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SC Court of Appeals

APPELLANT'S FINAL REPLY BRIEF

IN THE SOUTH CAROLINA COURT OF APPEALS

Appellate Case No. **2025-001248**

Walter R. Hoover, Jr.,

Claimant, Appellant,

v.

**Tractor Supply Company, Employer,
and Starr Specialty Insurance Company, Carrier,**

Respondents.

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INTRODUCTION

This appeal challenges the Workers' Compensation Commission's reliance on a non-statutory theory of "**constructive**" non-compliance and "**constructive**" abandonment to retroactively suspend Appellant's Temporary Total Disability ("TTD") benefits. Appellant remained under authorized medical care throughout the claim, including a new Independent Medical Examination (IME) fifteen (15) days before the November 28, 2023 Single Commissioner hearing. **No authorized provider ever documented statutory non-compliance or relied on any statutory basis that would justify termination of benefits under the Act.**

Appellant also had a **pending Form 50** requesting continued benefits and additional medical treatment — properly invoking the Commission's jurisdiction — which the Commission never adjudicated.

Respondents unilaterally terminated Appellant's TTD benefits on **January 4, 2024**, without statutory authority, without filing a Form 17, without providing notice required by S.C. Code Ann. § 42-9-260. The Appellant was never afforded the opportunity to appeal the unlawful termination of TTD benefits. Throughout the claim, Appellant has remained under active authorized medical care with an active treatment plan in place. The later administrative proceedings did not address — let alone cure — this unlawful termination.

Because the Commission acted **outside its statutory authority** and the Full Commission failed to conduct the required **de novo** review, the decision must be vacated.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

- 1. Whether the Commission exceeded its statutory authority by terminating benefits based on “constructive” non-compliance and “constructive” abandonment, grounds not recognized in the Workers’ Compensation Act.**
- 2. Whether Respondents unlawfully terminated benefits on January 4, 2024 without filing Form 17, and without providing statutory notice as required by § 42-9-260.**
- 3. Whether the Full Commission failed to conduct the required de novo review and failed to address Appellant’s pending Form 50.**
- 4. Whether the overpayment determination — totaling \$30,107.06 — is invalid because it is the direct result of an unlawful benefit termination.**

STATEMENT OF THE CASE

Appellant sustained a compensable injury on **May 25, 2022**. TTD benefits commenced shortly thereafter and continued through January 2024. During this period, Appellant remained under authorized medical care, complied with medical directives, and completed a new IME fifteen (15) days before the November 28, 2023 Single Commissioner hearing.

Respondents alleged “constructive” non-compliance, which led to the Single Commission hearing. **No authorized provider documented statutory non-compliance or relied on any statutory basis for termination under § 42-15-60 or § 42-9-260.**

Despite this, Respondents unilaterally terminated TTD benefits on **January 4, 2024**, without

- filing **Form 17**,
- providing statutory **notice**, or
- demonstrating any lawful basis for suspension

At the time benefits were terminated, Appellant also had a **pending Form 50**, filed timely with the Commission on May 16, 2023, requesting additional treatment and continued benefits.

The Full Commission affirmed but did not evaluate whether the termination complied with the statute or whether the Appellant’s Form 50 had been adjudicated.

SUMMARY OF THE ARGUMENT

This appeal turns on **statutory limits** that bind the Workers' Compensation Commission. TTD benefits may be terminated only when a claimant returns to work or refuses reasonable medical treatment. See § 42-9-260 and § 42-15-60.

Neither condition occurred.

Respondents terminated Appellant's benefits on **January 4, 2024** without statutory process, while Appellant remained under authorized care and had a pending Form 50 before the Commission.

The Commission later adopted non-statutory theories — "**constructive**" **non-compliance** and "**constructive**" **abandonment** — to justify the suspension. **Because the Commission may act only within the authority granted by statute, reliance on a ground not recognized in the Act, renders the termination ultra vires and void.**

The Full Commission compounded this error by failing to conduct a true **de novo** review and by ignoring the Appellant's pending Form 50. (R. pp. 65-85)

The resulting overpayment determination — \$6,850.58 plus \$23,356.48 in retroactive suspension, totaling **\$30,107.06** — cannot survive because it rests entirely on an unlawful termination.

Vacatur is required.

ARGUMENT

I. Benefits Were Terminated Without Compliance With Statutory Procedure

The Workers' Compensation Act provides the exclusive, mandatory procedure for suspending Temporary Total Disability ("TTD") benefits. Under S.C. Code Ann. § 42-9-260 and § 42-15-60, benefits may be stopped **only** upon (1) Form 17; (2) written notice; and (3) a statutory basis supported by competent medical evidence. None of these requirements were met here.

Regulation 67-506 further reinforces these statutory requirements by mandating that employers and carriers file the appropriate Commission forms when commencing, modifying or termination compensation. Form 17 is required to terminate or suspend benefits. No Form 17 was filed.

Under Regulation 67-506, a change in compensation status made without the required forms and without proper notice is procedurally invalid. Because no Form 17 was ever filed in this case, suspension of benefits on January 4, 2024 lacked the procedural foundation required by the Workers' Compensation Act and its implementing regulations.

