

STATE OF NEW JERSEY

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

In the Matter of Robert Berman,
Vocational Rehabilitation Counselor,
Deaf Language Specialist (PS0748N),
Department of Labor and Workforce
Development

Examination Appeal

CSC Docket No. 2020-2095

ISSUED: MAY 22, 2020 (SLK)

Robert Berman appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the requirements for the promotional examination for Vocational Rehabilitation Counselor 2, Deaf Language Specialist (PS0748N), Department of Labor and Workforce Development.

The examination was open to employees with one year of continuous permanent service as a Vocational Rehabilitation Counselor 1, Deaf Language Specialist and other specific titles as of the October 21, 2019 closing date. The education requirements were a Master’s degree in Rehabilitation Counseling, Education, Social Work, Counseling, Special Education, School Guidance or Psychology and successful completion of one graduate course in Theories and Techniques of Counseling. A Bachelor’s degree in Rehabilitation Counseling, Education, Social Work, Counseling, Special Education, School Guidance, Psychology, Business Administration, Human Resources or Economics and two years of professional work experience with individuals with disabilities or performing direct counseling or advocacy activities for individuals with disabilities in a rehabilitation agency, facility or other special program designed to increase the employability of persons with disabilities could substitute for the above education. The experience requirements were two years of experience in vocational rehabilitation guidance or counseling, or other related guidance and counseling, or social or medical casework in a rehabilitation agency, facility or other social program designed to increase the employability of persons with disabilities. Additionally, appointees must be able to communicate effectively in the language of the deaf, particularly American Sign Language (ASL) sufficiently to perform the duties of the position. Appointees must have a proficiency level of at least an intermediate level and must reach the advanced level or higher-level rating on the Sign Language Proficiency Interview (SLPI) within

two years of appointment. A total of three employees applied for the subject examination and one was determined eligible. No certifications have been issued and the list expires on February 5, 2023.

On the appellant's application, he indicated that he had a Bachelor's degree in Sociology and 39 credits in ASL Interpreting and 12 credits in Deafness Rehabilitation. Additionally, he submitted documentation demonstrating that he received an Intermediate Plus Rating from the SLPI. The appellant also indicated that he was provisionally serving in the subject title from January 2017 to the October 21, 2019 closing date and a Vocational Rehabilitation Counselor 1, Deaf Language Specialist from February 1996 to January 2017. Agency Services credited the appellant with having met the experience requirements, but determined he lacked the required education.

On appeal, the appellant relies on his background as indicated on his application and supporting documentation submitted with his application.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. *N.J.A.C.* 4A:1-1.2(c) provides that the Civil Service Commission (Commission) may relax these rules for good cause in a particular situation, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Initially, Agency Services correctly determined that the appellant lacked a Bachelor's or Master's degree in an applicable field. However, it cannot be ignored that the job specification for the subject title indicates that incumbents provide counseling services to clients with hearing impairments requiring rehabilitative services. Further, the duties of the subject title are to be performed by utilizing the language of the deaf, particularly ASL. A review of the appellant's application and supporting documentation indicates that he has a Bachelor's degree, an Intermediate Plus SCPI Rating, 12 college credits in Deafness Rehabilitation, 39 college credits in ASL Interpreting and over 20 years of experience providing vocational rehabilitation counseling for persons with hearing impairments. Additionally, the list is incomplete as there is only one name on the list and the appellant continues to serve provisionally in the subject title. Therefore, although the appellant's education does not precisely mirror the requirements in the subject announcement, the Commission finds good cause under *N.J.A.C.* 4A:1-1.2(c) to accept the totality of his educational background, including his Bachelor's degree, college credits in Deafness Rehabilitation and ASL Interpreting, and Intermediate Plus SCPI Rating to meet the education requirements for the subject examination, for eligibility purposes only, and admit him to the examination. *See In the Matter of Jessica Reid* (CSC, April 9, 2014).

This determination is limited to the instant matter and does not provide precedent in any other matter.

ORDER

Therefore, it is ordered that the appeal be granted, and Robert Berman's application be processed for prospective employment opportunities only.

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
20TH DAY OF MAY, 2020



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Robert Berman
Tennille McCoy
Heath Bernstein
Kelly Glenn
Records Center