4, 2016. However, the appellant was informed, by letter dated May 13, 2016, that her appeal was untimely pursuant to *N.J.A.C.* 4A:2-1.1(b) and would not be presented to the Commission for a determination.

It is noted that this remedy is limited to the unique circumstances of this matter and does not provide a precedent in any other matter. Finally, the Commission notes that the appellant's remedy is based on the particular circumstances of this matter and she is cautioned that, for future examination announcements, she must timely file her application.

ORDER

Therefore, it is ordered that this petition be granted and Elizabeth Bui be permitted to submit an application for the Principal Physical Therapist (PS4616K) examination. It is further ordered that Bui submit a promotional application and \$25.00 application processing fee to the Division of Agency Services within 20 days of the issuance date of this decision. Upon receipt of the application and processing fee, it is ordered that her application be processed for prospective appointment consideration. Finally, if Bui's application and the required payment are not postmarked within 20 days of the issuance date of this decision, she will not be entitled to have an application for the subject examination processed.

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 NOVEMBER, 2018

Deirdre' L. Webster Cobb

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