

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

FEB 25 2019

SC Court of Appeals

WCC FILE NO. 1302012

Juanita Jackson, Appellant,

vs.

SC DSN, Employer, and State Accident Fund, Insurer, Respondents.

RECORD ON APPEAL

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STIPULATIONS

At the call of the case, the parties stipulated to the following:

- 1) That the issues to be decided at the Hearing were (1) compensability of Claimant's alleged injuries, (b) Claimant's average weekly wage and compensation rate, (c) Claimant's entitlement to temporary total benefits from the date of injury to the present and ongoing, and (c) Claimant's entitlement to additional medical treatment.
- 2) That notice of this Hearing was timely and properly served on all parties of interest.
- 3) That the Workers' Compensation Commission has jurisdiction to hear and determine the contested issues in this case.
- 4) That the Parties agreed to venue in Hartsville, South Carolina, for this hearing.
- 5) The Workers' Compensation Commission's file, except for unstipulated medicals and self-serving declarations, was made a part of the record.

EVIDENTIARY SUBMISSIONS

Pursuant to the SC Administrative Procedures Act - § 1-23-330 and WCC Regulation 67-612, the following medical reports and other documentary evidence were admitted into the evidentiary Record of this matter without objection:

CLAIMANT'S SUBMISSIONS

APA#	PHYSICIAN/ OTHER	GROUP/AGENCY	DATE OF REPORT	PAGES
APA#1	Florence County EMS		03/01/13	1-3
APA#2	Dr. Scott Burns	Carolinas Hospital System	03/01/13	4-15
APA#3	Dr. Maria Perez-Garcia	Carolinas Urgent Care	03/01/13- 05/20/13	16-42
APA#4	InMedDiagnostics		03/06/13- 07/09/13	43-47
APA#5	Richard Andrews, DMD	Timmons ville Family Dentistry	03/12/13- 10/30/13	48-50

APA#6	Mike Miller,DPT	Progressive Physical Therapy	04/09/13-05/17/13	51-89
APA#7	Dr. George Sandoz	CPG Neurology	06/03/13-10/13/16	90-162
APA#8	Leah Hamoy,DPT	Dynamic Physical Therapy	10/09/13-12/16/13	163-231
APA#9	Dr. Dan Hopla	ENT & Facial Plastic Surgery Associates	10/04/13-03/17/16	232-245
APA#10	Tracy Hill,DPT	Columbia Rehabilitation Clinic	02/17/14	246-267
APA#11	Dr. Nicholas Lind	Post Trauma Resources	05/09/14	268-276
APA#12	Cassandra Townsend, MED, CRC, LPC	Focus Resources,LLC	09/02/14	277-295
APA#13	Florence MRI & Imaging		05/29/15	296-297
APA#14	J. Adger Brown,Jr., MA, CDMS		01/12/16	298-304
APA#15	Kelly Gamble	Florence Nursing Service Form 20,payroll records,and Summarv	03/23/16	305-314
APA#16	2012 and 2013 1099 Forms			315-316
APA#17	Dr. Nicholas Lind	Post Trauma Resources	05/09/14	317-325
APA#18	Bell curve			326
APA#19	Claimant's Florence County School District 4 Record		1964-1969	327-329
APA#20	Claimant's Wyckoff Heights School of Practical Nursing Record		1972-1973	330-336
APA#21	Claimant's Nassau Community College Record		1982	337-339
APA#22	Wechsler IQ Classification			340
APA#23	Deposition of Dr. George Sandoz		11/21/14	

APA#24	Deposition of Dr. Nicholas Lind		05/22/15	
APA#25	Deposition of Dr. George Sandoz		11/29/16	

DEFENDANTS' SUBMISSIONS

APA #	NAME OF PHYSICIAN/OTHER	DATED	PAGE NOS.
26.	Timmonsville Pharmacy	8/24/01- 9/27/02	341- 342
27.	Wal-Mart Pharmacy	11/30/12- 2/24/15	343- 351
28.	Florence EMS	3/1/13	352- 356
29.	Carolina Hospital System	3/1/13	357- 369
30.	Carolina Occupational Health/Urgent Care	3/8/13- 5/20/13	370- 380
31.	McLeod Family Medicine	3/21/13- 7/17/13	381- 402
32.	West Florence Family Practice	4/8/13- 5/13/13	403- 404
33.	Grand Strand Spine & Neuro	6/3/13- 7/14/16	405- 416
34.	Moore Orthopaedic	9/26/13- 2/26/14	417- 435
35.	Dynamic Physical Therapy	12/2/13- 10/22/14	436- 454
36.	Hope Health	11/17/14- 12/8/14	455- 466
37.	McLeod Orthopaedics	9/22/15	467- 469
EXH #	EXHIBIT	DATED	PAGE NOS.
38.	SCDEW records		470- 471
39.	Woodall & Broome Investigative Services Report		472- 485
40.	Dr. Nicholas A. Lind, PsyD Discovery Deposition	5/22/15	486- 629
41.	Dr. George M. Sandoz Discovery Deposition	11/29/16	630- 678
42.	Claimants Discovery Deposition transcript	1/15/15	

STATEMENT OF THE CASE

This matter came before the undersigned Commissioner upon a Request for Hearing on behalf of the Claimant, Juanita Jackson. Claimant is represented by Steve Wukela, Jr., Esq. of Florence, South Carolina. Defendants South Carolina Department of Disabilities and Special Needs, Employer, and The South Carolina State Accident Fund, Carrier, are both represented by

James E.L. Fickling, Esq. of Columbia, South Carolina. The parties appeared before this Commissioner on January 18, 2017 in Hartsville, South Carolina.

This is an accepted claim for injuries to Claimant's head, cervical spine, lumbar spine and psyche, which were the result of an accident that occurred on March 1, 2013 when the Claimant was working as a nurse at the Department of Disability and Special Needs and was struck in the head by a patient's room door. The Claimant alleges she sustained injuries to her cervical spine, lumbar spine, brain and psyche, and as a result, has suffered severe and permanent brain damage. Claimant contends that Defendants have not provided the appropriate medical treatment recommended by the authorized treating neurologist, Dr. George Sandoz, specifically including a cervical MRI; cervical epidural steroid injection; evaluation and treatment for her lumbar spine by an orthopedist; and an MRI of the brain. Claimant asserts that she is also entitled to an increase in her average weekly wage based upon concurrent employment with Florence Nursing Services and that her wages should be divided by 28 weeks rather than 52. Furthermore, Claimant contends that she is permanently and totally disabled pursuant to S.C. Code § 42-9-10 and entitled to lifetime benefits, despite having not reached maximum medical improvement. To support this argument, Claimant cites to the recent case *McMahan v. S.C. Department of Education-Transportation*, Opinion No. 5415, (S.C. Ct. App. 2016) in which the Court of Appeals stated, under fact-specific circumstances, that an individual may be found permanently and totally disabled prior to reaching MMI.

Defendants have accepted Claimant's head, cervical spine, lumbar spine, and psyche claims; however, the extent of all the Claimant's injuries is currently disputed. Defendants deny that Claimant has suffered a permanent physical brain injury because of her 2013 accident and further deny that she has reached maximum medial improvement. As a result, Defendants assert

that a determination of permanency is premature until Claimant has been placed at maximum medical improvement by the authorized treating physician. Defendants contend that the appropriate orthopedic treatment was provided for Claimant's back with Dr. David A. Scott and Dr. John Clavet with Moore Orthopaedic and that a Form 14B was completed by Dr. Scott assigning a 0% impairment rating to Claimant's neck, low back and right hip. However, Claimant is still undergoing authorized treatment with a neurologist, Dr. George M. Sandoz, who has opined that she has not reached maximum medical improvement as to any body parts. Therefore, it is Defendants' position that Claimant is not at MMI.

In regards to Claimant's alleged brain injury, Defendants' assert that the testimony of the authorized treating neuropsychologist, Dr. Nicolas A. Lind, and diagnostic testing do not support a finding that Claimant suffered a permanent and severe physical brain injury. Moreover, Defendants contend that Claimant is capable of working and, therefore, is not permanently and totally disabled.

Regarding the issue of Claimant's compensation rate, Defendants argue that although Claimant's concurrent wages should be included, her total wages over the year prior to her injury should be divided by 52 weeks rather than 28 weeks as alleged by Claimant.

Finally, Defendants argue that *McMahan* is inapplicable, as it is factually distinguishable from the present case. In *McMahan*, the Court was presented with the issue of whether Claimant's dependents were entitled to an award of permanent and total disability benefits as the result of claimant's unrelated death, even though he had not yet been placed at MMI. Defendants' further assert the case is inapplicable on legal grounds because the claimant in *McMahan* was awarded benefits pursuant to S.C. Code § 42-9-30 because of paralysis, and not §42-9-10 as Claimant has sought to recover under in this case. As a result, Defendants' maintain the position that Claimant

has not reached maximum medical improvement and cannot be found permanently and totally disabled.

Although the Claimant appeared at the hearing before the undersigned Commissioner, no testimony was taken as the parties agreed to rely on the evidence submitted.

STATEMENT OF THE EVIDENCE

On March 1, 2013, Claimant was working as a nurse at the Department of Disability and Special Needs when she was pushed by a patient and struck her head on the knob of another patient's room door. (APA p. 353). Claimant was taken by EMS to the emergency room at Carolinas Hospital System in Florence where she was treated for a laceration to the back of the head and discharged home. (APA p. 359). Following the accident Claimant reported complaints of daily headaches, neck pain and lumbar pain. (APA pp. 370-80). She was referred to a neurologist for evaluation of her headaches and was subsequently sent to Moore Orthopaedics for evaluation of her neck and low back. (APA p. 378 and p. 417). Claimant treated conservatively with Dr. David A. Scott for her neck and low back, and she was ultimately diagnosed with cervicgia and low back pain. (APA pp. 417- 435). Despite undergoing conservative treatment, Claimant continued to complain of ongoing neck and low back pain, and later began reporting complaints of right hip pain. (APA p. 423). As a result, she received a second opinion from Dr. John Clavet in regards to her neck and low back and an evaluation of her right hip complaints. (APA pp. 426-28). Dr. Clavet agreed with Dr. Scott's course of treatment and concluded that her imaging did not reveal any acute traumatic changes that he would attribute to her March 2013 workplace accident. (APA p. 428). Following additional measures of conservative treatment, Dr. Scott placed Claimant at maximum medical improvement on January 21, 2014 for her diagnosed

cervicalgia, low back pain and right hip pain. (APA p. 435). He issued a 0% medical impairment rating to her neck, low back and right hip, and indicated that she was able to return to work without restriction. (APA p. 435).

