



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

Jeffrey A. Meyers  
Commissioner

Mark C. Bussiere  
Director

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-9344 1-800-852-3345 Ext. 9344  
Fax: 603-271-4810 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

February 26, 2016

Her Excellency, Governor Margaret Wood Hassan  
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 January 20, 2016 Scott Marcellino, a Youth Counselor III at the Sununu Youth Services Center sustained an injury 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, 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

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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.

Scott Marcellino is a Youth Counselor III who was injured in the line of duty and rendered temporarily unable to perform the duties of his position. On January 20, 2016 a resident at the Sununu Youth Services Center assaulted Scott Marcellino causing injuries by kicking him in the left knee. As a result of the injuries, Scott Marcellino required medical attention and was rendered unable to perform his duties beginning that day. He has not returned to work and in accord with NH RSA 21-I: 43-a Mr. Marcellinos' 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 January 20, 2016, incident and facts related to Scott Marcellinos' injury, the Commissioner of the Department of Health and Human Services determined on January 20, 2016, that Mr. Marcellinos' 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