

B-33



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of June Baker,  
Department of Human Services

Request for Reconsideration

CSC Docket No. 2014-1641

ISSUED: OCT 23 2014 (SLD)

June Baker requests reconsideration of the attached final administrative decision, rendered on November 7, 2013, which denied her appeal regarding the adjustment of her leave allowances upon her resignation.

By way of background, on January 1, 2010, the petitioner's leave balances were credited, in relevant part, as follows: 120 hours (15 days) of sick time plus 27 hours carried forward for a total of 147 hours; 120 hours (15 days) of vacation time plus 44.75 hours carried forward for a total of 164.75 hours; and 24 hours (three days) of administrative leave time.<sup>1</sup> The petitioner was also credited with 56 hours (seven days) of Paid Leave Bank (PLB) time by August 2010 and had one hour of compensatory time. Thereafter, the petitioner used 142.25 hours of sick time, 164.75 hours of vacation time, 24 hours of administrative time and 43 hours of PLB. The petitioner went on a leave of absence without pay, effective October 4, 2010 and she resigned, effective August 29, 2011, without returning from the leave of absence. As a result of her leave of absence and her eventual resignation, her leave balances for 2010 were prorated to 90 hours of sick time and 90 hours of vacation leave, leaving her with negative balances of 25.25 hours of sick leave and 30 hours of vacation leave. See *N.J.A.C.* 4A:6-1.5(b). However, because the petitioner had 13 hours of PLB remaining, that amount was credited toward the negative balance of 30 hours of vacation leave, leaving her with a negative balance of 17 hours of vacation leave. Subsequently, on February 3, 2012, the petitioner was notified that

<sup>1</sup> Since the petitioner worked in a 40 hour workweek title, her leave time was calculated as one day being equal to eight hours.

she had utilized more vacation and sick leave than she had earned due to her resignation and as a result, she had overdrawn 10.25 days of vacation and/or sick leave for a total of \$1,515.87 which she needed to reimburse DHS for. The appointing authority also indicated that she was also inadvertently overpaid for five days while she was on leave of absence.

On appeal to the Civil Service Commission (Commission), the petitioner argued that her use of sick, vacation, and other leave time was approved by her supervisor and therefore, she could not have been overdrawn.

Based on the foregoing, the Commission noted that, *N.J.A.C.* 4A:6-1.2(a)2 and 4A:6-1.3(a)2 specifically provide that after the first year of employment, "at the beginning of each calendar year in *anticipation of continued employment*, employees shall be credited" with their vacation and sick leave allotments. As a result, on January 1, 2010, the petitioner was provided with her sick and vacation leave allotments for the year, on the belief that she would continue her employment for the whole year. However, since she did not remain in pay status for the full year, pursuant to *N.J.A.C.* 4A:6-1.5, her vacation and sick leave was to be prorated based on time earned since she was "liable for vacation and sick leave days taken in excess of their entitlements." Consequently, since the petitioner was on the payroll for eight months, she earned 90 hours each of vacation and sick leave. However, she had already used 142.25 hours of sick time, 164.75 hours of vacation time, 24 hours of administrative time and 43 hours of PLB prior to her leave of absence without pay. Therefore, since the petitioner utilized more vacation and sick leave than she had earned at the time she went on a leave of absence without pay, she was required to reimburse the appointing authority for that time pursuant to *N.J.A.C.* 4A:6-1.5. As a result, the petitioner's other leave time was appropriately used to reduce the amount of sick and vacation leave that was overdrawn in order to minimize the monetary amount that she would have to reimburse the appointing authority for. However, she was responsible for the remainder of the overdrawn amounts. With regard to the additional five days that the petitioner was inadvertently paid for, despite being on a leave of absence without pay, it is noted 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). Accordingly, she was also required to reimburse the appointing authority for those days.

In the instant matter, the petitioner argues that the Commission erred in finding that she was required to reimburse the appointing authority for the five days she was inadvertently paid for. In this regard, she argues that she was paid for that time due to the appointing authority's error, since she had never requested to utilize any leave time for those dates. With regard to the remainder of the

amount owed, the petitioner requests a payment plan for the amount of monies she owes.