Claimant also began treating with Dr. George M. Sandoz at Grand Strand Spine & Neuro Center. Dr. Sandoz is the current authorized treating physician and has been treating claimant since 2013 for her reported headaches, neck pain and back pain. (APA p. 90). Over the course of his treatment, Dr. Sandoz obtained MRIs of Claimant's cervical spine and brain, performed nerve conduction studies and an electroencephalogram (EEG). (Sandoz Depo. 2014 p. 7:2-14). He ultimately diagnosed Claimant with chronic post-traumatic headache, lumbar spondylosis, cervical spondylosis and what he characterized as a "traumatic brain injury" due to Claimant's persistent headaches and memory issues. (APA p. 416). In regards to Claimant's low back and cervical spine, Dr. Sandoz opined that Claimant had not reached maximum medical improvement and recommended that she undergo updated MRIs of the spine and attend a follow up appointment with Dr. Scott. (Sandoz Depo. 2016 p. 24:5-19).

In regards to Claimant's head injury, Dr. Sandoz testified that the "white matter" findings from Claimant's brain MRI were not related to her workplace injury. (Sandoz Depo. 2014 pp. 8:13-18; 47:5-8). He further testified that Claimant's EEG showed no evidence of injury and was essentially a normal study. (Sandoz Depo. 2014 p. 10:3-7). Despite making no objective findings of a brain injury, Dr. Sandoz referred Claimant to a neuropsychologist for further testing and opined that her head injury, which he characterized as a traumatic brain injury, warranted a six percent rating to the head for posttraumatic headaches in accordance with the AMA Guides Sixth Edition. (Sandoz Depo. 2014 pp. 11:2-7; 13:6-9). Claimant was subsequently evaluated by Dr. Nicholas A. Lind, PsyD, who performed additional, more extensive testing of Claimant's memory,

executive function, and other areas that would evidence the existence of a brain injury. Pursuant to Dr. Lind's testing, the results of Claimant's psychological testing suggested mild depression and moderate anxiety. Dr. Lind concluded that her overall cognitive deficits emanate from her anxiety and physical pain, rather than organic brain injury. (APA p. 321; Lind Depo. pp. 56:19-57:2). In his conclusions, Dr. Lind further opined that there are no existing mental health concerns that would prevent Claimant from working in the capacity for which she is otherwise qualified. (APA p. 321).

At the depositions of both Dr. Lind and Dr. Sandoz, counsel for Claimant questioned the doctors about childhood cognitive testing that was performed when Claimant was a student and Claimant's academic performance in nursing school in comparison with her post-accident cognitive abilities. Dr. Sandoz testified that because Claimant sustained an injury to her head, he would attribute her diminished cognitive function to that event. (Sandoz Depo. 2014 p. 36:18-22). However, Dr. Sandoz subsequently opined that he could not properly comment on Claimant's prior cognitive abilities because he was not familiar with the testing, (Sandoz Depo. 2014 pp. 41-44), and he deferred his conclusions about Claimant's potential psyche injury to the opinion of a neuropsychologist. (Sandoz Depo. 2014 p. 46:5-10). To the contrary, Dr. Lind testified resolutely that Claimant's mental deficits were the result of pain, depression and anxiety rather than the product of an organic brain injury. (Lind Depo. p. 65:8-12). He further opined that when a person has a severe head injury, he would not need to determine the presence of the injury because it would be very clear. *Id.* at p. 67:2-4. He stated that what was clear in Claimant's case is that whatever perceived cognitive deficit she may have is not the result of organic brain injury. *Id.* at pp. 80:25-81:7. At the subsequent deposition of Dr. Sandoz, he agreed with Dr. Lind's opinion that Claimant does have a mental deficit resulting from depression and anxiety and that she could

not be diagnosed with a physical brain injury. (Sandoz Depo. 2016 p. 46:5-10). Dr. Sandoz opined that these existing conditions can be remedied with further medical treatment and that Claimant would benefit from the same. (Sandoz Depo. 2016 pp. 30:8-31:4). As a result, Dr. Sandoz concluded that Claimant has not reached maximum medical improvement in regards to her psychiatric status. (Sandoz Depo. 2016 pp. 30:20-22).

FINDINGS OF FACT

After careful consideration of the arguments by the parties, review of the medical records and other documentary evidence submitted, the undersigned Commissioner makes the following findings:

- 1) The Claimant sustained an injury by accident arising out of and within the course and scope of her employment on March 1, 2013.
- 2) The Claimant alleges that she sustained injuries to her cervical spine, lumbar spine, brain, and psyche.
- 3) The Defendants contend that the injuries sustained by her are limited to her head, back (cervical and lumbar), and psyche.
- 4) A central focus of this hearing was whether the Claimant had suffered severe and permanent brain damage, and as a result, was she permanently and totally disabled from alleged brain damage?
- 5) The authorized treating neurologist is Dr. George M. Sandoz.
- 6) Claimant underwent a neuropsychological evaluation with Dr. Nicolas Lind.

7) Dr. Sandoz opined on November 21, 2014 that the Claimant suffered a 6% medical impairment to the head and testified in his deposition that would be the appropriate rating for a posttraumatic headache pursuant to the AMA Guidelines Sixth Edition.

8) Records of the Claimant's childhood cognitive testing performed when she was a student enrolled in Florence School District 4 were submitted into evidence, in addition to Claimant's records from her attendance at Eyckoff Heights School of Practical Nursing to lay a foundation as to Claimant's cognitive abilities prior to her work accident.

9) Claimant's counsel questions both Dr. Sandoz and Dr. Lind about the differences in Claimant's academic performance in nursing school and the cognitive scoring from her earlier schooling from the testing performed by Dr. Lind, which demonstrates a diminution from her grade school testing.

10) While Dr. Sandoz does opine as to the injury to her head and characterized it as a "traumatic brain injury" resulting in diminished cognitive function, he repeatedly defers to Dr. Lind as to Claimant's current cognitive ability and testing regarding whether Claimant suffered a permanent physical brain injury.

11) Dr. Lind has a very different diagnosis as to Claimant's cognitive deficit and testified resolutely that her mental deficit is a result of pain, depression and anxiety.

12) When the evidence is viewed as a whole, I cannot conclude that the Claimant is permanently and totally disabled due to a permanent physical brain injury, such a determination is premature.

13) When considering Claimant's earlier testing, the testing performed by Dr. Lind and the opinions of Dr. Lind and Dr. Sandoz, I am not persuaded that the Claimant is permanently and totally disabled. First, I have great concerns about the reliability to the Claimant's grade

school testing. That testing occurred in a school setting and was administered by school personnel. To now compare that testing to testing conducted by a highly trained clinical neuropsychologist causes me great pause and concern as to how much weight should be given to the correlation of the two.

14) Additionally, Dr. Lind testified that the Claimant is capable of working.

15) Claimant cites *McMahan v. S.C. Dept. of Education-Transport* as authority in this case. While the Court of Appeals has said, in dicta, that an individual may be found to be permanently and totally disabled before reaching MMI, that determination is predicated on the individual being permanently and totally disabled.

16) In this case, such a determination is premature.

17) Dr. Lind has opined that the Claimant's cognitive deficit is related to conditions— anxiety and depression—which Dr. Sandoz testified can be treated. I give the greatest weight to the opinion of Dr. Lind as to the origin of the Claimant's cognitive deficit.

18) Dr. Sandoz testified that there is no organic damage to the brain but testified that the Claimant's deficit emanates from her brain.

19) As to her cervical condition, Dr. Sandoz testified that the Claimant is not at MMI. He has requested a third cervical MRI, which has not been approved, to determine what progression has taken place as to her cervical spine condition.

20) Dr. Sandoz ordered an Epidural Steroid Injection which has not been approved.

21) Dr. Sandoz recommended that the Claimant be sent for an orthopedic evaluation of her lumbar spine, which has also not been approved.

22) In viewing the evidence as a whole, I find the Claimant has not reached MMI.

23) Defendants are to provide an MRI of the cervical spine.

24) Defendants are to provide the Epidural Steroid Injection ordered by Dr. Sandoz.

25) Defendants are to provide an orthopedic evaluation of the lumbar spine with an orthopedist who specializes in treatment of the spine, as recommended by the authorized treating physician, Dr. Sandoz.

26) As to whether Claimant is permanently and totally, I find that such a determination is premature at this time.

27) Dr. Lind has opined that Claimant's cognitive deficits emanate from her pain, depression and anxiety. I give the greatest weight to his opinion.

28) Dr. Sandoz testified that depression and anxiety can be treated.

29) Given that Claimant is not at MMI and that there is factual evidence in the record that her physical condition may improve, and with that improvement there may be improvement in her mental state which can also be treated, it is premature to make a determination as to whether Claimant is permanently and totally disabled.

30) The facts in this case differ from *McMahan*. Here, the Claimant's physical condition, her ability to work, and other factors that would be considered in determining permanency may change. It is fundamental in workers' compensation that medical care and treatment are intended to lessen the period of disability, which in this case is still a possibility based upon the evidence presented to me.

31) In this case, that treatment needs to progress before a determination as to the ability of the Claimant to earn wages is determined with finality.

CONCLUSIONS OF LAW

The aforementioned findings are governed by, or have otherwise been made in light of, the following principles of South Carolina law:

1) Pursuant to § 42-3-20 and § 42-3-180, this Commissioner has jurisdiction over the parties to hear the issues in dispute.

