

September 28, 2018

Denise Godwin
E-306 Martin Hall
Clemson, SC 29634

SUBJECT: Options for Receiving Lost Time Compensation for Work Injury Disability

Dear Ms. Godwin,

The S.C. Workers' Compensation Law provides compensation for lost earnings if an employee is declared unable to return to work due to an injury arising out of and while in the course of employment. Compensation is paid at a rate of two-thirds of an employee's average weekly pay on the date of injury, up to a maximum weekly compensation of \$838.21 for injuries occurring in 2018.

Temporarily disabled employees may have a choice of up to three options if lost work time is caused by the injury.

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| Option (1) | Use sick and/or annual leave, and draw no compensation. |
| Option (2) | Go on Leave without Pay and draw compensation. |
| Option (3) | Go on Leave without Pay, draw compensation, and also draw a special pay supplement from any available sick and/or annual leave. (Refer to the formulated table on page 5). |

Before choosing any one of these options, a disabled employee should be aware of Section 42-9-200 of the law:

- (1) No compensation is due if the total days lost is seven (7) calendar days or less.
- (2) If the total days lost is eight (8) through fourteen (14) calendar days, only those days within this period shall be compensable. The first seven days remain non-compensable.
- (3) If the total days lost are beyond fourteen (14) calendar days, all days lost from the first date of disability is compensable.

One's choice of Option (1), (2), or (3) should take into consideration the anticipated number of days lost, the availability of sick and/or annual leave, and one's personal financial pressures. For example, an employee anticipating an absence of no more than two weeks may consider using paid leave the first week and then request Leave without Pay and draw compensation for the second week (Option (2) or (3)).

For an employee anticipating an absence in excess of two weeks, a request for Leave without Pay should be initiated as soon as possible if one desires to minimize the use of sick and/or annual leave. If one is not

under financial pressure, Option 2 may be an appropriate choice. However, if financial pressure is a problem, Option (3) can provide a combination of compensation and formulated special pay, which will approximate one's regular paycheck. Option (3) expends an amount of sick and/or annual leave, equivalent to the formulated special pay supplement. Please note that when no sick or annual leave is available, Option (2) must be implemented.

Lost time compensation continues until the treating physician declares that an employee is able to return to work, or declared that maximum medical improvement has been reached. If permanent impairment results, a Workers' Compensation conference then will be scheduled to determine any permanent disability compensation that may be due.

An explanation of each option is listed below. Please read each option carefully before making a choice.

Option (1), using available paid leave without accepting lost time compensation, provides that:

- (a) Regular pay continues as long as accrued paid leave is available.
- (b) Regular tax deductions and contributions to group benefit programs remain automatic.
State service and retirement service time continues uninterrupted as long as accrued paid leave is available.
- (d) One's performance review date remains on schedule as long as in-service time is uninterrupted.
- (e) Annual leave and sick leave accruals continue, providing 2 or more day's additional paid leave per month.
- (f) Official holidays are paid.
- (g) Pay increases effective during paid leave absences are provided if employee is on paid leave.

Employees on lost time should consider other options if their available leave is limited and not anticipated to cover the duration of their absence. Also, those who anticipate personal health problems which may require future use of their sick leave may want to consider other options. Option (1) should be considered especially by those employees within three years of retirement, in order to avoid reductions in earnings and reduction in retirement service credit totals used in retirement benefit calculations.

Option (2), electing Leave without Pay status, and accepting lost time compensation payments, provides that:

- (a) Regular pay will cease.
- (b) The injured employee must arrange to contribute to group benefit programs, normally deducted from gross pay, in order to maintain coverage. For example, the total amount of

Blue Cross/Blue Shield premium would have to be paid by the employee by contacting the Payroll/Insurance office.

State service and retirement service time accrual for service credit will cease for the duration of Leave without Pay Status. Upon approval by the South Carolina Retirement System, additional contributions may be made to establish service credit and earnings as full time, for retirement benefit calculations.

