



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of B.F., Motor Vehicle
Commission

CSC Docket No. 2019-1765

Request for Rule Relaxation

ISSUED: FEBRUARY 11, 2019 (HS)

The Motor Vehicle Commission (MVC), on behalf of B.F., requests the relaxation of the provisions of *N.J.A.C. 4A:6-1.22* so as to permit her to participate in the donated leave program without having completed at least one year of continuous State service and to permit J.D. to donate more than 30 sick days to B.F.

By way of background, B.F. began her employment with the MVC in an unclassified title less than one year ago. The MVC indicates that an immediate family member of B.F. has a catastrophic medical condition. J.D., a career service employee whom the MVC states retired from State service, effective January 1, 2019, has 82 sick days that he would like to donate to B.F. The MVC states that the donation would greatly assist B.F. in covering the cost of her health benefits during her absence to care for her family member. The MVC sincerely requests that consideration be afforded to B.F. so that she may benefit from the donated leave program. At the time of MVC's request in this matter, B.F. had not yet exhausted all of her sick and vacation leave.

N.J.A.C. 4A:6-1.22 (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 has completed at least one year of continuous State service and has exhausted all accrued sick, vacation and administrative leave, all sick leave injury benefits, if any, and all compensatory time off. It further states that a leave donor may not donate more than 30 leave days to any one recipient, and that a leave donor shall have remaining at least 20 days of accrued sick leave if donating sick leave and at least 12 days of accrued vacation leave if donating vacation leave.

N.J.A.C. 4A:1-1.2(c) provides that the Civil Service Commission (Commission) may relax a rule for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

CONCLUSION

The MVC, on behalf of B.F., an unclassified employee, seeks approval to permit her to participate in the donated leave program without having completed at least one year of continuous State service, based upon her need to care for an immediate family member with a catastrophic medical condition. Initially, *N.J.A.C.* 4A:1-1.2(b) provides that Title 4A shall apply only to the career service unless otherwise specified. *N.J.A.C.* 4A:1-1.3 defines “career service” as those positions and job titles subject to the tenure provisions of Title 11A, New Jersey Statutes. Moreover, it defines “unclassified service” as those positions and job titles outside of the senior executive service, not subject to the tenure provisions of Title 11A, New Jersey Statutes or these rules unless otherwise specified. *N.J.A.C.* 4A:6-1.1(b) provides, in pertinent part, that this subchapter shall apply to career service employees, unless otherwise specified. *N.J.A.C.* 4A:6-1.22 (Donated Leave Program) states, in pertinent part, that a “State 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.

Although *N.J.A.C.* 4A:6-1.22 does not explicitly *include* positions or job titles in the unclassified service, neither does it explicitly *exclude* them. For example and as noted, it indicates that “State employee[s]” are eligible to receive donated leave. Moreover, the intent of the donated leave program since its inception in 1993 was to assist employees in need. *See* 25 *N.J.R.* 293(a). It did this by originally providing employees with the opportunity to donate sick or vacation leave to other employees who are suffering from a catastrophic health condition or injury. *See* 24 *N.J.R.* 3590(a). Eligibility was later expanded to include employees who required the leave to provide care to a member of the employee’s immediate family suffering from a catastrophic health condition or injury. *See* 28 *N.J.R.* 3781(a). Further, in a prior rule relaxation request, the former Commissioner of Personnel permitted an unclassified employee to participate in the donated leave program. *See In the Matter of J.L.* (Commissioner of Personnel, decided February 10, 2000). In this matter, the record indicates that B.F. has not completed one year of continuous State service. Nevertheless, based on the foregoing considerations, good cause has been established to relax the provisions of *N.J.A.C.* 4A:6-1.22 to permit B.F. to participate in the donated leave program, even though she has not completed one year of continuous State service.

The MVC also seeks approval to permit J.D. to donate leave time beyond the 30-day limit set forth in *N.J.A.C.* 4A:6-1.22. Given that J.D. has apparently retired

from State service, effective January 1, 2019, it is not necessary for him to retain the minimum leave balances required by *N.J.A.C.* 4A:6-1.22. Therefore, 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 J.D. to donate 82 sick days to a particular recipient.

Finally, the Commission recommends that *N.J.A.C.* 4A:6-1.22 (Donated Leave Program) be reviewed for consistency with this decision.

ORDER

Therefore, it is ordered that this request 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 6TH DAY OF FEBRUARY, 2019



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