



**STATE OF NEW JERSEY**

In the Matter of Christine Chieffe,  
Hudson County, Department of  
Health and Human Services,  
Meadowview Psychiatric Hospital

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2023-1938

Request for Back Pay

**ISSUED: September 20, 2023 (HS)**

Christine Chieffe, a Graduate Nurse with Hudson County, Department of Health and Human Services, Meadowview Psychiatric Hospital, represented by Analiese W. Smith, Esq., requests back pay in accordance with the Civil Service Commission (Commission) decision rendered on March 23, 2022.

By way of background, the appointing authority immediately suspended the petitioner without pay, effective May 14, 2021, and issued a Final Notice of Disciplinary Action (FNDA) removing the petitioner, effective August 2, 2021, on charges of inefficiency; insubordination; conduct unbecoming a public employee; neglect of duty; and other sufficient cause. Upon her appeal, the matter was transmitted to the Office of Administrative Law for a hearing. Following a hearing and the Commission’s *de novo* review, the petitioner’s removal was modified to a five-month suspension and the Commission ordered that the petitioner be reinstated and awarded mitigated back pay, benefits, and seniority five months from her separation from employment to the actual date of reinstatement. *See In the Matter of Christine Chieffe, Hudson County, Department of Health and Human Services, Meadowview Psychiatric Hospital* (CSC, decided March 23, 2022). As a result of the Commission’s decision, the appointing authority issued an amended FNDA indicating that the petitioner was suspended May 14, 2021 through October 14, 2021.<sup>1</sup> The record reflects that the petitioner was reinstated on May 9, 2022. Thus, the back pay period

<sup>1</sup> These dates are consistent with the dates that have been entered into the petitioner’s official personnel record found in the County and Municipal Personnel System.

was October 15, 2021 through May 8, 2022. However, the parties were unable to agree on the amount of back pay due to the petitioner, and the petitioner requested Commission review.

In her request, the petitioner explains that she applied for unemployment compensation following her immediate suspension. In 2022, the State determined that pursuant to *N.J.S.A. 43:21-5b*, the petitioner was entitled to unemployment compensation for certain weeks in 2021, namely June 21, 2021 through August 21, 2021. Thus, she received \$6,579 in unemployment compensation for that period. The appellant also states that she mitigated her damages by obtaining employment with Caretenders Visiting Services, where she worked from August 23, 2021 through April 18, 2022 earning a biweekly rate of \$3,200.<sup>2</sup> Further, the appellant maintains that she is entitled to a benefits award to reimburse her for increased co-pays for medical appointments and a prescription refill.

Per the petitioner, the parties dispute whether the unemployment compensation must be deducted from the back pay award. The petitioner notes that the unemployment compensation was received for weeks within her five-month suspension period. As such, the appointing authority has not compensated her for any week where she also received unemployment compensation, and the petitioner is not seeking such payments. Thus, the petitioner argues that per *N.J.S.A. 43:21-5b*, the appointing authority has no authority to deduct the unemployment compensation from the back pay award. The petitioner insists that the five-month suspension period is not to be considered for purposes of back pay calculations, and the “measuring period” for back pay only begins after the suspension period.

In response, the appointing authority, represented by Nidara Y. Rourk, Assistant County Counsel, provides, among other things, documentation on the gross salary the petitioner would have earned during the back pay period. The documentation reflects that the petitioner’s gross salary per biweekly pay period would have been \$3,724.39,<sup>3</sup> translating to a daily rate of \$372.44.

## CONCLUSION

Pursuant to *N.J.A.C. 4A:2-2.10(d)*, an award of back pay shall include unpaid salary, including regular wages, overlap shift time, increments and across-the-board adjustments. Benefits shall include vacation and sick leave credits and additional amounts expended by the employee to maintain his or her health insurance coverage during the period of improper suspension or removal. *N.J.A.C. 4A:2-2.10(d)3* provides that an award of back pay shall be reduced by the amount of money that was actually

---

<sup>2</sup> Thus, the appellant’s daily rate was \$320. As there are 132 working days in the period from the start of the back pay period, October 15, 2021, through April 18, 2022, the appellant’s gross earnings from Caretenders Visiting Services during the back pay period were \$42,240.

