

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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**LENOAH H. ROYAL, JR.**, Appellant,

v.

**Secretary, WISCONSIN DEPARTMENT OF HEALTH AND  
FAMILY SERVICES, and Administrator, DIVISION OF  
MERIT RECRUITMENT AND SELECTION**, Respondents.

Case 19  
No. 66237  
PA(dmrs)-10

**Decision No. 31884-A**

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**Appearances:**

**Lenoah H. Royal, Jr.**, appearing on his own behalf.

**Paul Harris**, Office of Legal Counsel, State of Wisconsin Department of Health and Family Services, P.O. Box 7850, Madison, Wisconsin 53707-7850, appearing on behalf of the Respondents.

**DECISION AND ORDER**

This matter is before the Wisconsin Employment Relations Commission (the Commission) on review of Respondents' decision to not accept Appellant's applications for employment in the positions of (1) Human Services Supervisor-Career Executive and (2) Planning & Analysis Administrator-Career Executive on the basis that neither application was timely filed and Respondents' decision to rate Appellant's examination for Child Protective Services Manager as "Not Eligible." On November 1, 2006, the Commission designated Commission Staff Attorney Coleen A. Burns as hearing examiner. Examiner Burns conducted a hearing on the appeal in Milwaukee, Wisconsin on January 30, 2007. At the conclusion of this hearing, each party waived written argument and the matter became ready for decision. The hearing examiner issued a proposed decision on April 26, 2007. No objections were filed by the requisite due date of May 29, 2007.

Dec. No. 31884-A

Being fully advised in the premises, the Commission makes and issues the following

**FINDINGS OF FACT**

1. The Job Announcement for Job Code 05-01950, Child Protective Services Manager, includes the following:

...

**Deadline to Apply:** Open

Applications will be accepted until the needs of the Department are met.

This position is located in the Department of Health and Family Services (DHFS); Division of Children and Family Services (DCFS); Bureau of Milwaukee Child Welfare (BMCW) in Milwaukee.

**Job Duties:** Manage the provision of child welfare services to children and families in Milwaukee County; supervise and direct caseworker staff; plan, develop and implement activities relative to assessment, case management, ongoing services, termination of parental rights and adoption; evaluate program effectiveness and develop/implement improvements; implement strategies and procedures to monitor and ensure compliance with state and federal laws, administrative rules and policies; coordinate child welfare services with local agencies and courts.

**Special Notes:** Must be able to participate in 24-hour on-call rotation.

**Job Knowledge, Skills and Abilities:** Social work principles and practices; supervisory skills; program management and evaluation techniques; statutes, federal and state rules, policies and procedures related to child welfare services, foster care, medical assistance, adoption and consultation techniques; organization of a coordinated, culturally competent child welfare delivery system in partnership with the community; social and psychodynamic factors concerning child welfare services, adoptive children, birth parents and adoptive families; and excellent oral, written and interpersonal communication skills.

**How to Apply:**

Apply with an Application for State Employment (OSER-DMRS-38), a current resume and a letter describing your professional-level experience related to: 1) child protective services and 2) supervising, mentoring, or leading other professional staff. Be sure to provide specific details regarding the nature of the business, scope, duration, and your specific role and responsibility for each experience. This is the examination for this position.

...

Send completed application/examination materials to Gregg Dalton; DHFS; Bureau of Personnel and Employment Relations; 1 W. Wilson St., Room 555; P.O. Box 7850; Madison, WI 53707-7850; FAX (608) 267-2147. Materials will be evaluated and qualified candidates will be invited to participate in the next step of the selection process. Applications will be accepted until the needs of the Department are met.

...

The Job Announcement for Job Code 06-01971, Human Services Supervisor – Career Executive, includes the following:

...

**Deadline to Apply:** Open

The first review of application/examination materials will be held on materials received by July 11, 2006. Materials will be evaluated and qualified candidates will be invited to participate in the next step of the selection process. Application/examination materials received after this date may be considered if the first group of candidates does not produce a selection.

