



NATIONAL VETERANS AFFAIRS COUNCIL

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

NATIONAL GRIEVANCE NG-10/28/22

Date: October 28, 2022

To: Denise Biaggi-Ayer
Executive Director
Office of Labor-Management Relations
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
Denise.biaggi-ayer@va.gov
Sent via electronic mail only

From: Alec Summerfield, 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 violating law and contract by unilaterally changing the delegation of union representation and reassigning VISN 23 Clinical Contact Center employees out of their current AFGE locals

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 (“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 unilaterally changing the Union’s delegation of representation and reassigning all VISN 23 Clinical Contact Center (“CCC”) employees from their current local unions to AFGE Locals 3669 and 1969. NVAC was notified of Mr. Cieluch's unlawful actions on October 3, 2022. Moreover, the Department's violations have not been remedied and constitute a continuing violation of law and contract.

Specifically, the VA violated Articles 2, 3, 47, 49, and the Duration of Agreement clause of the MCBA, a Memorandum of Understanding executed on January 26, 2022, 5 U.S.C. § 7116(a), and any and all other relevant articles, laws, regulations, and past practices not herein specified. The Union specifically reserves the right to supplement this grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

STATEMENT OF THE CASE

Background

The right to delegate representational responsibility to affiliate Locals belongs solely to AFGE. On January 26, 2022, NVAC and the Department of VA executed a Memorandum of Understanding (“MOU”) concerning VHA Directive 1006.04 and the CCC realignment. Exhibit A. This MOU establishes that, “Bargaining unit employees assigned to a Clinical Contact Center must not be removed from the local they currently are represented by.” Exhibit A at ¶ 4. At that time, impacted bargaining unit employees were represented by AFGE Locals in a variety of locations across several states, such as Nebraska, South Dakota, and Minnesota.

Nonetheless, VISN 23 CCC Director, Brian T. Cieluch, circulated a notice on September 23, 2022, informing the bargaining unit that all VISN 23 VA Health Connect employees (Nurses, Nurse Practitioners, and Pharmacists) would have the same Union point of contact, Local 3669 President Barbara Galle, effective immediately. Exhibit B. The notice further states that other VA Health Connect employees (Medical Support Assistants, Advanced Medical Support Assistances, Lead Medical Support Assistants, Program Support Assistants, Program Analysts, and Pharmacy Technicians) would be represented by Christine Schoenbechler of AFGE Local 1969. The Department does not have the authority to make this determination. Moreover, this action violates the plain language of the January 26, 2022 MOU and the Union’s right to delegate representational responsibility to its affiliate Locals.

Violations

By unilaterally reassigning all VISN 23 Clinical Contact Center (“CCC”) employees from their current local unions to AFGE Locals 3669 and 1969, the Department violated the January 2022 MOU, as well as Articles 47, 49, and the Duration of Agreement clause of the MCBA, which set forth the parties’ mid-term bargaining obligations at the national level. The Department also committed an unfair labor practice under 5 U.S.C. § 7116(a)(5).

Additionally, Article 2 of the MCBA requires that the Department comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 5 U.S.C. § 7116, the Department also violated Article 2.

Further, 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. By failing to consult with the Union before implementing changes to shifts and tour bids, the Department renounced its commitments under Article 3 of the MCBA and triggered further collective bargaining disputes.

Remedy Requested

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

- To cease and desist the reassignment of any VISN 23 CCC employee out of their current AFGE locals.
- To fully comply with its contractual obligations under the January 2022 MOU, Articles 2, 3, 47, and 49 of the MCBA, and its statutory obligations under 5 U.S.C. § 7116(a).

- To distribute an electronic notice posting signed VISN 23 CCC Director, Brian T. Cieluch, via email, concerning the Department's unilateral implementation of changes in conditions of employment in violation of the MCBA and federal law;
- To return to *status quo ante*;
- To comply with its obligations under federal law, regulations, and contract;
- 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.



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American Federation of Government Employees, AFL-CIO
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alec.summerfield@afge.org


cc: Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Thomas Dargon, Jr., Supervisory Attorney, AFGE/NVAC

EXHIBIT A

Memorandum of Understanding

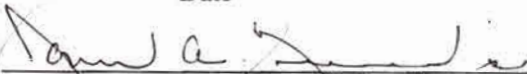
The following constitutes an agreement with the Department of Veterans Affairs, Veterans Health Administration and the American Federation of Government Employees, (AFL-CIO) National Veterans Affairs Council #53 concerning VHA Directive 1006.04 Clinical Contact Centers.

