



[www.state.sc.us/djj](http://www.state.sc.us/djj)

**MEMORANDUM**

**TO:** All Agency Employees  
**FROM:** Robin E. Owens, Director  
Office of Human Resources  
**DATE:** September 11, 2014  
**SUBJECT:** 2015 Holiday Schedule

Listed below are dates on which legal holidays for South Carolina State employees in FTE positions will be observed in 2015.

<u>Holiday</u>	<u>Observed on This Day</u>
New Year's Day	Thursday, January 1
Martin Luther King, Jr. Day	Monday, January 19
George Washington's Birthday/President's Day	Monday, February 16
Confederate Memorial Day	Monday, May 11 ( <b>observance</b> )
National Memorial Day	Monday, May 25
Independence Day	Friday, July 3 ( <b>observance</b> )
Labor Day	Monday, September 7
Veterans Day	Wednesday, November 11
Thanksgiving Day	Thursday, November 26
Day After Thanksgiving	Friday, November 27
Christmas Eve	Thursday, December 24
Christmas Day	Friday, December 25
Day After Christmas	Monday, December 28 ( <b>expected observance</b> )

If you have any questions regarding holiday observance, please refer to either Human Resources at (803) 896-5607 or the State Human Resources Division website at <http://www.ohr.sc.gov/OHR/employer/OHR-holiday-fags.phtm>.

Kevin Paul, Assistant Director  
896-5145  
Office of Human Resources  
4900 Broad River Road  
Building 2007  
Columbia, SC 29212  
803-896-5607

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
WCC FILE NO.: 1505496

Catherine McKnight, )  
 )  
Employee-Claimant, )  
 )  
vs. )  
 )  
SC Dept of Juvenile Justice, )  
 )  
Employer, and )  
 )  
State Accident Fund, )  
 )  
Carrier-Defendants. )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing proposed Order and Decision has been served upon the following on this 1st day of February, 2016, in the US Postal Service, first class postage, via certified mail, return receipt requested and addressed to:

VIA CERTIFIED MAIL  
7007.1490.0001.8630.3931  
Catherine McKnight  
212 Roach Avenue  
Swansea, South Carolina 29160



Bonnie-Jean Thompson  
Paralegal for the State Accident Fund

**ORDER**

Based upon the Findings of Fact and Conclusions of Law:

**IT IS, THEREFORE, ORDERED**, that claimant's request for reinstatement of Holiday time is not within the jurisdiction of the Workers' Compensation and the request for relief is denied.

**AND IT IS SO ORDERED.**

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Aisha Taylor, Commissioner

Columbia, South Carolina  
February \_\_\_\_\_, 2016

and it was observed on May 11, 2015.

7. The Claimant filed a Form 50 request for Hearing seeking reinstatement of Holiday Time for Confederate Memorial Day.

8. Claimant asserts her Holiday time was wrongfully withdrawn as a result of her Leave Without Pay Status, an option she chose with regard to her workers' compensation status.

9. Based upon the relief requested by the Claimant, I find the Commission does not have jurisdiction over the matter.

10. All claims for benefits are hereby denied.

#### **CONCLUSIONS OF LAW**

Based upon the evidence submitted in the case, the testimony given, and the foregoing Findings of Fact, I make the following Conclusions of Law:

1. The Claimant suffered an admitted, compensable injury within the course and scope of her employment. S.C. Code 42-1-160.

2. The Claimant elected to receive Workers' Compensation benefits awarded in accordance with Title 42 under S.C. Code Ann. § 8-11-145.

3. The time requirements of S.C. Code Ann. § 42-9-200 for receiving temporary total disability benefits were not met.

4. Pursuant to Section 42-3-180 of the South Carolina Code of Laws, the South Carolina Workers' Compensation Commission does not have jurisdiction over this matter due to the relief requested. The Workers Compensation Commission may only award benefits outlined in Title 42 of the South Carolina Code of Laws.

Memorial Day and state employees received this day as a paid holiday. Per state policy, employees that are in a leave without pay status on the working day prior to a state holiday are not paid for the state holiday. As a result, the Claimant did not receive Holiday Time on May 11, 2015.

The defendants were the only party to submit any evidence. Clara Rentz of the Defendant Employer testified as to the circumstances of signing the election form. The Claimant testified at the hearing. She testified that she did not realize that she would not receive holiday pay. Claimant testified that she disagreed that she was not entitled to her holiday time because she is a full time state employee. Claimant disagrees with the outcome and wanted to pursue this, not only for herself, but for other workers.

### **FINDINGS OF FACT**

#### **IT IS FOUND AS A FACT:**

1. The Claimant suffered a compensable injury to the chest.
2. The Claimant received medical treatment for her injury, provided by the Defendants.
3. The Claimant suffered no permanency as a result of her accident.
4. The Claimant was written out of work due to her work injury on May 5, 2015 and was released to return to work on May 14, 2015.
5. The Claimant elected to receive workers compensation benefits instead of using her sick and annual leave. As a result, she was classified as being on leave without pay with the Defendant Employer.
6. Confederate Memorial Day is a state holiday in the state of South Carolina

to be awarded temporary total disability benefits on May 11, 2015. Further, the Defendants argue that the Workers' Compensation Commission does not have the jurisdiction to reinstate Holiday time as it is not within the Workers' Compensation Act. This matter was heard by the undersigned on October 15, 2015.

