

CSC  
B-39



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of J.H., Department of  
Human Services

CSC Docket No. 2016-442

Request for Rule Relaxation

ISSUED: **AUG 03 2015** (EG)

The Department of Human Services (DHS), on behalf of J.H., requests the relaxation of the provisions of *N.J.A.C.* 4A:6-1.22 so as to permit J.H.'s retroactive participation in the donated leave program.

By way of background, J.H., an Administrative Analyst 1, was hospitalized on March 5, 2015. DHS sent paperwork to J.H.'s spouse concerning the Federal Family and Medical Leave Act (FMLA) and the Donated Leave program. J.H. exhausted all his paid leave on March 10, 2015. His spouse asked that he be placed on donated leave at that time but the request was not processed because the information regarding his illness had not been submitted. On March 30, 2015, the information regarding J.H.'s serious health condition was forwarded to DHS's Payroll Office along with a request for him to be placed in the Donated Leave program. It was also requested that he be covered under donated leave from March 11, 2015 through March 31, 2015. The request was not processed at that time because J.H. had applied for disability retirement. In the instant matter, DHS is requesting that the provisions of *N.J.A.C.* 4A:6-1.22(d)1 be relaxed in order to process J.H.'s donated leave request to be retroactively approved for March 11, 2015 through March 31, 2015.

CONCLUSION

*N.J.A.C.* 4A:6-1.22(a)4ii (Donated Leave Program) states, in pertinent part, that in State service, an employee shall be eligible to receive donated sick or vacation leave if the employee is needed to provide care to a member of the employee's

immediate family who is suffering from a catastrophic health condition or injury. Additionally, *N.J.A.C. 4A:6-1.22(d)1* provides that a leave recipient shall not receive any sick or vacation days on a retroactive basis. Further, *N.J.A.C. 4A:1-1.2(c)* provides that a rule may be relaxed for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

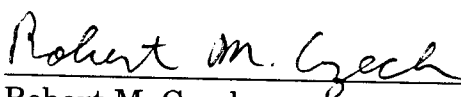
In the instant matter, DHS, on behalf of J.H., seeks approval to allow J.H. to participate in the donated leave program retroactively to March 11, 2015 through March 31, 2015, due to circumstances that delayed him from submitting his request to participate in the program while he was suffering from a serious health condition. Therefore, good cause has been established to relax the provisions of *N.J.A.C. 4A:6-1.22* to allow J.H. to participate in the donated leave program retroactively from March 11, 2015 through March 31, 2015. *See In the Matter of C.D.L.* (MSB, decided July 27, 2005).

### ORDER

Therefore, it is ordered that this request be granted and J.H. be permitted to participate in the donated leave program and receive donated leave time retroactively from March 11, 2015 through March 31, 2015.

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 29TH DAY OF JULY, 2015



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