



NATIONAL VETERANS *LMR*
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American Federation of Government Employees
AFFILIATED WITH THE AFL-CIO

January 10, 2012

DELIVERED VIA ELECTRONIC AND U.S.P.S. (Certified Mail No.: 7011-2970-0004-2336-5037)

Department of Veterans Affairs
ATTN: Leslie Wiggins
Deputy Asst. Secretary, Labor-Management Relations
810 Vermont Ave., NW
Washington, D.C. 20420

RE: National Grievance 1/10/2012

Dear Ms. Wiggins,

Please find the attached national grievance, NG 1/10/2012, concerning the Department of Veterans Affairs failure to comply with Master CBA Article 21, Sections 4(G).

Please contact me at your earliest convenience so that we may discuss this matter.

Sincerely,

Joseph Mendoza, Esq.
Staff Attorney
AFGE/NVAC

cc: Alma Lee, William Wetmore
enclosure



NATIONAL GRIEVANCE

NG-1/10/2012

Date: January 10, 2012

To: Leslie Wiggins
Deputy Assistant Secretary
Labor-Management Relations
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, D.C. 20420

From: Joseph Mendoza, Esq.
Staff Attorney
American Federation of Government Employees (AFGE)/National Veterans Affairs Council (NVAC)

Subject: National Grievance in the matter of the Department of Veterans Affairs (VA) failure to comply with the 2011 Master Agreement between the VA and AFGE (MCBA) Article 21 Section 4(G).

A. Statement of Charges

Pursuant to MCBA Article 43 Section 11, the AFGE/NVAC is filing this national grievance against you and all other associated VA officials and/or individuals acting as agents on behalf of the VA for violations as it relates to its failure to comply with MCBA Article 21 Section 4(G), by not giving bargaining unit employees (BUEs) credit for compensatory time (CT) for 26 pay periods following the pay period that such CT was earned, and/or by not paying BUEs whose CT expired after 26 pay periods following the pay period it was earned overtime pay for the expired CT.

B. Statement of the Case

Specifically, on an ongoing and continuous basis, the VA, by and through its representatives and/or agents, has engaged in the following unlawful activity:

- (1) The VA made changes to VA Handbook (VAH) 5007/27 and VAH 5011/13 that changed the length of time that BUEs were able to use their CT from 7 pay periods to 26 pay periods.
- (2) These VAH changes are reflected in MCBA Article 21 Section 4(G) which states:

“The Department shall, to the extent practicable, permit employees who earn [CT] instead of overtime to use their [CT] at the earliest time convenient to them within 26 pay periods ... Any employee who is unable to use [CT] within 26 pay periods shall receive overtime pay instead.”

- (3) Prior to the VAH changes described in paragraphs 1 and 2 above, CT balances were accurately tracked in VISTA for 7 pay periods.
- (4) When the VAH changes described in paragraphs 1 and 2 above were implemented, VISTA was not properly modified to accurately reflect CT leave balances for 26 pay periods. VISTA continued to only reflect CT leave balances for 7 pay periods. When CT "dropped off" VISTA after only 7 pay periods, VA supervisors and/or agents were supposed re-enter the CT into the VISTA system. However, in many instances, this was not done.
- (5) The VA created a software patch to VISTA which was designed to accurately reflect CT leave balances for 26 pay periods. VA supervisors and/or agents were supposed to install the CT patch into the VISTA system. However, in many instances, this was not done.
- (6) As a result, BUEs have either not been able to use their CT within 26 pay periods and/or have not received overtime pay for their CT that expired after 26 pay periods.
- (7) The VA, by and through the conduct of its supervisors and/or agents described in paragraphs B (4) and B (6) above, has effectively prevented BUEs from using their CT for 26 pay periods and/or failed to pay BUEs overtime pay when their CT expired after 26 pay periods.

C. Violations

By engaging in the conduct described in paragraphs B (4), B (5) and B (7) above, the VA has violated the following VA policies stated in its VA Handbooks, and the following MCBA provision:

- (1) VA Handbook 5007/27 Part V Chapter 2 paragraph 2(d).
- (2) VA Handbook 5011/13.
- (3) MCBA Article 21 Section 4(G).

D. Remedy Requested

The AFGE/NVAC asks that to remedy the above situation, the VA agrees to the following:

- (1) Within a reasonable time, the VA will properly install the CT patch or otherwise fix the VISTA system so that VISTA accurately reflects CT balances for 26 pay periods.
- (2) At the time the VA fixes the VISTA system as described in paragraph D (1) above, the VA will make whole all BUEs who have CT earned and unused more than 7 pay periods prior but less than 26 pay periods prior to the VISTA fix that is not reflected in the VISTA system by adding those CT leave balances to the fixed VISTA system.

- (3) The VA will make whole all BUEs who have CT earned and unused 26 pay periods or more prior to the VISTA fix by paying them overtime for those CT hours.

E. 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 (408) 500-9266.

Sincerely,



Joseph Mendoza, Esq.
AFGE/NVAC Staff Attorney

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