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**NATIONAL GRIEVANCE**  
**NG-11/18/16**

**Date:** November 18, 2016

**To:** Kimberly McLeod  
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*Sent via electronic mail only*

**From:** Thomas Dargon, Jr., 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 its failure to notify and bargain with the Union concerning the nationwide realignment of Prosthetics Service to Logistics Service.**

**STATEMENT OF CHARGES**

Pursuant to the provisions of Article 45, Section 3 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 Agency for the failure to notify and bargain with the Union concerning the nationwide realignment of Prosthetics Service to Logistics Service.

The VA, by and through its representatives and/or agents, initiated the nationwide realignment of prosthetics inventory management from Prosthetics Service to Logistics Service. Prior to the implementation of this nationwide realignment, the Agency failed to notify and bargain with the Union concerning proposed changes in working conditions for bargaining unit employees. To date, the VA has failed to remedy this violation, and as such, the VA continues to violate the MCBA and federal law.

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



## STATEMENT OF THE CASE

### **Background**

On or about March 30, 2012, the VA Office of Inspector General released report 11-00312-127, entitled “VHA Audit of Prosthetics Supply Inventory Management” (“VA-OIG Report”). In its findings, the Agency concluded that VHA needed to “strengthen VAMC management of prosthetic supply inventories to avoid spending funds on excess supplies and to minimize risks related to supply shortages.” VA-OIG Report, p.3. On October 5, 2015, in response to the findings in the VA-OIG Report, the Agency released a Memorandum from the Acting Deputy Under Secretary for Health for Operations and Management to Network Directors, entitled “Management of Prosthetics Inventory Items,” announcing the Agency’s decision to transition management of VAMC prosthetic inventory from Prosthetic Service to Logistics Service (“ADUSH Memorandum”). According to the ADUSH Memorandum, the national realignment would take fifteen (15) months to complete. ADUSH Memorandum, p.1. The Agency further stated that “[n]o realignment of non-dedicated inventory staff or functions within Prosthetics Service are contemplated by this memorandum.” ADUSH Memorandum, p.1.

Despite the Agency’s representation that inventory staff within the Prosthetics Service would not be realigned to Logistics Service, bargaining unit employees have been transferred or reassigned. For example, bargaining unit employees in AFGE Local 2092 (Ann Arbor, Michigan) have been reassigned from Prosthetics Service to Logistics Service. Local management at the Ann Arbor VAMC referenced the ADUSH Memorandum in ordering the reassignment to Logistics Services and changing the tour of duty, occupation, position description, and chain of command for affected employees.

Article 47 of the MCBA sets forth the contractual obligations of the parties for mid-term bargaining at the national level. Specifically, Section 2(A) requires that the Agency notify the NVAC President or her designee and forward proposed changes in working conditions prior to implementation. At that time, under Section 2(B)-2(G) the Union would have an opportunity to submit a demand to bargain. By refusing to notify the Union and provide an opportunity to bargain concerning the proposed changes in working conditions resulting from the initiation of the nationwide realignment of Prosthetic Service or Logistics Service, the Agency violated Article 47 of the MCBA. Further, this Agency violated its statutory obligation to “consult or negotiate in good faith” with the Union, in violation of 5 U.S.C. §7116(a)(5).

### **Violation**

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

- Article 47 of the MCBA: requiring the Agency to notify the NVAC President of proposed changes in working conditions and afford the Union an opportunity to bargain;
- 5 U.S.C. §7116(a)(5): requiring the Agency to consult and negotiate in good faith with the Union;
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

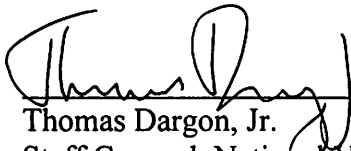
## Remedy Requested

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

- To return to the status quo ante until the Agency has properly notified NVAC and provided an opportunity to bargain the impact and implementation of any proposed changes in working conditions for affected employees;
- To fully comply with its contractual obligations under Articles 47 of the MCBA and its statutory obligations under 5 U.S.C. §7116(a)(5);
- 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 feel free to contact the undersigned at AFGE Office of the General Counsel.



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