

EXECUTIVE ORDER NO. 103 NOTICES

CIVIL SERVICE

CIVIL SERVICE COMMISSION

Notice of Rule Waiver/Modification/Suspension Pursuant to Executive Order No. 103

(2020)

COVID-19 State of Emergency

Emergency Compensation Rates

N.J.A.C. 4A:3-4.19^A

Authorized: June 17, 2020, by the Civil Service Commission, Deirdre L. Webster Cobb, Esq.,
Chair.

Authority: N.J.S.A. App.A:9-45 and App.A:9-47; and Executive Order No. 103 (2020).

Effective Date: June 17, 2020.

Expiration Date: Upon the Termination of the Emergency Declaration Made Pursuant to Executive
Order No. 103 (2020).

This is an emergency adoption of temporary rule relaxations and modifications of the regulatory provisions concerning emergency compensation rates (N.J.A.C. 4A:3-4.19). Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Civil Service Commission is relaxing or

modifying N.J.A.C. 4A:3-4.19, which concerns other forms of compensation in State service, as follows:

Department of Military and Veterans Affairs

As a result of the Coronavirus-19 (COVID-19) pandemic, State departments and agencies have been directed to prioritize addressing immediate public needs and safety, while also to restrict the physical presence of individuals in office environments and work sites. The Department of Military and Veterans Affairs (“DMAVA”) is tasked with the critical mission of protecting the State’s military veterans during the COVID-19 pandemic as well as the responsibility of providing direct care services to military veteran residents of the State’s three long-term care facilities and two transitional care facilities. DMAVA operates these facilities for veterans with a variety of health care needs who require 24 hour a day, seven-day a week care and oversight, including many individuals with significant underlying physical health conditions and behavioral health needs, which are heightened due to social distancing policies that restrict family visits and recreational activities. Many individuals require assistance with activities such as toileting, feeding and showering that require staff to have frequent direct contact with individuals’ bodily fluids. The critical staff necessary to do this work serve in direct care and housekeeping staff, who complete cleaning and disinfection needed to prevent the spread of the virus, and food service staff who work directly in clients’ residential areas. The prevalence of the virus in the general public and the limited ability of the clients to protect themselves against contagion, increases the reliance on DMAVA to assist the clients in mitigating against the virus and its spread. This reliance places these workers at increased risk of infection, materially changing the nature of their jobs. As a result, the Commission is modifying its rule to establish a temporary emergency rate of

compensation for these DMAVA employees while certain conditions set forth in the rule are present.

In order for applicable titles within DMAVA to obtain the temporary emergency rate, certain factors delineated in the temporary rule modification must be met. Once the detailed justification addressing all of the factors is provided to the Commission, the Chairperson or designee will review the request and determine its sufficiency. If approved, the emergency rate shall be effective as of March 28, 2020 and shall expire on June 30, 2020. Subsequent extensions of this provision may be granted based upon the criteria delineated in the rule.

Full text of the modified rule text follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 4. COMPENSATION

4A:3-4.19A Other forms of compensation: State Service, COVID-19 Emergency Rate

(a) The Commission finds that during the period for the Public Health Emergency declared for COVID-19, when the following factors are met, there exists a material change in the structure and nature of the job titles of certain employees in the DCPD Family Service Specialist title series, DDD [and], DOH, **and DMAVA** direct care and service titles:

1.-4. (No change.)

(b) (No change.)

(c) DCPD, DDD, [and] the Department of Health, **and DMAVA** may seek approval to implement the COVID-19 emergency rate by providing detailed justification for the request. The Chairperson or designee may approve the request upon review of the applicable appointing authority's

application and due consideration of how the factors set forth in (a) above, and any other information deemed relevant, impact the structure and nature of the jobs of the affected employees.

(d) Eligibility for the COVID-19 emergency rate shall be as follows:

1.-3. (No change.)

4. Employees who are designated as essential and who work in direct care and service titles in DMAVA, to ensure consistent delivery of critical services; and

[4.] **5.** (No change in text.)

(e) (No change.)