Department of Health and Family Services (DHFS); Division of Children and Family Services (DCFS); Bureau of Milwaukee Child Welfare (BMCW); Milwaukee. The Bureau of Milwaukee Child Welfare conducts child protection intake and initial assessment functions in response to child abuse and neglect reports; case management services for children in out-of-home placement, and their families; foster care recruitment, licensing and adoption services; and safety services for children and their families to prevent out-of-home removal.

**Job Duties:** This position assures quality child protective service (CPS) delivery through program planning and management, regulation of practice standards and the consistent application of policies and procedures across all three BMCW regions for the delivery of child protective services and safety and ongoing case management provided by private agencies. Oversee the assessment of program needs and the evaluation of the effectiveness of service delivery; working relationships with formal and informal community groups within the County, collaborate on strategies to promote child and family issues and encourage ownership by the community for the outcomes of the child welfare system; supervise staff.

**Job Knowledge, Skills and Abilities:** Knowledge of child welfare principles, practices and functions; laws, regulations, standards and policies in child protective services and out-of-home care of children in the public child welfare

system; child abuse and neglect program functions including intake and initial assessment; theories and practices of successful program and policy development and implementation in public child welfare services; theories and practices of administration, management and supervision; principles of cultural competence and the ability to use them in providing effective child protective services that are responsive to the culture and diversity within the populations served; supervisory practices and techniques; effective oral and written communication skills.

**How to Apply:**

For applicants who do not have Career Executive status in the Wisconsin classified state service: apply with an Application for State Employment (OSER-DMRS-38), a detailed resume and cover letter specifically addressing your professional work experience related to: 1) administering direct child protective services in an urban setting (include decisions you have made to resolve differences around controversial child placement issues); 2) communicating or serving as a liaison with various organizational, professional and governmental bodies, advocacy groups and parents (be sure to include the types of agencies/group/families with which you've established effective working relations and the methods you used while working with external groups to achieve your program objectives through their cooperative support and participation); 3) supervising or leading the work of other professionals (include the number, type and title of staff supervised or led and your experience directing teams to develop consensus regarding delivery of services to children and families). Be sure to provide specific details regarding the nature of the business, scope, duration, and your specific role and responsibility for each experience. This is the examination for this position.

For applicants who have Career Executive status in the Wisconsin classified state service: submit an Application for State Employment (OSER-DMRS-38) and a current resume detailing how your experience applies to the job duties, knowledge and skills described above.

...

Send completed application/examination materials to Gregg Dalton; DHFS; Bureau of Personnel and Employment Relations; 1 W. Wilson St., Room 555; P.O. Box 7850; Madison, WI 53707-7850; FAX (608) 267-2147. **The first review of application/examination materials will be held on materials received by July 11, 2006.** Materials will be evaluated and qualified candidates will be invited to participate in the next step of the selection process. Application/examination materials received after this date may be considered if the first group of candidates does not produce a selection.

The Job Announcement for Job Code 06-01972, Planning & Analysis Administrator – Career Executive, includes the following:

...

**Deadline to Apply:** Open

The first review of application/examination materials will be held on materials received by July 11, 2006. Materials will be evaluated and qualified candidates will be invited to participate in the next step of the selection process. Application/examination materials received after this date may be considered if the first group of candidates does not produce a selection.

Department of Health and Family Services; Division of Children and Family Services (DCFS); Bureau of Milwaukee Child Welfare; Milwaukee. The Bureau of Milwaukee Child Welfare conducts child protection intake and initial assessment functions in response to child abuse and neglect reports; case management services for children in out-of-home placement, and their families; foster care recruitment, licensing and adoption services; and safety services for children and their families to prevent out-of home removal.

**Job Duties:** This position manages the development of policy and program initiatives related to child welfare in Milwaukee County and ensures coordination and consistency with the policies and program initiatives on a statewide level developed by DCFS. Responsible for Bureau policy development, strategic planning and new quality improvement efforts; develop policies that strengthen and enhance the child welfare system in Milwaukee consistent with statewide policies and procedures; manage the quality improvement function with the Bureau and work in partnership with the Division's Continuous Quality Improvement program to integrate quality improvement efforts statewide; oversee and direct the efforts to improve the quality and integrity of data and reports; supervise staff.

