



STATE OF NEW JERSEY

In the Matter of Jennifer Fischer, *et al.*, Program Specialist 1,
Social/Human Services (PS6260K),
New Lisbon Developmental Center

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

CSC Docket Nos. 2022-3001, *et al.*

Examination Appeals

ISSUED: AUGUST 3, 2022 (SLK)

Jennifer Fischer, Jacqueline Kulsick, and Anthony Lawrence appeal the determinations of the Division of Agency Services (Agency Services) that they did not meet the experience requirements for the promotional examination for Program Specialist 1, Social/Human Services (PS6260K), New Lisbon Developmental Center. These appeals have been consolidated due to common issues presented.

The subject examination’s closing date was September 21, 2021. The education requirement was a Bachelor’s degree. The experience requirements were one year of experience in planning, monitoring, coordinating, implementing, modifying and/or evaluating a social or human services program. Applicants who did not possess the required education could have substituted the required experience on a year for year basis with 30 semester hour credits being equal to one year of experience. A total of 15 employees applied and all were found ineligible. Therefore, the examination was cancelled due to a lack of qualified candidates.

On Fischer’s application, she indicated that she was a Senior Therapy Program Assistant from February 1999 to the closing date, a Human Services Assistant from June 1991 to February 1999, and a Food Service Worker from October 1989 to June 1991. Personnel records indicate that she was a Senior Therapy Program Assistant from February 1999 to the closing date, a Cottage Training Technician from September 1995 to February 1999, a Human Services Assistant from December 1991 to September 1995, and a Senior Food Service Worker-12 Months from October 1989

to December 1991. Per the substitution clause for education, Agency Services determined that she lacked five years of experience.

On Kulsick's application, she indicated that she possessed three college credits. She also indicated that she was provisionally serving in the subject title from July 2019 to the closing date, a Principal Clerk Transcriber from January 2000 to July 2019, a Personnel Assistant for ReMax All Stars from January 1997 to January 1998, a Salesperson for Crown Realty from January 1996 to January 1997, and a Supervisor for Hollen Incorporated from January 1986 to January 1996. Personnel records indicate that she was provisionally serving in the subject title from July 2019 to the closing date, a Principal Clerk Transcriber from July 2002 to July 2019, a Senior Clerk Transcriber from March 2001 to July 2019, and a Clerk Transcriber from September 2000 to March 2001. Agency Services credited her one month for her college credits and two years and three months based on her provisional service in the subject title, but determined, per the substitution clause for education, that she lacked two years and eight months of experience.

On Lawrence's application, he indicated that he was provisionally serving in the subject title from July 2021 to the closing date, a Senior Therapy Program Assistant from September 2007 to July 2021, a Cottage Training Technician from July 1997 to September 2007, and a Human Services Assistant from October 1995 to July 1997. Personnel records indicate that he was a Senior Therapy Program Assistant from September 2005 to the closing date, a Cottage Training Technician from January 2000 to September 2005, a Human Services Assistant from April 1996 to January 2000, a Senior Food Service Handler from April 1993 to April 1996, and a Senior Food Service Worker- 12 Months from April 1992 to April 1993.¹ Per the substitution clause for education, Agency Services determined that he lacked five years of experience.

On appeal, Fischer indicates that her 20 years of experience as a Senior Therapy Program Assistant should make her eligible for the subject examination. She states that in this position, she implemented a variety of programs for adults with developmental disabilities. Fischer asserts that her Performance Assessment Reviews (PARs) indicate that she primarily performed the required duties. She notes that to become a Senior Therapy Program Assistant, she needed three years of experience assisting in the implementing of program to improve clients' well-being through a variety of therapeutic and rehabilitative activities. Fischer attaches copies of some examples of her job duties, old PARS, and committees, and work programs that she started or ran.

Kulsick acknowledges that her employment record indicates that she served in clerical titles. However, she presents that throughout her State service, she took on

¹ Personnel records indicate that Fischer and Lawrence were provisionally appointed to the subject title on October 9, 2021, which is after the closing date.

responsibilities that went beyond clerical duties. Kulsick submits past PARs and other documentation to support her statement. She notes that she has been provisionally serving in the subject title for almost one year and three months and states that her experience in programming has expanded focusing heavily on pre-vocational and vocational programming, which add to her experience of providing active treatment through social, health-based recreational programs.

Lawrence states that throughout his over 30 years of State service, a major aspect of his work involved the development, implementation, documentation, evaluation and revisions of resident program services. He indicates that as a Food Service Worker, Human Services Assistant and Cottage Training Technician from 1992 to 2007, he worked directly with residents to implement programs that involved training residents to learn work skills in the food services and housekeeping areas, which involved him evaluating resident capabilities in terms of intellectual and physical tasks. He presents that he evaluated residents' progress and revised their work programs to develop more complex skills. As a Senior Therapy Program Assistant from 2007 to 2021, Lawrence indicates that he led programming efforts assigned to his cottages, which required him to perform the required duties for employment and recreation programs. He states that this position enabled him to become a leader in terms of programming with residents that had intense behavioral and psychiatric challenges. Lawrence provides that, in this role, he helped residents master new coping skills to allow them to successfully transition to community placements. He attaches his resume which further outlines his experience.

CONCLUSION

N.J.A.C. 4A:4-2.5(a) provides for the purpose of announcing promotional examinations, all titles will be divided into one of the following categories:

1. Professional, which requires a Bachelor's or higher level degree, with or without a clause to substitute experience for education;
2. Para-professional, which requires at least 60 general college credits or 12 or more specific college credits (but less than a full degree), with or without a clause to substitute experience for education; or
3. Non-professional, which requires less than 60 general college credits or less than 12 specific college credits.

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:4-2.6(c) provides that except when permitted by the Chairperson or designee for good cause, applicants for promotional examinations with open

competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process. Good cause may include, but not be limited to, the following:

1. Where the number of employees eligible for examination will result in an incomplete list, or where the number of applications does not exceed the number of provisional incumbents by more than one, the applicant may submit a detailed statement from his or her supervisor describing the out-of-title duties performed and the reasons why it was necessary to perform such duties. A statement shall also be submitted from the appointing authority verifying the supervisor's statement and indicating interest in making an appointment from the resultant eligible list.

N.J.A.C. 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

In this matter, a review of the appellants' applications and appeals indicates that Agency Services correctly determined that they were not eligible for the subject examination. Regarding Fischer and Lawrence, their experience as Senior Therapy Program Assistants was within a non-professional title while the subject examination requires professional experience. Therefore, their experience was not at the level and scope required for the subject examination. *See In the Matter of Mirian Vargas* (CSC, decided April 19, 2017).

Concerning Kulsick, the appellant claims that even though she was serving in clerical titles, she was primarily performing the required duties. The required duties for the subject title would be out-of-title for clerical titles. However, Kulsick has not provided statements from her supervisor and the appointing authority verifying that the appellant primarily performed the required out-of-title duties while serving in clerical titles as required under *N.J.A.C.* 4A:4-2.6(c)1.²

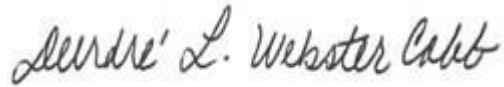
ORDER

Therefore, it is ordered that these appeals be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

² The Division of Agency Services indicated that it reached out to the appointing authority to verify Kulsick's out-title duties, but it did not receive a response.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3RD DAY OF AUGUST 2022



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