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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Connie F. Meyers,
Department of Health

CSC Docket No. 2014-1918

Administrative Appeal

ISSUED: OCT 24 2014 (DASV)

Connie F. Meyers appeals the determination of the Department of Health, which denied her request to transfer her sick leave balance from the Economic Development Authority (EDA).

Personnel records indicate that Ms. Meyers was appointed in the unclassified title of Assistant Commissioner with the Department of Health effective January 31, 2011.

On appeal to the Civil Service Commission (Commission), Ms. Meyers states that her appointing authority was informed that the EDA is not a State agency. Thus, it could not transfer her sick leave balance from the EDA to her employment with the Department of Health. However, she maintains that she served as an Assistant Commissioner with the former Department of Commerce and Economic Development from June 1994 through March 2000. Although her salary was paid by the EDA, Ms. Meyers contends that she never worked for the EDA. Ms. Meyers submits e-mails from the EDA, stating that when she separated in March 2000, she had accrued a sick leave balance of 134.87 days.¹ Moreover, she asserts that

¹ It appears that Ms. Meyers' sick leave balance of 134.87 days exceeds the number of days that would be available to full-time State employees during the same period of time, which would approximately have been 85 days. See *N.J.A.C.* 4A:6-1.3(a)2 ("After the initial month of employment and up to the end of the first calendar year, employees shall be credited with one working day for each month of service. Thereafter, at the beginning of each calendar year in anticipation of continued employment, employees shall be credited with 15 working days.")

employees, whom she does not name,² were permitted to transfer their sick leave from the EDA to the Offices of the Lieutenant Governor and Secretary of State. In support, she submits an e-mail from an EDA representative, who states that “[i]n the past, State agencies have accepted sick time transfers from the EDA. Usually, there’s reciprocity. The EDA accepts sick time balances from State agencies, and vice versa.” Thus, Ms. Meyers requests “the same consideration” and to be “treated fairly as other employees.” She explains that she is in need of her prior sick leave due to an “unexpected urgent surgery and an untimely car accident resulting in significant injury.”

In response, the appointing authority states that it contacted a representative of this agency and was advised that the EDA was not considered a State agency. Therefore, Ms. Meyers was not entitled to have her sick leave transfer to the Department of Health.

CONCLUSION

N.J.A.C. 4A:6-1.4(i) provides in part that “[a]n appointing authority shall provide the [Commission] with a record of an employee’s unused sick leave when the employee separates from State service. The [Commission] shall provide an appointing authority with a record of an employee’s unused sick leave if an employee is reemployed. Upon reemployment, an employee is entitled to utilize any unused sick leave from the previous period of employment. Such unused leave carried over shall be used before any leave accrued after reemployment.” Additionally, *N.J.A.C.* 4A:6-1.5(e) states that “[w]hen an employee is transferred in State service, the employee’s former appointing authority shall provide the new State appointing authority with a record of an employee’s unused vacation, administrative and sick leave.”

It has been established that the EDA is not an entity that is governed by the provisions of Title 4A of the New Jersey Administrative Code or Title 11A of the New Jersey Statutes. See e.g., *In the Matter of Helen Burton* (Commissioner of Personnel, June 6, 2011) (Employee, who resigned from the Department of Environmental Protection (DEP) and took a position with the EDA and then returned to the DEP via regular reemployment, was denied additional vacation leave credit since the period of time with the EDA constituted a break in service for purposes of calculating leave entitlements, as the EDA is not an entity covered under the provisions of Title 11A). Because the EDA is not subject to Title 4A, the provisions of *N.J.A.C.* 4A:6-1.4(i) and *N.J.A.C.* 4A:6-1.5(e) do not apply to Ms. Meyer’s employment with the EDA.³ Thus, the transfer of her sick leave balance

² Ms. Meyers requests that the Commission obtain the names of these individuals from the EDA, and the names of similarly situated people in the Department of Health.

³ Indeed, as noted previously, the sick leave entitlement of an EDA employee appears to exceed what is afforded to full-time State employees subject to Title 4A.

from the EDA to the Department of Health is not authorized. It is noted that, although Ms. Meyers may have worked as an Assistant Commissioner with the former Department of Commerce and Economic Development, she was considered an employee of EDA. Accordingly, the determination regarding Ms. Meyers' sick leave is based on her employment with the EDA.

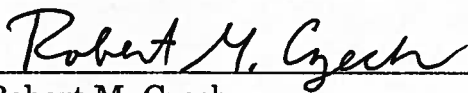
Additionally, Ms. Meyers claims that other employees were permitted to transfer sick leave balances from the EDA. She requests that the Commission obtain the names of these individuals. Initially, it is not the Commission's role to investigate vague or unspecified claims, especially those made in conjunction with an appeal where the appellant has the burden of proof. *See N.J.A.C. 4A:2-1.4(c)*. Regardless, even assuming that these employees were credited their prior sick leave from the EDA, Ms. Meyers cannot benefit from such error. It is emphasized that no vested or other rights are accorded by an administrative error. *See 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).

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.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 22ND DAY OF OCTOBER, 2014



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