2) Pursuant to § 42-1-130, Claimant, Juanita Jackson, is a covered employee.

3) Pursuant to § 42-1-140, SC Department of Disabilities and Special Needs, is a covered employer.

4) Pursuant to § 42-1-150, there was an employer/employee relationship between the parties on the alleged date of accident.

5) Pursuant to § 42-17-20, based on the stipulation of the parties, venue in Darlington County, South Carolina was proper.

6) Pursuant to § 1-23-320(b) and Regulation 67-607, notice of the hearing was timely and properly served upon all parties of interest.

7) Pursuant to § 42-15-20, the Claimant gave timely notice of her accident and injuries to her employer.

8) Pursuant to § 42-15-40, the claim for benefits was timely filed under the Workers' Compensation Act with the South Carolina Workers' Compensation Commission.

9) Pursuant to § 42-1-40, and pursuant to S.C. Code of Regs. §67-1603, the Claimant's average weekly wage is \$969.47, with a corresponding compensation rate of \$646.32.

10) The burden is on the claimant to prove such facts as will render the injury compensable, and such an award must not be based on surmise, conjecture or speculation.

Crosby v. Wal-Mart Store, Inc., 330 S.C. 489, 493, 499 S.E.2d 253, 255 (Ct. App. 1998).

11) Pursuant to § 42-1-160, Claimant sustained compensable injuries to her back (lumbar and cervical), head, and psyche while in the course and scope of her employment.

12) Pursuant to § 42-1-172, upon reaching maximum medical improvement, an injured employee may be entitled to benefits pursuant to §§ 42-9-10, -20, or -30.

13) Pursuant to § 42-15-60, Claimant has not reached maximum medical improvement and is thus entitled to additional medical treatment for her cervical and lumbar spine as recommended by the authorized treating physician, Dr. Sandoz, and as stated herein.

14) Pursuant to §§ 42-9-10, -20 and -30, a determination of permanency is premature as Claimant has not reached maximum medical improvement.

ORDER

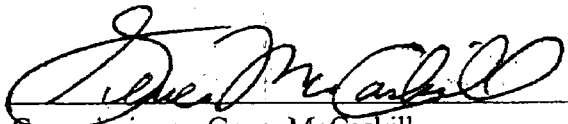
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Claimant has not reached maximum medical improvement and is thus entitled to further medical treatment before a determination of her ability to earn wages can be made with finality.

IT IS FURTHER ORDERED that Defendants shall provide an MRI of Claimant's cervical spine and the Epidural Steroid Injection ordered by Dr. Sandoz. Defendants shall also provide an orthopedic evaluation of Claimant's lumbar spine with an orthopedist who specializes in treatment of the spine as recommended by the authorized treating physician, Dr. Sandoz.

IT IS FURTHER ORDERED that Defendants shall pay the Claimant back due indemnity benefits pursuant to the increase in her compensation rate from \$471.44 to \$646.32. Defendants shall continue to pay indemnity benefits at the rate of \$646.32 until further order of the Commission.

AND IT IS SO ORDERED.

**SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION**



Commissioner Gene McCaskill

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

September 6, 2017

By: Kellie Lindler, Administrative Assistant to Commissioner McCaskill

THE STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

APPEAL FROM THE HEARING COMMISSIONER
WCC FILE NO.: 1302012

Juanita Jackson, Claimant..... Appellant/Respondents,

v.

SC DSN, Employer and State Accident Fund,
Insurer..... Respondent/Appellants.

**AFFIRMED, AS MODIFIED, IN PART;
REVERSED IN PART**

This matter came before the Full Commission on cross-appeals by the Parties. After review of the briefs, the record before us, and the oral argument of the Parties, the Appellate Panel hereby **AFFIRMS IN PART, AS MODIFIED, AND REVERSES, IN PART**, the Decision of the Hearing Commissioner.

FACTUAL/PROCEDURAL BACKGROUND

On March 1, 2013, Claimant sustained an admitted accident working as a nurse at the Department of Disability and Special Needs when she was pushed by a patient and struck her head. (APA p. 353). Defendants admitted the accident, commenced temporary total and authorized medical, including the treatment of neurologist Dr. George Sandoz. Additionally, Claimant has been examined by Dr. David Scott at USC Orthopaedics (formerly Moore Orthopaedics) and Dr. Lind.

Claimant filed a Form 50 seeking the follow findings:

1. That the Claimant sustained injury by accident to her cervical spine, lumbar spine, brain, and psyche;
2. That the Claimant is entitled to further medical treatment including a cervical MRI; a cervical epidural steroid injection; evaluation and treatment of her lumbar spine by an orthopaedic; and an MRI of the brain;
3. That the Claimant is entitled to an increase in her average weekly wage based upon concurrent employment.
4. That the Claimant has suffered severe and permanent brain damage.
5. That the Claimant is totally and permanently disabled and entitled to lifetime benefits pursuant to S.C. Code §42-9-10.

Despite the fact the Claimant had not been found to be at MMI, the Claimant contended that an award on permanency and her brain injury were appropriate, citing *McMahan v. S.C. Department of Education-Transportation*, Opinion No. 5415, (Ct. App. 2016) in which the Court of Appeals stated that under a fact specific set of circumstances, it is possible that a claimant can be found permanently and totally disabled prior to reaching MMI.

At the Hearing, the Defendants admitted injury to the cervical spine, lumbar spine, and psyche and agreed to provide additional medical treatment including a cervical MRI, a cervical ESI, evaluation and treatment of the lumbar spine, and a brain MRI. The Defendants argued, however, that the Claimant had not yet reached MMI and any ruling on permanency or a permanent brain injury were premature, and that *McMahan v. S.C. Department of Education-Transportation* was inapposite to the facts of this case. Alternatively, the Defendants contended that the Claimant did not suffer a severe permanent physical brain injury and further denied the Claimant was permanently and totally disabled. In addition, the Parties disputed the correct calculation of the Claimant's average weekly wage and compensation rate for her concurrent

employment arising out of Claimant's part-time employment. This concurrent employment extended over the course of 52 weeks, though the Claimant collected only 28 paychecks due to the sporadic nature of her part-time employment. The Defendants contended her AWW/CR for this concurrent employment should be her concurrent wages divided by 52 weeks, the number of weeks over which she received wages; the Claimant contended her AWW/CR for her concurrent employment should be her wages divided by the actual number of weeks for which wages were paid.

On the issue of whether Claimant suffered severe, permanent, and physical brain damage, the Hearing Commissioner determined that the Claimant was not at MMI and therefore held that the question of whether the Claimant had sustained a brain injury, and whether, if so, the Claimant had suffered physical brain damage was premature. (Order ¶¶ 12, 16). He distinguished this case from the case of McMahan v. S.C. Department of Education-Transportation in declining to rule on issues of permanency.

On the average weekly wage and compensation rate issue, the Hearing Commissioner ruled that the Claimant's concurrent wages should be calculated by dividing her AWW/CR by the number of actual weeks the Claimant worked rather than 52 weeks as contended by the Defendants.

Following the issuance of the Decision & Order, the Claimant appealed the issue of whether she suffered a brain injury, whether a determination of permanency was premature and whether the Claimant was entitled to a permanent award under §42-9-10(C) (lifetime benefits for physical brain damage) or §42-9-10(A) (500 weeks). The Defendants appealed the Hearing Commissioner's calculation of the Claimant's average weekly wage and compensation rate.

LAW/ANALYSIS

I. Claimant's Appeal

(Prematurity; Permanency; Brain Injury; Physical Brain Damage; Total and Permanent Disability)

The threshold issue before the Hearing Commissioner and on appeal is whether the Hearing Commissioner erred in concluding that a determination of permanency is premature, as the parties agree the Claimant has not reached MMI. At oral argument, Claimant's counsel conceded that the Hearing Commissioner correctly determined that this case was not ripe for a determination of permanency. Claimant's counsel further stated that had the Hearing Commissioner ruled simply that a determination of permanency was premature, and ended the inquiry there, the Claimant would not have appealed and would have, instead, awaited MMI to litigate permanency. (Tr. 02/20/2018, p. 6-10). However, Claimant's counsel explained that the Claimant felt bound to appeal factual findings the Commissioner made on the underlying evidence as to whether the Claimant had sustained a brain injury and was permanently and totally disabled. (Tr. 02/20/2018, p. 6-10) The Claimant's counsel argued:

COMMISSIONER BECK: But you asked for him to do that didn't you?

MR. WUKELA: Well, yes, I did, Commissioner. But once the Commissioner, I think, had said that that determination was premature. If Commissioner makes also findings as to that determination, now I've got to appeal it because I don't want to be bound by those findings even though the determination's premature, if that makes sense.

COMMISSIONER BECK: It does.

MR. WUKELA: And, in truth, if the commissioner's order had said, no, Wukela, it's premature and we're not gonna take it up, that'd have been the end of the inquiry. But once there are these

findings, I'm almost bound to appeal those findings even though I don't think they're binding technically and they don't revolve (sic) the issue because the Commissioner found the determination was premature.

But, you know, Finding Number 13 is an example of that.

(Tr. p. 7, lines 5 - 25)

...
COMMISSIONER BECK: Number 13 and probably Finding of Fact 14 are inconsistent with Finding of Fact 15.

MR. WUKELA: Correct, Commissioner. That's precisely correct, Commissioner. And, in fact, in my brief, page 11, I set out several findings that I suspect, in addition to those two, might fall into the same category. Given the fact that they go beyond the finding that a determination is premature and made findings about the underlying facts that I question whether a subsequent commissioner on a determination of premature (sic) would be bound by. And therefore, I'm bound to appeal.

(Tr. p. 9, lines 7 - 20)

The Commission questioned Defense counsel on this point:

COMMISSIONER BECK: Do you believe that Findings of Fact 13 and 14 are inconsistent with Finding of Fact 15?

MR. HORNER: And when you say Finding of Fact 15, do you mean the fact that he concludes that ---

COMMISSIONER BECK: The determination.

MR. HORNER: Premature.

COMMISSIONER BECK: It's premature. Yet he finds in 13 that he's not [P&T].

MR. HORNER: Well, I think the issue is, I think, claimant walked in there and asks for a permanent and total disability decision. And Commissioner McCaskill is faced with ---

COMMISSIONER BECK: Well ---

MR. HORNER: --- the decision of do I find him perm total, or is there some evidence that persuades me that they're not perm total at this time?

COMMISSIONER BECK: But he can't then go on and say that a determination of permanency is premature.

MR. HORNER: Well, he has to in a way because he has to come up with findings of fact that support his decision that permanency is premature, and he does that by saying ---

COMMISSIONER BECK: He does that based on his distinction of McMahan.

MR. HORNER: Correct. He does that based upon ---

COMMISSIONER BECK: It's almost like that should have come first. And then you wouldn't have needed 13 and 14.

MR. HORNER: Perhaps not. If he had said I'm only ruling on the fact that you are -- that McMahan doesn't apply; you're not at MMI, so I'm not ruling on anything else.

COMMISSIONER BECK: It was premature, period.

MR. HORNER: Period. I agree he could have done that. But I don't -- one, I don't think these decisions are binding on the next commissioner. I don't.

(Tr. p. 10, line 16 - p. 12, line 4)

MR. HORNER: ...I don't think it's binding on the next commissioner is because I think this one is peculiar or particular to that Form 50 and that really the finding that this is premature is the overriding finding of the Commissioner McCaskill's decision.

COMMISSIONER BECK: So you concede that one the record that it is not binding ---

MR. HORNER: I would.

COMMISSIONER BECK: --- as to a future disability award?

MR. HORNER: I would . . .

(Tr. p. 13, line 9 - p. 13, line 20)

COMMISSIONER BECK: Object to the order being amended removing those findings of fact?

MR. HORNER: I anticipated that, to be honest. I anticipated that those would be either reworded or removed altogether. So I don't have an objection to that because I believe that what Commissioner McCaskill ---

COMMISSIONER BECK: It doesn't change the outcome?

MR. HORNER: It doesn't change the outcome. And I think the outcome is it was premature.

(Tr. p. 14, line 17 - p. 15, line 1)

We affirm the Hearing Commissioner's finding that a determination of permanency is premature and find that because he made such a determination, no other factual findings as to the alleged brain injury or alleged total disability were necessary to his decision. Because we agree with the Hearing Commissioner that such determination was premature because the Claimant was not at MMI, those questions of permanency, brain injury, and permanent and total disability are reserved for a determination *de novo* at a subsequent hearing.

Defendants' Appeal

The second issue on appeal was the Hearing Commissioner's ruling on the Claimant's average weekly wage and compensation rate for her concurrent part-time employment. Defendants argue that the Hearing Commissioner incorrectly calculated the AWW/CR for the concurrent employment. We agree and reverse the Hearing Commissioner.¹

In the present case, the Claimant was injured on or about March 1, 2013, while working for the Department of Special Needs. She had a part-time concurrent job, as well, during the

¹ As to her employment with the Department of Special Needs, the Claimant's average weekly wage and compensation rate are \$707.12 and \$471.44, respectively. These numbers are not disputed by either party.

year before her injury. Claimant first began working at Florence Nursing on March 4, 2012, with her last day of work being January 30, 2013. There is no evidence in the record indicating she was unable to work at her concurrent job up until her injury on March 1, 2013.

As to this concurrent employment, the Claimant argued that the AWW/CR should be calculated using the Claimant's total concurrent wages and dividing those wages by the actual number of weeks for which wages were paid, i.e. 28 weeks. This calculation would result in an average weekly wage from her concurrent employment of \$262.35. The Defendants argued that the AWW/CR with respect to her concurrent employment should be calculated by dividing her part-time, supplemental, concurrent wages she earned over the course of the year preceding her injury (for which she was available to work), or 52 weeks. This would result in an average weekly wage of \$141.27 for her concurrent employment. The Hearing Commissioner ultimately ruled that the Claimant's AWW/CR for her concurrent employment should be calculated by taking the concurrent wages and dividing it by 28 weeks.

On appeal, the Defendants argued that the Hearing Commissioner erred in determining the Claimant's AWW/CR. Defendants argue that the Hearing Commissioner's decision on the AWW/CR is contrary to the statutory intent of South Carolina Code §42-1-40, is counter to the case law addressing this issue, and the ruling results in an unfair and unjust result while rewarding the Claimant with a windfall. We agree.

In reviewing the evidence regarding the Claimant's part-time employment, her hours were sporadic at best. Claimant had a 6-week gap after her first day at her concurrent job, and frequently had two-week gaps in May, June, and July. She did not work between July 17th and August 23rd, a 5-week gap. She did not work from September 10th until September 23rd, a 2-week gap. Finally, she did not work at all between January 31, 2013, and her injury on March 1, 2013, a gap of 4 weeks.

We find that despite the fact the Claimant may have only worked part-time during 28 weeks out of the year, her wages were earned over a 52-week period, and ended with the date of her injury. Though the Claimant received 28 weekly paychecks over this 52-week period, the Claimant's concurrent employment took place over 52 weeks. There is no indication that Claimant had other work available to her during the remaining 24 weeks she could work but did not. Her concurrent employment did not start and end over a 28-week period but over 52 weeks. For this reason, we agree that her AWW/CR for her concurrent employment should be based on 52 weeks.

Average weekly wage is defined in South Carolina Code section 42-1-40, which states in relevant part:

"Average weekly wages" means the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of the injury [].

"Average weekly wage" must be calculated by taking the total wages paid for the last four quarters immediately preceding the quarter in which the injury occurred [] divided by fifty-two or by the actual number of weeks for which wages were paid, whichever is less. When the employment, prior to the injury, extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, as long as results fair and just to both parties will be obtained. []

When for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury. Whenever allowances of any character made to an employee in lieu of wages are a specified part of a wage contract they are deemed a part of his earnings.

S.C. Code §42-1-40 (emphasis added).

Claimant argues that she is entitled to divide her concurrent wages by 28 weeks, the actual number of weeks for which wages were paid, based upon that portion of South Carolina §42-1-40 which states: "Average weekly wage" must be calculated by taking

the total wages paid for the last four quarters immediately preceding the quarter in which the injury occurred [] divided by fifty-two or by the actual number of weeks for which wages were paid, *whichever is less.*" Claimant argues that since she was paid for 28 weeks, her wages should be divided by 28. We disagree.

While the statute speaks to dividing wages by 52 weeks or by the actual number of weeks which wages were paid, whichever is less, we believe that dividing by less than 52 weeks is only applicable when a claimant's employment does not extend over a 52-week period. This interpretation is not only consistent with the statute, but also with the intent of the statute, which is to compute an "average weekly wage[] *as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.*" S.C. Code §42-1-40.

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. Charleston County Sch. Dist. v. State Budget and Control Bd., 313 S.C. 1, 437 S.E.2d 6 (1993). All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in the light of the intended purpose of the statute. Bohlen v. Allen, 228 S.C. 135, 89 S.E.2d 99 (1955) (emphasis added). Statutes must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect. S.C. State Ports Auth. v. Jasper County, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006). Courts cannot concentrate on isolated phrases in the statute, but instead must read the statute as a whole and in a manner consistent with the statute's purpose. State v. Sweat, 379 S.C. 367, 665 S.E.2d 645 (Ct. App. 2008). However plain the ordinary meaning of the words used in a statute may be, the courts will reject that meaning when to accept it would lead to a result so plainly

absurd that it could not possibly have been intended by the Legislature or would defeat the plain legislative intention. Stackhouse v. Rowland, 86 S.C. 419, 68 S.E. 561 (1910).

Claimant's interpretation has the potential to lead to a plainly absurd result, particular in those situations where a claimant works part-time work in addition to her full-time employment and though she available to work over a 52-week period, for whatever reason she does not. The statute, when read as a whole, intends to establish an AWW/CR that most approximates a claimant's earnings. The statute attempts to address those wages over a period of time which the employment "extends." In the present case, the Claimant's part-time concurrent employment "extended" over 52 weeks, though she may not necessarily have been able to work every week due to factors not relevant here. Her inability to work 52 weeks a year in her concurrent employment, however, was not due her injury but rather the nature of the part-time job itself.

For whatever reason—be it her schedule, the nursing home's schedule, or some other reason—over the next 52 weeks, the Claimant earned \$7,345.80 in her part-time wages. Under decision of the Hearing Commissioner, the Claimant's AWW/CR results in her making the equivalent of \$13,642.20 a year and not the \$7,345.80 the Claimant actually earned. While this number would have been a fair approximation of the Claimant's AWW/CR had she been injured after only 28 weeks on her part-time job, the Hearing Commissioner's Decision and Order does not approximate the \$7,345.80 she actually made over the period of 52 weeks while at Florence Nursing.

Additionally, we believe an issue similarly enough to the facts in this case has been addressed by the Supreme Court. In Bennett v. Gary Smith Builders, 271 S.C. 94, 245 S.E.2d 129 (1978), the claimant earned the maximum allowed under the law (\$2,500) without jeopardizing his Social Security income. His employment lasted about 3-4 months a year. He subsequently suffered an injury and the issue of his average weekly wage became a debated one.

The Commission ultimately calculated the claimant's average weekly wage in a way that extrapolated out the wage that the claimant would have earned if he had worked the entire year when the claimant had no intention of doing so. This resulted in the claimant's AWW/CR far exceeding his actual income over the course of a year. In reversing, the Supreme Court stated:

Factually analyzed, we have an employee who for reasons satisfactory to himself, while fully capable of working, quit and withdrew his services from the labor market except for three or four months in the year. Disability has caused him to lose approximately \$2,500.00 per year. Failure to receive any amount over and above that figure in the past or future is not attributable to the injury he has sustained, but rather is attributable to the pattern of work activity he has voluntarily assumed.