- (d) A general pay increase occurring during leave without will be effective only upon the date one returns to pay status.
- (e) Performance review dates will be projected for a period equivalent to the length of time one is on Leave without Pay.
- (f) Monthly accrual of annual leave and sick leave will cease except for any month an employee is on active status for at least 50% of the time.
- (g) There are no paid holiday benefits.

An employee on lost time who has no available sick leave or annual leave must accept this option. One who desires not to use any paid leave accrual may request this option. However, one who is under financial pressure may consider avoiding this option because payment will be delayed until compensation can be processed. Also the amount of one's compensation will be only 70% to 90% of one's regular weekly pay check. (Although compensation is never more than two-thirds of gross earnings, it is non-taxable and therefore can more nearly approach one's net pay). However, an employee with excess accrued paid leave, which otherwise will be lost on January 1 of the next year, should elect another option to utilize any excess paid leave.

Option (3), electing to draw lost time compensation, and supplement one's income by also drawing a formulated amount of paid leave, provides that:

- (a) The injured employee essentially will be on Leave without pay status with Option (2) provisions applying.
- (b) Limited supplemental payment as specified by the attached table can be provided from accrued paid leave, by Special Pay action. Please note that these payment are restricted formulated amounts provided for salary range (see page 6).

Employees on lost time who have limited paid leave available and who are under financial pressure, by necessity may find Option (3) their most beneficial choice. It permits receiving lost time compensation, plus additional pay, thereby nearly approaching one's regular spendable income. Because it provides a possible advantage in reaching one's regular spendable income level and because it allows considerable extension of use of sick leave and/or annual leave, it may help maintain an employee for up to one year on one's regular living standard. Current policy permits a disabled employee to request up to 180 days Leave without Pay, and at the discretion of the agency head, up to a total of 365 days leave period before

termination occurs. Continuance of workers' compensation benefits is not affected by termination of employment.

One must remember, however, that Option (2) and (3) removes regular benefits, which automatically are provided an employee under Option (1). Employees within three years of retirement again are forewarned that Option (2) and (3) can cause changes in annual earnings, and service credit totals. These changes will create a reduced income benefit upon retirement unless arrangements are made for the employee to contribute to the Retirement System on lost earnings.

If you anticipate or have experienced over seven calendar days of lost time due to your recent work injury, please review the information in this letter. I am available to discuss your options and answer any questions. After considering each of the three options and their effect upon your personal circumstances, please make your decision, then sign, date, and return to the Clemson University Risk Management Department the attached Notice of Election Blank specifying your chosen option.

Please telephone me at (864)656-3365 if have any questions.

Sincerely,

Denise Godwin

Deputy Risk Manager

COORDINATING SICK AND ANNUAL LEAVE WITH WORKERS' COMPENSATION FOR 2018

Section 8-11-145 of the South Carolina Code of Laws provides that an employee may use sick and annual leave in conjunction with Workers' Compensation benefits according to a formula to be developed by the South Carolina Department of Administration.

Currently, Workers' Compensation will pay 66 2/3 percent of an employee's average weekly gross pay up to a maximum of \$838.21 per week. The total benefit received during a regular payroll period is less than the average net or take-home pay that an employee would receive if a regular payroll check was issued subject to taxation.

The purpose of this formula is to allow employees to maintain the level of spendable income that was being received prior to an injury. This can be accomplished by permitting the employee to elect to use a reduced amount of leave time to make up the shortfall between the Workers' Compensation benefit and regular net pay.

The table shows a constant pay period gross amount of \$151.64 for those employees whose salaries fall between \$15,080 and \$65,999 per year. This is due to the fact that the difference between Workers' Compensation benefits and regular net pay remains the same until the maximum Workers' Compensation benefit is reached. The \$838.21 per week is approximately 66 2/3 percent of a \$65,999 annual salary. At this point, the shortfall in spendable income begins to increase.

The following formula and table were developed to assist agencies in calculating appropriate leave charges that will, when added to the Workers' Compensation benefits, equate closely to the net pay an employee would receive in a regular net paycheck if at work. Agencies using the South Carolina Enterprise Information System (SCEIS) can find information at <https://uperform.sc.gov/gm/folder-1.11.14381> on how to process an employee's Leave of Absence under Workers' Compensation Option 3.

MOUNT OF LEAVE TO BE CHARGED PER PAY PERIOD - 2018

Annual Salary = Hourly Rate

Pay Period Gross (See Chart) = Leave Time

Base Hours (1950 or 2080)

Hourly Rate Per Pay Period

SALARY RANGE			Pay Period Gross
\$15,080	-	\$65,999	\$151.64
\$66,000	-	\$66,999	\$185.11
\$67,000	-	\$67,999	\$218.59
\$68,000	-	\$68,999	\$252.25
\$69,000	-	\$69,999	\$286.30
\$70,000	-	\$70,999	\$320.31
\$71,000	-	\$71,999	\$354.34
\$72,000	-	\$72,999	\$388.70
\$73,000	-	\$73,999	\$423.05
\$74,000	-	\$74,999	\$457.43
\$75,000	-	\$75,999	\$492.00
\$76,000	-	\$76,999	\$526.74
\$77,000	-	\$77,999	\$561.46
\$78,000	-	\$78,999	\$596.26
\$79,000	-	\$79,999	\$631.34
\$80,000	-	\$80,999	\$666.42
\$81,000	-	\$81,999	\$701.54
\$82,000	-	\$82,999	\$739.33

SALARY RANGE			Pay Period Gross
\$83,000	-	\$83,999	\$779.51
\$84,000	-	\$84,999	\$819.70
\$85,000	-	\$85,999	\$859.85
\$86,000	-	\$86,999	\$900.03
\$87,000	-	\$87,999	\$940.20
\$88,000	-	\$88,999	\$980.37
\$89,000	-	\$89,999	\$1,020.55
\$90,000	-	\$90,999	\$1,060.72
\$91,000	-	\$91,999	\$1,100.90
\$92,000	-	\$92,999	\$1,141.07
\$93,000	-	\$93,999	\$1,181.25
\$94,000	-	\$94,999	\$1,221.41
\$95,000	-	\$95,999	\$1,261.57
\$96,000	-	\$96,999	\$1,301.78
\$97,000	-	\$97,999	\$1,341.92
\$98,000	-	\$98,999	\$1,382.09
\$99,000	-	\$99,999	\$1,422.28

NOTICE OF ELECTION-TEMPORARY TOTAL DISABILITY BENEFITS

Upon having reviewed and considered the three options, I hereby choose Option (____). I understand the advantages and disadvantages of this option. I understand also that my choice of option shall be irrevocable for the duration of this period of temporary total disability. I acknowledge that these options have been explained by my employer, that I have been given an opportunity to ask questions, and that all of my questions have been addressed.

(Please write in your chosen option number in space above)

Signed: _____ Date: _____

Option (1) To be placed on paid leave status, using accrued sick and/or annual leave (when such leave credits are exhausted before the employee can return to work, the employee shall be entitled to Workers' Compensation disability benefits at the time the specified amount of leave is exhausted),

Option (2) To be placed on Leave Without Pay and use Workers' Compensation benefits awarded in accordance with Title 42 of the 1976 Code. Under this method, the employee would receive the disability benefits equal to 66 2/3% of the employee's gross weekly pay, not to exceed the current rate of \$838.21 per week.

Option (3) To be placed on Leave Without Pay, receive Workers' Compensation benefits as in Option (2) and receive sick and/or annual leave on a prorated basis in conjunction with Workers' Compensation according to the attached table developed by the Budget and Control Board.

Please return this form to Risk Management, E306 Martin Hall, as soon as possible.

Clemson University

By: _____ Date: _____

P. Denise Godwin