

**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

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December 8, 2006

**By Facsimile and Regular Mail**

Meghan Serwin Flanz  
Associate Deputy Assistant Secretary  
for Labor-Management Relations  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

**Re: National Grievance**

This is a National Grievance filed by the American Federation of Government Employees (AFGE) in accordance with Article 42, Section 11 of the Master Agreement between the Department of Veterans Affairs (VA) and AFGE signed March 21, 1997 (hereinafter, "Master Agreement"). This National Grievance is filed against VA and any and all other associated VA officials regarding violations of 38 U.S.C. 7411, any other relevant governing laws and regulations, Master Agreement and past practice. (See Attachment 1).

Initially, AFGE points out that 38 U.S.C. § 7411 provides that the "Secretary *SHALL* reimburse any full-time board certified physician or dentist appointed under 7401 (1) of this title for expenses incurred, up to \$1,000 per year, for continuing professional education." (Emphasis added).

AFGE has been informed that many VA physicians and dentists have been denied reimbursement for various reasons, including, but not limited to, that their facility stated that there was not enough money. Additionally, after a period of time, many employees ceased asking for reimbursement because they knew the requests would be denied as previously mentioned. AFGE maintains that budgetary constraints are not a defense to the statutory obligations set forth in 38 U.S.C. § 7411, regardless of any rationale provided by the Agency in the past.

Moreover, AFGE notes that in *The Matter of Arbitration Between American Federation of Government Employees, Local 446 and Department of Veterans Affairs Medical Center, Asheville, N.C.* (April 28, 2006) (FMCS No. 05-02813), the arbitrator determined, in pertinent part:

The language of the statute (38 U.S.C. § 7411) is clear, unambiguous and mandatory. It compels reimbursement. ("The Secretary shall reimburse any full-time board-certified physician or dentist appointed under section 7401(1) of this

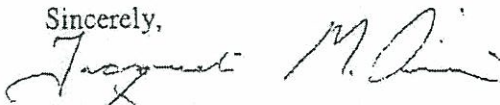
title for expenses incurred, up to \$1,000 per year, for continuing professional education.) (Emphasis in original). (Dec. at 6).

Further, in *Asheville*, the arbitrator determined that the Agency did not have discretion "on the issue of whether the Employer had discretion to reimburse eligible employees" and that "[n]o viable argument was advanced which support a finding that the statutory mandate means something other than what its clear and unambiguous language states." The Union notes that the arbitrator determined that the Agency is "obligated only to reimburse up to \$1,000.00, for incurred expenses, and that, obviously, the expenses must have been actually incurred."

In light of the above, it is AFGE's position that VA management officials should: (1) immediately cease and desist from violating the statutory mandates set forth in 38 U.S.C. § 7411; and (2) reimburse any full-time board certified physician or dentist appointed under 7401(1) of this title for expenses incurred, up to \$1,000 per year, for continuing professional education. *See Asheville, supra*. Further, it is AFGE's position that VA management officials should follow the remedy fashioned by the arbitrator in *Asheville, supra* (pp. 7-10) in determining eligibility for reimbursements for VA physicians and dentists.

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 202-639-6525.

Sincerely,



Jacqueline M. Sims  
Assistant General Counsel, AFGE-NVAC

cc: William Wetmore, Chairman, Grievance  
and Arbitration Committee, AFGE-NVAC