



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

March 23, 2011

Leslie Wiggins
Deputy Assistant Secretary
Labor-Management Relations
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

RE: National Grievance NG-03/22/2011

Dear Ms. Wiggins,

Please find attached the national grievance concerning the Department of Veterans Affairs failure to comply with Public Law 111-163 to provide a pay cap increase and accompanying retroactive pay for Certified Registered Nurse Anesthetists.

If you have any additional questions or concerns, please contact me at the number below. Please also note that I have a new address.

Sincerely,

Ami M. Pendergrass
Staff Attorney
AFGE/NVAC

Cc: Alma Lee, Bill Wetmore
Enclosure



MAR 25 2011

NATIONAL GRIEVANCE
NG-03/22/2011

Date: March 23, 2011

To: Leslie Wiggins
Deputy Assistant Secretary,
Labor – Management Relations
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

From: Ami Pendergrass, 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 requirements of Public Law (PL) 111-163 (The Caregivers and Veterans Omnibus Health Services Act of 2009) to provide a pay cap increase and accompanying retroactive pay for Certified Registered Nurse Anesthetists (CRNA).

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 the requirements of PL 111-163 to provide a pay cap increase and accompanying retroactive pay for CRNAs.

Specifically, on or about March 8, 2011, the VA, by and through its representatives and/or agents, has:

- (1) Failed to compensate CRNAs at the current higher rate of pay based on the new statutory pay cap.
- (2) Failed to provide retroactive compensation to May 5, 2010 as required by PL 111-163 to CRNAs at the current higher rate of pay; and
- (3) Failed to correct employee records to reflect the higher rate of pay effective September 2010.

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

- (1) Public Law 111-163, Section 601(g) and (h);

- (2) Article 36, Timely and Proper Compensation;
- (3) All relevant past practices and procedures between the Union and the VA that apply to compensation; and
- (4) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE:

I. Background

President Obama signed the Caregivers and Veterans Omnibus Health Services Act of 2009 ("PL 111-163) into effect on May 5, 2010. Among the new provisions was Section 601(g) and (h) which provided for a pay cap increase from EL V to EL IV for Registered Nurses, Certified Registered Nurse Anesthetists and certain Special Rate pay schedules. The new law raised the maximum pay cap from \$145,700 to \$155,500 and required that all adjusted salaries based on the new pay cap be retroactive to the signing of the bill on May 5th. The new pay scale would be effective September 26, 2010 meaning that the retroactive pay component would be for the period of May 5, 2010 to September 26, 2010.

Effective with the first pay period in October 2010 (October 9, 2010), CRNAs who were affected by the increase saw the basic pay rate on his or her pay stub increase to the higher rate. However, the hourly rate in which compensation is calculated continued to be calculated on the prior pay rate. In addition, no retroactive pay for the May to September period was reflected. Many employees reported the discrepancies to their local payroll departments and group meetings were eventually held locally between December 2010 and January 2011. Employees were notified that problems between PAID and DFAS were the cause of the bottleneck and that no facility was authorized to make local corrections until VACO HRIS provided further notification. However, multiple facilities reported that part-time CRNAs who were affected by the new law were receiving a corrected pay check. To date, no employees have received the retroactive pay ordered by the new law.

NVAC was notified in late January 2011 of the continuous problems with CRNA pay. NVAC 3rd Executive Vice President Bill Wetmore spoke with VA representatives Cathy Rick, Alan Bernstein and Brian McVeigh concerning the ongoing issue. Mr. Wetmore was advised by representatives of the VA on several occasions throughout February that corrections to pay would be in effect in March 2011. On March 6, 2011, Mr. Wetmore received notification from Mr. Bernstein that on March 18, 2011, DFAS would have corrections to CRNA pay to reflect the new higher rate but could provide no time line for retroactive pay.

II. Violation

The VA failed to comply with PL 111-163 which required salary to reflect the higher pay cap and retroactive pay for the period of May 5, 2010 to September 26, 2010. In addition, though pay stubs are reflecting the higher base rate, employees have not been paid on the higher hourly

rate and are now due retroactive pay from September 26, 2010 until the effective date of the correction.

III. Remedy Requested

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

- (1) To agree to immediately comply with the provisions of PL 111-163, Section 601(g) and (h);
- (2) To agree to provide back pay plus interest for all monies owed due to the VA's noncompliance;
- (3) To provide each and every employee affected a full written accounting of monies owed and the calculations used to arrive at the paid amount.
- (4) Any and all remedies necessary to make the employee whole.

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) 306-3664.



Ami Pendergrass
Attorney
AFGE/NVAC

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