### CONCLUSION

*N.J.A.C. 4A:2-1.6(b)* sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. The instant request for reconsideration appears to be based on the assertion that the Commission made an error in denying the petitioner's appeal. However, a review of the record in the instant matter reveals that reconsideration is not justified. In this regard, the petitioner has failed to provide any documentation which establishes that the Commission's decision was contrary to the evidence presented. Instead, the petitioner merely reiterates her prior argument and claims that the Commission made an error in requiring her to reimburse the appointing authority for monies she was paid for in error. However, the Commission does not agree. As noted in its previous decision, no vested or other rights are accorded by an administrative error. *See Cipriano v. Department of Civil Service, supra; O'Malley v. Department of Energy, supra; HIP of New Jersey v. New Jersey Department of Banking and Insurance, supra.*

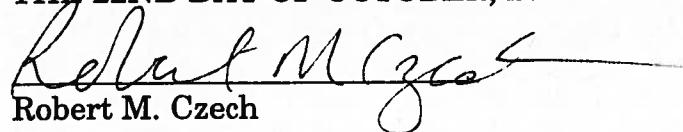
Finally, with regard to the petitioner's request for a payment schedule, the petitioner and the appointing authority are encouraged to set a reasonable repayment schedule for her to repay the amount she owes. Accordingly, the petitioner has failed to present a sufficient basis for reconsideration of the Commission's prior decision.

### ORDER

Therefore, it is ordered that this request for reconsideration 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



Robert M. Czech

Chairperson

Civil Service Commission

**Inquiries  
and  
Correspondence**

**Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
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**Attachment**

**c: June Baker  
Jerri Casazza  
Kenneth Connolly  
Joseph Gambino**

B-15



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of June Baker and  
Andrew Baker, Department of  
Human Services

Administrative Appeal

CSC Docket Nos. 2012-3668 and  
2012-3669

ISSUED: NOV - 8 2013

(SLD)

June Baker and Andrew Baker, a former Nursing Services Clerk and Truck Driver Single Axle, respectively, with the Department of Human Services (DHS), appeal the adjustment of their leave allowances upon their resignations. Since these matters pertain to the same issues, the matters have been consolidated herein.

By way of background, on January 1, 2010, Mrs. Baker's leave balances were credited, in relevant part, as follows: 120 hours (15 days) of sick time plus 27 hours carried forward for a total of 147 hours; 120 hours (15 days) of vacation time plus 44.75 hours carried forward for a total of 164.75 hours; and 24 hours (three days) of administrative leave time.<sup>1</sup> Mrs. Baker was also credited with 56 hours (seven days) of Paid Leave Bank (PLB) time by August 2010 and had one hour of compensatory time. Thereafter, Mrs. Baker used 142.25 hours of sick time, 164.75 hours of vacation time, 24 hours of administrative time and 43 hours of PLB. Mrs. Baker went on a leave of absence without pay, effective October 4, 2010 and she resigned, effective August 29, 2011, without returning from the leave of absence. As a result of her leave of absence and her eventual resignation, her leave balances for 2010 were prorated to 90 hours of sick time and 90 hours of vacation leave, leaving her with negative balances of 25.25 hours of sick leave and 30 hours of vacation leave. See *N.J.A.C. 4A:6-1.5(b)*. However, because Mrs. Baker had 13 hours of PLB remaining, that amount was credited toward the negative balance of 30 hours of

<sup>1</sup> Since the appellants worked in 40 hour titles, their leave time was calculated as one day being equal to eight hours.

vacation leave, leaving her with a negative balance of 17 hours of vacation leave. Subsequently, on February 3, 2012, Mrs. Baker was notified that she had utilized more vacation and sick leave than she had earned due to her resignation and as a result, she overdraw 10.25 days of vacation and/or sick leave for a total of \$1,515.87 which she needed to reimburse DHS for.

On January 1, 2010, Mr. Baker's leave balances were credited, in relevant part, as follows: 120 hours (15 days) of sick time, 120 hours (15 days) of vacation time and 24 hours (three days) of administrative leave time. Mr. Baker was also credited with 30 hours (3.75 days) of Paid Leave Bank (PLB) time by August 2010. Thereafter, Mr. Baker used 94.75 hours of sick time, 60 hours of vacation time and 16.75 hours of administrative leave. Mr. Baker went on a leave of absence without pay, effective May 12, 2010 and he resigned, effective July 15, 2011, without returning from the leave of absence. As a result of his leave of absence and his eventual resignation, Mr. Baker's leave balances were prorated to 40 hours of sick time and 40 hours of vacation leave, leaving him with negative balances of 54.75 hours of sick leave and 20 hours of vacation leave. See *N.J.A.C. 4A:6-1.5(b)*. However, because Mr. Baker had 30 hours of PLB, one hour of compensatory time and 7.25 hours of administrative leave remaining, those amounts were credited towards his negative balances leaving him with only a negative balance of 36.50 hours of sick leave. Subsequently, on February 3, 2012 Mr. Baker was notified that he had utilized more vacation and sick leave than he had earned due to his resignation and as a result, he overdraw 4.56 days of vacation and/or sick leave for a total of \$648.14 which he needed to reimburse DHS for.