Bennett v. Gary Smith Builders, 271 S.C. at 98 (emphasis added).

The Court went on to hold that it was "grossly unfair" to the employer to require payments of almost twice the actual average weekly wage, and noted that the objective of wage calculation is to arrive at a fair approximation of the claimant's probable future earning capacity and the amount which the injured employee would be earning were it not for the injury. Id. This same reasoning has been applied in several other cases. See Foreman v. Jackson Minit Markets, Inc., 265 S.C. 164, 217 S.E. (2d) 214 (1975); McCummings v. Anderson Theatre Co., 225 S.C. 187, 81 S.E. (2d) 348 (1954); Brunson v. Wal-Mart Stores, Inc., 344 S.C. 107, 111, 542 S.E.2d 732, 734 (Ct.App.2001)

Finally, South Carolina Code section 42-1-40 gives the Commission the discretion to fashion any other method of computing the average weekly wage that will approximate the amount the injured employee would earn, but for the injury. See S.C. Code § 42-1-40. ("When for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.") We find such exceptional circumstances are present in the current. The Claimant's

ability to earn wages in her concurrent employment was obviously limited, either by her primary employment or by the amount of work available to her. As in Bennett, the Hearing Commissioner's award nearly doubles the actual amount that the Claimant earned in her part-time concurrent employment. Calculating her average weekly wage and compensation rate that nearly doubles her wages results in an AWW/CR that is unfair to the Employer. Basing her AWW/CR on the 52-week period over which the Claimant worked for Florence Nursing more closely approximates the Claimant's earnings in her concurrent employment. Therefore, we **REVERSE** the Hearing Commissioner as to the Claimant's average weekly wage and compensation rate.

Based upon the aforementioned law and analysis of the issues in this case, the Full Commission issues to the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Claimant sustained an injury by accident arising out of and within the course and scope of her employment on March 1, 2013.
2. The Claimant alleges that she sustained injuries to her cervical spine, lumbar spine, brain, and psyche.
3. The Defendants contend that the injuries sustained by her are limited to her head, back (cervical and lumbar), and psyche.
4. In viewing the evidence as a whole, we affirm the finding that the Claimant has not reached MMI.
5. Defendants are to provide an MRI of the cervical spine.
6. Defendants are to provide the Epidural Steroid Injection ordered by Dr. Sandoz.

7. Defendants are to provide an orthopedic evaluation of the lumbar spine with an orthopedist who specializes in treatment of the spine, as recommended by the authorized treating physician, Dr. Sandoz.

8. As to whether Claimant is permanently and totally disabled under either §42-9-10(A) or §42-9-10(C), we find that such a determination is premature at this time.

9. In this case, that treatment needs to progress before a determination as to the ability of the Claimant to earn wages is determined with finality.

10. Regarding the average weekly wage and compensation rate, the Parties concede the average weekly wage and compensation rate of the Claimant for her job the Department of Special Needs is \$707.12 and \$471.44 respectively. Thus, this is her base AWW/CR without her concurrent employment added.

11. As to the average weekly wage and compensation rate for Claimant's concurrent employment, the Claimant earned \$7,345.80 in her part-time wages for Florence Nursing over the course of a 52-week period prior to the date of her injury.

12. That despite that Claimant only worked 28 weeks out of the preceding 52 weeks, her part-time concurrent employment extended over a period of 52 weeks.

13. Claimant had numerous, large gaps between work days that were 2, 3, or even 5 weeks long for her part-time employer that were unrelated to the accident in question.

14. Though the reason for her sporadic work schedule did not appear in the record, it appears to be simply the nature of her concurrent employment. In any event, the Defendants were in no way responsible for her sporadic work schedule.

15. Given that her earning occurred over a 52-week period, we find that the AWW/CR for her concurrent employment shall be calculated using the aforesaid 52 weeks.

16. Failing to divide her AWW by 52 weeks would be tantamount to her earning \$13,642.20 over the course of 2012-13, an amount nearly double what she earned.
17. Finding a combined AWW/CR of \$969.47 and \$646.32 respectively would be grossly unfair to her Employer.
18. Finding a combined AWW/CR of \$969.47 and \$646.32 would not amount to a fair approximation of the Claimant's probable future earning capacity in her concurrent, part-time employment.
20. Accordingly, the Claimant's Average Weekly Rate and Compensation Rate for her concurrent employment, to be added to her compensation rate for her employment with the Department of Special Needs, are \$141.27 (AWW) and \$94.18 (CR).

CONCLUSIONS OF LAW

The aforementioned findings are governed by, or have otherwise been made in light of, the following principles of South Carolina law:

1. Pursuant to S.C. Code § 42-3-20 and § 42-3-180, this Commission has jurisdiction over the parties to hear the issues in dispute.
2. Pursuant to S.C. Code § 42-1-130, Claimant, Juanita Jackson, is a covered employee.
3. Pursuant to S.C. Code § 42-1-140, SC Department of Disabilities and Special Needs, is a covered employer.
4. Pursuant to S.C. Code § 42-1-150, there was an employer/employee relationship between the parties on the alleged date of accident.
5. The Full Commission has jurisdiction over this appeal.
6. Pursuant to S.C. Code § 1-23-320(b) and Regulation 67-607, the Hearing before the Hearing Commissioner was timely and properly served upon all parties of interest and venue was proper.

7. Pursuant to S.C. Code § 42-15-20, the Claimant gave timely notice of her accident and injuries to her employer.

8. Pursuant to S.C. Code § 42-15-40, the claim for benefits was timely filed under the Workers' Compensation Act with the South Carolina Workers' Compensation Commission.

9. The burden is on the Claimant to prove such facts as will render the injury compensable, and such an award must not be based on surmise, conjecture or speculation. Crosby v. Wal-Mart Store, Inc., 330 S.C. 489, 493, 499 S.E.2d 253, 255 (Ct. App. 1998).

10. Pursuant to S.C. Code § 42-1-40, "average weekly wages" means the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of the injury.

11. Pursuant to S.C. Code § 42-1-40, the "average weekly wage" must be calculated by taking the total wages paid for the last four quarters immediately preceding the quarter in which the injury occurred [] divided by fifty-two or by the actual number of weeks for which wages were paid, whichever is less. When the employment, prior to the injury, extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, as long as results fair and just to both parties will be obtained.

12. Pursuant to S.C. Code § 42-1-40, when for exceptional reasons the calculations set forth in § 42-1-40 "would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury. Whenever allowances of any character made to an employee in lieu of wages are a specified part of a wage contract they are deemed a part of his earnings." See also Bennett v. Gary Smith Builders, 271 S.C. 94, 245 S.E.2d 129 (1978)

13. To avoid an unfair result to the employer, the Claimant's average weekly wage and compensation rate for her concurrent employment shall be divided by the period over which she earned such wages, or 52 weeks.

14. Pursuant to S.C. Code § 42-1-40, the Claimant's combined compensation rate is \$565.62.

15. Pursuant to § 42-1-160, Claimant sustained compensable injuries to her back(lumbar and cervical), head, and psyche while in the course and scope of her employment.

16. Pursuant to §42-1-172, upon reaching maximum medical improvement, an injured employee may be entitled to benefits pursuant to §§ 42-9-10, -20, or -30.

17. Pursuant to § 42-15-60, Claimant has not reached maximum medical improvement and is thus entitled to additional medical treatment for her cervical and lumbar spine as recommended by the authorized treating physician, Dr. Sandoz, as stated herein.

18. Pursuant to §§ 42-9-10, -20 and -30, determinations of permanency and whether Claimant suffered a permanent, severe, physical brain injury are premature, as Claimant has not reached maximum medical improvement.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Decision of the Hearing Commissioner is **AFFIRMED IN PART, AS MODIFIED,** and **REVERSED IN PART,** as set forth in the Full Commission's Decision and Order.

IT IS FURTHER ORDERED that Claimant has not reached maximum medical improvement and therefore, a determination of permanency under either §42-9-10(A) or §42-9-10(C) is premature. The Employer/Carrier shall continue to provide the Claimant continued temporary total disability benefits pursuant to §42-9-10 and medical benefits pursuant to §42-15-60 until further order of the Commission.

IT IS FURTHER ORDERED that Defendants shall provide an MRI of Claimant's cervical spine and the Epidural Steroid Injection ordered by Dr. Sandoz. Defendants shall also provide an orthopedic evaluation of Claimant's lumbar spine with an orthopedist who specializes in treatment of the spine as recommended by the authorized treating physician, Dr. Sandoz.

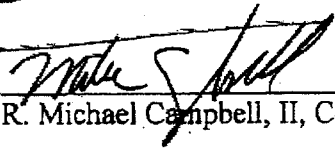
IT IS FURTHER ORDERED that Defendants shall pay the Claimant back due indemnity benefits pursuant to the increase in her compensation rate from \$471.44 to \$565.62. Defendants shall continue to pay indemnity benefits at the rate of \$565.62 until further order of the Commission.

AND IT IS SO ORDERED!

South Carolina Workers' Compensation Commission



T. Scott Beck, Chair

Avery B. Wilkerson, Jr. Commissioner

R. Michael Campbell, II, Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Valerie Deller on August 24, 2018

South Carolina Workers' Compensation Commission
P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # No Data
Carrier File # 2013-000607
Carrier Code # 500 - SF
Employer FEIN 570000J16

1302012

Juanita Jackson [REDACTED]
[REDACTED]

DEPT OF DSN
714 National Cemetery Rd., Florence, SC 29502-3209

(home) [REDACTED] (work) [REDACTED]

Preparer's name: Meigs Porter (803) 896-5907 State Accident Fund, Insurance Carrier

A. Total Wages Paid

Date of injury: 03/01/2013

1. Check Applicable Method:

- Report of earnings of injured employee based on four completed quarters.
- Report of earnings of injured employee who did not complete four quarters based on actual time worked.
- Report of earnings of similar employee. Injured employee did not work sufficient time before alleged injury.
Hire date: 06/17/2008.
- Report of earnings of injured employee based on alternative method because Form 20 results in a compensation rate that is not fair and just. (Attach documentation to show how average weekly wage and compensation rate were calculated.)

