

NATIONAL GRIEVANCE
NG-10/4/13

Date: October 4, 2013

To: Douglas Huth
Attorney-Advisor to the 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 the August 15, 2013 Memorandum of Understanding on Extended Hours’ Clinics at the Portland/Vancouver Division of the Portland VAMC (“MOU”).

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 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 August 15, 2013 MOU.

Specifically, on or about September 17, 2013 and continuously thereafter, the VA, by and through its representatives and/or agents, has required that all nine (9) Mental Health staff be scheduled to work the extended hours’ clinic on Tuesdays at the Vancouver site.

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

- (1) Section #6 of the MOU;
- (2) Sections #1, 3, 4, 7, and 8 under the Mental Health portion of the MOU;
- (3) Sections #2-4 of the 2012 National MOU; and,
- (4) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE:

I. Background

On November 29, 2012, the NVAC and VA executed a Memorandum of Understanding concerning extended hours' clinics in the Primary Care, Mental Health, and other services ("2012 National MOU"). The 2012 MOU authorized Local bargaining on the subject. The NVAC participated in bargaining on behalf of AFGE Locals 2157 and 2583 with Portland VAMC Portland/Vancouver Division within VISN 20. On August 15, 2013, the parties executed an MOU, specifying among other terms, the locations, hours, and staffing levels of the extended hours' clinic.

Beginning on September 17, 2013, the Vancouver site has scheduled all nine (9) Mental Health staff for work in the extended hours' clinic each Tuesday.

II. Violations

- A. Term #6 of the MOU implies that each service must develop a volunteer list. Explicitly, the term requires that the list be used for coverage in the event of an unscheduled absence during the extended hours. Scheduling all the Mental Health staff for the extended hours' clinic eliminates the availability of *any* employee for coverage for unscheduled absences during extended hours; therefore, term #6 of the MOU is violated.
- B. It is well-settled law that an agreement should be interpreted so as to give all its terms full meaning and effect. In this instance, scheduling all the Mental Health staff for the extended hours' clinic renders term #3 under the Mental Health portion of the MOU, regarding volunteers, meaningless. Similarly, this scheduling does not allow any employee the opportunity to be removed from extended hours' clinic, also rendering term #4 meaningless.
- C. Scheduling all the Mental Health staff for the extended hours' clinic also renders term #7 under the Mental Health portion meaningless. There is no volunteer opportunity; therefore, there is no incentive to volunteer.
- D. Although the extended hours' clinic has not established a walk-in clinic, it has been unforeseeably utilized as an overflow clinic for patients in situations that are available during normal hours. This violates the intent of the extended hours' clinic as stated in term #8.
- E. Scheduling all the Mental Health staff for the extended hours' clinic in violation of portions of the MOU also violates similar provisions in the 2012 National MOU.

III. Remedy Requested

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

- (1) To agree to cease and desist the scheduling of all the Mental Health staff in violation of the MOU;
- (2) To agree to provide a report to the Union regarding appropriate staffing levels consistent with the MOU; and
- (3) 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

ATTACHMENT A

Memorandum of Understanding

The following constitutes an agreement between the [parties] of the Portland VA Medical Center (PVAMC) [Portland/Vancouver Division] within VISN 20, and the American Federation of Government Employees (AFGE), AFL-CIO, National VA Council #53 (NVAC), AFGE Local 2157 & AFGE Local 2583, concerning impact and implementation of the Procedures and Appropriate Arrangements for the Extended Hours for Multiple Services. Hereinafter the parties are referred to as "Management" and the "Union". The parties agree to the following:

GENERAL PROVISIONS

1. The parties agree that this MOU is in accordance with the Memorandum of Understanding between the Department of Veterans Affairs, Veterans Health Administration (VHA) and the National V.A. Council #53 AFL-CIO, concerning VHA Directive 2012-023, Extended hours Access for Veterans Requiring Primary Care including Women's Health and Mental health Services at the Department of Veterans Affairs (VA) Medical Centers and selected Community Based Outpatient Clinics.
2. Locations for extended hour's clinics will be the Portland PVAMC, the Vancouver Division, and the Hillsboro CBOC.
3. Operating hours for the extended hours clinics will be as follows:
 - a. Portland, Primary Care: Monday-Friday 7 AM-8AM and 4:30PM-5:30PM. Portland, Mental Health Wednesdays 4:30PM-6:30PM. Saturdays both Primary Care & Mental Health 8:00 AM-10:00 AM. Saturday extended hours Primary Care clinics will be staffed with employees from the East and/or West Linn locations. Weekday extended hours clinics will be staffed with Portland employees.
 - b. Vancouver Campus, Primary Care and Mental Health, Tuesdays 4:30PM- 6:30PM and Saturdays from 8:00AM-10:00AM.
 - c. Hillsboro CBOC, Primary Care and Mental Health, Tuesdays 7AM-8AM and 4:30 PM-5:30 PM. Saturdays from 8:00AM- 10:00AM.
4. For Federal Holidays falling on Fridays or Mondays, Saturday clinics will be closed.
5. There will be no Extended Hours clinics on Federal Holidays.
6. All services will maintain a voluntary recall list to provide coverage for unscheduled absences during extended hours. The list will be in order of seniority. Once an employee works an unscheduled shift, they will move to the bottom of the list. This will ensure a fair and equitable distribution of overtime.

FMS

1. Staffing for FMS service during the extended hours access clinics will be covered by existing staff on a voluntary basis. Employees will receive overtime or compensatory time at the employees' election.

LABORATORY

1. All laboratory samples collected during the extended hour's clinic will be sent to the Portland Medical Center for processing by courier. The laboratory at the extended hour's sites will not be open. Specimen collection will be performed by Primary Care Staff for patients based on clinical need.

IMAGING

1. All Veterans requiring imaging services during the extended access clinic hours will be directed to the imaging service on the Portland campus. The Vancouver imaging department will not be open during the expanded hours.

POLICE

1. The existing Police officers will be utilized to cover the extended access hours with no change to current tours of duty.

PHARMACY

1. The Portland campus pharmacy will be covered by currently scheduled weekend staff.
2. The Vancouver pharmacy will be covered by currently scheduled staff. At the Vancouver location the window will remain closed. Extended access clinic prescriptions will be filled by the pharmacist on duty.

Mental Health

1. Staffing for the mental health extended hours clinics will be in accordance with the memorandum of understanding between the National VA Council and the Department of Veterans Affairs dated November 29, 2012 concerning VHA directive 20012-023.

2. At least one (1) Psychosocial provider will be scheduled for each site during extended hours. At least one (1) prescriber will be available to cover the needs for all sites during weekend and weekday extended hours clinic. Management will adhere to minimum staffing requirements.
3. If there are not enough volunteers to cover the clinic, the least senior qualified employee will be selected. Seniority will be defined by service computation dates.
4. New employee vacancies will be announced to reflect the possible inclusion of extended access hours, giving the least senior employee the opportunity to be removed from extended hours access clinics.
5. All employees will be afforded two (2) consecutive days off.
6. Bargaining unit employees scheduled to work regularly scheduled extended hours access clinics will have their tours posted no later than fourteen (14) days in advance.
7. As an incentive to volunteer for extended hours access clinics employees will be offered, at their option, a compressed tour consisting of four (4) nine (9) hour days on Tuesday through Friday, and one (1) four hour day on Saturday.
8. The intent of extended hour clinics is not to establish a walk-in clinic or situations that could be available during normal hours.
9. Patients will not be scheduled before or after designated extended hours. The last appointment scheduled will be thirty minutes prior to clinic closure.
10. All previously scheduled leave will be honored.

Primary Care

1. Staffing for the primary care and Women's health extended hours clinics will be in accordance with the memorandum of understanding between the National VA Council and the Department of Veterans Affairs dated November 29, 2012 concerning VHA directive 2012-023.
2. Staffing for each extended hour PACT team will include One (1) physician or nurse practitioner, one (1) R.N., one (1) L.P.N or medical technician, and one M.S.A. or P.S.A.
3. Staffing of the extended hours clinic will be by volunteers, if possible.
4. If there are not enough volunteers for extended hours clinics:
 - a. Licensed Independent Practitioners (Physicians and Nurse Practitioners) will rotate to cover extended hours clinics.
 1. Extended hours will be rotated amongst qualified Physicians and Nurse Practitioners. More senior employees, if desired by the employee, will rotate

less and get first choice of extended hour weeks they would prefer to work. Seniority will be defined by service computation date.

2. For Physicians, every effort will be made to match scheduled Extended Hours clinics with a Physician's on-call rotation to minimize the amount of weekend hours worked.
- b. PACT Support staff (R.N., L.P.N., Medical Technician, M.S.A. or P.S.A.)
 1. The least senior qualified employee will be selected. Seniority will be defined by service computation date.