### EVIDENCE OF THE CASE

On May 4, 2015, Catherine McKnight suffered an injury by accident arising out of and within the course and scope of her employment with the Defendant/Employer. The claim for a chest contusion was accepted by the Defendant/Carrier and causally related treatment was authorized. She received treatment at Lexington Medical Center on the date of injury. (Defendants' APA A, pp. 1-25) Claimant was written out of work for two days, May 6, 2015 and May 7, 2015. (Defendants' APA A, p. 11) Claimant returned to MedCare Urgent Care to follow up on her injury on May 7, 2015 where she was written out of work until her return appointment on May 14, 2015. (Defendants' APA B, pp. 26-27) At her May 14, 2015 appointment, the Claimant was released to work without restriction. (Defendants' APA B, p. 27).

Upon returning to work, the Claimant elected to receive workers' compensation benefits in lieu of using her personal sick and annual leave.<sup>1</sup> (Defendants' Ex. 1) This election indicates specifically that the elector will be placed on leave without pay by the employer while he or she receives temporary total disability benefits. (Defendants' Ex.

1) May 11, 2015 was the State of South Carolina's observance of Confederate

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<sup>1</sup> South Carolina Code § 8-11-145 allows for state employees to elect whether they would like to receive temporary total disability benefits, accrued sick and annual leave, or a combination of temporary total disability benefits and sick and annual leave, wherein the employee would receive his or her entire salary while written out of work for an accepted workers' compensation injury.

specifically, whether the Claimant is entitled to reinstatement of her Holiday Time for Confederate Memorial Day.

2. There is a question as to jurisdiction as the relief the Claimant is seeking is reinstatement of Holiday Time.

3. Notice of this hearing was timely and properly served upon all parties of interest.

4. Venue, set in Richland County, is proper as agreed by the parties.

5. Without objection, the Commission's file becomes part of the record, with the exception of any self-serving declarations or unstipulated medical reports.

6. The average weekly wage is \$641.77, making a compensation rate of \$427.87 applicable in this matter.

**APA SUBMISSIONS**

Under the Administrative Procedures Act, the following documents were submitted into evidence by the Defendants:

APA A	Lexington Medical Center	5/4/15	1-25
APA B	Medcare Urgent Care Center	5/7/15-5/14/15	26-29
Exhibit 1	Election Form	5/18/2015	

**STATEMENT OF CASE**

Claimant filed a Form 50 on July 16, 2015 seeking reinstatement of her Holiday Time for May 11, 2015. The Claimant contends she is a full time state employee, entitled to Holiday Time. Defendants filed a Form 51 on August 21, 2015 contending that the Claimant was not written out of work for the requisite time outlined in §42-9-200



# SOUTH CAROLINA STATE ACCIDENT FUND

HARRY B. GREGORY, JR., Director

February 1, 2016

Commissioner Aisha Taylor  
SC WCC  
POB 1715  
Columbia, SC 29202

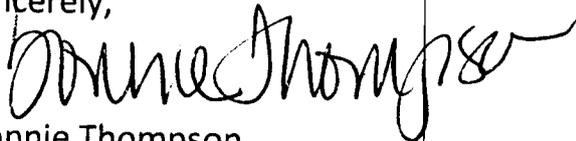
**RE: Catherine McKnight v. SC Dept of Juvenile Justice**  
**WCC#: 1505496**  
**SAF #: 2015-1351**

Dear Commissioner Taylor:

Enclosed please find for your review the proposed Order and Decision as it relates to the above-referenced matter. By copy of this letter to Ms. Catherine McKnight, I am hereby serving her with a copy of the same for her review.

Should you have any questions, please do not hesitate to contact me or Attorney Page Snyder.

Sincerely,



Bonnie Thompson  
Paralegal, State Accident Fund  
/bjt

Enclosure(s)

Cc: Catherine McKnight, pro-se claimant  
Via Certified Mail



State of South Carolina  
Office of the Inspector General

December 9, 2015

OIG File #2015-1490-C

Catherine McKnight  
212 Roach Avenue  
Swansea, SC 29160

Dear Ms. McKnight:

I am writing in response to your complaint to the SC Office of the Inspector General (OIG) regarding your concerns about State Human Resources Regulation 19-708.03-F, Holiday Observance Procedure, which addresses holidays while on leave without pay. The regulation states that an employee who is on leave without pay the day before a holiday should not be paid or receive holiday compensatory time for holidays falling during this period of leave without pay. You also said you have concerns that the regulation should not apply to a full-time state employee that is on Workers' Compensation and that state agencies may be misinterpreting the regulation. The direction, scope and jurisdiction of the SC Office of the State Inspector General are limited to investigation of wrongdoing, such as fraud, abuse, waste and mismanagement within SC State Agencies. This agency will take no action on this matter; it is a human resources issue and is not within the mission of the OIG. If you have not already done so, you may want to speak with your immediate supervisor and ask them to re-address the issue with the SC Department of Juvenile Justice Human Resources Office to assure a level of fairness.

