



waiver. In its request, the appointing authority indicated that it will not be placing anyone in the subject title for the foreseeable future. It also indicated that the provisional appointees were reassigned and had their titles changed to titles more befitting their duties.

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. In response, the appointing authority did not submit any further arguments but did submit a check for the selection costs.

Agency records indicate that Henry received a permanent appointment to the noncompetitive title of Employee Benefits Clerk, effective October 2, 2018. Mayton was returned to her permanent title of Clerk 3, effective August 16, 2017. Agency records also indicate that currently there are no individuals serving in the subject title with the appointing authority.

A review of the job specification for Accounting Assistant reveals that an individual in that title performs preliminary accounting work involved in preparing financial records and in maintaining an accounting system. A review of the job specification for Employee Benefits Clerk reveals that an individual in that title performs varied clerical work of limited complexity involved in the processing of enrollments, adjustments, terminations and additions for employee insurance, hospitalization, benefits and pension plans.

## 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 for a valid reason such as fiscal constraints.

In this matter, the examination for the subject title was generated as a result of the appointing authority's request for an eligible list to fill a vacancy. However, after a complete certification was issued, the appointing authority indicated that no appointment would be made and that the provisional appointees were no longer serving in the subject title. Specifically, Henry was permanently appointed to the noncompetitive title of Employee Benefits Clerk. A review of the relevant job specifications indicates that an Employee Benefits Clerk performs duties sufficiently different from those of an Accounting Assistant. In this regard, an Accounting Assistant performs preliminary accounting work involved in preparing financial records and in maintaining an accounting system. However, an Employee

Benefits Clerk performs varied clerical work of limited complexity involved in the processing of enrollments, adjustments, terminations and additions for employee insurance, hospitalization, benefits and pension plans. In addition, Mayton was returned to her permanent title of Clerk 3. Moreover, there is no one currently serving in the subject title with the appointing authority. Accordingly, based on the foregoing, there is sufficient justification for 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. In the instant situation, although valid reasons exist for not making an appointment from the subject eligible list, the appointing authority has failed to provide a sufficient basis for not being charged for the costs of the selection process that produced the subject eligible list. Moreover, the appointing authority submitted a check for the costs of the selection process. Therefore, since the appointing authority has conceded that it is responsible for those costs, it is appropriate that the appointing authority be assessed for the costs of the selection process.

### ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048, but notes that the costs have already been remitted.

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 9<sup>TH</sup> DAY OF MAY, 2019



Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals and Regulatory Affairs  
Written Record Appeals Unit  
Civil Service Commission  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c. Dominick Villano  
Kelly Glenn  
Records Center  
Beth Wood