



STATE OF NEW JERSEY

In the Matter of Manager, Health
Benefits Policy, Planning, and
Administration

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

CSC Docket No. 2023-2913

Title Creation

ISSUED: August 2, 2023 (JET)

The Division of Agency Services (Agency Services) requests the establishment of the unclassified title of Manager, Health Benefits Policy, Planning, and Administration for use in the Department of the Treasury (Treasury). It also requests the inactivation of the title of Health Officer/Registered Environmental Health Specialist, Public Health.

In support of its request, Agency Services presents that Treasury has indicated that it requires creation of the title to fulfill a critical business need. Specifically, the new management title will be responsible for coordinating and administering a large-scale public health benefits program for State public employees and their dependents involving oversight of finance, procurement, contract administration, and information systems. It will also be responsible for analyzing health benefits policy options and developing strategic planning initiatives. Agency Services explains that incumbents in the title will report to unclassified positions or members of the Senior Executive Service and will be responsible for overseeing the review of broadly-based policies and contractual matters affecting all State public employees and their dependents, and for independently making recommendations to politically-appointed committees and commissions.

Agency Services further indicates that the new title will be assigned exclusively to Treasury and will reside in the unclassified services pursuant to

N.J.S.A. 11A:3-4(l) and *N.J.A.C.* 4A:3-1.3(a)5, which provides that job titles shall be allocated by the Civil Service Commission (Commission) to the unclassified service when the Commission determines that it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title. Agency Services indicates that, since the title requires specialized knowledge of large-scale health benefits systems and plans, emerging healthcare best practices, and regulations applicable to public sector health benefits systems and plans, it would be impracticable to determine merit and fitness for the position by examination. Agency Services also requests to inactivate the local title of Health Officer/Registered Environmental Health Specialist, Public Health (07852), which has been unencumbered since February 23, 2012. Agency Services requests the effective date of the above actions as the beginning of the first pay period that follows the Commission's approval of the requests in this matter.

CONCLUSION

In matters involving the question of whether a particular title should be allocated to the career or unclassified service, the starting point is the *New Jersey Constitution*, Article VII, sec. 1, par. 2, providing that:

Appointments and promotions in the civil service of the State, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, *as far as practicable, by examination*, which as far as practicable, shall be competitive; except that preference in appointments by reason of active service in any branch of the military or naval forces of the United States in time of war may be provided by law (emphasis added).

An interpretation of Civil Service law governing the unclassified service must be made in view of this constitutional mandate and strict interpretation is generally given in matters concerning allocation to the unclassified service. *See In the Matter of Investigator, Penal Institution, et. al., Essex County* (MSB, decided September 16, 1997).

In State service, *N.J.S.A.* 11A:3-4 provides that the unclassified service shall be limited to those titles it specifically designates, which includes all titles created by law or as the Commission may determine. *N.J.A.C.* 4A:3-1.1(a) provides that all job titles shall be allocated to the career service, except for those job titles allocated by the Commission to the unclassified service pursuant to *N.J.A.C.* 4A:3-1.3. *N.J.A.C.* 4A:3-1.3(a) provides that a title shall be allocated to the unclassified service when:

- 1) In State service, the title is so designated under *N.J.S.A.* 11A:3-4;
- 2) In local service, the title is so designated under *N.J.S.A.* 11A:3-5;

- 3) The title is designated unclassified by another specific statute;
- 4) A specific statute provides that incumbents in the title serve for a fixed term or at the pleasure of the appointing authority; or
- 5) The Civil Service Commission determines that it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title.

Our courts have recognized the State's strong public policy, as evinced by the State Constitution, favoring the inclusion of as many titles as possible in the career service. *See Walsh v. Department of Civil Service*, 32 *N.J. Super.* 39, 43-44 (App. Div. 1954); *Loboda v. Clark Township*, 40 *N.J.* 424, 434 (1983); *State v. Clark*, 15 *N.J.* 334, 341 (1954); *In the Matter of Hudson County Probation Department*, 178 *N.J. Super.* 362, 371 (App. Div. 1981). This principle of ascertaining "merit and fitness" for promotions and appointments through an open-competitive examination process is at the very heart of our merit system.

There is no question that the title of Manager, Health Benefits Policy, Planning, and Administration is not specifically designated as unclassified by *N.J.S.A.* 11A:3-4. No specific statute states, in such explicit terms, that the title is to be unclassified. Likewise, there is no statute providing for the appointment of an incumbent in the title to serve for a fixed term or at the pleasure of an appointing authority. In sum, none of these statutory preconditions for the allocation of a title to the unclassified service have been met. Thus, the real issue is whether the title requires possession of knowledge and skills and the exercise of duties and functions so unique that "merit and fitness" for the position cannot be ascertained through a competitive examination process and that a permanent appointment to the title is not appropriate, and, accordingly, allocation of the title to the unclassified service is warranted.

Although, not involving facts that precisely mirror those found herein, *Ogden v. Department of Civil Service*, 77 *N.J. Super.* 296 (App. Div. 1962), *cert. denied*, 39 *N.J.* 238 (1963), is nevertheless instructive. In *Ogden*, the Appellate Division held that, given the complex nature of the duties and the uniqueness of the position of General Superintendent and Chief Engineer of the Passaic Valley Water Commission (PVWC), it was not practicable to determine merit and fitness for the position by examination or minimum qualification requirements. In that case, the position was the highest ranking full-time position in the employ of the PVWC, answerable only to the four Commissioners whose role was analogous to that of a governing body. Moreover, since the Commissioners themselves served only part-time in the role of trustees and lacked technical training, they necessarily relied on the General Superintendent and Chief Engineer for guidance. Additionally, concurring with the findings made by the Department, the court noted the many complex duties and required abilities of the General Superintendent and Chief Engineer, involving

knowledge of engineering, administration, fiscal policies, expansion programs, personnel problems, and public relations. The court further underscored the importance of the confidential relationship that must exist between the Commissioners and the General Superintendent and Chief Engineer and the fact that the Commissioners leaned heavily on this individual for advice and guidance in creating and implementing policy.

In this matter, Manager, Health Benefits Policy, Planning, and Administration is a new management title that will be responsible for coordinating and administering a large-scale public health benefits program for State public employees and their dependents involving oversight of finance, procurement, contract administration, and information systems; analyzing health benefits policy options and developing strategic planning initiatives; overseeing the review of broadly-based policies and contractual matters affecting all State public employees and their dependents; and independently making recommendations to politically-appointed committees and commissions. As explained by Agency Services, such broad policy influencing duties makes it not practicable to determine merit and fitness for appointment in or promotion to that title by examination, nor is it appropriate to make permanent appointments to the title. Thus, good cause exists to permit the creation of the unclassified Manager, Health Benefits Policy, Planning, and Administration title.

Finally, Agency Services' request to inactivate the title of Health Officer/Registered Environmental Health Specialist, Public Health (07852) for the above noted reasons is approved.

ORDER

Therefore, it is ordered that the request the creation of the title of Manager, Health Benefits Policy, Planning, and Administration is established in the unclassified service, effective August 12, 2023, to be utilized by the Department of the Treasury. It is also ordered that the request to inactivate the title of Health Officer/Registered Environmental Health Specialist, Public Health (07852), be granted, effective August 12, 2023.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 2ND DAY OF AUGUST, 2023



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