



**STATE OF NEW JERSEY**

In the Matter of D.B., Department of  
Children and Families

CSC Docket No. 2024-1925

**FINAL ADMINISTRATIVE ACTION  
OF THE CHAIR/  
CHIEF EXECUTIVE OFFICER  
CIVIL SERVICE COMMISSION**

Request for Waiver of Repayment of  
Salary Overpayment

**ISSUED: January 31, 2025 (EG)**

D.B., a former Family Service Specialist Trainee<sup>1</sup> with the Department of Children and Families, requests a waiver of repayment of a salary overpayment pursuant to *N.J.S.A. 11A:3-7*, which provides that when an employee has erroneously received a salary overpayment, repayment may be waived based on a review of the case.

By way of background, the petitioner, for pay period 20 of 2023 was paid for 10 days but should only have been paid for 3.9 days after earned sick time and vacation time had been applied. Additionally, for pay period 21 of 2023, the petitioner was paid for 10 days but should have received no pay as she was out on leave without pay for the entire pay period. Further, the petitioner received a payment in error in February 2024 as a union adjustment to her pay. However, the petitioner was not entitled to this pay as she was not employed on January 26, 2024, the date required to receive the union adjustment. As such, it was ultimately determined that the petitioner's salary overpayment was \$3,069.82.

In her request, the petitioner argues that the overpayments for pay period 20 and 21 occurred after she suffered a medical emergency at work on September 15, 2023. The timesheets for pay period 20 and 21 were approved in her absence. The petitioner argues that due to her medical issues she was unaware of the overpayment error. Additionally, she asserts that the overpayment was due to an administrative

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<sup>1</sup> Petitioner resigned from State service effective December 15, 2023.

error. The petitioner explains that she was denied a reasonable accommodation and was placed on a leave of absence without pay effective September 22, 2023. She resigned on December 15, 2023, to prevent her termination. Further, the petitioner argues that the terms of the repayment would result in an economic hardship as she was unemployed and is the primary caretaker for her child. Moreover, she states that she has car payments, car insurance, college loans, and credit card debt, and provides copies of these bills.

It is noted that the parties were sent a letter, dated April 12, 2024, denoting the provisions of *N.J.A.C.* 4A:3-4.21 and providing for a timeframe to present further arguments. The letter further indicated that if economic hardship was claimed, the petitioner must submit specific evidence to substantiate the claim, such as an affidavit and/or relevant documentation regarding monthly income and expenses. Moreover, it provided that if a repayment plan had not been established, the appointing authority was requested to submit a proposed plan. In reply, as set forth above, the petitioner provided copies of her bills. However, the appointing authority did not provide a response.

## CONCLUSION

*N.J.A.C.* 4A:3-4.21 provides as follows:

- (a) The Civil Service Commission may waive, in whole or in part, the repayment of an erroneous salary overpayment, or may adjust the repayment schedule based on consideration of the following factors:
  1. The circumstances and amount of the overpayment were such that an employee could reasonably have been unaware of the error;
  2. The overpayment resulted from a specific administrative error, and was not due to mere delay in processing a change in pay status;
  3. The terms of the repayment schedule would result in economic hardship to the employee.

It is well settled that all of the factors outlined in *N.J.A.C.* 4A:3-4.21 must be satisfied to successfully obtain a waiver of the repayment obligation. Thus, in *In the Matter of Thomas Micai v. Commissioner of Department of Personnel, State of New Jersey*, Docket No. A-5053-91T5 (App. Div., July 15, 1993), the Superior Court of New Jersey, Appellate Division, affirmed the Commissioner of Personnel's decision to deny a request for waiver of repayment of salary overpayment, finding that, although the

appellant had established that the overpayment was the result of an administrative error, he failed to show that enforcement of the repayment would create economic hardship.

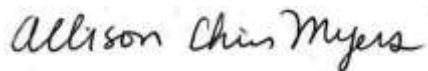
In this matter, the petitioner argues she should be held harmless from a salary overpayment action under these circumstances. However, other than her mere statements, has not provided sufficient evidence to support a claim of actual economic hardship. In this regard, the petitioner has not established that the third prong of the above rule is satisfied. Though the petitioner has shown her expenses, it is not clear how much she currently earns or whether the repayment amount would create actual economic hardship. Moreover, the appointing authority and the petitioner are not precluded from setting a reasonable repayment schedule over an extended period of time. Accordingly, as the third criterion has not been met under *N.J.A.C. 4A:3-4.21(a)*, the request is denied. However, the Department of Children and Families is encouraged to set a reasonable repayment schedule to allow for the least economic impact on the petitioner.

### ORDER

Therefore, it is ordered that this request be denied.

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

DECISION RENDERED ON  
THE 30<sup>TH</sup> DAY OF JANUARY, 2025




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Chair/Chief Executive Officer  
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