

**COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE BUDGET**

**DATE:** May 22, 2024  
**SUBJECT:** Expenditure Symbol Notification Number 23-159  
**TO:** Honorable Stacy Garrity  
 State Treasurer  
**FROM:** Uri Monson  
 Secretary of the Budget



The Judiciary provides essential services for the public health and safety of the Commonwealth's citizens. As we approach the end of Fiscal Year 2023-24, we anticipate that the supplemental budgets requested specific to the Judiciary for FY23-24 will not be enacted prior to relevant appropriation amounts being depleted beyond meaningful authority balance.

Act 49 of 2009 provided supplemental funding to the Unified Judicial system each year until the expiration of the surcharge on July 31, 2023. Although Act 22 of 2023 reinstated the surcharge fees and expanded the \$11.25 portion of the fee to include traffic fines, due to the delay in passing the act, sufficient funds are not available in the Act 49 restricted receipt account to fully fund the difference between available state funding and total funding need during FY23-24 resulting in the required supplemental budget requests.

Article 3, Section 24 of the Constitution prohibits payment of any amount due without appropriation. However, certain federal laws, state court decisions, and provisions of the Pennsylvania Constitution provide exceptions to that general prohibition.

Under the federal Fair Labor Standards Act, Commonwealth employees must be paid in a timely manner for work performed, notwithstanding any state Constitutional prohibition to the contrary. E.g. Council 13, AFSCME v. Commonwealth, 604 Pa. 352,986 A.2d 63 Pa. 2009 (Pa. 2009) – Council 13, AFSCME v. Casey, 626 A.2d 683 (Pennsylvania Commonwealth. 1993). Failure to pay employees in a timely manner for work performed can result in liquidated damages against the Commonwealth in the form of double payment of wages to employees. Because the Judiciary processes payrolls without regard to appropriation spending authority and, whereas the Treasury Department cannot exceed such spending authority established in previous ESN's, employees covered by the FLSA would not be paid in instances when insufficient appropriated funds are available to pay payrolls in their entirety, resulting in a violation of the FLSA.

Upon determination by the Commonwealth that the original mandated appropriation amounts have been depleted beyond any meaningful authority balance, costs are to be transferred from the original state and/or federal appropriations to the nonbudgeted expenditure symbols to meet the mandated program requirements on a timely basis. These adjustments will be proactive to restore spending authority in the original appropriations to maintain efficient and effective cash management of the mandated programs.

As the mandated appropriations receive additional monies through refunds, revenues, or supplemental spending authority which restores the original mandated appropriation balances to a meaningful authority balance, the costs applied to the nonbudgeted expenditure symbols will then to be returned to the original state and/or federal appropriations. If the original mandated appropriation spending authority within the fiscal year is ultimately insufficient, costs are returned to the subsequent year state and/or federal appropriations.

The following non-budgeted expenditure symbols will be used in the General Fund for the agencies specified below so that the Commonwealth can continue to meet its legal obligation to provide timely pay to employees as discussed above. These expenditure symbols will be used only in the event that Treasury does not have appropriation authority to pay such expenses.

**From:** General Fund

**To:** Judiciary

<u>SAP Fund Name</u>	<u>COPA Fund</u>	<u>Business Area</u>	<u>SAP Fund</u>	<u>Original Source</u>
MP-Courts of Common Pleas	001	53	54435	10435 (S)
MP-Magisterial District Judges	001	59	54451	10451 (S)

**Note for all accounts: Functional Area is 2000 / Character Code is 1**

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| c: The Honorable Timothy DeFoor<br>Scott Kennedy<br>Tammy Blymire<br>Donetta M. D'Innocenzo | Joseph Weber<br>Charles Zogby<br>Edward Palmer<br>Jen Benko |
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