



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-08/11/17

**Date:** August 11, 2017

**To:** Kimberly McLeod  
Acting Executive Director, Labor-Management Relations  
Department of Veterans Affairs  
810 Vermont Ave., NW  
Washington, D.C. 20420  
[Kimberly.mcleod@va.gov](mailto:Kimberly.mcleod@va.gov)  
*Sent via electronic mail*

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

**RE:** National Grievance against the Department of Veterans Affairs for unilaterally implementing a policy, Reduced M&IE Per Diem Rate on Extended Stays Travel, in direct contradiction to the Master Agreement.

### STATEMENT OF CHARGE

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 unilaterally implementing a policy in VBA reducing per diem rates for bargaining unit employees on extended stays for details or training, in direct contradiction to the MCBA.

Specifically, the Agency violated Articles 2, 37, and 47 of the MCBA and 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

On August 10, 2017, the Agency, by and through its agents in the Veterans Benefits Administration, disseminated a policy, "Travel Program Advisory, Reduced M&IE Per Diem Rate on Extended Stays Travel," which reduces meals and incidental expenses (M&IE) per diem rates for employees on detail assignment or training with extended stays. The policy was announced as a *fait accompli*, as it states that it is "effective immediately."



It is well established that prior to implementing a change in a condition of employment, an agency is statutorily required to provide the exclusive representative with notice of the change and an opportunity to bargain. Moreover, Article 47 of the MCBA sets forth the contractual bargaining obligations of the parties for mid-term bargaining at the national level.

Here, the policy is in direct contradiction to Article 37 and the parties' indisputable past practice. Under Article 37, the Agency is required to pay "all expenses, including tuition and travel, in connection with training required by the Department to perform the duties of an employee's current position or a position to which an employee has been assigned." Moreover, for a significant period of time, the VA has consistently paid the full per diem to bargaining unit employees for the duration of their travel and details. For example, VSRs required to attend Challenge Training in Baltimore have consistently received \$69 M&IE for the duration of the six-week training.

The Federal Travel Regulations give an agency discretion to pay a reduced per diem rate when it determines that in advance of the temporary duty that lodging and/or meal costs will be lower than the maximum per diem rate. Here, the Agency's policy impermissibly requires a blanket reduction without regard to the availability of lower rates for lodging and meal costs. And more importantly, it is contradictory to the Agency's previous exercise of its discretion to pay the full per diem as demonstrated by the parties' past practice. That past practice cannot be altered without agreement from the Union.

The "Travel Program Advisory, Reduced M&IE Per Diem Rate on Extended Stays Travel" cites various VA policy as its authority. However, under Article 2, the Master Agreement governs where any Department regulations conflict with its terms.

### **Violation**

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

- Article 2, of the MCBA: requiring the Agency to comply with all applicable federal statutes and the supremacy of the Master Agreement to Department regulations;
- Article 37, Section 3 of the MCBA: requiring the Agency to pay all training costs;
- Article 47, Sections 1 and 2 of the MCBA: providing a contractual obligation to bargain;
- Section 7116(a)(5) of the Federal Service Labor-Management Relations Statute: requiring the Agency to negotiate in good faith; 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 referenced violations, the Agency agree to the following:

- To rescind the policy in as much as it applies to bargaining unit employees;
- To make whole any bargaining unit employee impacted by unlawful implementation of this policy, including but not limited to, the difference in per diem, interest, attorney's fees;
- To post, and distribute to affected employees via electronic mail, an appropriate notice signed by the highest appropriate VBA official acknowledging the Agency's illegal conduct and affirming its obligations under the Statute; and,
- To agree to any and all other remedies appropriate in this matter.

## Time Frame and Contact

This is a National Grievance. 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 contact the undersigned at (202) 639-6424.

Submitted by,



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cc: Alma L. Lee, President, AFGE/NVAC  
Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC