

B-56



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Timothy Cressey,
Investigator 2 Taxation (PS0256R),
Department of the Treasury

Examination Appeal

CSC Docket No. 2016-953

ISSUED: **DEC 21 2015** (RE)

Timothy Cressey requests a make-up examination for Investigator 2 Taxation (PS0256R), Department of the Treasury.

The appellant was scheduled to take the examination on August 6, 2015. He appeared for the examination, took it, and received a failing score. Scores were sent out on August 19, 2015 and, in a letter postmarked August 31, 2015, the appellant states that he is providing documentation regarding his son's illness and earlier hospitalization (July) prior to the test. He states that he suffered from emotional mental distress as a result of his son's condition, and could not study. During the test, he states that he was not thinking clearly. He states that he should not have taken the examination, and no one from "upper management"¹ asked if he was ready and competent to take the examination. In support of his appeal, the appellant provides extensive medical records regarding his son's hospitalization. It is noted that 52 candidates appear on the resultant eligible list, which has had multiple certifications, but no appointments have yet been made.

N.J.A.C. 4A:4-2.9(a) (Make-up examinations) states that make up examinations may be authorized for:

1. Error by the Civil Service Commission or appointing authority;

¹ It is not clear whether Mr. Cressey is referring to upper management of this agency or the Department of the Treasury.

2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
3. Documented serious illness or death in the candidate's immediate family;
4. Natural disaster;
5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation;
6. When required for certain persons returning from military service (see N.J.A.C. 4A:4-4.6A); and
7. Other valid reasons.

CONCLUSION

At the outset, Mr. Cressey's request for a make-up examination was postmarked on August 31, 2015, over three weeks after the examination was given and after receiving his examination results. As such, this appeal is clearly untimely. Requests for make-up examinations must be filed in writing within five days after the examination date due to one of the valid reasons. See *N.J.A.C. 4A:4-2.9(f)*.

Next, the appellant's son's condition does not establish that he would meet the make-up examination criteria, as his son's condition required surgery which was performed in July, and his son was discharged on July 25, 2015. The appellant was waiting for results regarding his son's condition on the test date, August 6, 2015, but his son was not in an acute condition by that time. The appellant had the responsibility to notify the Division of Agency Services (DAS) if he could not take the examination for one of the reasons listed above.

Further, it is not appropriate for "upper management" to ask candidates about their competency to sit for an examination. Also, if the appellant is relying on his own medical condition as a reason why he could not take the examination, he did not provide documentation of his condition and provide medical documentation that established that his condition precluded him from taking the examination on August 6, 2015. Finally, make-up examinations are for candidates who do not take their examinations when they are originally administered. Since the appellant took the examination, he is not eligible for a make-up exam. Rather, he is essentially asking for a retest, and there is no rule allowing for a retest.

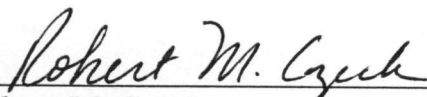
A thorough review the record indicates that the appellant has failed to support his burden of proof in this matter.

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
THE 16th DAY OF DECEMBER, 2015



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