Respondents never filed the Form 17. No notice of suspension was ever issued. Yet benefits nonetheless ceased on **January 4, 2024**, even though Appellant remained under authorized care, had just undergone a new Independent Medical Examination fifteen (15) days before the November 28, 2023 Single Commissioner hearing, and no authorized provider documented non-compliance or released him from care. (R. pp. 421-425) The Workers' Compensation Act contains **no** authority allowing suspension of benefits under these circumstances.

Instead of adhering to the statute, the Commission terminated benefits based on a non-statutory theory of "**constructive**" non-compliance, a concept that does not appear anywhere in the Act and has no legal meaning within South Carolina workers' compensation law.

The act authorizes termination only under § 42-9-260 and § 42-15-60. These statutes require a Form 17, written notice and actual medical non-compliance documented by an authorized provider. None of these statutory prerequisites were met.

South Carolina precedent confirms that benefits cannot be terminated on extra-statutory grounds. In *Hargrove v. Titan Textile Co.*, 360 S.C. 276 (Ct. App. 2004), the Court of Appeals rejected a benefits denial based on characterizations rather than statutory authority. The same defect is present here. “*Constructive non-compliance*” is not found in the Act and cannot serve as a lawful basis to suspend benefits.

The Commission’s departure from statutory procedure is further reinforced by *Tiller v. Nat’l Health Care Ctr.*, 334 S.C. 333 (1999), which holds that the Commission’s authority is strictly limited to that granted by statute. Nothing in the Act authorizes suspension of benefits based on implied, inferred, or “constructive” misconduct — only actual statutory non-compliance, supported by medical evidence and proper notice, permits suspension.

Because no statutory procedure was followed, and because “*constructive*” non-compliance is not a legal basis for termination, the suspension of benefits must be **vacated** and the matter returned for proceedings consistent with the Act.

II. The Full Commission Failed to Conduct a De Novo Review and Ignored Appellant’s Pending Form 50.

A **de novo** review requires the Full Commission to independently consider evidence and apply the law. *McLeod v. Starnes*, 396 S.C. 647 (Ct. App. 2012).

Instead, the Full Commission:

1. adopted the Single Commissioner's findings wholesale,
2. repeated the same non-statutory rationale, and
3. **failed to address Appellant's pending Form 50**, which directly implicated whether benefits could lawfully be terminated.

A true de novo review requires the Full Commission to do more than adopt the Single Commissioner's findings; it must independently consider the issues presented and apply the law to the record before it. Here, rather than engaging in independent analysis, the Full Commission adopted the Single Commissioner's conclusions wholesale and repeated the same non-statutory rationale, without addressing the pending Form 50 that directly placed Appellant's continued entitlement to benefits before the Commission. (R. pp 65-85) By adopting the prior decision without resolving that filing, the Full Commission failed to exercise the independent judgment required by de novo review.

This failure to conduct a true de novo review requires vacatur of the Full Commission's decision and remand for proceedings consistent with the Workers' Compensation Act.

III. The Overpayment Determination Must Be Vacated.

The overpayment finding — **\$30,107.06** in total — derives entirely from the unlawful termination of benefits.

A void suspension cannot serve as the basis for a valid overpayment.

Accordingly, the overpayment determination must be vacated together with the suspension.


CONCLUSION AND RELIEF REQUESTED

Appellant respectfully requests that this Court:

1. **Vacate** the decision of the Full Commission;
2. **Reinstate TTD benefits** retroactive to January ~~4~~, 2024, with statutory interest;
3. **Vacate the overpayment determination** in full; and
4. **Direct that future medical determinations be made through an Independent Medical Examination, with the physician selected by Appellant subject to Commission approval, at Respondents' expense.**

And grant such other relief as the Court deems just and proper.

Respectfully submitted,


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Date: Feb 6, 2026

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing Final Reply Brief upon counsel for Respondent by depositing the same in the United States Mail, first-class postage prepaid, on Feb 6, 2026 addressed as follows:

Claudia Julia Piechota, Esquire
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LIMITED RESPONSE TO RESPONDENTS' MOTION TO CORRECT RECORD

Appellant submits this limited response solely to address Respondents' allegation that materials were intentionally excluded from the Record on Appeal. Appellant denies that any exclusion was intentional. The Record was served exactly as provided by the South Carolina Workers' Compensation Commission and was not altered, supplemented, or edited by Appellant. Preparation and certification of the Record on Appeal are the responsibility of the Commission, not the Appellant.

Respondents' assertion of intentional omission is speculative and unsupported by any evidence. To the extent Respondents contend that materials are missing from the Record, that issue is properly directed to the Commission. Appellant objects to any implication that he bears responsibility for the contents of the certified record.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that on this 6 day of February, 2026, I served a true and correct copy of the foregoing Limited Response to Respondents' Motion to Correct Record upon counsel for Respondents by depositing the same in the United States Mail, first-class postage prepaid, addressed as follows:

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