**Job Knowledge, Skills and Abilities:** Knowledge of the theories and practices of successful program and policy development and implementation, and planning techniques such as strategic planning in public child welfare; child welfare principles, practices and functions; laws, regulations, standards and policies in child welfare programs and out-of-home care of children in the public child welfare system; budget processes; analyzing public child welfare policy options and the effects of policy on service recipients, service delivery and administration; leadership and supervisory practices and techniques; effective oral and written communication skills.

**How to Apply:**

For applicants who do not have Career Executive status in the Wisconsin classified state service: apply with an Application for State Employment (OSER-DMRS-38), a detailed resume and cover letter specifically addressing your professional work experience related to: 1) program planning, analysis, development and evaluation (include your experience working with child welfare policy and best practices and their application at the direct service level); 2) quality improvement tools and techniques (include your experience ensuring data integrity and quality standards and how that had an impact on policy development and programs); 3) communicating or serving as a liaison with various organizational, professional and governmental bodies, and advocacy groups (be sure to include the types of agencies/groups with which you've established effective working relations and the methods you used while working with external groups to achieve your program objectives through their cooperative support and participation); 4) supervising or leading the work of other professionals (include the number, type and title of staff supervised or led and your experience directing teams to develop consensus regarding policy directions). Be sure to provide specific details regarding the nature of the business, scope, duration, and your specific role and responsibility for each experience. This is the examination for this position.

For applicants who have Career Executive status in the Wisconsin classified state service: submit an Application for State Employment (OSER-DMRS-38) and a current resume detailing how your experience applies to the job duties, knowledge and skills described above.

...

Send completed application/examination materials to Gregg Dalton; DHFS; Bureau of Personnel and Employment Relations; 1 W. Wilson St., Room 555; P.O. Box 7850; Madison, WI 53707-7850; FAX (608) 267-2147. **The first review of application/examination materials will be held on materials received by July 11, 2006.** Materials will be evaluated and qualified candidates will be invited to participate in the next step of the selection process. Application/examination materials received after this date may be considered if the first group of candidates does not produce a selection.

2. Lenoah H. Royal, Jr., hereafter Appellant, completed a single "Application for State Employment" that referenced three separate "Civil Service Job Titles", *i.e.*, Human Services Supervisor-Career Executive, hereafter also referred to as "Supervisor position;" Planning & Analysis Administrator-Career Executive, hereafter also referred to as

“Administrator position;” and Child Protective Service Manager, hereafter also referred to as “CPSM.” This single application states that the Appellant is applying for the following Job Announcement Codes: 05-01950, 06-01971, and 06-09172. Materials attached to this single application included a three-page cover letter and a single-page resumé. In these materials, the Appellant states that he is a second year Master of Arts candidate (Criminal Justice/concentration in the Juvenile Justice System) and that he has received a Bachelor of Arts degree (Political Science) and a “Paralegal/Certificate of Completion.” Appellant also states that he has completed professional and administrative training courses in Office Management, Planning and Organization, Accounting Process, Grant and Proposal Writing, Supervision and Decision-Making. Appellant lists his “Work Experience” as Institutional Counselor II, New Orleans Department of Human Services, Youth Study Center, with the responsibility to supervise and monitor staff and pre-adjudicated juveniles in a detention facility (Dec. ’86 to Oct. ’05); Administrative Assistant, Teen Court, Junior League of New Orleans, assisting the Executive Director and, for a three month period, acting as Executive Director, in a program that coordinated, with the local DA’s office, a constructive sentencing program for first time offenders (Aug. ’9 [sic] to March, 2000); Recruiter/Acting Mgr., New Orleans Job Corps, with responsibility for public relations, drafting National PSA’s for the US DOL, and recruiting and selecting disadvantaged youths for educational and job training programs (Aug. ’89 to Apr. ’95); Job Service Specialist I, Wis. Job Service, with the responsibility to review and screen applicant eligibility for unemployment, work assistance and summer youth employment programs (Oct. ’80 – Oct. ’81); and Community Relations Liaison, Milwaukee Public Schools, functioning as a “trouble-shooting human relations specialist.” (Jan. ’78 to Oct. ’79). In these application materials, Appellant further indicates that, in 1995, he very briefly worked as an Executive Assistant with responsibility to supervise and coordinate the activities of case workers involved in assessing services that could be provided to clients and their families in the areas of adult mental and behaviorally challenged youth and that, at various times between the late 60’s and early 80’s, the Appellant worked with the YMCA, as an Assistant Youth Director and as a coordinator of a mentorship program for youths in secondary schools.