5. New employee vacancies will be announced to reflect the possible inclusion of extended access hours, giving the least senior employee the opportunity to be removed from extended hours access clinics.

6. All employees will be afforded two (2) consecutive days off.

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9. All previously scheduled leave will be honored.

10. Patients will not be scheduled before or after designated extended hours. The last appointment scheduled will be thirty minutes prior to clinic closure.

This MOU will sunset on 7-31-2014 and Extended Hours will be reassessed or terminated based on guidance from VA Central Office and NVAC.

Denise Lyets
Denise L. Lyets for Tim Strako
AFGE NVAC Council #53 Representative
Chief Negotiator, for AFGE (Labor)
Date: 8-7-2013

Jeffrey R. Arcaro
Jeffrey R. Arcaro
Administrative Director, Primary Care
Chief Negotiator, for Management
Date: 8-7-2013

Amanda Schroeder
Amanda Schroeder
President, AFGE Local 2157
PVAMC, for AFGE (Labor)
Date: 8/14/2013

David Greaves
David Greaves
Administrative Director, Mental Health
for Management
Date: 8-9-2013

Kristel Farris
Kristel Farris
AFGE Local 2157
PVAMC, for AFGE (Labor)
Date: 8/8/13

Amie Lenzi 8/9/2013
Amie Lenzi
Supervisor, Vancouver Pharmacy
for Management
Date: _____

Robin Lulce
Robin Lulce
President, AFGE Local 2583
PVAMC, for AFGE (Labor)
Date: 8/8/13

Renee Lange
Renee Lange
FMS
for Management
Date: 8-9-2013

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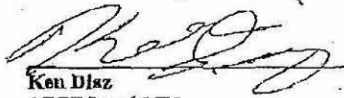
Keri Driver
AFGE Local 2157
PVAMC, for AFGE (Labor)

Date: 8/8/13



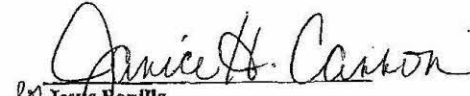
Ryan Houser
Police Services
for Management

Date: 8/9/13



Ken Diaz
AFGE Local 2583
PVAMC, for AFGE (Labor)

Date: 8/8/13



for Jesus Bonilla
HRMS
for Management


Date: 8/15/2013

ATTACHMENT B

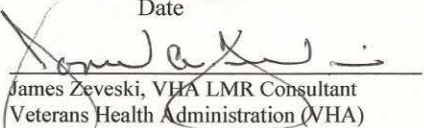
Memorandum of Understanding

The following constitutes an agreement of between the Department of Veterans Affairs, Veterans Health Administration (VHA) and the American Federation of Government Employees, (AFL-CIO) National VA Council #53 (NVAC) concerning VHA Directive 2012-023, Extended Hours Access for Veterans requiring Primary Care including Women's Health and Mental Health Services at Department of Veterans Affairs (VA) Medical Centers and selected Community Based Outpatient Clinics.

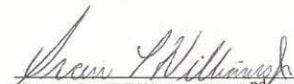
1. The national parties agree that this VHA Directive is intended for Primary Care, Women's Health Primary Care Services and General Mental Health Outpatient Services, full ranges of services.
2. Extending hours pursuant to this Directive to weekdays or weekend are to avoid walk-in clinics or situations that could be available during normal hours.
3. Bargaining unit employees in Primary Care, Women's Health Primary Care services and General Mental Health Outpatient services may volunteer to work the extended hours on the weekdays or weekends.
4. If there are too many or not enough volunteers, seniority amongst qualified employees shall be the criteria used in making the selection. This subject is appropriate for local negotiation.
5. After one (1) year of implementation, a reassessment will be completed to review utilization and to determine the best option for delivering extended hours service. This information will be made available to the NVAC and AFGE locals.
6. Bargaining unit employees working extended hours at their duty station and/or physical work location shall be provided the same security provided during normal working hours.
7. Local unions may elect to bargain further on this VHA Directive, so long as there is no conflict with the MOU or the Master Agreement.
8. Upon their receipt, the appropriate management officials shall provide a copy of this MOU to the Local Union President.


Richard L. Watkins, VA LMR Consultant
Department of Veterans Affairs (VA)

11-29-12
Date


James Zeveski, VHA LMR Consultant
Veterans Health Administration (VHA)

11/29/2012
Date


Oscar L. Williams Jr., 2nd Exec. Vice President
National VA Council #53 (NVAC)

11/29/2012
Date