



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

May 2, 2011

Department of Veterans Affairs  
Labor Management Relations  
ATT: Leslie Wiggins, Deputy Assistant Secretary  
810 Vermont Ave., N.W.  
Washington, DC 20420

**RE: Filing of National Grievance, NG-4/29/2011**

Dear Ms. Wiggins,

Enclosed please find a national grievance filed regarding the Agency's failure to comply with 5 U.S.C. §5514(a)(2) concerning notice of the nature of indebtedness.

Thank you for your prompt attention to this matter. Please feel free to contact me at the number below.

Sincerely,

Ami Pendergrass  
Staff Attorney  
AFGE/NVAC

Cc: Alma Lee, William Wetmore



NATIONAL GRIEVANCE  
NG-4/29/2011

**Date:** April 29, 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 5 USC §5514(a)(2) concerning notice of the nature of indebtedness.

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 5 U.S.C. §5514(a)(2) concerning notice of the nature of indebtedness

Specifically, on or about March 15, 2011 and continuously thereafter, the VA, by and through its representatives and/or agents, has:

- (1) Failed to provide the nature of indebtedness to employees who owe debts to the VA, collected pursuant to 5 U.S.C. §5514(a)(2).

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

- (1) 5 U.S.C. §5514, specifically Section 5514 (a)(2);
- (2) VA Handbook 4800 and VA Financial Policy, Chapter 01 – Volume XII (May 2010);  
and
- (3) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

## STATEMENT OF THE CASE:

### **I. Background**

5 U.S.C. §5514 authorizes a federal agency to collect debts from employees who are indebted to the United States for monies owed during the course of employment. 5 U.S.C. § 5584 allows for those debts which arose out of “an erroneous payment of pay or allowances . . . or arising out of an erroneous payment of travel, transportation, or relocation expenses and allowances” to be waived if the collection of such debts would “be against equity and good conscience and not in the best interest of the United States.” In order for a debt to be collected under 5 U.S.C. §5514(a)(2), (unless debt is exempted under Section 5514(a)(3)), each agency must provide the employee with:

- 1) A minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;
- 2) An opportunity to inspect and copy Government records relating to the debt;
- 3) An opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and
- 4) An opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

5 U.S.C. §5514(a)(2). As stated above, in addition to an opportunity for a hearing in cases where an employee challenges the existence or amount of the debt or the terms of repayment, an employee has a right to request a waiver under Section 5584 concerning those monies that the employee acknowledges were erroneously paid but that collection of would otherwise cause a hardship.

Bargaining unit employees in multiple locations have received notifications as described in 5 U.S.C. §5514(a)(2). (See Attachment A). Though these letters provide a breakdown of payment and information concerning the process for hearings and voluntary repayment, the letters in all cases do not provide a detailed explanation as to *why* the indebtedness was created or the *nature of indebtedness*. As in the example provided in this grievance, the letter simply states “personnel changes”. The Union argues that this is not within the spirit of the statute and does not provide the true nature of the indebtedness. Practically speaking, it also creates an undue hardship on employees who are given a limited time period to decide whether to request a hearing or a waiver. Since the employee is provided no information concerning where the debt originated, it is very difficult to determine whether the debit is erroneous and should be challenged in hearing or that in fact, the employee recognizes the debt but believes collection would create a hardship.

## **II. Violation**

The VA, in its use of the types of notices as attached, is in violation of 5 U.S.C. §5514(a)(2) by not providing the nature of indebtedness.

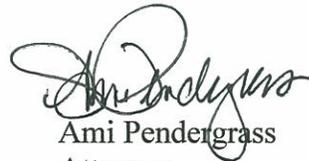
## **III. Remedy Requested**

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

- (1) To agree to modify all notifications to be used by the VA in pursuit of indebtedness under 5 U.S.C. §5514 to provide a specific and complete description of the nature of indebtedness as required by Section (a)(2) of the statute ; and
- (2) 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) 306-3664.



Ami Pendergrass  
Attorney  
AFGE/NVAC

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



DEFENSE FINANCE AND ACCOUNTING SERVICE  
Civilian Pay Indianapolis, Dept. 6200  
8899 East 56th St.  
Indianapolis, IN 46249-1900

March 12, 2011

[REDACTED]

104 JERRY AV WHITE OAKS  
MARION, IN 46953

Dear [REDACTED]

An overpayment record has been generated on your pay account for pay periods ending October 9, 2010 through February 12, 2011. The gross amount of your overpayment (including pay, all taxes, benefits and other deductions) is \$878.58. The overpayment is a result of a Personnel change(s). The attached sheet contains a breakdown of the adjustments made to your account for this overpayment.

Under the provisions of 31 CFR 901.2 and VA 38 CFR 1.911a, payment of this debt is due within 30 days from the date of this letter. Your repayment options are:

a. You may remit the repayment in the net amount of \$97.47 by check or money order payable to your VA agent cashier, along with the payment coupon at the bottom of this letter.

b. If you are unable to remit payment in full, you may submit the enclosed Voluntary Repayment Agreement to your VA local payroll office.

c. If you do not repay the debt in full or establish a voluntary repayment schedule within 30 days, we are required to collect the debt involuntarily from your pay, beginning on April 23, 2011. The maximum amount deductible under these circumstances is 15 percent of your disposable pay each pay period until the debt is repaid in full. Our estimates of your disposable pay, based on current payroll information, is \$917.87. Therefore, the maximum deduction would be \$137.68, and repayment of the principal amount of the debt would take approximately 1 pay period.