3. On July 13, 2006, Gregg Dalton, Human Resource Specialist, Wisconsin Department of Health and Family Services (DHFS), left his office in Madison at 4:30 p.m. Prior to this time, Dalton and personnel in his office had prepared application materials for the positions in Job Announcement Codes 06-01971 and 06-01972 for examination by resume screening on July 14, 2006. When Dalton returned to his office following the July 14, 2006 resume screening examination, he received Appellant’s single “Application for State Employment,” with attached materials, for Job Announcement Codes 05-01950, 06-01971, and 06-09172. This Appellant application bears a fax date and time of “07/13/2006 18:11” and, as required by the application, is signed and dated by Appellant. This date is “07/13/06.” Dalton did not receive any other Appellant application for State employment. By letter dated July 19,

2006, Dalton, acting on behalf of the Secretary of DHFS and the Administrator, Division of Merit and Recruitment Selection (DMRS), hereafter Respondents, advised the Appellant of the following:

Your application materials for the Human Services Supervisor and Planning and Analysis Administrator positions, Job Announcement Codes 06-01971 & 06-01972, were received in this office on Thursday, July 13, 2006. We have proceeded in the selection process and are not accepting additional applications at this time.

Per application deadline instructions in the official state job announcement, an initial review of application/examination materials was to be conducted on materials received by July 11, 2006. A decision was made to discontinue accepting materials on July 12, 2006.

Thank you for your interest in employment opportunities with the Department of Health and Family Services.

4. Following his receipt of Appellant's single "Application for State Employment," with attached materials, Dalton altered one copy of this application to reference only the "CPSM" position in Job Announcement Code 05-01950. Dalton prepared this Appellant application, as well as seventeen other applications for the "CPSM" position, for examination by resume screening. This preparation consisted of blacking out the personal identifiers in each applicant's cover letter and resume; identifying each cover letter and resume by a number from 1 through 18; and making copies of the same. These copies were placed in a packet of materials that included a security agreement, to be completed by each resume screener; copies of the "Resume' Screening Results" scoring sheets; and copies of a document containing the "Resume Screen Criteria" for the "CPSM" position. This "Resume Screen Criteria" document contained the following statement "TO BE ACCEPTABLE, APPLICANTS MUST PASS BOTH CRITERIA" and listed both criteria. Of relevance to this dispute is the first criterion, which the "Resume Screen Criteria" document defined as follows:

**1. Child protective services experience**

Acceptable: Response indicates significant professional experience in a child protective services setting such as child protective services, foster care, or adoptions. Child protective services experiences are limited to Intake, assessment, and ongoing, for a public or private agency that is providing contracted services for a public agency.

OR



Response indicates significant professional experience in a human services setting with demonstrated linkages to child protective services. Human services experiences includes foster home licensers, institution social workers, probation & parole agents, school social workers, and social workers from child care institutions.

