

B-35



STATE OF NEW JERSEY

In the Matter of Sung M. Cho,  
Department of Transportation

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-3256

Request for Rule Relaxation

ISSUED: OCT 23 2015 (JET)

Sung M. Cho 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 him to submit a late application for SCOR benefits.

By way of background, Cho, a former Real Estate Appraiser 2, retired from State Service, effective November 30, 2013. By way of letter dated December 6, 2013, the appointing authority notified Cho that he could file an application for a lump sum payment for SCOR benefits within one year of his retirement. Thereafter, Cho submitted his application for SCOR benefits dated April 21, 2015 to this agency which was subsequently forwarded to the appointing authority for processing. By letter dated May 28, 2015, the appointing authority denied Cho's application for SCOR benefits since it was filed beyond the one year period after his retirement pursuant to *N.J.A.C. 4A:6-3.4(a)*. It is noted that Cho's personnel records indicate that he had 168 hours of sick leave remaining when he retired.

On appeal, Cho asserts, among other things, that his wife became ill prior to his retirement, and he retired so he could provide care for her. Cho explains that his wife has frequently been hospitalized for various illnesses, and he was unable to file the SCOR application within the one year timeframe as a result of an oversight since he was providing for his wife's continued care. As such, Cho now requests relaxation of the applicable rules for good cause so that he may now apply for the SCOR benefits.

It is noted that staff from the Division of Appeals and Regulatory Affairs (DARA) contacted the appointing authority regarding this matter. In reply, the appointing authority stated that it does not object to making the SCOR payment pursuant to a rule relaxation issued by Commission decision.

### 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:1-1.2(c) provides that a rule may be relaxed for good cause.

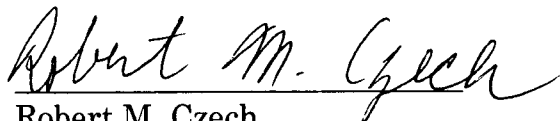
In the instant matter, Cho retired from State service effective November 30, 2013, but his SCOR application was not forwarded to this agency until April 2015, outside the one year time period established by *N.J.A.C.* 4A:6-3.4(a). Nevertheless, Cho contends that this delay was due to an oversight as he was providing care to his wife at the time the application was due. As such, he now requests relaxation of the applicable rule to permit consideration of his SCOR application. Additionally, the appointing authority does not object to making the SCOR payment. In this situation, given the totality of the circumstances, the Commission finds that Cho should not be penalized for the oversight. Accordingly, it is appropriate to relax the provisions of *N.J.A.C.* 4A:6-3.4a) to permit Cho to apply for SCOR.

### ORDER

Therefore, it is ordered that this request be granted and Sung M. Cho's application for supplemental compensation be accepted for processing.

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 21<sup>st</sup> DAY OF OCTOBER, 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment

c: Sung M. Cho  
Michele A. Shapiro  
Kenneth Connolly  
Joseph Gambino



## State of New Jersey

DEPARTMENT OF TRANSPORTATION  
P.O. Box 600  
Trenton, New Jersey 08625-0600

CHRIS CHRISTIE  
*Governor*

JAMIE FOX  
*Commissioner*

KIM GUADAGNO  
*Lt. Governor*

May 28, 2015

Sung M. Cho  
[REDACTED]  
[REDACTED]

Dear Mr. Cho:

We recently received your signed Application for Lump Sum Supplemental Compensation for Earned and Unused Sick Leave for Retirees (DPF-279) forwarded to us by the Civil Service Commission. It was noted that you submitted the application directly to the Civil Service Commission on April 21, 2015.

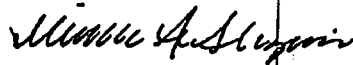
In my letter to you dated December 6, 2013, it stated that the DPF-279 must be signed and returned to our office for processing within one year of your retirement. In light of the fact that you failed to submit the application timely, the Civil Service Commission has denied payment in accordance with N.J.A.C. 4A:6-3.4(a) which states, "An employee may file an application form DPF-279, within one year of the effective date of retirement, requesting supplemental compensation, after receiving a copy of the official notice of retirement approval issued by the appropriate pension board or authority." A copy of this denial is attached.

You have the right to appeal this decision to the New Jersey Civil Service Commission, Division of Appeals and Regulatory Affairs, P.O. Box 312, 44 S. Clinton Street, Trenton, New Jersey 08625-0312. Appeals must be received by the Civil Service Commission within twenty (20) days from the receipt of this letter.

Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required fee with your appeal. Payment must be made by check or money order only, payable to NJ CSC.

If you have any questions, please contact Payroll, PMIS, Time Management Supervisor, MaryBeth Canulli, at (609) 530-6453

Sincerely,

A handwritten signature in cursive script, appearing to read "Michele A. Shapiro".

Michele A. Shapiro, Director  
Human Resources