<sup>3</sup> Inclusive of \$67.31 in shift differential pay.

earned during the period of separation, including any unemployment insurance benefits received, subject to any applicable limitations set forth in *N.J.A.C. 4A:2-2.10(d)4*. *N.J.A.C. 4A:2-2.10(d)4*, in turn, states that where a removal or a suspension for more than 30 working days has been reversed or modified and the employee has been unemployed or underemployed for all or a part of the period of separation, and the employee has failed to make reasonable efforts to find suitable employment during the period of separation, the employee shall not be eligible for back pay for any period during which the employee failed to make such reasonable efforts. “Reasonable efforts” may include, but not be limited to, reviewing classified advertisements in newspapers or trade publications; reviewing Internet or on-line job listings or services; applying for suitable positions; attending job fairs; visiting employment agencies; networking with other people; and distributing resumes. The determination as to whether the employee has made reasonable efforts to find suitable employment shall be based upon the totality of the circumstances, including, but not limited to, the nature of the disciplinary action taken against the employee; the nature of the employee’s public employment; the employee’s skills, education, and experience; the job market; the existence of advertised, suitable employment opportunities; the manner in which the type of employment involved is commonly sought; and any other circumstances deemed relevant based upon the particular facts of the matter. The burden of proof shall be on the employer to establish that the employee has not made reasonable efforts to find suitable employment. *See N.J.A.C. 4A:2-2.10(d)4, et seq.*

In this matter, the parties dispute whether the unemployment compensation the petitioner received should be deducted from her back pay award. It should not. Per *N.J.A.C. 4A:2-2.10(e)*, the general rule is that an award of back pay, benefits, and seniority is to be calculated from the effective date of the appointing authority’s *improper action* to the date of the employee’s actual reinstatement to the payroll. Here, because the petitioner’s removal had been deemed unjustified and modified to a five-month suspension, the date of improper action was, effectively, October 15, 2021. Any unemployment compensation the petitioner received pertained to weeks, namely June 21, 2021 through August 21, 2021, *prior to* October 15, 2021. As such, they do not enter into the back pay calculation. *N.J.S.A. 43:21-5b* appears consistent with that result. That statute, in pertinent part, provides that an individual shall be disqualified for benefits:

For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the five weeks which immediately follow that week, as determined in each case.

. . .

In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, [*N.J.S.A. 43:21-5b*]

shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter *for any week of unemployment for which the individual is subsequently compensated by the employer* (emphasis added).

The petitioner has no entitlement to be compensated with back pay from the appointing authority for any of the weeks she received unemployment compensation. As such, the Commission finds nothing in *N.J.S.A. 43:21-5b* that would require the petitioner's unemployment compensation to be deducted from her back pay award. Therefore, the calculation of the petitioner's mitigated back pay award is as follows:

<u>DATES</u>	<u>AMOUNT OWED</u>
<b>October 15, 2021 – December 31, 2021</b>	\$20,856.58 ( <i>i.e.</i> , \$372.44 daily rate multiplied by 56 working days)
<b>January 1, 2022 – May 8, 2022</b>	\$33,519.51 ( <i>i.e.</i> , \$372.44 daily rate multiplied by 90 working days)
<b><u>Total Gross Back Pay Amount</u></b>	\$54,376.09
<b><u>Less Mitigation Amounts</u></b>	\$42,240.00 ( <i>i.e.</i> , earnings from Caretenders Visiting Services employment)
<b><u>Total Mitigated Back Pay Award</u></b>	<b><u>\$12,136.09</u></b>

*N.J.A.C. 4A:2-2.10(d)2* provides that the award of back pay shall be reduced by the amount of taxes, social security payments, dues, pension payments, and any other sums normally withheld. Thus, the appointing authority, by rule, should reduce the petitioner's total mitigated back pay award stated above consistent with this provision and provide the petitioner with a full accounting of its deductions when it makes its payment to the appellant. *See In the Matter of Ronald Dorn* (MSB, decided December 21, 2005).

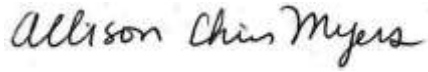
However, the Commission declines to order reimbursement for the petitioner's prescription refill and increased medical appointment co-pays. In this regard, *N.J.A.C. 4A:2-2.10(d)* provides for reimbursement of payments made to *maintain health insurance coverage*. As far as Civil Service rules are concerned, the petitioner's entitlement to reimbursement for maintaining health insurance coverage does not apply to any medical expenses or prescription drug expenses incurred. *See, e.g., In the Matter of Shannon Stoneham-Gaetano and Maria Ciufo* (MSB, decided April 24, 2001).

### ORDER

Therefore, it is ordered that the appointing authority pay Christine Chieffe the gross amount of \$12,136.09 for back pay within 30 days of receipt of this decision.

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 20<sup>TH</sup> DAY OF SEPTEMBER, 2023



---

Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Christine Chieffe (c/o Analiese W. Smith, Esq.)  
Analiese W. Smith, Esq.  
Elinor Gibney  
Nidara Y. Rourk, Assistant County Counsel  
Louis C. Rosen, Deputy County Counsel  
Division of Agency Services  
Records Center