We encourage your prompt payment of this debt since interest, computed at the Treasury tax and loan rate, will be assessed from the date of this letter on any part of the debt not paid within 30 days of this letter. Also, an administrative charge to cover the cost of processing a delinquent debt will be assessed on any part of the debt not paid within 30 days, or if you do not propose a repayment plan acceptable to the Government within 30 days of this letter. Please note that administrative charge may later be charged if an unacceptable repayment plan becomes delinquent. Finally, a penalty charge of 6 percent per annum will be assessed on any portion of the debt that is delinquent for more than 90 days.

You may request copies of records we hold pertaining to your debt by contacting your local payroll office.

If you have any questions about your debt you may contact your

timekeeper for time and attendance corrections, or your personnel office for changes in personnel items or allowances. For general questions your VA local payroll office can either assist you or contact this office to obtain information relative to your needs. Your local payroll office cannot answer questions on debts more than 12 months old. Contact the DCPS payroll office Customer Service Desk, at (800) 538-9043 for action.

You may request a hearing concerning the amount, validity of the debt, or the repayment schedule. Timely filing of a request for a hearing will stay the commencement of collection proceedings until the results of the hearing have been rendered. Should you choose to exercise this option, please submit your written request within 30 days from the date of this letter to your VA local payroll office. Please include a statement and any supporting documents contesting the validity of the debt. Detailed guidance regarding hearings for erroneous payments under the authority of 5 USC 5514 are contained in the regulations of the employing agency. See VA Federal salary offset regulations (38 CFR 1.980 - 1.995).

You may also request a waiver of repayment of the debt if you acknowledge the validity of the debt, but believe you should not be required to repay it. Although collection of your debt will be initiated if receipt of your waiver request is received after 30 days from the date of this letter, any amount collected by this office that is later waived will be refunded to you. Detailed guidance regarding waiver of claims for erroneous payments under the authority of 5 USC 5584 are contained in the regulations of the employing agency. See VA waiver regulation (38 CFR 1.963a).

If you retire or resign before your debt is paid in full, 5 USC 5514 requires that your final pay (salary and lump sum payments) and most other payments due to you from the government may be applied to liquidate your debt.

Sincerely,

  
Theodore J. Harper  
Supervisor, Debt Processing Branch

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FOR PROPER CREDIT TO YOUR ACCOUNT, PLEASE DETACH AND RETURN WITH YOUR PAYMENT:

Name XXXXXXXXXXXXXXXXXXXX DB ZPV  
PayBlk 910 Code QB Debt Dates 10/09/10 through 02/12/11  
Debt Type P Creation Date 02/26/11 Sequence Number 00001  
LOA 0012000002003610160 1 8241 610 A1  
Payment Amount Enclosed \$ \_\_\_\_\_.



REPORT NO. : P6661R01  
REPORT DATE: 02/28/11 21:31  
INDIANAPOLIS PAYROLL OFFICE

DEBT WORKSHEET  
PPE 02/26/11

PAGE 1

PAY BLOCK 910

\*\*\*\*\* OVERPAYMENTS \*\*\*\*\*

PPE DATE	TYPE CODE/NAME	WAS PAID	SHOULD HAVE BEEN PAID	GROSS DEBT	DEBT REASON
10/09/10	RA REGULAR PAY	1400.80	1314.40	86.40	PERSONNEL
10/23/10	RA REGULAR PAY	1573.60	1487.20	86.40	PERSONNEL
11/06/10	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL
11/06/10	OZ OVERTIME	125.51	118.22	7.29	PERSONNEL
11/20/10	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL
12/04/10	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL
12/18/10	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL
12/18/10	OZ OVERTIME	83.67	78.81	4.86	PERSONNEL
01/01/11	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL
01/15/11	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL
01/15/11	OZ OVERTIME	41.84	39.41	2.43	PERSONNEL
01/29/11	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL
02/12/11	RA REGULAR PAY	1487.20	1400.80	86.40	PERSONNEL

TOTAL: 878.58

OVERPAYMENT DEDUCTIONS ON EARNINGS:

TYPE CODE/NAME	AMOUNT
WB MEDICARE	5.04
WD TAX, FEDERAL	49.63
WE TAX, STATE	11.26
WH FEGLI	1.80
WJ FEGLI OPT B	5.40
WM OASDI	14.62
WP FERS ALL	2.76
XV TSP SAVINGS	43.20

DEDUCTIONS TOTAL: 133.71 NET DEBT: 744.87

\*\*\*\*\* ADJUSTMENTS \*\*\*\*\*

ADJUSTMENTS APPLIED: 647.40

\*\*\*\*\* SUMMARY \*\*\*\*\*

NET DEBT:	\$744.87
LESS ADJUSTMENTS APPLIED:	\$647.40
REMAINING DEBT:	\$97.47

THIS REPORT CONTAINS INFORMATION SUBJECT TO THE PRIVACY ACT OF 1974 AS AMENDED.