



STATE OF NEW JERSEY

In the Matter of Senior Emergency
Medical Technician (PM5630D),
Brick

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

CSC Docket No. 2024-250

Appointment Waiver

ISSUED: November 1, 2023 (AMR)

Brick requests permission not to make an appointment from the April 24, 2023 certification for Senior Emergency Medical Technician (PM5630D), Brick.

The record reveals that Brick provisionally appointed Dorothy DePiano, pending promotional examination procedures, to the subject title effective August 30, 2021. An examination was announced with a closing date of November 21, 2022, that resulted in a list of 11 eligibles promulgating on April 20, 2023 and expiring on April 19, 2026. It is noted that DePiano had been returned to her previously held permanent title of Emergency Medical Technician effective April 24, 2023. Additionally, there are currently no employees serving provisionally pending promotional examination procedures in the subject title with the appointing authority.

The appointing authority returned the subject certification and requested a waiver of the appointment requirement, explaining that due to budgetary constraints, it was unable to make an appointment from the subject certification and confirmed that it had returned DePiano to her previously held permanent title of Emergency Medical Technician effective April 24, 2023. Additionally, the appointing authority asserted that it intends to utilize the subject eligible list before the February 22, 2026 expiration date once its budget constraints are lifted. Therefore it requested a waiver of the selection costs.

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. Despite the opportunity, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

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 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 the instant matter, the examination for the subject title was generated as a result of the provisional appointment of DePiano. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that due to budgetary constraints, it was unable to make an appointment from the subject certification and had returned DePiano to her previously held permanent title of Emergency Medical Technician effective April 24, 2023. Thus, in conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

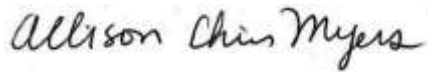
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the Commission notes that the list in question will not expire until April 19, 2026. Further, the appointing authority has indicated that although an appointment will not be made at this time, it would like to reserve the right to utilize the list for future opportunities with Brick once its budgetary constraints have been lifted. 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. Nevertheless, in the event it fails to utilize the subject eligible list by its expiration date of April 19, 2026, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement 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 1ST DAY OF NOVEMBER, 2023



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