



**STATE OF NEW JERSEY**

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

In the Matter of Sharon Edwards,  
Judiciary, Vicinage 15-Gloucester,  
Cumberland, and Salem Counties

: Request for Waiver of Repayment of  
: Salary Overpayment

CSC Docket No. 2021-531

**ISSUED: JUNE 7, 2021 (HS)**

Sharon Edwards, a Court Services Supervisor 2 with the Judiciary, Vicinage 15-Gloucester, Cumberland, and Salem Counties, represented by Lynsey A. Stehling, Esq., 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.

As background, the appellant was appointed to the unclassified title of Court Services Supervisor 2, effective March 14, 2009, at a salary of \$83,016.37. By December 29, 2012, the appellant's salary had increased to \$103,921.19. The original Personnel Management Information System (PMIS) records reflect that the appellant was thereafter compensated as follows:

DATES	SALARY
December 28, 2013	\$107,350.59
December 27, 2014 – June 24, 2016	\$109,229.23

On appeal to the Commission, the appellant recounts that the appointing authority advised her that she had been overpaid in the amount of \$4,880.88 over the December 28, 2013 through June 24, 2016 period and that the overpayment would be recouped biweekly beginning November 13, 2020 until the overpayment was repaid. The overpayment occurred due to an administrative error by an employee who changed the appellant's salary from Maximum 1 on the Compensation Schedule to Maximum 2 prior to her being eligible to move to the Maximum 2 salary. The

appellant maintains that she was entirely unaware that her salary had been incorrectly processed. The appellant states that anytime she received a salary increase, it was her understanding that it was based upon “contractual” across-the-board or step increases.

The appellant maintains that the salary recoupment, \$101.66 biweekly, has resulted in a substantial economic hardship. Specifically, she only has one income for her family. Her 25-year-old daughter lives in her home, and the appellant solely pays all bills associated with her home and any expenses incurred in her personal life. The appellant specifically notes the following expenses:

- Monthly mortgage payment of \$1,346.87
- Monthly car loan payment of \$374.58
- Average monthly electric bill of \$150.00
- Monthly cable services bill of \$175.50
- Monthly payment of \$110.42 for life insurance policy
- Monthly payment of \$32.62 for second life insurance policy
- Monthly student loan payment of \$732 for daughter’s education
- Monthly payment of \$170.02 for loan taken for roof repairs
- Average monthly car insurance payment of \$245.12 (based on bills for December 2020 through June 2021)
- Average monthly bill of \$100.00 for home heating oil
- Monthly minimum payment of \$43.00 for Pep Boys credit card
- Monthly minimum payment of \$28.00 for Old Navy credit card
- Monthly minimum payment of \$27.00 for Kohl’s credit card
- Average monthly cell phone bill of \$221.09 (based on bills for November 2020 through January 2021)
- Weekly grocery expenses of \$150.00
- Monthly pet expenses of \$110.00

According to the appellant, she receives approximately \$4,312.36 per month in salary from the Judiciary, after taxes and applicable deductions. She calculates that her monthly expenses total approximately \$4,486.35. Thus, the appellant spends \$173.99 more per month than she makes through her Judiciary employment. With the additional \$101.69 biweekly deduction to recoup the overpayment, the appellant spends approximately \$377.37 per month more than she makes through her Judiciary employment.

As support for her waiver request, the appellant points to the Commission’s decision in *In the Matter of Ramona Halliday, Office of the Public Defender* (CSC, decided July 13, 2011). In that case, the Commission determined that an administrative error occurred when Halliday was placed in the wrong title after the Office of the Public Defender (OPD) mistakenly offered her the salary of a Legal Secretary 1. The error was compounded over a period of three years, resulting in a

significant overpayment. Halliday submitted evidence regarding her financial obligations. The Commission found that although Halliday was able to meet her monthly expenses, her expenses did not take into account her future increases in costs, her pension contributions, or the cost of emergency situations. In addition, the Commission found that Halliday's expenses were reasonable and not extravagant. Thus, the Commission found that the repayment of \$135.00 per pay period for three years would result in an economic hardship to Halliday and granted a waiver of repayment.

