



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Juan Lopez,
Department of Military and Veterans
Affairs

Administrative Appeal

CSC Docket No. 2016-2744

ISSUED: **OCT 21 2016** (HS)

The appointing authority requests that the provisions of *N.J.A.C. 4A:6-3.4(a)*, which govern the time period in which employees must file an application for Supplemental Compensation on Retirement (SCOR), be relaxed to permit Juan Lopez, a former Contract Administrator 3 with the Department of Military and Veterans Affairs, to submit a late application for SCOR benefits.

By way of background, Lopez retired from State service, effective January 1, 2015. Due to an administrative error, a SCOR application for Lopez was not forwarded to this agency by the appointing authority within one year of Lopez's retirement date. Specifically, the appointing authority states that Lopez signed his application, seeking a \$15,000 SCOR payment, on March 19, 2015 but chose to "defer" the payment for one year. Due to departmental error, Lopez's paperwork was not pulled, signed and submitted until January 16, 2016. The application was returned by the Division of Agency Services as the application was not filed within one year of the effective date of Lopez's retirement. The appointing authority explains that it was not familiar with the one-year timeline as this was the first time an employee chose to "defer" payment for a year and that this was an honest mistake. Thus, the appointing authority requests that the provisions of *N.J.A.C. 4A:6-3.4(a)* be relaxed in order to process Lopez's SCOR application. In support, it submits a copy of Lopez's SCOR application.

CONCLUSION

N.J.A.C. 4A:6-3.3(a) provides that, upon retirement, an employee is entitled to SCOR to be “computed at the rate of one-half the employee’s daily rate of pay for each day of earned and unused accumulated sick leave at the effective date of retirement.” *N.J.A.C.* 4A:6-3.4(a) provides that an employee may file an application for SCOR within one year of the effective date of retirement. *N.J.A.C.* 4A:6-3.4(c) provides that after receipt of the notice of retirement approval and SCOR application, the appointing authority shall forward to this agency within 45 days: (1) a personnel action request certifying the number of days of earned and unused accumulated sick leave and the amount of SCOR to be paid; (2) a copy of the notice of retirement approval; and (3) completed SCOR application form. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause.

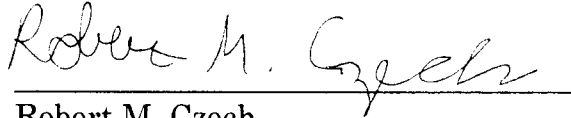
In the instant matter, Lopez retired from State service effective January 1, 2015 and signed his SCOR application on March 19, 2015. However, the application was not forwarded to this agency until January 16, 2016, outside the one-year time period established by *N.J.A.C.* 4A:6-3.4(a). The appointing authority indicates that this delay was due to its own administrative error and requests relaxation of the applicable rule to permit consideration of Lopez’s SCOR application. In this regard, the appointing authority explains that it was unfamiliar with the one-year time period since this was the first time an employee chose to “defer” a SCOR payment for a year. Although both a former employee and an appointing authority should be aware of the rules governing SCOR and time periods noted therein, it is the appointing authority’s responsibility to properly and promptly provide for the processing of appropriate documentation to effectuate SCOR payments. In such situations, the former employee should not be penalized with a diminution of a monetary entitlement. Accordingly, it is appropriate to relax the provisions of *N.J.A.C.* 4A:6-3.4(a) to permit Lopez to apply for SCOR.

ORDER

Therefore, it is ordered that this request be granted, the provisions of *N.J.A.C.* 4A:6-3.4(a) be relaxed, and Juan Lopez’s SCOR application be processed.

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 19TH DAY OF OCTOBER, 2016



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