STATE OF NEW JERSEY

In the Matter of Mercedes
Colmenares and Nancy Catalano,
Department of Children and Families
and

CSC Docket Nos. 2015-1621
and 2015-1176

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FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Request for Rule Relaxation

ISSUED: DEC 22 2014   (WR)

The Department of Children and Families (DCF), on behalf of Mercedes Colmenares, requests the relaxation of the provisions of *N.J.A.C.* 4A:6-1.22 so as to permit Ms. Colmenares to receive more than the 260 donated leave days allowed to a recipient. Additionally, the appointing authority requests that *N.J.A.C.* 4A:6-1.22(d) be relaxed so as to permit Nancy Catalano to donate more than 30 sick days to Ms. Colmenares. Since these requests address similar issues, they have been consolidated herein.

Ms. Colmenares is an approved recipient of donated leave and is currently participating in the program. The appointing authority indicates that Ms. Colmenares is suffering from a catastrophic illness and began a leave of absence on September 11, 2013. She was approved for donated leave on January 13, 2014. The appointing authority further indicates that Ms. Colmenares extended her leave of absence through January 5, 2015. Thus, the appointing authority requests that Ms. Colmenares be permitted to receive and use additional days of donated leave above and beyond the 260-day lifetime maximum.

Additionally, the appointing authority indicates that Ms. Catalano will retire on January 1, 2015 and has approximately 181 sick days. Although Ms. Catalano wishes to donate 30 days to Ms. Colmenares, she had previously donated 30 sick days on April 29, 2014. Thus, the appointing authority requests that Ms. Catalano be permitted to donate an additional 30 days.

DPF-439 * Revised 7/95

N.J.A.C. 4A:6-1.22 (Donated Leave Program) states, in pertinent part, that in State service, a leave recipient shall receive no more than 260 sick or vacation days, and shall not receive any such days on a retroactive basis. Additionally, *N.J.A.C.* 4A:6-1.22(d) provides that a leave donor may not donate more than 30 such days to any one recipient and that a leave donor shall have remaining at least 20 days of accrued sick leave if donating sick live and at least 12 days of accrued vacation leave if donating vacation leave. *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.

CONCLUSION

DCF, on behalf of Ms. Colmenares, seeks approval to allow her to receive more than the 260 donated leave days allowed to a recipient. It is anticipated that Ms. Colmenares's leave extension will require her to use donated leave beyond 260 days. Further, Ms. Colmenares has already been approved for the donated leave program due to her medical condition. Thus, based on the particular circumstances presented, good cause has been established to relax the provisions of *N.J.A.C.* 4A:6-1.22 to permit Ms. Colmenares to receive donated leave beyond the 260-day maximum.
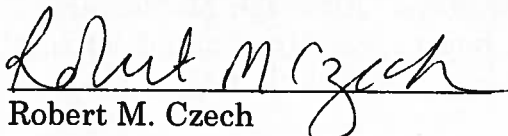
Additionally, DCF on behalf of Ms. Catalano, seeks approval to allow her to donate leave time beyond the 30 day limit set forth in *N.J.A.C.* 4A:6-1.22. Based on the particular circumstances presented, namely that Ms. Colemenares is a current participant of the donated leave program and Ms. Catalano will have more than the minimum amount of sick leave upon donation, good cause similarly exists to permit Ms. Catalano to donate more than 30 sick days to Ms. Colmenares.

ORDER

Therefore, it is ordered that these requests be granted.

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 17TH DAY OF, DECEMBER 2014

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