



STATE OF NEW JERSEY

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

In the Matter of R.P., Department of
Community Affairs

Administrative Appeal

CSC Docket No. 2020-1165

ISSUED: JANUARY 31, 2020 (WR)

R.P., a Technical Assistant 2 appeals the decision of the Department of Community Affairs which denied her request to participate in the Donated Leave Program (DLP) intermittently.

By way of background, the appellant was approved to participate in the DLP from September 2017 through April 2018 on the account that she suffered from a catastrophic health condition. Upon her return to work, the appellant was approved to participate in the DLP intermittently. In January 2019, the appointing authority advised the appellant that because she returned to work and was “beyond the period of time for which to use intermittent leave,” she was “closed out of the DLP.” In September 2019, the appellant requested participation in the DLP on an intermittent basis to attend doctor appointments and physical therapy on the account of her original illness. The appointing authority denied her request because under its DLP policy, an employee may be approved to participate in the DLP intermittently only if he or she is returning to work from a prolonged absence due to a catastrophic illness.

On appeal, the appellant lists her current medical conditions and treatment regimen and requests that an “an exception in [her] unique case” be made to allow to participate in the DLP.

In response, the appointing authority reiterates that it denied appellant’s request to participate in the DLP intermittently because she was not returning to work from a prolonged absence due to a catastrophic illness, as its policy requires.

It states that while it is sympathetic to the appellant's medical condition, it must adhere to a policy that maintains fairness and consistency among its employees.

CONCLUSION

N.J.S.A. 11A:6-5.1¹ (DLP) states, in pertinent part, that a State employee shall be eligible to receive donated sick or vacation leave if the employee suffers from a catastrophic health condition or injury. A catastrophic health condition or injury is defined as a life-threatening condition or combination of conditions *or* a period of disability required by an employee's mental or physical health or the health of the employee's fetus which requires the care of a physician who provides a medical verification of the need for the employee's absence from work for 60 or more work days. *See N.J.S.A.* 11A:6-5.1(a)4. *N.J.S.A.* 11A:6-5.1(a) (a)2 provides that an employee shall be eligible to receive donated leave time if the employee has exhausted all accrued sick, vacation and administrative leave, all sick leave injury benefits, if any, and all compensatory time off. *See also, N.J.A.C.* 4A:6-1.22.

While *N.J.S.A.* 11A:6-5.1 does not expressly provide for use of intermittent donated leave, the Commission has approved of its use in cases where the employee is returning to work from a prolonged absence related to the condition and has demonstrated the need for intermittent donated leave for a finite time period. *See, In the Matter of J.R.* (CSC, decided March 27, 2018) *aff'd on reconsideration* (CSC, decided October 3, 2018); *cf. In the Matter of B.M.* (CSC, decided March 28, 2018) (The Commission denied the appellant's request for use of intermittent donated leave because he was not returning to work from a prolonged absence and his request was to use intermittent donated leave indefinitely.)

In the instant matter, the record reflects that while the appellant's request for use of intermittent donated leave relates to an underlying illness for which she was previously permitted to participate in the DLP, it is clear that she is not returning to work from a prolonged absence. Moreover, her request to use donated leave intermittently is not for a finite period, but rather indefinitely. For the foregoing reasons, the appellant does not meet the criteria to participate in the DLP and her appeal is denied.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

¹ The DLP was added to Title 11A, effective June 21, 2019.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 29TH DAY OF JANUARY, 2020



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