On appeal, the Bakers argue that their use of sick, vacation, and other leave time was approved by their supervisors and therefore, they could not have been overdrawn.

In response, the appointing authority asserts that the Bakers had overdrawn their sick and vacation time. Specifically, the appointing authority argues that since the appellants went on leave of absences and then resigned without ever returning to paid status, then in accordance with *N.J.A.C. 4A:6-1.5(b)*, their leave balances were prorated based on the length of time they were in paid status for 2010. As a result of the proration of their leave time, Mr. Baker had overdrawn 36.5 hours (4.56 days) of sick time and Mrs. Baker had overdrawn 25 hours (3.1 days) of sick time and 17 hours (2.1 days) of vacation time. Additionally, the appointing authority noted that Mrs. Baker was also overpaid for 40 hours (5 days) for pay period 21 of 2010 (the pay period in which she started her leave of absence). The appointing authority indicated that she was paid because the cut-off date for the "payroll proof" was also on October 4, 2010. In support, it submitted copies of the Bakers' handwritten Payroll Records for Calendar year 2010 and 2011. The Payroll Calendars indicate the amount and type of leave time utilized for each day and all leave balances. It also submitted a copy of Mrs. Baker's check-stub for pay

period 21, which indicates that she was paid the gross amount of \$1,197.91 for that pay period.

### CONCLUSION

*N.J.A.C.* 4A:6-1.5, provides in part that:

- (a) Employees in State service are liable for vacation and sick leave days taken in excess of their entitlements.
- (b) An employee who leaves State service or goes on a leave of absence without pay before the end of the calendar year shall have his or her leave prorated based on time earned, except that the leave of an employee on a voluntary furlough or furlough extension leave shall not be affected. An employee who is on the payroll for greater than 23 days shall earn a full month's allowance, and earn one-half month's allowance if he or she is on the payroll from the 9th through the 23rd day of the month.

\* \* \*

In the instant matters, the appellants argue that since their supervisors approved their leave requests, they could not have overdrawn their time. However, *N.J.A.C.* 4A:6-1.2(a)2 and 4A:6-1.3(a)2 specifically provide that after the first year of employment, "at the beginning of each calendar year in *anticipation of continued employment*, employees shall be credited" with their vacation and sick leave allotments. As a result, on January 1, 2010 both appellants were provided with their sick and vacation leave allotments for the year, on the belief that they would continue their employment for the whole year. However, since they did not remain in pay status for the full year, pursuant to *N.J.A.C.* 4A:6-1.5, their vacation and sick leave was to be prorated based on time earned since they were "liable for vacation and sick leave days taken in excess of their entitlements." Consequently, since Mrs. Baker was on the payroll for eight months, she earned 90 hours each of vacation and sick leave and Mr. Baker, who was on the payroll for four months, earned 40 hours each of vacation and sick leave. However, Mrs. Baker had already used 142.25 hours of sick time, 164.75 hours of vacation time, 24 hours of administrative time and 43 hours of PLB prior to her leave of absence without pay and Mr. Baker had already used 94.75 hours of sick time, 60 hours of vacation time and 16.75 hours of administrative leave prior to his leave of absence without pay. Therefore, since both appellants utilized more vacation and sick leave than they had earned at the time they went on a leave of absence without pay, they are required to reimburse the appointing authority for that time pursuant to *N.J.A.C.* 4A:6-1.5. In this regard, the appellants other leave time, *i.e.*, PLB, administrative and compensatory leave time, was appropriately used to reduce the amount of sick and

vacation leave that was overdrawn in order to minimize the monetary amount that they would have to reimburse the appointing authority for. However, they are responsible for the remainder of the overdrawn amounts. Accordingly, the appellants were correctly required to reimburse the appointing authority for all overdrawn leave time.

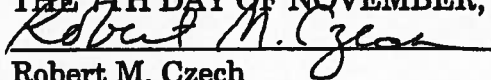
Finally, with regard to the additional five days that Mrs. Baker was inadvertently paid for, despite being on a leave of absence without pay, it is noted that no vested or other rights are accorded by an administrative error. See *Cipriano v. Department of Civil Service*, 151 N.J. Super. 86 (App. Div. 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). Moreover, pursuant to N.J.A.C. 4A:3-4.21, absent a waiver of such a salary overpayment, Mrs. Baker is required to reimburse the appointing authority for the days that she was overpaid.

### ORDER

Therefore, it is ordered that these appeals 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 7TH DAY OF NOVEMBER, 2013



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c: June Baker  
Andrew Baker  
Jerri Casazza  
Kenneth Connolly  
~~Joseph Gambino~~