



STATE OF NEW JERSEY

In the Matter of Luz Vlachos,
Department of the Health

CSC Docket No. 2023-1863

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

Request for Waiver of Repayment of
Salary Overpayment

ISSUED: July 24, 2023 (SLK)

The Department of Health (DOH), on behalf of its employee Luz Vlachos, 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, repayment may be waived based on a review of the case.

By way of background, Vlachos, a then-Program Specialist 1 (P18) submitted a classification appeal. On January 9, 2023, the Division of Agency Services (Agency Services) issued a determination reclassifying her position from a Program Specialist 1 (P18) to Program Support Specialist 3, Assistance Programs (P22). During the reclassification review process, Vlachos had accepted a provisional appointment as an Administrative Analyst 2 (P21). She did not appeal the duties assigned to that position. The Department of the Treasury has confirmed that this process has led to a net overpayment for Vlachos.¹

In its request, the DOH asserts that the three criteria for a waiver of Vlachos' salary overpayment under *N.J.A.C. 4A:3-4.21* have been met. Vlachos presents that she is a single, 61-year-old woman, residing alone with one income and unable to pay the suggested amount. She states that after paying all her bills each month, she is left in a financial struggle and unable to pay more bills.

¹ It is unclear as to the exact amount of the overpayment. The Department of the Treasury has indicated that the overpayment amount is in the \$600 range.

CONCLUSION

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

- (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.

In this matter, although the DOH argues that Vlachos should be held harmless from a salary overpayment action under these circumstances, Vlachos, other than her mere statements, has not provided any evidence to support a claim of economic hardship. It is noted that this agency advised Vlachos in her appeal acknowledgement letter that if she was claiming economic hardship, she needed to submit evidence to substantiate the claim, such as an affidavit and/or relevant documentation regarding monthly income and expenses. Accordingly, as the third criterion has not been met under *N.J.A.C.* 4A:3-4.21(a), the request is denied. However, the DOH is encouraged to set a reasonable repayment schedule to allow for the least economic impact on Vlachos.

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 ON
THE 19TH DAY OF JULY, 2023

Allison Chris Myers

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Chair/Chief Executive Officer
Civil Service Commission

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