



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. 2022-2039

Administrative Appeal

ISSUED: MARCH 25, 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 January 19, 2022), the Civil Service Commission (Commission) relaxed the provisions of *N.J.A.C.* 4A:3-5.3 to continue 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 through March 31, 2022.

In its request, the Department indicates, among other things, that the Division of Income Security (Unemployment Insurance) is still significantly backlogged in all areas of claims processing. Specifically, there are over 80,000 cases requiring adjudication to determine Unemployment Insurance/Pandemic Unemployment Assistance (PUA) eligibility; over 77,000 PUA claimants that have not provided a response regarding their labor market attachment; and 46,000 PUA responses that still need to be manually verified. The Department adds that weekly web certification

issues occur when claimants answer one or more of any of the seven certification questions incorrectly, resulting in a payment hold being placed on the claim requiring the claim to be manually reviewed by an agent to lift the hold before payment can be issued. This workload has been averaging 5,000-10,000 claims per week that need to be reviewed.

Additionally, the Department maintains that the Division of Information Technology remains a critical component of its direct response to COVID-19 and the Division of Finance and Accounting has faced a tremendous need for analysis of budgetary impact.

The Department requests extension of the rule relaxation to January 1, 2023.

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.

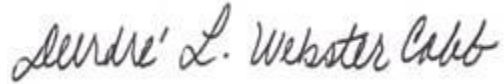
Given the number of current unemployment claims, the Commission finds that it is appropriate to continue to relax the provisions of *N.J.A.C. 4A:3-5.3* and permit NE employees in the Division of Income Security to receive cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until *June 30, 2022*. However, the Commission finds that the emergent circumstances related to the duties and functions of employees in the Divisions of Information Technology and Finance and Accounting no longer exist. Consequently, employees in those two divisions shall no longer be permitted to receive cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours.

ORDER

Therefore, it is ordered that this request be granted in part 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 23RD DAY OF MARCH, 2022



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