



STATE OF NEW JERSEY

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

In the Matter of Barbara McCormick,
Public Health Consultant 2 Nursing
(S0032W), Statewide

List Removal Appeal

CSC Docket No. 2020-1652

ISSUED: JUNE 19, 2020 (HS)

Barbara McCormick appeals the removal of her name from the eligible list for Public Health Consultant 2 Nursing (S0032W), Statewide on the basis that she failed to respond to a certification notice.

The appellant, a veteran, took and passed the open-competitive examination for Public Health Consultant 2 Nursing (S0032W), which had a closing date of January 22, 2018. The resulting eligible list promulgated on June 14, 2018 and expires on June 13, 2021. The appellant's name was certified to the Department of Health on October 21, 2019 with a notice date of October 28, 2019. Certification notices instruct individuals to write to the appointing authority within five business days of the notice date to let it know whether or not the individual is interested in the position. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that she failed to respond to the certification notice. The appellant was sent a Certification Disposition Notice with a notice date of November 20, 2019 advising that her name had been removed from the eligible list.

On appeal to the Civil Service Commission (Commission), the appellant submits an affidavit in which she states:

This letter will serve as my sworn statement that the [Certification Disposition Notice] dated 11/20/2019 to remove my name from the Civil Service list because the appointing authority indicated that I failed to respond to a certification notice as required was initial notice of removal.

No additional notices prior to the removal notice were received [via] mail to my residence. I received the [Certification Disposition Notice] on November 30th 2019 that I was removed from the Civil Service list for employment with a certification date of October 21st 2019.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove her name from an eligible list was in error.

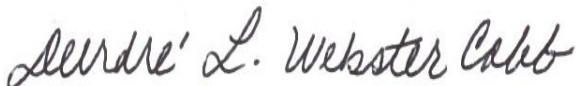
The appointing authority requested the removal of the appellant's name from the eligible list for Public Health Consultant 2 Nursing (S0032W) on the basis of her failure to respond to the October 21, 2019 certification notice. However, the appellant has submitted an affidavit attesting that she received "[n]o additional notices prior to" the Certification Disposition Notice, which was sent to her with a notice date of November 20, 2019. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her affidavit. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, it is appropriate to restore the appellant's name to the eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for Public Health Consultant 2 Nursing (S0032W), Statewide for prospective employment opportunities.

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
17TH DAY OF JUNE, 2020



Deirdre 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. Barbara McCormick
Loreta Sepulveda
Agency Services