



STATE OF NEW JERSEY

In the Matter of Overtime Program,
Department of Labor and Workforce
Development

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

CSC Docket No. 2022-1510

Administrative Appeal

ISSUED: JANUARY 21, 2022 (HS)

The Department of Labor and Workforce Development (Department) requests that the provisions of *N.J.A.C.* 4A:3-5.3 continue to be relaxed to provide certain individuals in non-limited, non-exempt (NE) titles cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours.

As background, because the staff of the Divisions of Income Security, Information Technology, and Finance and Accounting were needed to work unusual work time requirements to address the significant workload resulting from the COVID-19 pandemic, in *In the Matter of Overtime Program, Department of Labor and Workforce Development* (CSC, decided November 17, 2021), the Civil Service Commission (Commission) relaxed the provisions of *N.J.A.C.* 4A:3-5.3 to permit NE employees in those three divisions to receive cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours from August 1, 2021 to December 31, 2021, inclusive.

In its request, the Department indicates that while the Unemployment Insurance (UI) System is no longer overburdened with incoming claims, the Division of UI is still significantly backlogged in all areas of claims processing. It states that the amount of work in the areas of claim adjudication, Pandemic Unemployment Assistance verifications, overpayment waivers, and fraud prevention activities hover in the hundreds of thousands. These backlogs, according to the Department, are the result of increased workloads created with the inception of the Coronavirus Aid,

Relief, and Economic Security Act, Continued Assistance Act, and American Rescue Plan Act programs. The Department notes that there has also been a shift in priorities as the United States Department of Labor has also strongly encouraged states to be more aggressive and ever vigilant in the detection and restitution of fraudulent claims. The Department states that to that end, it has expanded its fraud efforts and implemented a cyber-fraud section to address fraudsters who have hijacked personal identification information in order to file fraudulent claims. All of these program workloads, the Department states, must be processed in conjunction with normal seasonal UI workloads and could not be performed without the use of overtime hours.

The Department further indicates that the original rule relaxation has provided the Division of UI a larger workforce to push through professional workloads. In the past, according to the Department, the Division of UI has seen a reluctance of these staff to work overtime hours as the rule required an initial forfeiture of time. The Department states that the use of these additional staffing resources has allowed the Division of UI to remain current with initial claim filings while steadily working to reduce backlogs. Any reversal of the rule relaxation, in the Department's view, would limit the overtime production moving forward and expand the needed effort and timeframe to move through remaining backlogs.

The Department requests extension of the rule relaxation for an additional six months until June 30, 2022.

CONCLUSION

N.J.A.C. 4A:3-5.5(a)1 and *N.J.A.C. 4A:3-5.5(b)1* provide, in pertinent part, that employees in NE titles are entitled to overtime compensation at the rate of one and one-half times their regular rate of pay "for time worked in excess of 40 hours per week" with the approval of the Chairperson or designee. However, per *N.J.A.C. 4A:3-5.3(d)2*, for work performed in excess of 35 hours per week, up to 40 hours, employees in NE titles are only entitled to comparable amounts of time off, not cash overtime compensation.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular situation, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Due to the significant workloads stemming from the COVID-19 pandemic that remain in the Divisions of Income Security, Information Technology, and Finance and Accounting, it is appropriate to continue to permit NE employees in those three divisions who work more than 40 hours in a week to receive cash overtime per *N.J.A.C. 4A:3-5.5(a)1* and *N.J.A.C. 4A:3-5.5(b)1*. Further, under these particular facts and circumstances, it is also appropriate to continue to relax the provisions of

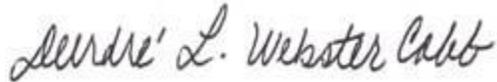
N.J.A.C. 4A:3-5.3 and permit those individuals to receive cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours. However, the Commission finds that an extension of the rule relaxation for an additional *three* months until March 31, 2022 is appropriate at this time.

ORDER

Therefore, it is ordered that this request be granted as set forth above.

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 19TH DAY OF JANUARY, 2022



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