1. The purpose of the VHA Clinical Contact Centers Modernization is to provide safe, timely and seamless virtual same-day care and support via phone, video, chat and email within VA Health Connect 24 hours a day, 7 days a week.
2. Bargaining unit employee will be provided the necessary training that will allow them to fulfill the requirements of VHA Directive 1006.04 Clinical Contact Centers. Such training will be available in different forums and times to allow all affected employees to attend.
3. All training must be accomplished during duty time. No approved leave may be canceled solely due to scheduled training. No performance standards will be applied during the time an employee is in training.
4. Bargaining unit employees assigned to a Clinical Contact Centers must not be removed from the local they currently are represented by.
5. All subsequent hires who become AFGE bargaining unit employees will be assigned to the AFGE Local closest to their duty location, if they are virtual, or to the facility where they are to report if they are return to a VA workstation.
6. Staffing of Clinical Contact Centers shall be consistent with National Collective Bargaining Agreements and any local agreements in effect at the signing of this MOU.
7. Bargaining unit employees, shall not lose leave previously approved leave solely because of the implementation of VHA Directive 1006.04 and the Clinical Contact Center Modernization Guidebook.
8. NVAC reserve its right to address matters related to VHA Directive 1006.04 Clinical Contact Centers as they occur.
9. Upon their receipt, the appropriate management officials shall provide a copy of this MOU to the AFGE Local Union President.


Cathyrine A. Michael, Labor Relations Specialist
For the Department of Veterans Affairs (VA)

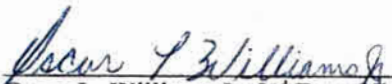
01/26/2022

Date


James Zeveski, VHA WMC Labor Consultant
For Veterans Health Administration (VHA)

1/24/2022

Date


Oscar L. Williams Jr. 2nd Exec Vice President
AFGE National Veterans Affairs Council #53

01/26/2022

Date

EXHIBIT B

From: [Cieluch, Brian T.](#)
To: [VISN 23 CCC Staff](#)
Cc: [Leis, Winifred F. \(she/her/hers\)](#); [Commerford, Danielle M.](#); [Dansby, Darleen](#); [Stolzer, Lisa K.](#); [Timmerman, Shannon](#); [Duverneau-Salifu, Moira](#)
Subject: RE: Union Points of Contact
Date: Friday, September 23, 2022 5:21:06 PM
Attachments: [image001.png](#)

Nurses, Nurse Practitioners and pharmacists, your Union rep's name is Barb Galle. Sorry I forgot to include it on the original email.

Brian

From: Cieluch, Brian T.
Sent: Friday, September 23, 2022 3:23 PM
To: VISN 23 CCC Staff <VISN23CCCStaff@va.gov>
Cc: Leis, Winifred F. (she/her/hers) <Winifred.Leis@va.gov>; Commerford, Danielle M. <Danielle.Commerford@va.gov>; Dansby, Darleen <Darleen.Dansby2@va.gov>; Stolzer, Lisa K. <Lisa.Stolzer@va.gov>; Timmerman, Shannon <Shannon.Timmerman@va.gov>; Duverneau-Salifu, Moira <Moira.Duverneau-Salifu@va.gov>
Subject: Union Points of Contact

There have been recent changes to the union points of contact (POC) for the NWI /Omaha and Black Hills/Hot Springs VA Health Connect employees. All VA Health Connect bargaining unit employees will have the same union POC effective immediately.

Should you have union related questions, please reach out to your respective union representative:

- All VA Health Connect Nursing, Nurse Practitioners, and Pharmacists should reach out to afge3669@outlook.com
- All VA Health Connect scheduling (MSA/AMSA/Lead), administrative (PSA/Program Analyst) and Pharmacy Technicians positions would reach out to Christine.Schoenbechler@afgelocal1969.com

Brian T. Cieluch RN, MS
Director, VISN 23 Clinical Contact Center/VA Health Connect
VA Midwest Health Care Network
Mobile- (612)434-0317

