

NATIONAL GRIEVANCE  
NG-07/13/2012

**Date:** July 13, 2012

**To:** Leslie Wiggins  
Deputy Assistant Secretary,  
Labor – Management Relations  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

**From:** Ibidun Roberts, Attorney, National Veterans Affairs Council (#53) “(NVAC)”, American Federation of Government Employees (“AFGE”), AFL-CIO

**Subject:** National Grievance in the matter of the Department of Veterans Affairs (“VA”) failure to comply with Public Law 111-163, Caregivers and Veterans Omnibus Health Services Act of 2010 (“Caregivers Act”) concerning the provision of pay cap increases and associated compensation and retroactive pay for Certified Registered Nurse Anesthetists (“CRNAs”).

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 (Union) is filing this national grievance against you and all other associated Department of Veterans Affairs (“VA”) officials and/or individuals acting as agents on behalf of the VA for violations as it relates to its failure to comply with the requirements of the Caregivers Act concerning the provision of pay cap increases and associated compensation and retroactive pay for CRNAs.

Specifically, on or about March 8, 2011 and continuously thereafter, the VA, by and through its representatives and/or agents, has:

- (1) Failed to compensate CRNAs at the current higher rate of pay based on the increased statutory pay cap;
- (2) Failed to provide retroactive pay compensation back to May 5, 2010 to CRNAs at the current higher rate of pay; and
- (3) Failed to correct employee records to reflect the higher rate of pay effective September 2010.

In doing so, the VA has violated the following provisions:

- (1) Section 601(g) and (h) of the Caregivers Act;
- (2) Section 1 of Article 36 of the MCBA; and,
- (3) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

### **STATEMENT OF THE CASE:**

#### **I. Background**

On May 5, 2010, President Obama signed into effect Public Law 111-163, the Caregivers and Veterans Omnibus Health Services Act of 2010 (“Caregivers Act”). Among the provisions of the Caregivers Act were Sections 601(g) and (h), which provided for a pay cap increase for Registered Nurses, Certified Registered Nurse Anesthetists and certain Special Rate pay schedules. The amendment to Section 7451 of Title 38 raised the maximum pay cap from \$145,700 to \$155,500. Further, it required that all adjusted salaries based on the new pay cap be retroactive to date of the signing of the bill. It provided that the new pay scale be effective on September 26, 2010. Therefore, retroactive pay would be applicable for the period of May 5, 2010 to September 26, 2010.

On the first pay period of October 9, 2010, affected CRNAs should have seen the basic pay rate on their leave and earnings statements increase to the higher rate. This has not occurred for some employees, such as the CRNAs at L.A. Johnson VA Medical Center in Clarksburg, WV. Also, the hourly rate for many employees continues to be calculated on the prior rate of pay, such as the CRNAs at Beckley VA Medical Center in Beckley, WV. Additionally, many employees have failed to receive the retroactive pay under the Caregivers Act, for example, CRNAs at West Haven VA Medical Center in West Haven, CT.

NVAC filed a National Grievance on these issues on March 23, 2011 and later withdrew the grievance amid the VA’s cooperation. However, to date, the issues have not been corrected.

#### **II. Violation**

The VA failed to comply with the Caregivers Act which required the CRNAs salary to reflect the higher pay cap and retroactive pay for the period of May 5, 2010 to September 26, 2010. Employee leave and earnings statements do not reflect the higher base rate; employees are not being paid on the higher hourly rate and are now due the retroactive pay from September 26, 2010 until the effective date of the correction.

### **III. Remedy Requested**

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

- (1) To agree to immediately comply with Sections (g) and (h) of the Caregivers Act;
- (2) To agree to make whole any and all CRNAs affected by the failure to comply, including back pay and interest;
- (3) To agree to provide any and all CRNAs with a full written accounting of monies owed and the VA's rationale for that calculation; and
- (4) To agree to any and all other remedies appropriate in this matter.

### **IV. 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) 480-0064.

Ibidun Roberts  
Attorney  
AFGE/NVAC

Cc: Alma L. Lee, President, AFGE/NVAC  
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC