



DEPARTMENT OF VETERANS AFFAIRS
Jesse Brown VA Medical Center
820 South Damen Avenue
Chicago, IL 60612

Date: January 22, 2024
To: AFGE Local 0789
From: Ivan Budisin, PhD, Assistant Chief Outpatient Mental Health
Subject: Step One Grievance Response

1. This is the response to the Step One Grievance filed on January 5, 2024, regarding [REDACTED]. On January 18, 2024, a two-day extension was granted until January 22, 2024. The grievance is granted in part and denied in part. The grievance filed was based on the following as noted in your grievance submission: issues related to [REDACTED] requesting sick leave and requiring on-site presence while on Family Medical Leave Act (FMLA).
2. The grievance alleges the following violations:
 - Article 17, Section 1 (E)
 - Article 35, Sections 1 (E), (I); Section 4 (C) (E) & (H); Section 16 (D)(3) & (G)
 - VA Handbook 5011/37 Hours and Leave policy, Section 2 Policy (C)
3. The grievant requests the following remedy:
 - The Union requests the letter of counseling and its demands, be revoked immediately in writing to [REDACTED] and the Union;
 - The Union requests that regarding the rules, instructions, and directions that [REDACTED] must work on-site an alternate day of the same week if she is out sick on one of her regularly scheduled on site days that week as stated in the letter of counseling be immediately revoked and returned to status ante in writing to [REDACTED] and the Union until management has met its bargaining obligation;
 - The Union requests that going forward management provide adequate notice to the Union of any proposed changes to working conditions and provide the Union the opportunity to bargain as required by the Statute and Master Agreement;
 - The Union requests the grievant be made whole in every way, including all other applicable sections of the contract, laws, rules, or regulations, any attorney and or legal fees/expenses, and any other remedy an arbitrator deems appropriate;
4. In accordance with Article 43 of the Master Agreement, a meeting was held on January 18, 2024. In attendance were Dr. Ivan Budisin, (Management), Jennifer Cushman (AFGE) and Dr. Gina Gaston (AFGE).
5. The Union asserts that the unexpected absences and sick leave management referenced in the letter of counseling is leave which [REDACTED] is entitled to as a bargaining unit employee. The union asserts this to be a capricious restraint on [REDACTED]'s right to sick leave inclusive

2. Grievance Response - [REDACTED]

of her approved FMLA. The union states the request by management to provide "an alternative on-site presence" the same week as sick leave is requested, and that it implies the employee's health is not incapacitating and assumes she is well enough to make up sick days the same week. Also, the union emphasize the change in working conditions causes an arbitrary restraint on leave and changes the employee's work schedule on a week-to-week basis. Lastly, the union asserts that requesting sick leave during onsite days is an appropriate use of sick leave as employees are often deterred from coming into work sick as this would compromise both the health of employees and veterans who are in their care.

6. In response to the aforementioned allegations, I find the following:

- Allegation #1: Management will revoke the existing letter of counseling and issue a revised letter to [REDACTED] by removing the requirement to substitute the days employee needs to be on-site during the same week that sick leave was used, remove the paragraph about FMLA since employee was already on FMLA and inform employee to ensure patients are rescheduled in a timely manner, according to the policy referenced below.
- Allegation #2: Management will expect the employee to adhere to the VHA Directive 1230, Outpatient Scheduling Processes and Procedures (7/15/2016) requiring that any appointments cancelled by clinic must be rescheduled as close to the Patient Indicated Date (PID) as possible, in the modality (e.g., in-person, VVC, telephone) preferred by the patient.
- Allegation #3: Employee's change in working conditions has not been changed.

7. The requested remedies are granted/denied/granted with modification as follows:

- Remedy #1: Granted with modification.
- Remedy #2: Granted with modification.
- Remedy #3: Denied.

**IVAN
BUDISIN**

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IVAN BUDISIN
Date: 2024.01.22
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Ivan Budisin, PhD
Program Manager Outpatient Mental Health
Assistant Chief Outpatient Mental Health

Date

Cc: Human Resources (05)