



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION  
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DIRECTOR OF PERSONNEL

Wednesday, June 12, 2024

Hon. Michael Bageris  
935 Gravier Street, Suite 2110  
New Orleans, LA 70112

Re: **Brejean Balancier VS.  
Sewerage & Water Board  
Docket Number: 9102**

Dear Mr. Bagneris:

Attached is the action of the Civil Service Commission at the Commission's meeting on Thursday, 5/30/2024.

Yours very truly,

A handwritten signature in blue ink that reads "Stacie Joseph".

Stacie Joseph  
Management Services Division

cc: Ghassan Korban  
Ashley Ian Smith  
Brejean Balancier

file

**CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

**BREJEAN BALANCIER,  
Appellant**

**Docket No. 9102**

v.

**SEWERAGE & WATER BOARD,  
Appointing Authority**

**ORDER**

Following the Commission's ruling in favor of Ms. Balancier on September 13, 2021, and the denial of the Sewerage & Water Board's motion for rehearing in January of 2022, the Sewerage & Water Board complied with the Commission's ruling by paying Ms. Balancier \$75,691.11, based on its calculation of back pay and other emoluments from October 25, 2019, to January 24, 2022.

Ms. Balancier appeared before the Commission requesting additional back pay from the Sewerage & Water Board at its regular meeting on November 13, 2023. The Commission ruled on the disputed issues on December 13, 2023, and the Sewerage & Water Board appealed this decision to the Fourth Circuit Court of Appeal. That devolutive appeal is currently pending.

Ms. Balancier appeared before the Commission again on March 8, 2024, asserting that the Sewerage & Water Board had failed to comply with the Commission's December 13, 2023, order. The Commission issued an order on March 13, 2024, requesting post-hearing briefs, including the competing calculations of back pay. The Commission granted the parties additional time to provide the briefs, and the Commission received both parties' briefs on May 3, 2024. At the Commission's regular meeting on May 30, 2024, counsel for both parties requested that the Commission rule on the briefs.

The sole outstanding issue is whether Ms. Balancier may recover health insurance premiums, and if so, the calculation of these health insurance premiums. As the Commission noted in its December 13, 2023, order, Ms. Balancier is entitled to reimbursement of health insurance premiums if those premiums are less expensive than COBRA continuation coverage.

We have readily concluded that “restoration of all emoluments” includes restoration of health insurance coverage on the same basis that it would have been available had their employment not been interrupted. If appellants procured private insurance because COBRA insurance was unavailable or because it was more costly than private insurance, they are entitled to reimbursement for the private health insurance premiums they paid. If COBRA insurance was cheaper than private insurance, they are entitled only to the cost of COBRA insurance. If they procured no insurance at all, they are not entitled to any reimbursement.

*Noya v. Dep't of Fire, City of New Orleans*, 611 So. 2d 746, 748 (La. App. 4 Cir. 1992). Ms. Balancier has produced documentation of the cost of COBRA continuation coverage, which was more expensive than the cost of private insurance coverage through her spouse's employment. Therefore, Ms. Balancier is entitled to reimbursement of \$9,445.10, the cost of procuring private insurance. Because the award of back pay and emoluments of employment is equitable in nature, the award of emoluments of employment should not place Ms. Balancier in a more favorable position than if she had remained employed by the Sewerage & Water Board. *See Edmonds v. Dep't of Pub. Works*, 2023-0641 (La. App. 4 Cir. 5/7/24) (equitable nature of attorney's fees); *Albemarle Paper Co. v. Moody*, 422 U.S. 405, 417, 95 S. Ct. 2362, 2371, 45 L. Ed. 2d 280 (1975) (equitable nature of back pay award in Title VII context). This amount shall be offset by the portion of the health insurance premium Ms. Balancier would have paid to the Sewerage & Water Board, \$5,516.19. The Sewerage & Water Board shall reimburse Ms. Balancier \$3,928.91, the increased cost of health insurance caused by the termination of her employment.



Brittney Richardson (Jun 7, 2024 13:43 CDT)

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BRITTNEY RICHARDSON, CHAIRPERSON



J H Korn (Jun 11, 2024 19:31 CDT)

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JOHN KORN, VICE-CHAIRPERSON



Ruth Davis (Jun 6, 2024 21:19 CDT)

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RUTH DAVIS, COMMISSIONER



Andrew Monteverde (Jun 5, 2024 16:43 CDT)

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ANDREW MONTEVERDE, COMMISSIONER