Thank you for filing a complaint with the SC Office of the Inspector General.

Sincerely,

Patrick J. Maley  
Inspector General

PM/pw

South Carolina Department of Juvenile Justice  
**WORKERS' COMPENSATION OPTION FORM**

Section 8-11-145 of the S. C. Code of Laws provides that, in the event of an accidental injury arising out of and in the course of employment with the State, a disabled employee shall make an election to receive compensation under one of the following methods:

- #1  I choose to be placed on paid leave status, using accrued sick and/or annual leave. When such leave credits are exhausted before I can return to work, I shall be entitled to Workers' Compensation disability benefits at the time the specified amount of leave is exhausted.
- #2  I choose to be placed on leave without pay from DJJ and use Workers' Compensation benefits awarded in accordance with Title 42 of the 1976 Code. Under this method I shall receive the disability benefit equal to 66 2/3% of my gross weekly pay. \*
- #3  I choose to receive sick and/or annual leave on a prorated basis in conjunction with Workers' Compensation benefits receiving 66 2/3% of my gross weekly pay. If your annual salary is \$59,999 or less, you will receive \$103.03 from DJJ; this will supplement your workers compensation disability benefit from the State Accident Fund. \*

The above options and the effects of them on my future leave have been explained to me. I have made my choice as indicated above.

CATHERINE McKnight  
Employee's Name (please print)

251-96-5638  
Social Security Number

Catherine McKnight  
Employee's Signature

5-18-2015  
Date

Clara P. Hunt  
Agency Official Signature  
(Person who explained the options to employee)

5-18-15  
Date

McKnight.Catherine\_ad05042015\_05182015

Revised: 2/24/14



Nikki R. Haley, Governor  
Marcia S. Adams, Executive Director

DIVISION of STATE HUMAN RESOURCES  
Kim Aydlette, Director  
8301 Parklane Road, Suite A220  
Columbia, SC 29223  
803.896.5300  
803.896.5050 fax

September 9, 2015

Ms. Catherine McKnight  
212 Roach Avenue  
Swansea, SC 292160-8992

Dear Ms. McKnight:

I have reviewed the information that you provided about your workers' compensation leave and how it related to your not being granted Confederate Memorial Day, Monday, May 11, 2015, as a paid holiday. You have asked that your holiday time for Confederate Memorial Day be restored because you were a full-time employee when the holiday occurred.

You indicated that you were injured at work on May 4, 2015 and on leave from May 5, 2015 – May 17, 2015 due to your injury. When you returned to work on May 18, 2015, you chose Workers' Compensation "Option # 2" which placed you in a leave without pay status; therefore, you were in a leave without pay status on Friday, May 8, 2015.

South Carolina State Human Resources Regulations Section 19-708.03 F. states, "Employees who are on leave without pay the day before a holiday shall not be paid or receive holiday compensatory time for holidays falling during this period of leave without pay." Based on this regulation, you were not eligible to be paid for the Confederate Memorial Day holiday. There are no provisions within the State Human Resource Regulations for an exception to this regulation.

I hope this provides you with the information related to your situation you requested. Should you have questions, please don't hesitate to call me at (803) 896-5300.

Sincerely,

Kevin Paul  
Assistant Director

South Carolina Department of Administration  
1200 Senate Street, Suite 460 Columbia, SC 29201  
Post Office Box 2825, Columbia, SC 29211

Ph: 803.734.8120  
Fx: 803.734.9002  
[www.admin.sc.gov](http://www.admin.sc.gov)

June 29, 2015

Catherine McKnight

SC Department of Juvenile Justice

ID#124513/ Cypress Unit

Refer: May 4, 2015 Accident

To Whom It May Concern:

I, JS Catherine McKnight was returning on May 4, 2015 @ approximately 1900 from the JGR/Softball field. Juvenile Maliy Jones (367790) was thrown a football pass by an un-named Juvenile. Juvenile Jones jumped into the air to catch the pass and fell into my left chest area as he came down.

I was off work from May 4, 2015 thru May 17, 2015. I returned to work on May 18, 2015 and signed the Workers' Compensation option #2. I was of a sound mind when I signed the Option #2: However I was not aware that this option would affect my Holiday Time, because it is not indicated on the form I signed and not explained at the time I signed.

I noticed that my (8) hour Holiday Time for Confederate Memorial Day was missing and I began to ask questions. I was told that because I chose Option#2 that the issue went back to May 5, 2015. This removed my May 11, 2015 Holiday Time, because of my Leave without pay statue.

I received Workers' Compensation pay from May 12, 2015 thru May 17, 2015. Workers' Compensation starts on the (8<sup>th</sup>) day of my time off for this accident. I received (1) day pay for May 4, 2015 and lost all of my overtime because of this accident. May 11<sup>th</sup> and 12<sup>th</sup> were my scheduled day off.

I am challenging to restore my Holiday Time for Confederate Memorial Day because I was a Full Time Employee when the holiday was awarded to me, and I further state, there is no indication at the time I signed the Workers' Compensation Form on May 18, 2015 that this action would occur.