5. The packet of materials for the “CPSM” position prepared by Dalton’s office was forwarded to DHFS Bureau of Milwaukee Child Welfare (BMCW) employee Carolyn Lee, a member of the resume screening team. On July 31, 2006, Lee and the other member of the resume screening team, fellow BMCW employee Martha Johnson, met and screened the resumes and cover letters of the eighteen applicants for the “CPSM” position. Prior to this screening, and during their tenure with DHFS, Johnson and Lee had supervisory authority over employees in the “CPSM” position; substantial experience in the area of child protective services; and prior experience with the DHFS resume screening process. At the time of this screening, Johnson and Lee each understood that, in order to receive a grade of “Eligible” on the resume screening examination, an applicant had to meet both of the “Resume Screen Criteria.” Johnson and Lee independently concluded that the resume and cover letter of Applicant 14, *i.e.*, the Appellant, established that Applicant 14 met Criterion 2 of the “Resume Screen Criteria,” but failed to establish that Applicant 14 met Criterion 1 of the “Resume Screen Criteria.” Johnson and Lee each marked their individual “Resume’ Screening Results” for Applicant 14 as “Not Eligible” because Applicant 14 had not met both of the “Resume Screen Criteria” for the “CPSM” position.

6. Following the resume screening examination of July 31, 2006, copies of Johnson and Lee’s “Resume’ Screening Results” for the “CPSM” position were forwarded to Dalton’s office in Madison. DHFS then mailed the Appellant a “Notice of Examination Results” on the Job Code 05-01950 “CPSM” position. This Notice, which is dated July 31, 2006, advises the Appellant that on the “Exam Date” of July 31, 2006, the Appellant received a “Grade/Status” of “Not Eligible” and that “If you have a passing score on this exam, your application will remain active on this register until [unknown].” On August 17, 2006, the Appellant filed a timely appeal with the WERC contesting Respondents’ decisions that Appellant’s Applications for State Employment for the “Supervisor position” and “Administrator position” referenced in Job Announcement Codes 06-01971 and Code 06-09172, respectively, were untimely and Respondents’ decision that Appellant was “Not Eligible” for the “CPSM” position referenced in Job Code 05-01950.

7. Johnson and Lee’s conclusions that Applicant 14 had not met Criterion 1 of the “Resume Screen Criteria” for the “CPSM” position and that, therefore, Applicant 14 was “Not Eligible” are reasonable.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following

**CONCLUSIONS OF LAW**

1. This matter is properly before the Commission pursuant to Sec. 230.44(1)(a), Stats.
2. The Appellant has the burden of establishing that Respondents' determination that Appellant's application for Human Services Supervisor-Career Executive (Job Code: 06-01971) and Planning & Analysis position-Career Executive (Job Code: 06-01972) was untimely is contrary to the Civil Service Code and applicable administrative rules.
3. The Appellant has the burden of establishing that Respondents' determination that Appellant's exam "Grade/Status" for the Child Protective Services Manager (Job Code: 05-01950) is "Not Eligible" is contrary to the Civil Service Code and applicable administrative rules.
4. The Appellant has failed to sustain that burden.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

**ORDER**<sup>1</sup>

Appellant's appeal is dismissed in its entirety.

Given under our hands and seal at the City of Madison, Wisconsin, this 29<sup>th</sup> day of June, 2007.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Susan J. M. Bauman /s/

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Susan J. M. Bauman, Commissioner

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<sup>1</sup> Upon the issuance of this Order, the accompanying letter of transmittal will contain the names and addresses of the parties to this proceeding and notices to the parties concerning their rehearing and judicial review rights. The contents of that letter are hereby incorporated by reference as a part of this Order.

**Department of Health and Family Services and Division of Merit Recruitment and Selection (Royal)**

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**

**ISSUES**

This appeal presents the following issues:

1. Whether Respondents' determination that Appellant's application for Human Services Supervisor-Career Executive (Job Code: 06-01971) and Planning & Analysis Administrator-Career Executive (Job Code: 06-01972) was untimely is contrary to the Civil Service Code and applicable administrative rules?
2. Whether Respondents' determination that Appellant's exam "Grade/Status" for the Child Protective Services Manager (Job Code: 05-01950) is "Not Eligible" is contrary to the Civil Service Code and applicable administrative rules?

