



**STATE OF NEW JERSEY**

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

In the Matters of Jarvis Perry,  
Department of Corrections

Request for Waiver of Repayment  
of Salary Overpayment

CSC Docket No. 2019-1409

**ISSUED: SEPTEMBER 27, 2019 (JET)**

Jarvis Perry, a Senior Investigator, Parole and Secured Facilities with the Department of Corrections, 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, Perry's previous title was Investigator, Secured Facilities, and he was appointed to that title effective January 23, 2016.<sup>1</sup> At the time of that appointment, he was placed at the incorrect salary range (step 10 of the 8-20 range), and he received that salary while in that title from January 23, 2016 through March 16, 2018. By letter dated September 13, 2019, the appointing authority notified Perry that he was overpaid \$7,154.11 from January 23, 2016 through March 16, 2018.

In his request for waiver of salary overpayment, Perry states, among other things, that the appointing authority verbally notified him that he was overpaid during the relevant timeframes, and as such, he should not be responsible for the overpayment as an administrative error occurred. Despite being provided the opportunity, he does not provide any other information or evidence.

<sup>1</sup> Perry was appointed as a Senior Investigator, Parole and Secured Facilities effective March 17, 2018. His current salary is \$100,841.63.

In response, the appointing authority maintains that the appellant was overpaid \$7,154.11. It adds that, although Centralized Payroll was notified by e-mail that the appellant should have been placed at a lower salary step range (step 9 of 8-20 range), the error was not adjusted in the Personnel Management Information System (PMIS) records. As such, the appointing authority contends that Perry continued to receive the higher salary and he could not have reasonably been aware of the error at the time.

## 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 this matter, Perry states that he should not be responsible for the salary overpayment as an administrative error occurred. The record reflects that, although the appointing authority was in fact aware of Perry's salary situation, the PMIS system was not updated to reflect that he should be paid at a lower salary step (step 9 of 8-20 range). Although the appointing authority states that Perry could not have reasonably been aware of the situation, pursuant to the above listed

rules, the appellant has the burden of proof to show that an administrative error occurred, he was reasonably unaware of the error and is experiencing an economic hardship as a result of the overpayment. A review of the record reveals that Perry, despite being advised of the regulatory standard, did not present any substantive evidence to show that he is experiencing a financial hardship as a result of the overpayment. In this regard, the appellant did not submit any specific evidence, such as his monthly income and expenses, to substantiate a claim of 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). In this regard, the Commission notes that Perry received the benefit of the salary overpayments from January 23, 2016 through March 16, 2018. Under these circumstances, the Commission does not find that a sufficient basis exists to grant a waiver of the overpayment amounts of \$7,154.11 pursuant to *N.J.A.C. 4A:3-4.21*.

Moreover, the Commission is not persuaded that Perry would be unable to afford repayment of the salary overpayment over a period of time since he has not demonstrated that the amount he would be required to pay on a bi-weekly basis each pay period would create a hardship, especially in light that his current salary is \$100,841.63. The appointing authority may consider repayment schedules at its discretion and extend the payment period within reason for Perry to allow for a reasonable repayment schedule.

### ORDER

Therefore, it is ordered that this request be denied. It is also ordered that the appointing authority is to set a reasonable repayment schedule for the salary overpayment.

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 25<sup>th</sup> DAY OF SEPTEMBER, 2019



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