



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Family Counselor  
(C0110A), Bergen County

CSC Docket No. 2020-973

Appointment Waiver

ISSUED: DECEMBER 5, 2019 (BW)

Bergen County requests permission not to make an appointment from the July 8, 2019 certification for Family Counselor.

The record reveals that the appointing authority appointed Desiree Dubose provisionally to the subject title, which generated an open-competitive examination announcement with a closing date of January 22, 2019. The resulting eligible list of seven names promulgated on July 4, 2019 and expires on July 3, 2022. The appointing authority took no action to prevent the need for the examination at the time of the announcement or prior to the administration of the examination. On July 8, 2019, the names of seven eligibles were certified to the appointing authority from the eligible list.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving.<sup>1</sup> Specifically, it explained that Dubose resigned from the position and that it planned on using the list before it expires on July 3, 2022. Accordingly, it requested a waiver of the appointment requirement as well as a waiver of any selection costs.

<sup>1</sup> Dubose resigned on September 11, 2019.

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 \$2,048. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

It is noted that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title 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 by the Commission for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated based on the appointing authority's appointment of a provisional employee. However, after a complete certification was issued, the appointing authority requested an appointment waiver. The appointing authority indicated that the provisional resigned and that it plans on using the list before it expires on July 3, 2022. Under these circumstances, the appointing authority has presented adequate justification for granting 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. However, the appointing authority indicates that it plans to utilize the subject list prior to its expiration date of July 3, 2022. 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 the appointing authority fails to utilize the list by its expiration date of July 3, 2022, 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 4<sup>TH</sup> DAY OF DECEMBER, 2019



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