



DEPARTMENT OF VETERANS AFFAIRS  
UNDER SECRETARY FOR HEALTH  
WASHINGTON DC 20420

OCT 09 2008

Roger Johnson  
Director  
VA Medical Center  
VA Connecticut Healthcare System  
950 Campbell Ave.  
West Haven, CT 06516

Karin T. Thompson, APRN, BC  
American Federation of Government Employees  
Local 2138  
950 Campbell Avenue, Bldg. 6, Room 127  
West Haven, CT 06516

Dear Mr. Johnson and Ms. Thompson:

I am responding to the issue raised in your memoranda of May 28, 2008, and June 10, 2008 respectively, concerning the grievance filed by AFGE Local 2138 regarding the reassignment of \_\_\_\_\_ RN from the Homeless Program to the Mental Health Intensive Case Management (MICM) program.

Pursuant to delegated authority, I have determined, on the basis of the enclosed decision paper, that the issue presented is a matter concerning or arising out of professional conduct or competence and is thus exempted from collective bargaining by 38 U.S.C. § 7422(b).

Sincerely yours,

*Michael J. Kussman*

Michael J. Kussman, MD, MS, MACP  
Under Secretary for Health

Enclosure

**Title 38 Decision Paper  
VAMC West Haven, CT**

On May 11, 2007, the American Federation of Government Employees (AFGE and/or union), Local 2138, at the VA Connecticut Healthcare System (VA CT HCS) filed a Step three Grievance on behalf of \_\_\_\_\_, RN alleging that his position as Homeless Veterans Service Coordinator was being abolished. (Attachment A) On May 10, 2007, the union alleged that it received notice from Charles Lee, Labor Relations Specialist, that Mr. \_\_\_\_\_ would be "...the nurse at Newington expanding the [Mental Health Intensive Case Management] MHICM program' and 'the homeless program will be done by a social worker with an addiction therapist.'" (Attachment A, ¶ 3) The union's requested remedy was "that the agency provide notice of any specific changes to allow opportunity to bargain and maintain the status quo concerning \_\_\_\_\_"

By memorandum dated May 18, 2007<sup>1</sup>, Eileen Widger, Nurse Manager, explained to Mr. Lee the need to reassign \_\_\_\_\_ to MHICM. (Attachment B) Ms. Widger explained that "\_\_\_\_\_ nursing skills are needed in the MHICM to provide nursing assessments of clients and to administer medications (including IM [intramuscular medications]) and assess response to these medications. He is also needed to provide health education to these veterans for both their psychiatric illness and any concurrent medical illness they may have. In addition[,] he is needed for intensive case management for these severely chronically ill veterans. His knowledge of community resources will also enhance the program and assist these veterans at maintaining independence in the community." (Attachment B, ¶ 2)

On May 31, 2007, Dr. Paul Mulinski, Associate Chief of Staff, responded to the Step three grievance filed by the union. (Attachment C) Dr. Mulinski explained that while management does have the right to assign RN staff to appropriate areas based on patient care needs, the assignment should be done in a clear and unambiguous manner. Dr. Mulinski further advised the union that he would direct the service to provide a clear notice to the employee regarding the matter.

On June 21, 2007, \_\_\_\_\_ received a memorandum from Ms. Widger informing him that effective July 15, 2007, he would be transferred to the staff nurse role in the MHICM program at the Newington campus. (Attachment D)

On July 2, 2007, the union submitted a demand to bargain related to the "transfer" of \_\_\_\_\_ to the MHICM program. (Attachment E)

On August 23, 2007, \_\_\_\_\_ received a memorandum from Ms. Widger directing him to attend orientation to the MHICM program. (Attachment F)

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<sup>1</sup> Management did not submit a signed copy of this Memorandum.