2. List total wages paid as reported to Employment Security Commission on the Employer Quarterly Contribution and Wage Reports during the four quarters immediately preceding the quarter in which the injury occurred. Do not include the quarter during which the injury occurred.

Quarter	Ending Date	Total Wages Paid		
1 st	12/31/2012	9242.88		
2 nd	09/30/2012	9371.02		
3 rd	06/30/2012	9130.88		
4 th	03/31/2012	9025.38	Total Paid	2. 36770.16

- 3. List total value of other allowances of any character made in lieu of wages during four quarters above. 3.
- 4. Add lines 2 and 3. TOTAL WAGES PAID: 4. 36770.16
- 5. List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred. 5. 52.00

B. Average Weekly Wage

- 6. To calculate average weekly wage, divide total wages (line 4) by total weeks paid (line 5).
AVERAGE WEEKLY WAGE: 6. 707.12

C. Compensation Rate

- 7. The general rule for calculating the compensation rate is to multiply average weekly wage (line 6) by .6667. Estimate compensation rate by multiplying average weekly wage (line 6) by .6667. See part 8 below to determine the actual compensation rate. 7. 471.44
- 8. The compensation rate is as follows (choose one):
 - When average weekly wage (line 6) is less than \$75.00, the compensation rate is the average weekly wage. Enter average weekly wage on line 8.
 - When the estimate compensation rate (line 7) is less than \$75.00 and average weekly wage (line 6) is more than \$75.00, the compensation rate is \$75.00. Enter \$75.00 on line 8.
 - When the estimated compensation rate (line 7) is more than the maximum compensation rate for the year in which the injury occurred, enter the maximum compensation rate for the year in which the injury occurred on line 8.
 - Employee is within the exceptions listed in S.C. Code Ann. Section 42-7-65. List applicable exception here and enter appropriate compensation rate on line 8.
 - The calculated compensation rate (line 7) applies. Enter amount from line 7 on line 8.

WEEKLY COMPENSATION RATE: 8. 471.44

Employer's representative shall prepare a Form 20 and serve per R.67-211 a copy on the claimant within thirty days of beginning temporary compensation. See R.67-1603 when no temporary compensation is paid. NOTE: Average weekly wage represents average gross pay before taxes and other deductions. WHEN THE CLAIMANT DOES NOT AGREE WITH THE COMPENSATION RATE ON LINE 8, HE OR SHE SHOULD CONTACT THE EMPLOYER'S REPRESENTATIVE TO TRY TO REACH AN AGREEMENT AS TO THE COMPENSATION RATE. IF NO AGREEMENT CAN BE REACHED THE CLAIMANT SHOULD CONTACT THE CLAIMS DEPARTMENT AT (803)737-5723.



Claimant's Name: Juanita Jackson Employer's Name: Florence Nursing Service, Inc.
 Address: _____ Address: PO Box 1122
 City: _____ State: _____ Zip: _____ City: Newberry State: SC Zip: 29108
 Home Phone: () - _____ Work Phone: () - _____ Insurance Carrier: SC State Accident Fund
 Preparer's Name: Stephen J. Wukela Preparer's Phone #: 843-669-5634

Date of Injury: 03/01/2013
 month day year

A. Total Wages Paid

- Check Applicable Method:
 - Report of earnings of injured employee based on four completed quarters.
 - Report of earnings of injured employee who did not complete four quarters based on actual time worked.
 - Report of earnings of similar employee. Injured employee did not work sufficient time before alleged injury. Hire date: _____
 - Report of earnings of injured employee based on alternative method because Form 20 results in a compensation rate that is not fair and just (attach documentation to show how average weekly wage and compensation rate were calculated).
- List total wages paid as reported to the Employment Security Commission on the Employer Quarterly Contribution and Age Reports during the four quarters immediately preceding the quarter in which the injury occurred. Do not include the quarter during which the injury occurred.

Quarter	Ending Date	Total Wages Paid
1st	01/01/12-3/30/12	\$ 319.75
2nd	04/01/12-6/30/12	\$1,866.75
3rd	07/01/12-9/30/12	\$2,341.75
4th	10/01/12-12/31/12	\$2,817.75
		Total Paid
		2. \$ 7,346.00

- List total value of other allowances of any character made in lieu of wages during four quarters above. 3. \$ _____
- Add lines 2 and 3. **TOTAL WAGES PAID:** 4. \$ 7,346.00
- List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred. 5. 28

B. Average Weekly Wage

- To calculate average weekly wage, divide total wages (line 4) by total weeks paid (line 5). **AVERAGE WEEKLY WAGE:** 6. \$ 262.35

C. Compensation Rate

- The general rule for calculating the compensation rate is to multiply average weekly wage (line 6) by .6667. Estimate compensation rate by multiplying average weekly wage (line 6) by .6667. See part 8 below to determine the actual compensation rate. 7. \$ 174.90
- The compensation rate is as follows (choose one):
 - When average weekly wage (line 6) is less than \$75.00, the compensation rate is the average weekly wage. Enter average weekly wage on line 8.
 - When the estimated compensation rate (line 7) is less than \$75.00 and average weekly wage (line 6) is more than \$75.00, the compensation rate is \$75.00. Enter \$75.00 on line 8.
 - When the estimated compensation rate (line 7) is more than the maximum compensation rate for the year in which the injury occurred, enter the maximum compensation rate for the year in which the injury occurred on line 8.
 - Employee is within the exceptions listed in S.C. Code Ann. Section 42-7-65. List applicable exception here and enter appropriate compensation rate on line 8. _____
 - The calculated compensation rate (line 7) applies. Enter amount from line 7 on line 8.

WEEKLY COMPENSATION RATE: 8. \$ 174.90

Employer's representative shall prepare a Form 20 and serve per R.67-211 a copy on the claimant within thirty days of beginning temporary compensation. See R.67-1603 when no temporary compensation is paid. NOTE: Average weekly wage represents average gross pay before taxes and other deductions. WHEN THE CLAIMANT DOES NOT AGREE WITH THE COMPENSATION RATE ON LINE 8, HE OR SHE SHOULD CONTACT THE EMPLOYER'S REPRESENTATIVE TO TRY TO REACH AN AGREEMENT AS TO THE COMPENSATION RATE. IF NO AGREEMENT CAN BE REACHED, THE CLAIMANT SHOULD CONTACT THE CLAIMS DEPARTMENT AT (803)737-5723.

Juanita Jackson v. SCDDSN

Date of Accident 03/01/13

WCC File No. 1302012

Florence Nursing Service

All work at Palmetto Center except for 03/23/12 & 04/01/12

WEEK NO.	WEEK- SUNDAY- SATURDAY	DATE	HOURS	HOURLY RATE	PAY TOTAL
	01/01/12-01/07/12				
	01/08/12-01/14/12				
	01/15/12-01/21/12				
	01/22/12-01/28/12				
	01/29/12-02/04/12				
	02/05/12-02/11/12				
	02/12/12-02/18/12				
	02/19/12-02/25/12				
	02/26/12-03/03/12				
1	03/04/12-03/10/12	03/04/12	8.75	17.00	\$148.75
	03/11/12-03/17/12				
2	03/18/12-03/24/12 Heritage Home	03/23/12	9.00	19.00	\$171.00
	03/25/12-03/31/12				
3	04/01/12-04/07/12 Heritage Home	04/01/12	9.00	19.00	\$171.00
4	04/08/12-04/14/12	04/13/12	7.50	17.00	\$127.50
5	04/15/12-04/21/12	04/16/12	8.00	17.00	\$136.00
		04/21/12	7.00	17.00	\$119.00
6	04/22/12-04/28/12	04/22/12	7.50	17.00	\$127.50
		04/23/12	7.50	17.00	\$127.50
		04/24/12	6.75	17.00	\$114.75
7	04/29/12-05/05/12	05/03/12	8.00	17.00	\$136.00
		05/04/12	7.50	17.00	\$127.50

Juanita Jackson v. SCDDSN

Date of Accident 03/01/13

WCC File No. 1302012

Florence Nursing Service

All work at Palmetto Center except for 03/23/12 & 04/01/12

WEEK NO.	WEEK: SUNDAY-SATURDAY	DATE	HOURS	HOURLY RATE	PAY TOTAL
	05/06/12-05/12/12				
	05/13/12-05/19/12				
8	05/20/12-05/26/12	05/21/12	10.00	17.00	\$170.00
		05/22/12	7.50	17.00	\$127.50
	05/27/12-06/02/12				
9	06/03/12-06/09/12	06/04/12	7.50	17.00	\$127.50
10	06/10/12-06/16/12	06/11/12	7.50	17.00	\$127.50
		06/15/12	7.50	17.00	\$127.50
	06/17/12-06/23/12				
	06/24/12-06/30/12				
11	07/01/12-07/07/12	07/06/12	7.50	17.00	\$127.50
		07/07/12	7.50	17.00	\$127.50
	07/08/12-07/14/12				
12	07/15/12-07/21/12	07/15/12	7.50	17.00	\$127.50
		07/16/12	7.50	17.00	\$127.50
		07/17/12	7.50	17.00	\$127.50
	07/22/12-07/28/12				
	07/29/12-08/04/12				
	08/05/12-08/11/12				
	08/12/12-08/18/12				
13	08/19/12-08/25/12	08/23/12	8.00	17.00	\$136.00
14	08/26/12-09/01/12	08/26/12	7.50	17.00	\$127.50
		08/27/12	7.50	17.00	\$127.50
		08/31/12	7.50	17.00	\$127.50

