



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
Washington DC 20420

AUG 01 2008

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

In Reply Refer To:

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 March 11, 2008, and March 21, 2008, respectively, concerning the grievance filed by AFGE Local 2138 regarding the leave and pay status of _____ RN.

Pursuant to delegated authority, I have decided on the basis of the enclosed decision paper that that the issue underlying the union's grievance, concerning whether the VA CHS allegedly failed to comply with VA regulations and policy when it reviewed and corrected the OWCP and leave status of _____ RN, is not a matter concerning or arising out of the establishment, determination or adjustment of employee compensation under Title 38. I have also decided that the union's requested remedy, that _____, RN, receive back pay with interest, is excluded from collective bargaining as a matter or question that concerns or arises out of the establishment, determination or adjustment of employee compensation within the meaning of 38 U.S.C. § 7422(b).

Sincerely yours,

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

Enclosure

Title 38 Decision Paper
VAMC West Haven, CT
VA 08-0_

On September 21, 2007, the American Federation of Government Employees (AFGE or union), Local 2138, at the VA Connecticut Healthcare System (VA CT HCS or VAMC) filed a Step 2 Grievance on behalf of _____, RN, alleging that Nurse _____ had not received proper compensation since 2001. (Attachment A) Specifically the union claimed that Nurse _____ did not receive timely within grade increases and that the delays were related to her Worker's Compensation (OWCP) status. *Id.* ¶ 2 The union claimed that "time covered by OWCP was not counted and appears to have been viewed as [leave without pay] LWOP". *Id.* Furthermore, the union claimed that the Payroll Office corrected errors for March 2007 but failed to correct the preceding years. *Id.* ¶ 3

The union requested the following remedies:

Payroll will provide the Union with specific computation of pay due, including all monetary losses from said losses, starting March 2001 to present.

The employee will receive all compensation of back pay due with interest.

The Agency will compensate the Union for costs incurred from settlement of this case.

Id. ¶ 4

On October 4, 2007, the Chief Financial Officer (CFO) at the VA CT HCS, responded to the Step 2 grievance. (Attachment B) The CFO denied the grievance and specifically stated that he had reviewed the employee's leave and pay status and had determined that any errors that had existed had been corrected and the employee had received all compensation owed. *Id.* ¶ 3

On October 17, 2007, the union elevated the grievance to Step 3. (Attachment C) The union indicated that even though management claimed "all the errors [had] been corrected...there are no clear indications of specific corrections on the 58 pages of material received at the hearing." *Id.* ¶ 2

Management responded to the Step 3 grievance on November 13, 2007. (Attachment D) In its response, management claimed that an audit of the employee's payroll records was conducted and it was determined that the employee received all step increases and appropriate back pay. *Id.* ¶ 3 The grievance was denied.