**DISCUSSION**

In a Sec. 230.44(1)(a) review of an examination, the scope of the Commission's review is to determine whether the action that was taken was contrary to the civil service code as reflected in the relevant statutes and administrative rules. See *WARREN V. DHFS & DMRS*, CASE NO. 00-0147-PC (PERS. COMM. 11/12/01). (The ruling in that matter related to the decision to transfer Ms. Warren from her supervisory position and to a non-supervisory position which is another personnel action approved by DMRS and reviewable under Sec. 230.44(1)(a).) The Appellant has the burden of proving by the greater weight of the credible evidence that the action was contrary to the civil service code. *DUGAN & FISHER V. DMRS*, CASE NOS. 88-0043, 0044-PC (PERS. COMM. 1/13/89).<sup>2</sup>

**Issue One**

Appellant challenges DHFS' determination that Appellant's application for Human Services Supervisor-Career Executive (Job Code: 06-01971) and Planning & Analysis Administrator-Career Executive (Job Code: 06-01972) was untimely. The relevant statutory provision states as follows:

**230.16 Applications and examinations. (1) (a)** The administrator shall require persons applying for admission to any examination under this subchapter or under the rules of the administrator to file an application with the division a reasonable time prior to the proposed examination.

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<sup>2</sup> The Commission has added this paragraph to more explicitly explain the nature of our review.

The Job Announcements for the “Supervisor position” (Job Code: 06-01971) and the “Administrator position” (Job Code: 06-01972) contained written notice that completed application/examination materials that were received in Gregg Dalton’s office by July 11, 2006 would be the first to be reviewed and the completed application/examination materials that were received after that date “may be considered if the first group of candidates does not produce a selection.”

In his letter of July 19, 2006, Dalton confirms that, with respect to the “Supervisor position” (Job Code: 06-01971) and the “Administrator position” (Job Code: 06-01972), “a decision was made to discontinue accepting materials on July 12, 2006.” At hearing, Dalton stated that the resume screening examination for these two positions was held on July 14, 2006 and that, prior to leaving his office at 4:30 p.m. on July 13, 2006, he had completed the preparation of the application materials for this resume screening examination.

In his appeal, Appellant alleges that he faxed his Application for State Employment to Dalton on July 12, as well as on July 13, 2006. At hearing, the Appellant stated that the initial application was not signed.

Dalton credibly testified that he received only one application from Appellant; that this application bears a fax date and time of “07/13/2006 18:11”; and that Dalton did not receive this application prior to the time that Dalton left his office at 4:30 p.m. on July 13, 2006. The application received by Dalton is signed by the Appellant and dated “July 13, 2006.”

It may be, as Appellant states, that he faxed an unsigned application to Dalton on July 12, 2006. However, the most reasonable conclusion to be drawn from the record evidence is that the only Appellant application received by Dalton is that which was faxed on July 13, 2006.

DHFS’ decision to discontinue accepting application materials for Job Codes 06-01971 and 06-01972 on July 12, 2006 is consistent with the application deadlines set forth in the relevant Job Announcements. By this decision, DHFS established an application filing deadline that is a reasonable time period prior to the proposed examination, as required by Sec. 230.16(1)(a), Stats., *supra*. It is not evident that Dalton, or any other representative of Respondents, processed any application for Job Codes 06-01971 and 06-01972 that was received after July 12, 2006.

Respondents’ determination that Appellant’s application for Human Services Supervisor-Career Executive (Job Code: 06-01971) and Planning & Analysis Administrator-Career Executive (Job Code: 06-01972) was untimely is not contrary to the Civil Service Code and applicable administrative rules.

**Issue Two**

Appellant challenges Respondents' determination that Appellant's "Grade/Status" for the "CPSM" position (Job Code: 05-01950) is "Not Eligible." The relevant statutory provisions state as follows:

**230.15 Appointments, promotions, changes in classified service.** (1) Subject to the restriction under s. 230.143, appointments to, and promotions in, the classified service shall be made only according to merit and fitness, which shall be ascertained so far as practicable by competitive examination. The administrator may waive competitive examination for appointments made under subs. (1m) and (2) and shall waive competitive examination for appointments made under sub. (2m).

...

(4) All examinations, including minimum training and experience requirements for positions in the classified service shall be job-related in compliance with appropriate validation standards and shall be subject to the approval of the administrator. All relevant experience, whether paid or unpaid, shall satisfy experience requirements.

