



Out of Many/One Union  
AFGE NVAC/AFL-CIO

# NATIONAL VETERANS AFFAIRS COUNCIL

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

7S/00367908

## NATIONAL GRIEVANCE

NG-3/29/17

**Date:** March 29, 2017

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

**From:** Shalonda Miller, Staff Counsel, National Veterans Affairs Council (#53) (“NVAC”),  
American Federation of Government Employees, AFL-CIO (“AFGE”)

**RE:** National Grievance in the matter of the Department of Veterans Affairs for failing to comply with the Master Agreement and 5 USC § 6120 by prohibiting certain bargaining unit employees in the Consolidated Patient Account Centers from working compressed work schedules

## STATEMENT OF THE 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”), American Federation of Government Employees/National Veterans Affairs Council (“NVAC” or “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 of Veterans Affairs (“Agency”) for failing to comply with the Master Agreement and 5 USC § 6120 by prohibiting certain bargaining unit employees in the Consolidated Patient Account Centers from working compressed work schedules (“CWS”).

On February 14, 2017, Insurance Verification & Pharmacy Manager, Laura Severin, notified AFGE Local 1732 President, Amber Mack, that bargaining unit employees, specifically insurance verifiers who telework within the North Central Consolidated Patient Account Center (“NCCPAC”), would be denied requests for CWS. The reasons cited by Ms. Severin for the arbitrary denial included, among other things, that permitting such a schedule for work that is not predictable on a day-to-day basis would limit management’s ability to direct work. Subsequent to Ms. Severin’s pronouncement, managers in the Mid-Atlantic Consolidated Patient Account Center (“MACPAC”), Mid-South Consolidated Patient Account Center (“MSCPAC”) and



Central Plains Consolidated Patient Account Center (“CPCPAC”) made similar announcements; either prohibiting all teleworkers from CWS or prohibiting certain positions from doing so.

In doing this, the Agency violated federal law, Articles 2, 20 and 21 of the MCBA, and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

## STATEMENT OF THE CASE

### **Background**

On February 14, 2017, Insurance Verification & Pharmacy Manager, Laura Severin, notified AFGE Local 1732 President, Amber Mack, that bargaining unit employees, specifically insurance verifiers who telework within NCCPAC, would be denied requests for CWS. The reasons cited by Ms. Severin for the arbitrary denial included, among other things, that permitting such a schedule for work that is not predictable on a day-to-day basis would limit management’s ability to direct work. Subsequent to Ms. Severin’s pronouncement, managers in the MACPAC, MSCPAC and CPCPAC made similar announcements. For example, bargaining unit employees in the MACPAC were notified that database managers and lead billers who telework would be limited to a one-day CWS. Meanwhile, all teleworkers in the CPCPAC or MSCPAC would be denied CWS.

The Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 USC § 6120 *et seq.* (the “Act”), contemplates two basic types of alternative work schedules: (1) flexible scheduling of work hours under subchapter I; and (2) compressed work schedules, such as the 4-day week, under subchapter II. The purpose of the Act, as prescribed by Congress provides, “that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.” *Id.*

Article 2 of the MCBA requires that the Agency comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA.

Article 20 of the MCBA provides that employees on telework are performing the same duties as their counterparts working at Agency facilities. It further requires fairness and equity in establishing telework policies and prohibits employees from being disadvantaged in their performance expectations based on telework status.

Article 21 of the MCBA grants the parties the authority to establish alternative work schedules to include flexible arrival/departure times and compressed work schedules. Sample compressed work schedules include the “5-4-9” and “4-10” work weeks<sup>1</sup>. The Article requires management to approve CWS in a fair and equitable manner, and further prohibits the Agency from excluding bargaining unit employees from CWS based solely on their positions. The

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<sup>1</sup> “5-4-9” is a work schedule that includes eight workdays of nine hours each plus one workday of eight hours within the biweekly pay period. Whereas, “4-10” is a work schedule that includes eight workdays of ten hours in each biweekly pay period.

MCBA also requires careful consideration of CWS and requires that denials be based on valid operational need. In making such denials, the Agency must not only demonstrate that the contractual standard was followed, but that there was an adverse Agency impact to justify the denial of the request for CWS.

Here, the Agency failed to demonstrate any adverse impact if it granted a CPAC teleworker's request for CWS. Indeed, many telework employees in other divisions of the Agency are granted CWS, including, for example, all other bargaining unit employees in the MACPAC. The Agency's bare assertion that it would be unable to manage the work falls short of the demonstrated operational need requirement of the Act, and the provisions of the MCBA.

### **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 federal law and regulations;
- Article 20 of the MCBA: requiring the Agency to treat teleworkers the same as their counterparts working in Agency facilities;
- Article 21 of the MCBA: requiring the Agency to approve CWS in a fair and equitable manner, and prohibits the Agency from excluding bargaining unit employees from CWS based solely on their positions;
- 5 U.S.C. § 6120 *et seq.*: requiring the Agency to demonstrate an adverse agency impact prior to denying a request for CWS;
- 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 situation, the Agency agrees to the following:

- To cease and desist the arbitrary denial of CWS for CPAC teleworkers;
- To adequately and equitably consider all requests for CWS by CPAC teleworkers;
- To fully comply with its contractual obligations under Articles 2, 20 and 21 of the MCBA and its statutory obligations under 5 USC § 6120 *et seq.*; 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. If you have any questions regarding this National Grievance, please contact the undersigned.

Submitted by,



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