



STATE OF NEW JERSEY

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

In the Matter of Social Work
Supervisor (PC2725V), Bergen
County Board of Social Services

Appointment Waiver

CSC Docket No. 2019-1218

ISSUED: FEBRUARY 8, 2019 (HS)

The Bergen County Board of Social Services requests permission not to make an appointment from the September 10, 2018 certification for Social Work Supervisor (PC2725V).

The record reveals that the appointing authority provisionally appointed Luisa Marquez, pending promotional examination procedures, to the title of Social Work Supervisor, effective October 10, 2017. As a result of this provisional appointment, an examination for the title was announced with a closing date of December 21, 2017. Marquez, a non-veteran, and seven other non-veteran applicants were admitted to the examination, which was administered via the Supervisory Test Battery. The resulting eligible list of eight names promulgated on September 6, 2018 and expires on September 5, 2020. On September 10, 2018, the names of all eight eligibles, including Marquez as the first ranked eligible, were certified (PL181175) from the eligible list. Subsequently, the appointing authority requested an appointment waiver. In its request, the appointing authority stated that upon further consideration, it realized that it needed to appoint an individual who is bilingual in Spanish and English. Thus, it requested that the eligible list for Social Work Supervisor Bilingual in Spanish and English (PC2726V), Bergen County Board of Social Services be certified (PL181231) and ended up with two certifications for "one opportunity," which it acknowledges was its error. Marquez, who also appeared on the PC2726V list as the first ranked eligible, received a permanent appointment from certification PL181231, effective October 1, 2018. In addition to its request for an appointment waiver, the appointing authority

requested that Marquez's name be removed from the PC2725V list in light of her appointment from the PC2726V list.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$1,114. In response, the appointing authority reiterated its reason for requesting an appointment waiver and indicated that it anticipates making an appointment from the PC2725V list before its expiration.

Agency records indicate that currently there are no individuals serving provisionally in the title of Social Work Supervisor with the appointing authority.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In this matter, the examination for the title of Social Work Supervisor was generated as a result of the provisional appointment of Marquez. However, after a complete certification was issued from the Social Work Supervisor (PC2725V) eligible list, the appointing authority indicated that no appointment would be made since, upon consideration, it realized a need to appoint an individual who is bilingual in Spanish and English. Thus, it requested that the Social Work Supervisor Bilingual in Spanish and English (PC2726V) list be certified and appointed Marquez from that list. Marquez ranked first on both lists. Moreover, there is no one currently serving provisionally in the title of Social Work Supervisor with the appointing authority. Accordingly, based on the foregoing circumstances, there is sufficient justification for an appointment waiver.

Although the appointment waiver is granted, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. Nevertheless, the Civil Service Commission (Commission) notes the appointing

authority's indication that it anticipates making an appointment before the expiration date of the eligible list. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. In the event it fails to utilize the list by its expiration date of September 5, 2020, this matter can be reviewed in such a situation to ascertain whether an assessment for the costs of the selection process should be made. See e.g., *In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided March 22, 2006) (not appropriate to assess the Department of Corrections for the costs of the selection process since it had indicated its intention to utilize the eligible list prior to its expiration date); *In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided April 11, 2007) (costs assessed upon the expiration of the eligible list since the Department of Corrections failed to utilize the eligible list and there was no evidence that it had even attempted to utilize the eligible list).

As a final matter, the Commission declines the appointing authority's request that Marquez's name be removed from the PC2725V list at this time in light of her appointment from the PC2726V list. As discussed above, the Commission is granting the appointing authority's request for an appointment waiver in this case. In so doing, the Commission is only permitting the September 10, 2018 certification (PL181175) from the PC2725V list to be cancelled, not ordering the recording of any other disposition for the eligibles on that certification. If Marquez appears on a future certification from the PC2725V list, the appointing authority is not precluded from requesting that her name be removed from the list at that time should it believe such action to be warranted. However, for the reasons described, it is unnecessary for the Commission to take a position on the merits of such a potential request at this time.

ORDER

Therefore, it is ordered that the appointment waiver be granted and no selection costs presently be assessed.

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 6TH DAY OF FEBRUARY, 2019



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