



STATE OF NEW JERSEY

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

In the Matter of Melissa Pinto,
Program Specialist 4 (PS5653K),
Department of Human Services

CSC Docket No. 2021-1494

Examination Appeal

ISSUED: JUNE 7, 2021 (SLK)

Melissa Pinto requests to take a make-up examination for Program Specialist 4 (PS5653K), Department of Human Services.

By way of background, 16 employees applied for the subject examination and seven were admitted, including Pinto. On March 26, 2021, Pinto received notice that the test was to be administered on April 8, 2021. She then requested to take a make-up examination, which was denied by this agency on April 6, 2021, because she did not provide documentation that she was going to be out of the Tri-State area on the test administration date as required under *N.J.A.C. 4A:4-2.9(a)5*. The test was administered on April 8, 2021, which resulted in four eligibles. The list expires on April 28, 2023.

On appeal, Pinto requests that her a make-up examination be granted for “Other valid reasons” under *N.J.A.C. 4A:4-2.9(a)7*. She indicates that she was presented with less than two weeks’ notice and asserts that this was not a reasonable amount of time to schedule around existing plans, especially given the current health crisis, which is why testing was postponed for over a year. Pinto notes that the initial posting for the examination was provided in September 2019. She presents that she had pre-approved, paid time-off from work, which was requested in accordance with human resources procedures. Pinto states that she requested this time off because it correlated directly with her daughter’s time off from school, during which time she did not have any childcare for her. She indicates that childcare arrangements could

not be made on such short notice given the social distancing guidelines issued by the State due to the COVID-19 pandemic. Pinto highlights that she works for the Department of Human Services, Office of Performance Management, Office of Program Integrity and Accountability in the Incident Verification Unit. She states that there are five field staff in her unit and vacation arrangements are required to be made in advance to ensure that there are enough staff on each shift. Therefore, Pinto presents that this vacation could not be rearranged within the time frame provided for the examination without jeopardizing the operations of the unit. She also indicates that she restricted her travel to New Jersey so that she would not need to self-quarantine upon her return which would have been necessary for out-of-state travel under the Governor's Executive Order due to the pandemic. Therefore, she argues that it is unfair that if she traveled out-of-state, which was discouraged due to the pandemic, she could have received a make-up examination, but she cannot receive one for following the Governor's Executive order.

CONCLUSION

N.J.A.C. 4A:4-2.9(a) provides that make-up examinations, except for professional level engineering promotional examinations and public safety open competitive and promotional examinations, may be authorized for the following reasons:

1. Error by Civil Service Commission or the appointing authority;
2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
3. Documented serious illness or death in the candidate's immediate family;
4. Natural disaster;
5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation;
6. When required for certain persons returning from military services (see *N.J.A.C.* 4A:4-4.6A); and
7. Other valid reasons.

While typically, a pre-planned vacation in New Jersey is not a valid reason under *N.J.A.C.* 4A:4-2.9 for a make-up examination, there are extenuation circumstances in this matter. Due to the COVID-19 pandemic, the test administration was put on hold and the candidates could not be given significant notice as to when it might be held. Further, Pinto explains that she received approval from work for her vacation to coincide with her daughter's school being closed, and that due to the short-notice and social distancing rules, she could not arrange for child

care for daughter to take the test. Therefore, the Commission finds that Pinto has presented a valid reason to be allowed to take a make-up examination.

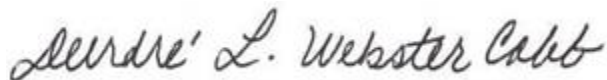
This determination is limited to the instant matter and does not provide precedent in any other matter.

ORDER

Therefore, it is ordered that this request be granted. Pinto should be scheduled for a make-up examination for Program Specialist 4 (PS5653K), Department of Human Services as soon as possible and, if she achieves a passing score, her name should be added to the subject list 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 2ND DAY OF JUNE, 2021



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