



NATIONAL VETERANS AFFAIRS COUNCIL

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

NATIONAL GRIEVANCE NG-05/17/2023

Date: May 17, 2023

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

From: Ibidun Roberts of Roberts Labor Law and Consulting, L.L.C., on behalf of 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 unilateral implementation of changes to the duties of Medical Instrument Technicians.**

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” or “Master Agreement”), 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 agent on behalf of the U.S. Department of Veterans Affairs (“VA,” “Agency,” or “Department”) for its unilateral implementation of changes to the duties of Medical Instrument Technicians.

Specifically, the VA violated Articles 2, 47, and 49 of the MCBA, 5 U.S.C. §7116(a)(1) and (5) and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

STATEMENT OF THE CASE

Background

The Department has published qualification standards for Medical Instrument Technicians in VA Handbook 5005/54 Part II, Appendix G27. The Handbook specifically provides for specialties that are grouped into functional areas. Pertinently, Electrocardiograph Technician is listed under the Cardiovascular functional area, while Echocardiograph Technician is listed under the Imaging functional area. The Handbook further requires that

MITs must have an approved parenthetical title for their assigned specialty. It also describes the functions of each specialty:

(d) Echocardiography Technicians operate diagnostic equipment to graphically record the position and motion of the heart walls or the internal structure of the heart and neighboring tissue by the echo obtained from beams of ultrasonic waves directed through the chest wall. Registration is offered by Cardiovascular Credentialing International (CCI), as a Registered Cardiac Sonographer (RCS) or by the American Registry of Diagnostic Medical Sonographers (ARDMS) as a Registered Diagnostic Cardiac Sonographer (RDCS).

(e) Electrocardiograph Technicians (EKG) operate instruments used to record electrocardiograms, exercise tolerance tests, 24-48 heart monitoring and scanning, and pacemaker evaluations. Certification is offered by Cardiovascular Credentialing International (CCI) as a Certified Cardiographic Technician (CCT).

However, the Union has become aware that the Department has begun assigning MIT (EKG) bargaining unit employees the duties of the MIT (ECHO) position and vice versa. These new assignments fail to account for the qualifications (including certifications and registrations) of the bargaining unit employees or those required by VA's own policy. The Department has not provided notice to the Union or an opportunity to negotiate over this change to conditions of employment. The Union is aware of this occurring in VA Caribbean Healthcare System, VA Northern Indiana Healthcare System, and VA Western New York Healthcare System; however, this grievance includes all locations where this mixing of functions is occurring without notice to the Union and an opportunity to bargain.

Violations

By failing to provide notice and an opportunity to negotiate prior to implementing changes to conditions of employment, the Department violates and continues to violate, the following:

- Article 2 of the MCBA: requiring compliance with all federal statutes and governmentwide regulations;
- Article 47: which requires notice of changes to conditions of employment affecting more than one local to be provided to NVAC;
- Article 49 of the MCBA: which requires that the parties have due regard for the obligations imposed by 5 U.S.C. Chapter 71;
- 5 U.S.C. §7116(a)(1) and (5): requiring the Agency to consult and negotiate in good faith with the Union and making it an unfair labor practice for an agency to repudiate a negotiated agreement.; and,
- Any other law, rule, regulation, or Master Agreement provision not herein specified.

Remedies Requested

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

- To return to the *status quo ante* until the Department has fulfilled its bargaining obligations;
- To cease and desist further violations of the MCBA and the FSLMRS;
- To post a notice to all AFGE bargaining unit employees via electronic mail signed by the Under Secretary for Health;
- To make whole any employee affected by the Department's violations;
- To pay reasonable attorney's fees, if applicable; and,
- 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. Ibidun Roberts of Roberts Labor Law and Consulting, L.L.C., is the designated representative for this National Grievance. If you have any questions regarding this National Grievance, please contact her at (202) 235-5026 or iroberts@robertslaborlaw.com.

Submitted by,



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