

B-46



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Benita Dickerson,  
Supervisor of Professional  
Residential Services, Developmental  
Disabilities (PS0641K); Woodbine  
Developmental Center

Administrative Appeal

CSC Docket No. 2016-4407

ISSUED: **JAN 20 2017** (ABR)

Benita Dickerson requests that the provisions of *N.J.A.C. 4A:4-2.6(a)4* be relaxed in order to allow her to file a late application for the promotional examination for Supervisor of Professional Residential Services, Developmental Disabilities (PS0641K), Woodbine Developmental Center (Woodbine).

By way of background, the appellant was on an approved medical leave of absence from December 7, 2015 to April 27, 2016. The subject examination was announced on March 1, 2016 with a closing date of March 21, 2016 and open to applicants who possessed one year of permanent service in the title of Assistant Supervisor of Professional Residential Services Developmental Disabilities or to applicants who possessed one year of permanent service in any competitive title and who possessed a Bachelor's degree and four years of experience in work involving the direct care, training or other habilitative services to the developmentally disabled in a residential or health care facility, including one year in a supervisory capacity. Applicants who did not possess the required education could substitute experience, as indicated, on a year-for-year basis, with 30 semester hour credits being equal to one year of experience. A total of 44 employees submitted applications prior to the closing date. The appellant, who holds the title of Cottage Training Supervisor, did not submit an application. The subject examination was administered on July 12, 2016 and an eligible list containing eight names promulgated on August 18, 2016. A certification was issued on August 17, 2016 which resulted in three appointments to the subject title.

On appeal to the Civil Service Commission (Commission), the appellant argues that she should be given an opportunity to file a late application for the subject examination because she was not given timely notice about the examination. Specifically, she claims that medical issues prevented her from coming into work<sup>1</sup> and that she had no knowledge about the examination announcement until she returned from her medical leave.<sup>2</sup> The appellant argues that the appointing authority did not give adequate notice of the subject examination announcement because the announcement was posted in no more than five out of the 15 cottages at Woodbine. In support, the appellant submits copies of a Grievance Procedure Form she filed with the appointing authority on April 18, 2016 and the September 29, 2016 denial of her grievance. With her grievance, the appellant sought an opportunity to sit for the subject examination based upon her contention that the appointing authority did not provide adequate notice of the examination announcement. In that matter, the parties stipulated that there were five cottages at Woodbine where the announcement was not physically posted. The appellant contends the decision denying her grievance did not acknowledge testimony from four other Woodbine employees that there were at least four additional cottages where the examination announcement was not physically posted. It is noted that in denying the appellant's grievance, the Employee Relations Coordinator for Woodbine found that the subject examination announcement was posted at five conspicuous locations at the facility, was sent via email to all Woodbine employees with a State email address and was posted on the Commission's website. The appellant indicates that she does not possess a State email address.

The appellant also claims that she would have met the eligibility requirements for the subject examination and submits a resume and a transcript from Cumberland County College. The appellant's transcript from Cumberland County College indicates that she only possesses 21 semester hour credits.

## CONCLUSION

*N.J.A.C.* 4A:4-2.6(a)4 states that applicants for promotional examinations must file an application on or before the application filing deadline. Additionally, *N.J.A.C.* 4A:4-2.1(b) provides, in pertinent part, that an appointing authority must post promotional examination announcements at all geographic locations to which the exam is open and it shall also ensure the notification by electronic or other means of all eligible of the promotional examination announcement. Generally, this requires that individuals in the announced unit scope who are serving in titles

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<sup>1</sup> The appellant submits the approval of her medical leave from the appointing authority and a doctor's note which states that she was unable to take the subject examination between March 2016 and July 2016 due to an ongoing medical condition.

<sup>2</sup> The appellant submits a copy of a Grievance Procedure Form dated April 18, 2016 that she filed with the appointing authority, in which she stated that she was made aware of the subject examination on March 23, 2016 and that she also claimed that a secretary denied her request for a copy of the examination announcement in April 2016.

listed on the promotional announcement are identified and directly informed that they appear to be eligible for the examination. However, individuals who are not serving in one of the listed titles on the announcement and who meet the open competitive requirements are only required to be notified via the posted announcement. *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 of the New Jersey Statutes Annotated.

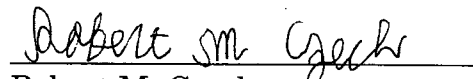
In the instant matter, the record does not support that the appellant be permitted to submit an application after the closing date for the subject examination. With regard to the adequacy of the notice provided to the appellant, it is noted that the appellant's title of Cottage Training Supervisor was not listed in the examination announcement. As such, if the appellant had not been on leave during the examination application period, the appointing authority would not have been obligated to provide her with direct notice of the examination announcement. The Commission is aware that the appellant was not present at Woodbine between the March 1, 2016 announcement date for the subject examination and the March 21, 2016 closing date because she was on an approved medical leave from December 7, 2015 to April 27, 2016. The Commission also recognizes that the appellant would not have been sent a copy of the examination announcement via email because she did not possess a State email address. In that regard, it is noted that in cases where the Commission has allowed applicants to submit late applications after returning from leave, it has generally done so because the applicants held titles listed in the examination announcements at issue. *See In the Matter of John Unger* (MSB, decided January 17, 2007). *See also In the Matter of Mark Prior* (CSC, decided July 10, 2012). Additionally, in this case, the examination announcement was posted on the Commission's website in accordance with *N.J.A.C. 4A:4-2.1(b)*. Furthermore, the record evidences that the appointing authority exercised reasonable diligence in announcing the subject examination by directly notifying eligibles in the Assistant Supervisor of Professional Residential Services Developmental Disabilities title, posting the examination announcement in several locations at Woodbine and sending the announcement to all employees with a State email address. In that regard, it is noted that a total of 44 employees submitted applications for the subject examination prior to the closing date. Finally, the subject eligible list is complete and three appointments have been made to the title at issue. Accordingly, the foregoing demonstrates that good cause does not exist to permit the appellant to file a late application.

### ORDER

Therefore, it is ordered that this appeal 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 18<sup>TH</sup> DAY OF JANUARY, 2017

  
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