



Out of Many/**One Union**
AFGE NVAC/AFL-CIO

NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

NATIONAL GRIEVANCE

NG-3/22/2022

7H/00400558

Date: March 22, 2022

To: Denise Biaggi-Ayer
Executive Director
Office of Labor Management Relations
U.S. Department of Veterans Affairs
Denise.Biaggi-Ayer@va.gov
Sent via electronic mail only

From: Sarah Hasan, Staff Counsel, National Veterans Affairs Council (#53) (“NVAC”),
American Federation of Government Employees, AFL-CIO (“AFGE”)

RE: **National Grievance against the Department of Veterans Affairs for its failure to issue mandated pay increases to Wage Grade bargaining unit employees**

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”), the American Federation of Government Employees/National Veterans Affairs Council (“the Union”) is filing this National Grievance against you and all other associated officials and/or individuals acting as agents on behalf of the Agency for failing to issue mandated pay adjustments to Wage Grade (“WG”) bargaining unit employees.

Specifically, the VA violated Articles 2, 3, and 36 of the MCBA, 5 U.S.C. §5342, 5 C.F.R. Part 532, and any and all relevant articles, laws, regulations, and past practices not herein specified.

STATEMENT OF THE CASE

Background

In 1972, Congress passed Public Law 92-392 and established the Federal Wage System (“FWS”) to ensure that the pay of certain federal employees is comparable to prevailing wages in the private sector.¹ Pursuant to the FWS mandate, the Agency relies on wage surveys performed by U.S. Department of Defense (“DOD”) to adjust the pay of covered employees. Pay adjustments are then implemented with retroactive effect, often to the start of the fiscal year.

¹ See generally 5 U.S.C. §5342; 5 C.F.R. Part 532.

In December 2021, the DOD revised the prevailing rate wage schedules for several WG positions, which resulted in retroactive pay adjustments to November 2021. Pay increases were authorized for WG employees in positions falling under multiple service lines, such as Logistics, Engineering, Environmental Management, Nutrition & Food, and the Canteen. However, the Agency failed to adjust the pay of affected WG employees at several facilities, including, for example, those in Saginaw, Michigan at the Lutz VA Medical Center (AFGE Local 2274) and the Danville, Illinois Health Care System (AFGE Local 1963). This list is not exhaustive.

Article 2 of the MCBA requires that the Agency comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 5 U.S.C. §5342 and 5 C.F.R. Part 532, as set forth above, the Agency also failed to comply with Article 2. Additionally, Article 3 encourages the Parties to maintain a cooperative labor-management relationship that is based on mutual respect, open communication, consideration of each other's views, and minimizing collective bargaining disputes. Notably, this is the third consecutive year in which the Union has filed a national grievance against the Agency for failing to remit these mandatory pay adjustments to WG employees, many of whom are already among the lowest-paid staff at the VA. In failing to increase the pay of WG employees, as required by federal law and regulation, the Agency renounced its commitments and necessitated further disputes. Lastly, the Agency has violated Article 36 of the MCBA, which requires the timely and proper payment of compensation.

Violation

By failing to fulfill its obligations, the VA violated, and continues to violate, the following:

- 5 U.S.C. §5342 and 5 C.F.R. Part 532: requiring the Agency to comply with the FWS and remit pay adjustments to WG employees;
- Article 2 of the MCBA: requiring the Agency to comply with federal law and regulations;
- Article 3 of the MCBA: requiring the Agency to maintain an effective, cooperative labor-management relationship with the Union;
- Article 36 of the MCBA, requiring timely and proper payment of compensation; and
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

Remedy Requested

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

- To fully comply with its contractual obligations under Articles 2, 3, 36 of the MCBA and its statutory and regulatory obligations under 5 U.S.C. §5342 and 5 C.F.R. Part 532;
- To make-whole any AFGE bargaining unit employee affected by the Agency's failure to issue pay adjustments, including backpay, interest, and attorney's fees;
- To require responsible management officials to receive remedial training on the FWS and the Agency's associated obligations to remit pay adjustments to WG employees in a timely manner;

- To agree to any and all other remedies appropriate in this matter.

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, please contact the undersigned at AFGE Office of the General Counsel. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance.

Submitted by,



Sarah Hasan
Staff Counsel, National VA Council
AFGE, AFL-CIO
80 F Street, NW
Washington, DC 20001
Tel: 202-639-6424
Fax: 202-379-2928
hasans@afge.org

cc: Thomas McGuire, Deputy Director, OLMR
Donald Stephen, Staff Director, OLMR
Roy Ferguson, Director, Staff Operations, OLMR
Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Thomas Dargon, Jr., Supervisory Attorney, AFGE/NVAC