



	:	<b>STATE OF NEW JERSEY</b>
	:	
In the Matter of Jyvaun Williams,	:	<b>FINAL ADMINISTRATIVE ACTION</b>
Department of Law and Public Safety	:	<b>OF THE</b>
	:	<b>CIVIL SERVICE COMMISSION</b>
	:	
CSC Docket No. 2019-469	:	
	:	Request for Waiver of Repayment
	:	of Salary Overpayment
	:	
	:	

**ISSUED: APRIL 22, 2019 (JET)**

Jyvaun Williams, an Information Technology Specialist with the Department of Law and Public Safety, Division of State Police, 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, the Civil Service Commission (Commission) may waive repayment based on a review of the case.

By way of background, as a result of a negotiated agreement between the State and the appellant’s union, he received a step increase effective April 30, 2016, that placed him at the salary of \$58,671.12 (salary step 4). By letter dated July 31, 2018, the appointing authority advised the appellant that an audit of his salary was conducted by the Centralized Payroll unit. It determined that, at the time the appellant was promoted to Information Technology Specialist effective March 19, 2016, he was placed at the incorrect salary step. As such, the appointing authority notified the appellant that he was overpaid in the amount of \$272.70 from March 19, 2016 through April 29, 2016. The appointing authority also notified the appellant that he was due to receive two retroactive payments for two step increases and a 2% increment in October 2018. Moreover, the appointing authority informed the appellant that he could pay the salary overpayment in full by October 14, 2018, or if the payment constituted a hardship, he could contact the appointing authority to discuss a payment plan. Official records show that the appellant’s salary was retroactively adjusted to \$56,290.73 (salary step 3) effective March 19, 2016.

In his request for waiver of salary overpayment, the appellant argues that, at the time he was appointed as an Information Technology Specialist, he was not

aware that he was incorrectly placed at salary step 4. The appellant now requests the Commission to waive the salary overpayment. The appellant contends that when an employee has erroneously received a salary overpayment, the Commission may waive the repayment based on a review of the case. The appellant adds that he was unaware that he was in overpayment status for two years and the amount that is owed is paramount to his ability to pay various bills, and he provides copies of his gas and electric bills in support of his claims.

## CONCLUSION

*N.J.A.C.* 4A:3-4.21 Salary overpayments: State service, provides as follows:

- (a) The [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 the instant matter, the petitioner argues that he was unaware of the salary overpayment of \$272.70, and as a result, he is experiencing a financial hardship. Although the appellant was placed on the wrong salary step, after an audit was conducted, it became clear that the appellant was placed in overpayment status from March 19, 2016 through April 29, 2016. Even assuming the appellant was unaware of the salary overpayment, he has not shown that repayment,

especially if based upon a reasonable repayment schedule, would result in economic hardship. Although the appellant claims that the repayment of the overpayment amount would create a financial hardship, he has failed to present any substantive evidence to establish a claim of hardship, as his gas and electric bills clearly do not constitute a financial hardship. *See In the Matter of Yvette Waugh, et al. (Commissioner of Personnel, decided October 25, 1996)* (Lack of documentation in support of claimed economic hardships did not warrant waiver of salary overpayment for employees erroneously awarded salary at the fourth step of the salary range). Further, the Commission notes that the repayment constitutes less than one-half of one percent of the appellant's salary.

### 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 BY THE  
CIVIL SERVICE COMMISSION ON  
THE 17<sup>th</sup> DAY OF APRIL, 2019



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