(5) In the interest of sound personnel management, consideration of applicants and service to agencies, the administrator may set a standard for proceeding to subsequent steps in an examination, provided that all applicants are fairly treated and due notice has been given. The standard may be at or above the passing point set by the administrator for any portion of the examination. The administrator shall utilize appropriate scientific techniques and procedures in administering the selection process, in rating the results of examinations and determining the relative ratings of competitors.

...

Consistent with the Job Announcement, the competitive examination for the "CPSM" position was conducted by resume screening of application materials; specifically the resume and cover letter. This resume screening was conducted by DHFS employees Carolyn Lee and Martha Johnson.

Appellant has not argued that the criteria used in the resume screening process are not job-related in compliance with appropriate validation standards or that the resume screening process used by Respondents is otherwise unreliable. Rather, Appellant argues that his education, training and experience in human and social services establish that he is minimally qualified for the "CPSM" position. Appellant asks that he be allowed to reapply for this position.

The Appellant calls on the Commission to ignore the procedure and the standards applied by Respondents to all of the other applicants, to somehow develop our own minimal qualifications for the “CPSM” position and then rely on the Appellant’s hearing testimony regarding his education, training, work experience and expertise to decide that he adequately qualified to be scheduled for an interview to fill the vacancy. While the Appellant may disagree with the procedure and the standards that were actually applied, his burden is to show that they failed to satisfy the provisions of the civil service code. Absent a showing of illegality, the Commission lacks the authority to impose an alternative procedure or alternative standards. *LAMBERT V. DILHR & DMRS, CASE NO. 93-0063-PC (PERS. COMM. 8/23/93).*<sup>3</sup>

In the Job Announcement for the “CPSM” position, the Appellant was placed on notice that the examination for this position would be based on the requested application materials. Information provided by the Appellant at hearing, but not provided in the Appellant’s application materials, is not relevant to this proceeding.

Lee and Johnson credibly testified that their determination that the Appellant was “Not Eligible” was based upon their independent conclusions that Appellant’s application materials did not establish that Appellant had met Criterion 1 of the “Resume Screen Criteria,” which states as follows:

**1. Child protective services experience**

Acceptable: Response indicates significant professional experience in a child protective services setting such as child protective services, foster care, or adoptions. Child protective services experiences are limited to Intake, assessment, and ongoing, for a public or private agency that is providing contracted services for a public agency.

OR

Response indicates significant professional experience in a human services setting with demonstrated linkages to child protective services. Human services experiences includes foster home licensers, institution social workers, probation & parole agents, school social workers, and social workers from child care institutions.

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<sup>3</sup>The Commission has added this paragraph to more fully explain the basis for our decision.

The application materials evaluated by Johnson and Lee during the resume screening examination establish that the Appellant has had considerable education, training and experience in human and social services areas, but that such education, training and experience is primarily related to juvenile criminal justice and educational and job training programs with disadvantaged youth. These materials do not reasonably establish that the Appellant has had significant professional experience in a child protective services setting or significant professional experience in a human services setting with demonstrated linkages to child protective services, as defined in Criterion 1 of the "Resume Screen Criteria."

In order to receive a "Grade/Status" of "Eligible," the Appellant is required to meet both criteria in the "Resume Screen Criteria" for the "CPSM" position. Johnson and Lee's conclusions that Appellant is "Not Eligible" because Appellant did not meet Criterion 1 of the "Resume Screen Criteria" for the "CPSM" position are reasonable. By determining that Appellant's exam "Grade/Status" for the Child Protective Services Manager (Job Code: 05-01950) is "Not Eligible", Respondents have not acted in a manner that is contrary to the Civil Service Code and applicable administrative rules.

### **Conclusion**

The Appellant has failed to satisfy his burden of proof so this appeal is dismissed in its entirety. The Commission's order of dismissal has no effect upon the Appellant's right to apply for positions other than those that are the subject of this appeal.

Dated at Madison, Wisconsin, this 29<sup>th</sup> day of June, 2007.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Susan J. M. Bauman /s/

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Susan J. M. Bauman, Commissioner

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31884-A