In response, the appointing authority, represented by Susanna J. Morris, Esq., indicates that the 2012-2016 collective negotiations agreement between the Probation Association of New Jersey, Professional Supervisors Union and the Judiciary (CNA)<sup>1</sup> required that an employee had to complete 24 months in her job title at the Maximum 1 salary, before being moved to the Maximum 2 salary. The appellant was advanced to Maximum 1 on December 29, 2012, and pursuant to the CNA, she was required to complete 24 months – until December 29, 2014 – in her job title at the Maximum 1 salary before being moved to Maximum 2. However, the appellant was erroneously advanced to Maximum 2 on December 28, 2013, 12 months early, and the salary overpayment continued through June 24, 2016. Once the overpayment was discovered, PMIS was corrected to reflect the following compensation for the appellant:

DATES	SALARY
December 28, 2013	\$104,960.40
December 27, 2014 – June 24, 2016	\$107,350.59

The appointing authority notes that the Judiciary's Salary Overpayment Recovery Policy (Overpayment Policy) makes clear that:

Employees are responsible for knowing the amount of salary and vacation time to which they are entitled and should discuss any questions they have in that regard with the local Human Resources office.

In the appointing authority's view, this obligation combined with the plain language of the CNA<sup>2</sup> – an employee must be in her job title at Maximum 1 for 24 months before being moved to Maximum 2 – should have quickly alerted the appellant to the overpayment and caused her to contact the Vicinage Human Resources Office to address the issue.

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<sup>1</sup> There is no dispute that the appellant was covered by the CNA.

<sup>2</sup> The Overpayment Policy states that it applies to all Judiciary employees and that "employees are entitled to no more or no less compensation than is required under the terms of collective negotiations agreements and Judiciary salary setting procedures."

## CONCLUSION

*N.J.A.C.* 4A:3-4.21 provides, in pertinent part:

- (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.

The appellant requests a waiver of the salary overpayment since she claims that the circumstances of the overpayment were such that she was unaware of the overpayment and repayment would result in economic hardship to her. Moreover, she and the appointing authority note that the overpayment was the result of an administrative error. Although the record clearly shows that an administrative error resulted in the salary overpayment, the appellant cannot benefit from the error, as she was not entitled to the higher compensation, unless she can satisfy the other conditions presented above. *See e.g., 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) (No vested or other rights are accorded by an administrative error).

In that regard, even assuming, *arguendo*, that repayment poses an economic hardship to the appellant, the Commission is not persuaded that it was reasonable

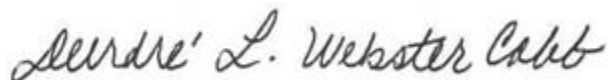
for the appellant to be unaware of the error. The Overpayment Policy explicitly charged the appellant with “knowing the amount of salary . . . to which [she is] entitled” and specifically noted that “employees are entitled to no more or no less compensation than is required under the terms of *collective negotiations agreements* and Judiciary salary setting procedures” (emphasis added). The appellant’s own CNA, in turn, defined when the appellant was entitled to receive the Maximum 2 salary. In short, the CNA was an important resource that the appellant could and should have consulted and that would have revealed the error. Evidently, the appellant was aware that the CNA governed any salary increases she received as she acknowledges that anytime she received a salary increase, it was her understanding that it was based upon “*contractual*” (emphasis added) across-the-board or step increases. Thus, since the appellant cannot satisfy all three factors in *N.J.A.C. 4A:3-4.21*, she is not eligible for a waiver of the repayment obligation. The Commission’s decision in *Halliday, supra*, does not compel a different result. In that case, it should be noted, the OPD offered Halliday employment by letter and incorrectly quoted the salary in that letter. In granting the waiver, the Commission specifically noted that Halliday had relied upon the representations made to her regarding her salary. No similar representations were made in this case. The parties are, however, encouraged to create a more lenient repayment schedule if necessary.

### 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 2<sup>ND</sup> DAY OF JUNE, 2021



Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

- c. Sharon Edwards  
Lynsey A. Stehling, Esq.  
Carmelita Vazquez  
Susanna J. Morris, Esq.  
Division of Agency Services  
Records Center