



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-4/17/23

Date: April 17, 2023

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 failing to grant Special Advancement for Achievements to eligible pharmacists in the VA Northern Indiana Healthcare System

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 Department for failing to grant a Special Advancement for Achievement (“SAA”) to at least eight pharmacists at the VA Northern Indiana Health Care System (“VANIHCSS”). These pharmacists are represented by AFGE Locals 1384 and 1020. To date, VA has failed to remedy this violation, and as such, continues to violate policy, contract, and law.

Specifically, the VA violated Articles 2, 3, 16, 49, and the Duration of Agreement clause of the MCBA, VA Handbook 5017/15 Part V, 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

VA Handbook 5017/15 outlines Employee Recognition and Awards. In particular, part V of VA Handbook 5017/15 outlines Special Advancements and Cash Awards, including SAAs. VA

Handbook 5017/15 provides that Full-time, part-time, and intermittent hybrid-title 38 employees appointed under 38 U.S.C. § 7401(3) or § 7405(a)(1)(B) may be advanced within grade from one to five steps, on the basis of professional achievement above that expected for the grade level or assignment, provided that they have demonstrated a high level of performance and assumption of greater responsibility. *See* VA Handbook 5017/15 Part V at ¶6(a). The section continues that when certain Title 38 hybrid employees, in this case pharmacists, gain certain board certifications, they may receive a onetime SAA award of between a one and five step increase. *See* VA Handbook 5017/15 Part V at ¶6(b).

Handbook 5017/15 requires that Title 38 hybrid employees submit certain documentation to demonstrate that the certification at issue was attained. Once this is complete, paragraph seven of VA Handbook 5017/15 Part V outlines the Department's processing requirements. The Department is required to review the employee's initial submission within 14 calendar days. Once this is complete, the SAA request must be submitted to human resources so that it is received no later than 30 calendar days after the achievement, or 50 calendar days after the achievement when there are extenuating circumstances. On top of this timeline, MCBA Article 16 and VA Handbook 5017/15 Part V ¶6(e) require that awards are process in a timely and expeditious manner.

Nonetheless, the Department has failed to issue SAAs to eight pharmacists, even though they have been board certified for time periods ranging between several months and several years. All of these pharmacists submitted the required documentation to receive the SAA. AFGE Local 1384 and 1020 leadership have inquired to the status of these SAAs. However, they have only been told that the SAAs are pending review by the local awards panel. It should be noted that VA Handbook 5017/15 does not require that a facility awards panel review SAAs. Only a service chief, or equivalent, and the human resources department are required to process and grant an SAA.

Violations

By failing to grant an SAA for at least eight Title 38 hybrid VANIHCS pharmacists, the Department has violated its own policy, VA Handbook 5017/15 Part V, and Article 16.

By continuing to delay the issuance of SAA awards in violation the VA Handbook and the MCBA, the Department has repudiated its obligations under Article 49.

By repudiating its obligations under the MCBA while it was still in effect, the Department 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 issue the proper SAAs for at least 8 VANIHCS pharmacists while the MCBA is still under effect, 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:

- Immediately process the SAAs for board certification for the impacted VANIHCS pharmacists.
- Immediately process SAAs for board certification for any pharmacists who obtained board certification and properly submitted their SAA paperwork to the Department.
- To fully comply with its contractual obligations under Articles 2, 3, 16, and 49, and the Duration of the Agreement Clause of the MCBA, and its statutory obligations under 5 U.S.C. § 7116(a).
- To distribute an electronic notice posting signed by the VANIHCS Interim Medical Director via email, concerning the Department's repudiation of its obligations in violation of the MCBA and federal law;
- To make whole any pharmacist adversely affected by the failure to pay out the SAAs, including back pay dated to when the initial SAA paperwork was submitted, as well as interest and attorney's fees;
- 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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