



STATE OF NEW JERSEY

In the Matter of Program Support
Specialist, Assistance Programs
Titles, Department of Corrections

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

CSC Docket No. 2025-233

Request for Reconsideration

ISSUED: September 25, 2024 (SLK)

The Department of Corrections (DOC) requests reconsideration of *In the Matter of Program Support Specialist, Assistance Programs Titles, Department of Corrections* (CSC, decided July 3, 2024) concerning the appointment date of employees into the appropriate Program Support Specialist, Assistance Programs title.

In its request for reconsideration, the DOC presents that the Civil Service Commission (Commission) approved its request for a mass title change by way of reallocation of the Program Support Specialist, Assistant Programs title series to the noncompetitive division. It indicates that the resulting reclassification, title reallocation and mass title crosswalk of incumbents in the Social Worker and Social Work Supervisor title series to the appropriate title, Program Support Specialist 3, Assistance Programs, Program Support Specialist 2, Assistance Programs, Program Support Specialist 1, Assistance Programs or Supervising Program Support Specialist, Assistance Programs, facilitated an organizational structure within the DOC to comply with new mandates, improve operational efficiency and support recruitment and incarcerated persons reentry efforts.

The DOC provides that the Commission's decision ordered the appointment of named employees into the appropriate Program Support Specialist Assistance Programs titles effective the first pay period following the Commission's approval, which was July 13, 2024. It is requesting reconsideration of the July 13, 2024,

effective date, and it requests an appointment date to the pay period that corresponds with the September 28, 2023, submission date of its original request. Additionally, the DOC notes that on December 13, 2023, it supplied this agency a complete package of supporting documents consisting of a cover letter, a master list of impacted employees, pre-qualifying evaluations and resumes for each incumbent, a Table of Organization, and four Position Classification Questionnaires for each title in the Program Support Specialist titles series. Further, the DOC asserts that with the submission of the complete package, the matter followed the lines of an out-of-title work appeal, where the Commission reaffirmed the out-of-title work in its decision. It requests, as is customary with an out-of-work title appeal, a retroactive effective date to the corresponding date of submission of the request/complete package. Additionally, the DOC states that issuance of a retroactive effective date remedies delays in processing its request.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred, or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

N.J.A.C. 4A:4-1.10(c) provides that when a regular appointment has been made, the Commission may order a retroactive appointment date due to administrative error, administrative delay, or other good cause, on notice to affected parties.

In this matter, the DOC has not met the standard for reconsideration. Specifically, it has not argued, nor has any evidence been presented, that indicates that the Commission made a clear material error as the decision conforms with Civil Service law and rules. Further, the DOC has not presented any evidence explaining why it did not make the subject request and submit its supporting arguments and documentation at the original proceeding as it has not supplied any information that was not available to it at the time of the original proceeding.

Moreover, generally, the unique remedy of a retroactive appointment has been reserved for two particular situations. First, the Commission has granted retroactive permanent appointment dates in circumstances in which an employee was actually serving in and performing the duties of a title, but due to some error or other good cause, the employee's attainment of permanent status was delayed or hindered. The second situation in which an employee may be awarded a retroactive date of permanent appointment is where the name of an employee, whose appointment would have otherwise been mandated, was improperly removed from or bypassed on an eligible list, thereby preventing their appointment. When the Commission

subsequently corrects the improper list removal or bypass, the Commission also orders the employee's appointment and a retroactive permanent appointment commensurate with the date on which others were appointed from the certification of the eligible list. *See In the Matter of Neil Layden* (MSB, decided March 23, 2005); *In the Matter of Ciri Castro, Jon Martin, and Luis Sanchez* (MSB, decided January 12, 2005).

In this case, there was no administrative error or administrative delay. The subject request was submitted in September 2023. Thereafter, the DOC submitted additional information in December 2023 so that each impacted employee could be evaluated regarding their appointment in an appropriate Program Support Specialist, Assistance Programs title. Subsequently, this agency reviewed the prequalifying examination information for each employee as well as engaged in other internal processes to evaluate the request and the Commission approved the request at its July 3, 2024, meeting. Finally, contrary to the DOC's assertion, this matter is not analogous to an appeal of an out-of-title work position reclassification request as in those cases, a successful employee generally receives a retroactive date of provisional appointment subject to examination procedures. Here, the incumbent employees received permanent appointments following the Commission's decision.

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 ON
THE 25TH DAY OF SEPTEMBER, 2024



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