Juanita Jackson v. SCDDSN

Date of Accident 03/01/13

WCC File No. 1302012

Florence Nursing Service

All work at Palmetto Center except for 03/23/12 & 04/01/12

WEEK NO.	WEEK: SUNDAY-SATURDAY	DATE	HOURS	HOURLY RATE	PAY TOTAL
15	09/02/12-09/08/12	09/04/12	7.50	17.00	\$127.50
		09/05/12	7.50	17.00	\$127.50
16	09/09/12-09/15/12	09/10/12	7.50	17.00	\$127.50
	09/16/12-09/22/12				
17	09/23/12-09/29/12	09/23/12	7.50	17.00	\$127.50
		09/24/12	8.75	17.00	\$148.75
		09/25/12	8.50	17.00	\$144.50
		09/26/12	7.50	17.00	\$127.50
		09/28/12	7.50	17.00	\$127.50
		09/29/12	7.50	17.00	\$127.50
18	09/30/12-10/06/12	10/01/12	7.50	17.00	\$106.25
		10/03/12	7.50	17.00	\$127.50
		10/04/12	7.50	17.00	\$127.50
19	10/07/12-10/13/12	10/09/12	7.50	17.00	\$127.50
		10/10/12	7.50	17.00	\$127.50
20	10/14/12-10/20/12	10/16/12	7.50	17.00	\$127.50
		10/17/12	7.50	17.00	\$127.50
21	10/21/12-10/27/12	10/23/12	7.50	17.00	\$127.50
		10/24/12	7.50	17.00	\$127.50
		10/26/12	7.50	17.00	\$127.50
22	10/28/12-11/03/12	10/30/12	7.50	17.00	\$127.50
		10/31/12	7.50	17.00	\$127.50
	11/04/12-11/10/12				

Juanita Jackson v. SCDDSN Date of Accident 03/01/13
WCC File No. 1302012
Florence Nursing Service
All work at Palmetto Center except for 03/23/12 & 04/01/12

WEEK NO.	WEEK: SUNDAY-SATURDAY	DATE	HOURS	HOURLY RATE	PAY TOTAL
23	11/11/12-11/17/12	11/17/12	6.00	17.00	\$102.00
24	11/18/12-11/24/12	11/20/12	7.50	17.00	\$127.50
		11/21/12	7.50	17.00	\$127.50
	11/25/12-12/01/12				
25	12/02/12-12/08/12	12/07/12	8.00	17.00	\$136.00
26	12/09/12-12/15/12	12/10/12	8.00	17.00	\$136.00
	12/16/12-12/22/12				
27	12/23/12-12/29/12	12/27/12	8.00	17.00	\$136.00
		12/27/12	8.00	17.00	\$136.00
		12/28/12	8.00	17.00	\$136.00
		12/29/12	8.00	17.00	\$136.00
28	12/30/12-01/05/13	12/30/12	8.00	17.00	\$136.00
Total wks. 28					Total pay \$7,346.00

The attached Form 20, spreadsheet, and payroll records are an accurate presentation of compensation paid by Florence Nursing Service to Juanita Jackson as an independent contractor on the dates set out.

Florence Nursing Service

By: Kelly W. Gamble
Kelly W. Gamble
Dated: 10-4-16

Stephen J. Wukela

From: Kelly W. Gamble <kellygamble@florencenursing.com>
Sent: Wednesday, March 23, 2016 3:09 PM
To: stephen@wukelalaw.com
Subject: Juanita Jackson
Attachments: CCE03232016.pdf

Pay/Bill Detail Report

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Customer No. PC Customer Name PALMETTO CENTER

Week Ending Date

Employee No.	Employee Name	Class Code	Date Worked	Day	Shift Code	Pay Units	Pay Rate	Pay Total	Check No.	Check Instant / Invoice I
SS#	Unit Code	Start Time	End Time	Bill Units	Bill Rate	Bill Total	Check Date	Amount		
[REDACTED]	JACKSON, JUANITA	LPN	03/04/12	Sun	E	8.75	17.00	148.75	RA02_05059	133.75- Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:45:00 AM	8.75	20.00	176.25	03/19/12	25935
[REDACTED]	JACKSON, JUANITA	LPN	04/13/12	Fri	E	7.50	17.00	127.50	RA02_05103	127.50 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	04/16/12	26000
[REDACTED]	JACKSON, JUANITA	LPN	04/16/12	Mon	E	8.00	17.00	136.00	RA02_05122	255.00 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:30:00 AM	8.00	20.00	160.00	04/23/12	26013
[REDACTED]	JACKSON, JUANITA	LPN	04/21/12	Sat	E	7.00	17.00	119.00	RA02_05122	Yes
[REDACTED]	[REDACTED]	REHAB	4:30:00 PM		12:00:00 AM	7.00	20.00	140.00	04/23/12	26013
[REDACTED]	JACKSON, JUANITA	LPN	04/22/12	Sun	E	7.50	17.00	127.50	RA02_05140	369.75 Yes
[REDACTED]	[REDACTED]	REHAB	3:45:00 PM		12:00:00 AM	7.75	20.00	155.00	04/30/12	26030
[REDACTED]	JACKSON, JUANITA	LPN	04/23/12	Mon	E	7.50	17.00	127.50	RA02_05140	Yes
[REDACTED]	[REDACTED]	REHAB	3:45:00 PM		12:00:00 AM	7.75	20.00	155.00	04/30/12	26030
[REDACTED]	JACKSON, JUANITA	LPN	04/24/12	Tue	E	6.75	17.00	114.75	RA02_05140	Yes
[REDACTED]	[REDACTED]	REHAB	4:30:00 PM		11:45:00 PM	6.75	20.00	135.00	04/30/12	26030
[REDACTED]	JACKSON, JUANITA	LPN	05/03/12	Thu	E	8.00	17.00	136.00	RA02_05148	263.50 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:30:00 AM	8.00	20.00	160.00	05/07/12	26044
[REDACTED]	JACKSON, JUANITA	LPN	05/04/12	Fri	E	7.50	17.00	127.50	RA02_05148	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	05/07/12	26044
[REDACTED]	JACKSON, JUANITA	LPN	05/21/12	Mon	E	10.00	17.00	170.00	RA02_05193	297.50 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		2:30:00 AM	10.00	20.00	200.00	05/29/12	26088
[REDACTED]	JACKSON, JUANITA	LPN	05/22/12	Tue	E	7.50	17.00	127.50	RA02_05193	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	05/29/12	26088
[REDACTED]	JACKSON, JUANITA	LPN	06/04/12	Mon	N	7.50	17.00	127.50	RA02_05211	127.50 Yes
[REDACTED]	[REDACTED]	REHAB	12:00:00 AM		8:00:00 AM	7.50	20.00	150.00	06/11/12	26119
[REDACTED]	JACKSON, JUANITA	LPN	06/11/12	Mon	E	7.50	17.00	127.50	RA02_05221	255.00 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	06/18/12	26131
[REDACTED]	JACKSON, JUANITA	LPN	06/15/12	Fri	E	7.50	17.00	127.50	RA02_05221	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	06/18/12	26131
[REDACTED]	JACKSON, JUANITA	LPN	07/06/12	Fri	N	7.50	17.00	127.50	RA02_05241	255.00 Yes
[REDACTED]	[REDACTED]	REHAB	12:00:00 AM		8:00:00 AM	7.50	20.00	150.00	07/09/12	26181
[REDACTED]	JACKSON, JUANITA	LPN	07/07/12	Sat	N	7.50	17.00	127.50	RA02_05241	Yes
[REDACTED]	[REDACTED]	REHAB	12:00:00 AM		8:00:00 AM	7.50	20.00	150.00	07/09/12	26181
[REDACTED]	JACKSON, JUANITA	LPN	07/15/12	Sun	E	7.50	17.00	127.50	RA02_05250	119.50 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	07/16/12	26197
[REDACTED]	JACKSON, JUANITA	LPN	07/16/12	Mon	E	7.50	17.00	127.50	RA02_05259	255.00 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	07/23/12	26214
[REDACTED]	JACKSON, JUANITA	LPN	07/17/12	Tue	E	7.50	17.00	127.50	RA02_05259	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	07/23/12	26214
[REDACTED]	JACKSON, JUANITA	LPN	08/23/12	Thu	E	0.00	0.00	0.00	0639	0.00 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:30:00 AM	8.00	20.00	160.00	08/27/12	26295
[REDACTED]	JACKSON, JUANITA	LPN	08/23/12	Thu	E	8.00	17.00	136.00	RA02_05330	419.50 Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:30:00 AM	0.00	0.00	0.00	09/04/12	26322
[REDACTED]	JACKSON, JUANITA	LPN	08/26/12	Sun	E	0.00	0.00	0.00	0639	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	08/27/12	26295
[REDACTED]	JACKSON, JUANITA	LPN	08/26/12	Sun	E	7.50	17.00	127.50	RA02_05330	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	0.00	0.00	0.00	09/04/12	26322
[REDACTED]	JACKSON, JUANITA	LPN	08/27/12	Mon	E	7.50	17.00	127.50	RA02_05330	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	09/04/12	26322
[REDACTED]	JACKSON, JUANITA	LPN	08/31/12	Fri	E	7.50	17.00	127.50	RA02_05330	Yes
[REDACTED]	[REDACTED]	REHAB	4:00:00 PM		12:00:00 AM	7.50	20.00	150.00	09/04/12	26322

