



STATE OF NEW JERSEY

In the Matter of Social Worker  
(C1163A), Bergen County

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2022-2665

Appointment Waiver

ISSUED: JULY 5, 2022 (AMR)

Bergen County requests permission not to make an appointment from the February 6, 2020 certification for Social Worker (C1163A), Bergen County.<sup>1</sup>

The record reveals that Bergen County provisionally appointed Antonio Salters, pending open competitive examination procedures, to the subject title, effective June 10, 2019. An examination was announced with a closing date of December 5, 2019, that resulted in a list of eighteen eligibles promulgating on February 6, 2020 and expiring on February 5, 2023. It is noted that Salters did not file for the subject examination, and thus, does not appear on the resulting eligible list. It is further noted that Salters was separated from his provisional appointment effective January 10, 2019, when he was appointed to the noncompetitive title of Social/Family Service Worker Trainee.<sup>2</sup> He thereafter received a regular appointment as a Social Worker effective June 11, 2020. Salters then resigned in good standing effective January 18, 2022. Furthermore, there are currently no employees serving

<sup>1</sup> The certification also included the names of the two remaining eligibles from the Social Worker (C0787V and C0243A), Bergen County, eligible lists. As there was one eligible on each list, the eligible lists were considered incomplete and a new examination announcement issued against Antonio Salters appointment. Additionally, the C0787V list expired on February 14, 2021, and the C0243A list does not expire until August 14, 2022.

<sup>2</sup> Agency records indicate that the noncompetitive appointment of Salters to the noncompetitive title of Social/Family Service Worker Trainee was not submitted for recording until December 7, 2020 but had an effective date of June 10, 2019, which was the same date as his provisional appointment to Social Worker. It is unclear why there was a long delay in advising this agency of the noncompetitive appointment.

provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification and requested a waiver of the appointment requirement, stating that Salters' "removal" negated the need to hire for the subject title and that it would "endeavor to make an appointment prior to expiration" of the subject eligible list.

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. The appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

### 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 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 the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Salters. However, after a complete certification was issued, the appointing authority later requested an appointment waiver, explaining that Salters had been separated from the subject title. Thus, in conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, 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 for 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, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the list in question will not expire until February 5, 2023, and the appointing authority has indicated that it would "endeavor to make an appointment prior to expiration" of the list. However, the appointing authority clearly had a need to fill a Social Worker position prior to its request for an appointment waiver as Salters eventually advanced to the title after his trainee period as a Social/Family Service Worker Trainee. Additionally, the appointing authority did not take any action to obviate the need for the examination at the time of the announcement or prior to its

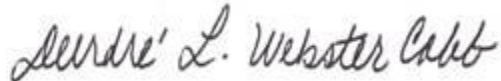
processing, which it should have known to do given its appointment of Salters to the noncompetitive title of Social/Family Service Worker Trainee. Given the foregoing, and the fact that Salters did not file for the examination, and thus, was not on the subject eligible list and his noncompetitive appointment was not submitted for recording until December 7, 2020, the appointing authority's apparent intention to now utilize the list appears to be suspect. Nevertheless, in light of this intention, and since Salters resigned from his Social Worker position, the Commission will assess the appointing authority for the costs of the selection process at the time of the February 5, 2023 expiration of the Social Worker (C1163A), Bergen County, eligible list in the event that the appointing authority fails to utilize the list in conjunction with the Social Worker (C0243A), Bergen County, eligible list, as appropriate.

### ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs presently be assessed.

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 29<sup>TH</sup> DAY OF JUNE 2022




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