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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF BUSINESS OPERATIONS

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Nicholas A. Toumpas
Commissioner

Stephen J. Mosher
Chief Financial Officer

March 5, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

RETRO

REQUESTED ACTION

Authorize the Office of the Commissioner, Department of Health and Human Services, to approve one-time **retroactive** payments totaling \$3,855.24 to Ms. Kelley Dion and Mr. Richard Sweezy from current State Fiscal Year funds for employee travel expenses incurred in State Fiscal Years 2011 and 2012. Ms. Dion is owed \$3,122.64 and Mr. Sweezy is owed \$732.60. Funds are available in the current fiscal year in the following account:

05-95-95-950010-50000000-070-500704 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVCS, HHS: COMMISSIONER, OFFICE OF THE COMMISSIONER, COMMISSIONER'S OFFICE, IN-STATE TRAVEL REIMBURSEMENT.

60% GEN 40% FED

EXPLANATION

Both Ms. Dion and Mr. Sweezy traveled as a result of temporary work assignments in prior State Fiscal Years. Mistakenly, they were instructed not to submit mileage reimbursement claims for the costs they incurred. Both the rules of the Department of Administrative Services and the Collective Bargaining Agreement allow for payment of their travel expenses. The denial of mileage was successfully grieved under the Collective Bargaining Agreement in January 2013. Thus, the travel reimbursement documents could not be submitted and approved timely. Therefore this request is identified as retroactive.

Approval of this request will enable the Department to pay the employees that which is owed to them.

Source of funds: 60% General funds, 40% Federal funds.

Respectfully submitted,

Stephen J. Mosher
Chief Financial Officer

Approved by:

Nicholas A. Toumpas
Commissioner



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF OPERATIONS SUPPORT

BUREAU OF LEGAL SERVICES

Nicholas A. Toumpas
Commissioner

Mary P. Castelli
Senior Division Director

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January 9, 2013

Nicholas D. McGinty
State Employees' Association of New Hampshire
207 North Main Street
Concord, NH 03301

Re: Step III Grievance for Kelley Dion and Richard Sweezy
Denial of Mileage Reimbursement

Dear Mr. McGinty:

This letter will serve as notification of my Step III decision regarding the above captioned matter. As you are aware, I have been designated by Commissioner Toumpas to conduct Step III meetings and issue decisions on his behalf. On December 28, 2013 I held the Step III meeting telephonically with Kelley Dion (Grievant) and Tammy Sandborn (SEA Steward). Neither you nor Grievant Richard Sweezy were available on that date and we agreed to go forward without you in the interest of time.

The SEA maintains that DHHS violated the CBA by denying Ms. Dion and Mr. Sweezy travel reimbursement for mileage accrued while traveling for work purposes. Both Ms. Dion and Mr. Sweezy are District Office Managers (DOMOs). Ms. Dion's official headquarters is the Berlin District Office and Mr. Sweezy's official headquarters is the Concord District Office. Due to vacancies, both were asked to serve as DOMO in a second district office. The grievance is that both Ms. Dion and Mr. Sweezy are assigned to work at two different work locations and do not receive mileage reimbursement when traveling to the "secondary part-time office." SEA maintains that this practice is in violation of the CBA and the NH Department of Administrative Services Manual of Procedures.

Among other provisions, the SEA cites Section 19.4.1 (Conformance with Regulations) and Section 19.4.3 (Mileage) to support its position. The CBA at 19.4.1 essentially says that travel reimbursement must conform with the regulations established by Administrative Services and with the terms of the CBA. It also states that Employer will not adopt any travel regulations without first consulting the union in accordance with Article IV (Consultation and Labor Management Committee). The CBA section 19.4.3 says that employees will be reimbursed for all reasonable travel incurred. It also states that employees will not be reimbursed for travel from home to or through the employee's official headquarters.

Administrative Services has issued regulations on mileage reimbursement and published them in the DAS Manual of Procedures (DAS-MOP). DAS-MOP Section 1105 (K) reads as follows:

(K) Should an individual pass through their official headquarters while on a business assignment traveling directly to an assigned work site from and/or to their place of residence, one way or round trip commuter miles shall be deducted from the miles to be reimbursed.

The grievants provided a document titled "Commuter Mileage Explanation" and believed to be authored by the State. The document provides different mileage reimbursement scenarios, explains when a certificate of travel is required and also explains when commuter miles are to be deducted. With regard to when the deduction of commuter miles, the document provides:

Commuter miles are not deducted if your travel did not take you through the boundaries of your workplace city on that day (emphasis original).

Ms. Dion does not travel through her official headquarters in Berlin, NH when going from her place of residence to her business assignment in the Littleton, NH. Mr. Sweezy does not travel through his official headquarters in Concord, NH when going from his place of residence to his business assignment in Laconia, NH. Therefore, the requirement to deduct commuter miles as set forth in DAS-MOP Section 1105 (K) does not apply in this circumstance.

In the November 14, 2012 Step III grievance letter the SEA refers to the definition of official headquarters as it appears in the DAS-MOP Section G. SEA argues that the reference contained in the definition is to a singular city or town and to a singular workplace and that therefore, presumably, an employee can only have one official headquarters. The DAS-MOP definition of official headquarters reads as follows:

The incorporated limits of the city or town (including the officially recognized limit of an unincorporated place) from which an agency regularly conducts official State business. Official headquarters shall be the workplace assigned to the employee by the department head.

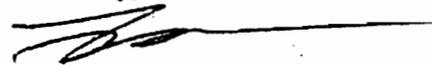
I do not agree that the DAS-MOP definition of official headquarters necessarily limits an employee to only one official headquarters. Depending on the nature of a particular job and given the changing work environment including the creation of satellite offices and implementation of telecommuting, it may be fair and reasonable that an employee be assigned more than one official headquarters. However, in the present case DHHS and the SEA are in agreement that the grievants both have only one official headquarters and have been given a work assignment in a second location.

Accordingly, the Grievants are entitled to receive reimbursement for otherwise valid travel expenses when traveling from their residence to their work assignment and must deduct commuter miles only when they pass through their official headquarters.

As noted above, given the changing work environment and delivery of services that impact job functions and responsibilities, a review of the existing rules with regard to official headquarters and the deduction of commuter mileage may be warranted to better ensure consistency and fairness when determining appropriate travel reimbursement.

If the SEA feels that further review is justified a petition may be submitted to the Labor Management Committee within fifteen (15) working days in accordance with Article 14.5.1 of the CBA.

Sincerely,



Frank D. Nachman
Chief Legal Counsel
(603) 271-9228

Cc: Nicholas Toumpas, Commissioner
Mark Bussiere, Director of Human Resources