

NATIONAL GRIEVANCE
NG-06/15/2012

Date: June 15, 2012

To: Leslie Wiggins
Deputy Assistant Secretary,
Labor – Management Relations
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

From: Ami Pendergrass, Attorney, National Veterans Affairs Council (#53) (“NVAC”),
American Federation of Government Employees (“AFGE”), AFL-CIO

Subject: National Grievance in the matter of the Department of Veterans Affairs (“VA”) failure to comply with Public Law 111-163 (“Caregivers Act”) concerning uniform allowances for police officers.

STATEMENT OF CHARGES

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (“MCBA”), American Federation of Government Employees/National Veterans Affairs Council (“Union”) is filing this national grievance against you and all other associated Department of Veterans Affairs (“VA”) officials and/or individuals acting as agents on behalf of the VA for violations as it relates to its failure to comply with Public Law 111 -163 (“Caregiver Act”) concerning uniform allowances for police officers.

Specifically, on a continuous and on-going basis, the VA, by and through its representatives and/or agents, has:

- (1) Continuously violated 38 U.S.C. §903 as amended by Section 1002 of Caregivers Act concerning the changes and increase in amount for uniform allowance for police officers at the VA by failing to provide the increase uniform allowance and by failing to provide access to the \$400 for purchasing of new and/or replacement equipment; and
- (2) Continuously violated 38 U.S.C. §903 amended by Section 1002 of Caregivers Act by failing pay retroactive uniform allowance due to October 1, 2010 as required by statute.

In doing so, the VA has violated the following provisions:

- (1) 38 U.S.C. §903 as amended by Section 1002 of the Caregivers Act; and
- (2) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE:

I. Background

On May 5, 2010, President Obama signed into effect Public Law 111-163, the Caregivers and Veterans Omnibus Health Services Act of 2010 (“Caregivers Act”). Among the provisions of that Act was Sections 1002, which amended sections of 38 U.S.C. §903 concerning uniform allowances for VA police officers. The new language introduced changed the requirements for determining and paying uniform allowances allocated for police officer at the VA. Under the new 38 U.S.C. §903:

(b)(1) The amount of the allowance that the Secretary may pay under this section is the lesser of –

- (A) the amount currently allowed as prescribed by the Office of Personnel Management; or
- (B) estimated costs or actual costs as determined by periodic surveys conducted by the Department. . . .

(c) The allowance established under subsection (b) shall be paid at the beginning of the a Department police officer’s employment for those appointed on or after October 1, 2010. In the case of any other Department police officer, an allowance in the amount established under subsection (b) shall be paid upon the request of the officer.

The amount currently established by the Office of Personnel Management is a maximum of \$800 per 5 C.F.R. §591.103.

In the summer of 2011, the Union was briefed on proposed changes to VHA handbook 0730, which include changes to the uniform policies as required by the statute. After multiple conversations concerning the uniform allowance, on or around October 2011, the Union was advised that the VA would be implementing the uniform allowance based on the OPM allowance amount of \$800. The VA would break down the \$800 into two categories: 1) \$400 would be available as a credit at a centralized uniform purchase supplier on an annual basis; and 2) \$400 would be distributed over 26 weeks (\$15.38) for purposes of cleaning and maintenance. Based on the conversation, the Union believed that the policy would be effective before the end of the year and was lead to believe that the policy would be rolled out nationally before the end of the year.

After repeated contacts from the field concerning no implementation of the new policy, Executive Vice President Wetmore requested a follow up from Mr. Jackson’s office in March, April, and May of 2012 and to date, has not received an answer as to why the officers have not received their uniform allowance.

To date, no officers have received the increase in uniform allowances to reflect the \$400 per year/\$15.38 per paycheck for maintenance of uniforms and \$400 per year for uniform purchase and replacement. Additionally, officers in the Sheridan, Wyoming, Kerrville, Texas, and Togus, Maine VAMC facilities are not receiving a uniform allowance of any kind. Finally, no facility has received amounts retroactive to the effective date of October 1, 2010, per the statute.

II. Violation

The VA is not in compliance with 38 U.S.C. §903 as amended by Section 1002 of the Caregiver Act and has failed to implement the uniform policy agreed upon by the parties, effective DATE.

III. Remedy Requested

The Union asks that to remedy the above situation, the VA agrees to the following:

- (1) Effective immediately, implement the increased uniform allowance, including both the increased amount of \$15.38 per paycheck and the \$400 credit for uniform purchase and replacement.
- (2) Effective immediately, pay retroactively to October 1, 2010, all uniform allowance monies owed to the effected officers.
- (3) To agree to any and all other remedies appropriate in this matter.

IV. Time Frame and Contact

This is a National Grievance and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions regarding this National Grievance, please feel free to contact me at (202) 306-3664.

Ami Pendergrass
Attorney
AFGE/NVAC

Cc: Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC

