



STATE OF NEW JERSEY

In the Matters of Katherine Biedka,
et al., Department of Human Services

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

CSC Docket Nos. 2025-2513, *et al.*

Request for Waivers of Repayment of
Salary Overpayments

ISSUED: November 5, 2025 (HS)

The Department of Human Services (DHS), on behalf of Katherine Biedka, Evelyn Montoya-Madrid, JoAnn Stabile, and Kiona Cook, Agency Services Representatives 1, requests waivers of repayment of salary overpayments 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. These matters have been consolidated due to similar issues presented.

As background, as of July 13, 2024, the four employees were serving in the title of Agency Services Representative Trainee at a salary of \$38,339.48, equivalent to salary range A09, step two. When each advanced to the primary title, Agency Services Representative 1, on various dates between August 2024 and March 2025, each was assigned a salary of \$39,937.91 (salary range A09, step three).

On appeal, DHS explains that it was entering step three upon advancement from the trainee to the primary title to show an increase in pay. It explains that this is akin to how it handles the salary of an employee who advances from Budget Analyst Trainee to the primary title Budget Analyst 3. This agency approved the step three entries. However, this agency subsequently advised DHS that it had mistakenly approved the step three salaries and that the employees were in fact not entitled to any increase at the time of advancement to Agency Services Representative 1.¹ DHS

¹ Specifically, DHS provides an email where human resources indicates that “[this agency] has advised that in accordance with their contract, when an Agency Services [Representative] Trainee is advanced

contends that all factors necessary to justify waiving repayment of a salary overpayment can be met. First, DHS argues that if both it and this agency erred, then the employees could not have been aware of the error. It is also reasonable, DHS posits, that when one advances from a trainee title to the primary title, one should receive an increase in salary. Second, the overpayments resulted from specific administrative errors, not mere delays in processing a change in pay status. And third, DHS relates that due to the high cost of living in New Jersey, the State recently agreed to set the lowest salary at salary range A09, step two.² Since the salary of the employees was decreased to this step, they represent “the lowest paid staff in State government,” and the attempt to recoup monies would be an economic hardship. In addition, DHS advises that salary repayment schedules have been set but held pending the subject decision. Per the documentation, Biedka was overpaid \$1,101.60 over 18 pay periods; Montoya-Madrid was overpaid \$722.16 over 12 pay periods; Stabile was overpaid \$244.80 over four pay periods; and Cook was overpaid \$856.80 over 14 pay periods.

Biedka indicates monthly expenses of \$1,273.90³ consisting of utilities; cable; cell phone; various insurance; groceries; pet food; gas; and credit cards. Biedka states that she “[does] not have enough of funds to cover what I make now.” She adds that she needed to take medical leave last year, and she is still trying to recover from that financially. She maintains she had no knowledge that her salary was incorrect. It is noted that per agency records, Biedka’s current gross salary is \$41,335.73, or \$3,444.64 monthly.

Montoya-Madrid indicates monthly net income of \$2,366.00 and monthly expenses of \$2,485.00 consisting of rent; car insurance; nails; student loan; and cable/internet.

Stabile maintains that she was unaware of the discrepancy and did not intentionally receive or misappropriate funds. Stabile insists that she relies on her full paycheck to meet essential monthly obligations and maintain basic living standards. She indicates monthly expenses of \$1,839.16, consisting of rent; utilities; groceries; gas; car insurance; car payment; and health insurance. Stabile further indicates that this does not account for deductions for pension contributions and union dues. She states that as her income is carefully allocated toward necessary

to the [primary] title, they should be placed at step [two]. Employees will therefore not see an increase in salary for this advancement. [This agency] has been approving actions at both step [two] and step [three], as a result there are a handful of staff that have been overpaid.”

² This is an apparent reference to the following provision in the July 1, 2023 – June 30, 2027 collective negotiations agreement between the State and the Communications Workers of America: “New employees hired on or after July 1, 2024, will not be hired below Range 9, Step 2, but placement will be consistent with Civil Service Commission requirements and practices.”

³ This is the minimum monthly expenses for Biedka. In this regard, her listing of items is unclear as it appears that some are broken down as monthly expenses and others, based on the amounts listed, appear to be yearly expenses, not broken down by month.

living expenses, any repayment would compromise her ability to meet these obligations causing undue financial strain. It is noted that per agency records, Stabile's current gross salary is \$39,681.36, or \$3,306.78 monthly.

Cook maintains that based on her current income status, she cannot pay the arrears. She notes she is a single mother of three daughters, and her monthly expenses include \$2,617.00 for rent; her vehicle; car insurance; and daycare. She adds that she spends over \$75.00 every two weeks on diapers and wipes and \$400.00 every two weeks for groceries. Cook indicates that she does not understand how this happened or why she is being held accountable for someone else's actions. Cook insists she cannot afford a pay cut, let alone paying back arrears. It is noted that per agency records, Cook's current gross salary is \$41,335.73, or \$3,444.64 monthly.

It is noted that the Division of Human Resource Information Services supports the instant request.

CONCLUSION

N.J.A.C. 4A:3-4.21 provides, in pertinent part:

- (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.

DHS requests waivers of the salary overpayments as it argues that the circumstances of the overpayments were such that the employees could reasonably have been unaware of the overpayments and repayment would result in economic hardship to them. Moreover, the record reflects that the overpayments were the result of administrative errors. Although the record clearly shows that administrative errors resulted in the salary overpayments, the employees cannot benefit from the errors, as they were not entitled to the higher compensation, unless they can satisfy the other conditions presented above. See e.g., *Cipriano v. Department of Civil Service*, 151 N.J. Super. 86 (App. Div. 1977); *O'Malley v. Department of Energy*, 109 N.J. 309 (1987); *HIP of New Jersey v. New Jersey Department of Banking and Insurance*, 309 N.J. Super. 538 (App. Div. 1998) (No vested or other rights are accorded by an administrative error).

In that regard, it was reasonable for the employees to have been unaware of the error. They were moving from their trainee title to the primary title, which is an advancement. See N.J.A.C. 4A:3-3.7(j). Thus, they could reasonably have believed that they correctly received a salary increase. Further, DHS and the employees have established that repayment will result in economic hardship to them. In this regard, each employee has described her economic situation and offered reasons why repayment would result in economic hardship. These reasons include medical issues; income that already does not meet expenses; inability to meet essential monthly obligations should repayment be required; and the demands of single parenthood. Moreover, it bears emphasizing that as the employees were returned to salary range A09, step two, they are among the lowest paid employees in State government. See *In the Matter of Peter Spencer* (Commissioner of Personnel, decided December 13, 1996) (waiver of salary overpayment granted since repayment would cause an economic hardship based on employee's level of compensation).

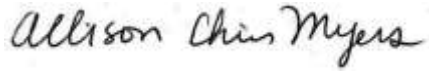
Accordingly, based on the particular circumstances presented, a sufficient basis exists to grant waivers of the repayments at issue pursuant to N.J.A.C. 4A:3-4.21.

ORDER

Therefore, it is ordered that these requests be granted.

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

DECISION RENDERED ON
THE 30TH DAY OF OCTOBER, 2025



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Chair/Chief Executive Officer
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