

FAX COVER SHEET

TO	LMR Leslie Wiggins, DAS
COMPANY	Department of Veterans Affairs
FAX NUMBER	12024614075
FROM	Ibidun Roberts
DATE	2013-04-25 17:34:27 GMT
RE	Arbitrator Scheduling & Fees NG

COVER MESSAGE

Please see the attached NG concerning the VA's refusal to schedule arbitration hearings and failure to make timely payment of arbitrator's fees.

Thank you,

Ibidun

NATIONAL GRIEVANCE
NG-4/25/13

Date: April 25, 2013

To: Leslie Wiggins
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 Article 44 concerning scheduling of arbitration hearings and payment of arbitrator’s fees and expenses.**

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 associated Department of Veterans Affairs (“VA”) officials and/or individuals acting as agents on behalf of the VA for violations as it relates to its failure to comply with Article 44 concerning scheduling of arbitration hearings and payment of arbitrator’s fees and expenses.

Specifically, on an ongoing and continuing basis, the VA, by and through its representatives and/or agents, has:

- (1) Refused to schedule arbitration hearings due to the process of obligation of funds; and,
- (2) Failed to pay arbitrators in a timely manner.

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

- (1) Article 44 of the MCBA; and
- (2) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE:

I. Background

On April 4, 2013, the NVAC learned that there is a nationwide issue of arbitrators experiencing significant delays in receiving the Agency's portion of their fees and expenses. The identified reason is that the Agency's representatives have failed to initiate or made mistakes in initiating the contracting procedures to allow for timely payment.

Because the parties are contractually required to utilize the service of the Federal Mediation and Conciliation Service (FMCS) for arbitrator selection, this issue has prompted Vella Traynham, the Director of FMCS, to instruct arbitrators not to hear any cases until they receive written documentation that their funds have been obligated by the Agency (see Attachment A).

This instruction by FMCS has been interpreted by at least one Agency attorney, Camille Stroughter, to mean that the Agency must refuse to schedule the arbitration hearing until the contracting procedures are completed. (See Attachment B.)

II. Violation

The VA improperly delayed payment of arbitrator's fees and expenses, causing an interruption to the proper scheduling of arbitration hearings.

The VA has illegally caused a contractually required third-party to interfere with the requirements of the MCBA.

III. Remedy Requested

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

- (1) To agree to issue a process to begin the obligation of funds immediately after the arbitrator is selected;
- (2) To agree to cease and desist refusing to schedule a hearing due to the obligation of funds process; 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

From: Traynham Vella [mailto:vtraynham@fmcs.gov]
Sent: Thursday, April 04, 2013 1:41 PM
To: Salter, Gloria
Cc: Stroughter, Camille; Ruth Glick
Subject: RE: FMCS case# 13-01291-A Wrongful termination

I have been asked to clarify whether FMCS has instructed anyone not to schedule arbitration unless funds have been obligated by the VA.

Arbitrators nationwide have experienced serious delays in being paid by VA offices. The major reason is because the advocates for the agency have not gone through the contracting procedure correctly so that the arbitrator can be paid. As a result, arbitrators have waited up to one year after delivering the award to be paid. I have been told that the requests have even gone to Washington, DC for approval because of the mistakes in the area offices.

What I have said to arbitrators is not to hear any cases until they have paperwork showing that the advocate for the VA has obligated the funds. The case can be scheduled; however, it is the arbitrator's responsibility to make sure that the agency has properly obligated the funds before he/she begins the hearing.

According to our records, Ms. Glick is registered, however she can verify that information.

Vella M. Traynham
Director, Office of Arbitration Services
(202) 606-5111

Attachment B

From: Stroughter, Camille
Sent: Wednesday, April 03, 2013 2:23 PM
To: Ruth Glick
Cc: sadebest@aol.com; Salter, Gloria
Subject: FMCS case# 13-01291-A Wrongful termination

Dear Arbitrator Glick,

I was informed by the Agency's HR department, that the Agency can no longer schedule the arbitration until the contracting officer has obligated funding. Therefore, if you could please register in the System for Award Management (SAM) <<https://www.sam.gov/index.html>> , it would be appreciated. This needs to be done before a request can be submitted for contracting. The Agency will also need your Tax ID number.

Thank you,

Camille Stroughter

VA Attorney