



NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, AFL-CIO



11/12/15
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NATIONAL GRIEVANCE NG-11/12/15

Date: November 12, 2015

To: Larry Benett
For the Deputy Assistant Secretary
Labor-Management Relations
Department of Veterans Affairs (VA)
810 Vermont Avenue, N.W.
Washington, DC 20420

From: James R. Alsup, Managing Attorney, National Veterans Affairs Council (#53) ("NVAC"),
American Federation of Government Employees, AFL-CIO ("AFGE").

Subject: National Grievance in the matter of mandate to employees to complete a 2016 Holiday Leave Request Form no later than January, 15, 2016, at VA Medical Centers in Albuquerque, NM; Amarillo, TX; Las Vegas, NV; Phoenix, AZ and Prescott, AZ.

Pursuant to the provisions of Article 43, Section 11, of the Master Agreement Between the Department of Veterans Affairs ("VA") and AFGE (2011) ("MCBA"), AFGE is filing this National Grievance against you and all other associated VA officials and/or individuals acting as agents on behalf of the VA for failure to comply with Article 2 Section 2, and Article 35, Sections 1, 2, 10 of the MCBA.

STATEMENT OF THE CASE

On or about September 21, 2015, and continuing through to the date of this National Grievance, the VA Medical Centers located in Albuquerque, New Mexico; Amarillo, Texas; Las Vegas, Nevada; and, Phoenix and Prescott, Arizona, directed employees to use a form entitled "2016 HOLIDAY LEAVE REQUEST FORM" ("Form") to request leave during Federal holidays to occur during calendar year 2016. The Form is attached as exhibit A to this National Grievance. The Form requires employee action and information that violates the MCBA, Article 35.

Specifically, the first numbered provision of the Form requires an employee to complete and return the Form "no later than January 15, 2016. MCBA Article 35, § 1 E provides that the Department shall not implement any arbitrary or capricious restraints to restrict when leave may be requested. The Form's requirement to submit a leave request for all holidays occurring throughout the year 2016 by January 15, 2016, is both arbitrary and capricious and thereby

violates §1 E. Pursuant to Article 2 § 2, the terms of the MCBA prevail over the terms of the Form.

The second numbered provision of the Form requires that leave requests can not exceed two weeks at a time. MCBA Article 35 § 2 provides that “[A]ll employees may request at least two consecutive weeks of annual leave per year and take such leave subject to the Department’s approval. The Form’s provision that all leave requests must be two weeks or less violates the plain language of the MCBA. Pursuant to Article 2 § 2, the terms of the MCBA prevail over the terms of the Form.

The third numbered provision of the Form states that leave without pay (LWOP) will not be granted. Article 35 § 10 provides that “(B) LWOP may be requested in the same manner and for the same purposes as annual leave and sick leave,” and “LWOP may be granted even though the employee has a sick or annual leave balance.” To the extent that the Form’s third provision prohibits LWOP, it violates Article 35 the MCBA. Pursuant to Article 2 § 2, the terms of the MCBA prevail over the terms of the Form.

The fourth numbered provision of of the Form states that the Form must be used when making an initial request for leave and directs employees not to “enter time into T&L until your leave has been approved.” Article 35 § 1 H states that “When an employee is present on duty, the employee can use the electronic time and attendance system or SF-71 to request leave.” Mandating use of the Form and directing employees not to enter leave into T&L violates Article 35 of the MCBA. Pursuant to Article 2 § 2, the terms of the MCBA prevail over the terms of the Form.

The sixth numbered provision of the Form provides that a Nurse Manager or Assistant Nurse Manager will inform employees once requested leave is placed on the leave calendar. The VISTA system is the approved time and leave system. The change in the method by which employees will be notified of the leave approval is a bypass of the MCBA.

Language at the bottom of the Form requires employees to submit regular “vacation/leave via email to the Nurse Manager Group.” The provision violates Article 35 § 1 H and, pursuant to Article 2 § 2, the terms of the MCBA prevail over the terms of the Form.

Language at the bottom of the Form requires employees not to enter time into “T&L” until leave is approved, and mandates that leave will only be approved if the employee has sufficient earned leave at the time of leave. As above, this language violates Article 35 §§ 10 and 1 H of the MCBA and, pursuant to Article 2 § 2, the terms of the MCBA prevail over the terms of the Form.

REMEDY REQUESTED

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

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- 1) to cease using the 2016 Form in the named locations and in any other locations where the Form or similar Forms may be used;
- 2) to require all employees to request leave in accordance with the MCBA and existing OPM regulations;
- 3) any and all relief provided by regulations and statutes.

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) 494-9452.

Exhibit A

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2016 HOLIDAY LEAVE REQUEST FORM

1. Please complete the holiday leave request form and return no later than January 15, 2016.
2. Requests should not be for more than two weeks at a time and will be granted based on the Union guidelines for same.
3. You may not request leave that you have not earned. There will be no leave without pay (LWOP) granted. (Leave approval is contingent upon earned leave available at time of leave.)
4. You must complete this form when making your initial request. Please return via outlook or fax to 702-341-3563. Do not enter time into T&L until your leave has been approved.
5. Once leave has been approved make sure you check the UR Calendar on the WCPAC Portal to verify it was entered on the calendar correctly.
6. Do not assume your leave is approved. You will be notified by the Nurse Manager or Assistant Nurse Manager once the leave is placed on the leave calendar.
7. If you had the Holiday off last year, your request may / may not be approved for 2016
8. Prioritize your leave requests by 1st choice, 2nd choice, 3rd choice, etc.

Recognized Federal Holidays 2016

NAME: _____ Submitted _____

January 18, 2016 (Martin L. King, Jr Day/Monday) _____

February 15, 2016 (Presidents' Day/Monday) _____

May 30, 2016 (Memorial Day/Monday) _____

July 4, 2016 (Monday) _____

September 5, 2016 (Labor Day/Monday) _____

October 10, 2016 (Columbus Day/Monday) _____

November 11, 2016 (Veterans Day/Friday) _____

November 24, 2016 (Thanksgiving Day/Thursday) _____

December 25, 2016 (Christmas Day/Sunday) _____

January 1, 2017 (New Year's Day/Sunday) _____

Please submit regular vacation / leave via email to the Nurse Manager Group. Do not assume your leave is approved. You will be notified by the Nurse Manager or Assistant. Do not enter time into T&L until your leave has been approved (leave approval is contingent upon earned leave available at time of leave). If leave is greater than 2 weeks, the Nurse Manager will review the request with WCPAC Director.