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JACKSON, JUANITA	LPN	09/04/12	Tue	E	7.50	17.00	127.50	RA02_05339	263.00	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			09/10/12	26340	
JACKSON, JUANITA	LPN	09/05/12	Wed	E	7.50	17.00	127.50	RA02_05339		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			09/10/12	26340	
JACKSON, JUANITA	LPN	09/10/12	Mon	E	7.50	17.00	127.50	RA02_05362	127.50	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			09/17/12	26354	
JACKSON, JUANITA	LPN	09/23/12	Sun	E	7.50	17.00	127.50	RA02_05372	127.50	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			09/24/12	26370	
JACKSON, JUANITA	LPN	09/24/12	Mon	E	8.75	17.00	148.75	RA02_05384	803.25	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		1:15:00 AM	8.75			10/01/12	26397	
JACKSON, JUANITA	LPN	09/25/12	Tue	E	8.50	17.00	144.50	RA02_05384		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		1:00:00 AM	8.50			10/01/12	26397	
JACKSON, JUANITA	LPN	09/26/12	Wed	E	7.50	17.00	127.50	RA02_05384		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/01/12	26397	
JACKSON, JUANITA	LPN	09/28/12	Fri	E	7.50	17.00	127.50	RA02_05384		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/01/12	26397	
JACKSON, JUANITA	LPN	09/28/12	Fri	N	7.50	17.00	127.50	RA02_05384		Yes
JACKSON, JUANITA	REHAB	12:00:00 AM		8:00:00 AM	7.50			10/01/12	26397	
JACKSON, JUANITA	LPN	09/29/12	Sat	N	7.50	17.00	127.50	RA02_05384		Yes
JACKSON, JUANITA	REHAB	12:00:00 AM		8:00:00 AM	7.50			10/01/12	26397	
JACKSON, JUANITA	LPN	10/01/12	Mon	N	0.00	0.00	0.00	0649	0.00	Yes
JACKSON, JUANITA	REHAB	12:00:00 AM		6:45:00 AM	6.25			10/08/12	26415	
JACKSON, JUANITA	LPN	10/01/12	Mon	N	6.25	17.00	106.25	RA02_05406	361.25	Yes
JACKSON, JUANITA	REHAB	12:00:00 AM		6:45:00 AM	0.00	0.00	0.00	10/15/12	26434	
JACKSON, JUANITA	LPN	10/03/12	Wed	E	7.50	17.00	127.50	RA02_05394	255.00	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/08/12	26415	
JACKSON, JUANITA	LPN	10/04/12	Thu	N	7.50	17.00	127.50	RA02_05394		Yes
JACKSON, JUANITA	REHAB	12:00:00 AM		8:00:00 AM	7.50			10/08/12	26415	
JACKSON, JUANITA	LPN	10/09/12	Tue	E	7.50	17.00	127.50	RA02_05406		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/15/12	26434	
JACKSON, JUANITA	LPN	10/10/12	Wed	E	7.50	17.00	127.50	RA02_05406		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/15/12	26434	
JACKSON, JUANITA	LPN	10/16/12	Tue	E	7.50	17.00	127.50	RA02_05431	255.00	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/22/12	26451	
JACKSON, JUANITA	LPN	10/17/12	Wed	E	7.50	17.00	127.50	RA02_05431		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/22/12	26451	
JACKSON, JUANITA	LPN	10/23/12	Tue	E	7.50	17.00	127.50	RA02_05445	382.50	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/29/12	26469	
JACKSON, JUANITA	LPN	10/24/12	Wed	E	7.50	17.00	127.50	RA02_05445		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/29/12	26469	
JACKSON, JUANITA	LPN	10/26/12	Fri	E	7.50	17.00	127.50	RA02_05445		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			10/29/12	26469	
JACKSON, JUANITA	LPN	10/30/12	Tue	E	7.50	17.00	127.50	RA02_05455	255.00	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			11/05/12	26494	
JACKSON, JUANITA	LPN	10/31/12	Wed	E	7.50	17.00	127.50	RA02_05455		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			11/05/12	26494	
JACKSON, JUANITA	LPN	11/17/12	Sat	N	6.00	17.00	102.00	RA02_05493	102.00	Yes
JACKSON, JUANITA	REHAB	12:00:00 AM		6:30:00 AM	6.00			11/19/12	26523	
JACKSON, JUANITA	LPN	11/20/12	Tue	E	7.50	17.00	127.50	RA02_05512	255.00	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			11/26/12	26542	
JACKSON, JUANITA	LPN	11/21/12	Wed	E	7.50	17.00	127.50	RA02_05512		Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	7.50			11/26/12	26542	
JACKSON, JUANITA	LPN	12/07/12	Fri	N	8.00	17.00	136.00	RA02_05535	136.00	Yes
JACKSON, JUANITA	REHAB	12:00:00 AM		8:00:00 AM	8.00			12/10/12	26591	
JACKSON, JUANITA	LPN	12/10/12	Mon	E	8.00	17.00	136.00	RA02_05546	136.00	Yes
JACKSON, JUANITA	REHAB	4:00:00 PM		12:00:00 AM	8.00			12/17/12	26610	

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KELLY

JACKSON, JUANITA	LPN	12/27/12	Thu	N	8.00	17.00	136.00	RA02_05563	680.00	Yes
	REHAB	12:00:00 AM		8:00:00 AM	8.00	17.00	136.00	12/31/12		26642
JACKSON, JUANITA	LPN	12/27/12	Thu	E	8.00	17.00	136.00	RA02_05563		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	12/31/12		26642
JACKSON, JUANITA	LPN	12/28/12	Fri	E	8.00	17.00	136.00	RA02_05563		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	12/31/12		26642
JACKSON, JUANITA	LPN	12/29/12	Sat	E	8.00	17.00	136.00	RA02_05563		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	12/31/12		26642
JACKSON, JUANITA	LPN	12/30/12	Sun	E	8.00	17.00	136.00	RA02_05563		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	12/31/12		26642
JACKSON, JUANITA	LPN	01/01/13	Tue	E	8.00	25.50	204.00	RA02_05572	340.00	Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	01/07/13		26658
JACKSON, JUANITA	LPN	01/02/13	Wed	E	8.00	17.00	136.00	RA02_05572		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	01/07/13		26658
JACKSON, JUANITA	LPN	01/16/13	Wed	E	8.00	17.00	136.00	RA02_05614	272.00	Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	01/21/13		26696
JACKSON, JUANITA	LPN	01/20/13	Sun	E	8.00	17.00	136.00	RA02_05614		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	01/21/13		26696
JACKSON, JUANITA	LPN	01/21/13	Mon	E	7.00	17.00	119.00	RA02_05622	391.00	Yes
	REHAB	5:00:00 PM		12:00:00 AM	7.00	17.00	136.00	01/28/13		26716
JACKSON, JUANITA	LPN	01/23/13	Wed	E	8.00	17.00	136.00	RA02_05622		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	01/28/13		26716
JACKSON, JUANITA	LPN	01/27/13	Sun	E	8.00	17.00	136.00	RA02_05622		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	01/28/13		26716
JACKSON, JUANITA	LPN	01/28/13	Mon	E	8.00	17.00	136.00	RA02_05633	272.00	Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	02/04/13		26751
JACKSON, JUANITA	LPN	01/30/13	Wed	E	8.00	17.00	136.00	RA02_05633		Yes
	REHAB	4:00:00 PM		12:00:00 AM	8.00	17.00	136.00	02/04/13		26751

Total for Payer	PC				490.50		8,406.50			
					491.00		14,016.98			
Total for Customer No.	PC				490.50		8,406.50		8,292.50	
					491.00		14,016.98			
					<u>490.50</u>		<u>8,406.50</u>			<i>Hours paid total</i>
										<i>Amt. Paid total</i>
Grand Total					491.00		14,016.98			

Instant Advance 8,406.50
 Regular Pay 0.00
 Check Amount 8,292.50

I found this report + which should give you everything you need. She worked at Palmetto Center + it gives date worked, hours worked, hours paid, rate of pay + date paid

She made \$17 per hour with the exception of 1-1-13 she made 25.50 per hour due to her being

paid holiday rate. I don't normally send out this report because it has my Bill Rates. I have marked through the Bill Rates + Bill total for each day.

Pay/Bill Detail Report

March 23, 2016

02 Florence Office

Page 1

KELLY

Customer No. HH Customer Name HERITAGE HOME

Week Ending Date

Payer HH

Employee No.	Employee Name SS#	Class Code Unit Code	Date Worked Start Time	Day	Shift Code End Time	Pay Units Bill Units	Pay Rate Bill Rate	Pay Total Bill Total	Check No. Check Date	Check Amount	Instant / Invoice #
[REDACTED]	JACKSON, JUANITA	LPN	03/23/12	Fri	E	9.00	19.00	171.00	RA02_05069	163.00	Yes
[REDACTED]	[REDACTED]	GERI	2:45:00 PM		12:15:00 AM	9.00	19.00	171.00 55	03/26/12		25949
[REDACTED]	JACKSON, JUANITA	LPN	04/01/12	Sun	E	9.00	19.00	171.00	RA02_05082	171.00	Yes
[REDACTED]	[REDACTED]	GERI	2:30:00 PM		12:00:00 AM	9.00	19.00	171.00 55	04/02/12		25972
Total for Payer		HH				18.00		342.00			
Total for Customer No.		HH				18.00		342.00			334.00
Grand Total						18.00		342.00			
Instant Advance								342.00			
Regular Pay								0.00			
Check Amount								334.00			

This is the only other facility she worked at from 3-1-12-3-1-13. It is Heritage Home. She only worked 2 shifts & made \$19.00 per hour.

Thanks,
Kelly W. Stahl
3-23-16

Florence Nursing Service, Inc.
P.O. Box 1122
Newberry, SC 29108

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

RECEIVED

FEB 25 2019

SC Court of Appeals

WCC File No. 1302012

Juanita Jackson, Appellant,

vs.

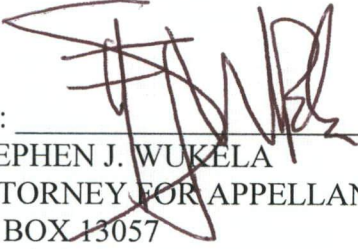
SC DSN, Employer, and State Accident Fund, Insurer, Respondents.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that the Record on Appeal complies with the Supreme Court Order of August 13, 2007, in that there are no personal data identifiers included in the Appellant's Record on Appeal, or they have been redacted where necessary.

WUKELA LAW FIRM

February 19th, 2019

BY: 
STEPHEN J. WUKELA
ATTORNEY FOR APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1302012

Juanita Jackson, Appellant,


vs.

SC DSN, Employer, and State Accident Fund, Insurer, Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Final Brief complies with Rule 211(b),
SCACR.

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
ATTORNEY FOR APPELLANT
SC BAR NO. 68351
PO BOX 13057
FLORENCE SC 29504
843-669-5634

February 19th, 2019

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SC Court of Appeals