



Jeffrey A. Meyers
Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE COMMISSIONER
BUREAU OF HUMAN RESOURCE MANAGEMENT

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December 19, 2016

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to the provisions of RSA 21-I: 43-a, Compensation for State Employees Injured in Line of Duty, finalize the determination made by the Commissioner of the Department of Health and Human Service that on November 23, 2016 Stewart McPhee, a Mental Health Worker II at New Hampshire Hospital sustained an injury in the line of duty due to a hostile or overt act, or an act caused by another during the performance of duties which are considered dangerous in nature, effective date of Governor and Council approval.

EXPLANATION

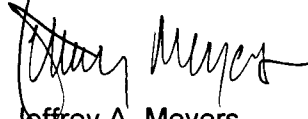
New Hampshire RSA 21-I: 43-a, Compensation for State Employees Injured in Line of Duty states:

Any injury received by any state employee who is injured in the line of duty by a hostile act, or by an act caused by another during the performance of duties which are considered dangerous in nature, that requires the employee to be hospitalized or renders the employee temporarily unable to perform the duties of his or her position shall not be charged against annual leave or sick leave for the time lost due to the injury. During such time, the employee shall remain on the active payroll. In this event, no employee shall be terminated from state service until he or she has applied for disability retirement and a final decision on the application is made by the board of trustees of the New Hampshire retirement system and appeals of such decision, if any, are finalized; provided, that the employee shall make such application within 18 months of the injury contemplated by this section. **The executive head of the employee's agency shall make the determination as to whether an injury is in the line of duty and due to a hostile or overt act, or an act caused by another during the performance of duties which are considered dangerous in nature, and, after approval by the governor and council, the determination shall be final.** (emphasis added) During the time in which the injured employee remains on active payroll at full base salary pursuant to this section, his or her state compensation shall not be offset by state workers' compensation payments and he or she shall not receive state workers' compensation payments to supplement his or her full base salary. Nothing in this section shall prohibit medical payments or final settlements.

Stewart McPhee is a Mental Health Worker II who was injured in the line of duty and rendered temporarily unable to perform the duties of his position. On November 23, 2016, a patient at the New Hampshire Hospital assaulted Stewart McPhee causing injuries by punching Stewart in the face multiple times when he went to assist a nurse being attacked by a patient. As a result of the injuries, Stewart McPhee required medical attention and was rendered unable to perform duties beginning that day. Stewart McPhee was medically released to return to work on November 29, 2016. In accord with NH RSA 21-I: 43-a Mr. McPhee's lost time has not been charged against his annual leave or sick leave and he remains on the active payroll.

Following a thorough review of the November 23, 2016 incident and facts related to Stewart McPhee's injury, the Commissioner of the Department of Health and Human Services determined on November 23, 2016, that Mr. McPhee's injuries were in the line of duty and due to a hostile or overt act, or an act caused by another during the performance of duties, which are considered dangerous in nature. Pursuant to RSA 21-I: 43-a, approval of this Request shall make the Commissioner's determination final.

Respectfully submitted,



Jeffrey A. Meyers
Commissioner