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Lori A. Shibinette
Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
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July 26, 2021

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 Services that on July 5, 2021, [redacted] a Youth Counselor III at Sununu Youth Services Center, 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.

On July 5, 2021, [redacted] a Youth Counselor III, was injured in the line of duty and rendered temporarily unable to perform the duties of [redacted] position due to a patient assault. As a result of the injuries, [redacted] required medical attention and was rendered unable to perform [redacted] duties on July 5, 2021. In accord with NH RSA 21-I: 43-a [redacted] [redacted] lost time has not been charged against [redacted] annual leave or sick leave and [redacted] remains on the active payroll.

Following a thorough review of the July 5, 2021, incident and facts related to [redacted] injury, the Commissioner of the Department of Health and Human Services determined on July 16, 2021, that [redacted] [redacted] 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 Commissioner's determination final.

Respectfully submitted,

Lori A. Shibinette
Commissioner