



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Initiate National Dispute

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February 25, 2008

Via Facsimile and First Class Mail

Mr. Doug A. Tulino,
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

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Re: APWU#HQTG20086; Automatic Requirement to
Provide New FMLA Medical Certifications

Dear Mr. Tulino:

In accordance with the provisions of Article 15 of the National Agreement, the American Postal Workers Union is initiating a dispute at Step 4 of the grievance procedure over the Postal Service's practice of requiring employees to automatically provide new medical certification (recertification) for a serious health condition with the first absence in a new leave year, simply because the leave year has ended and a new year has begun.

The purpose of the medical certification is to allow employers to obtain information from a health care provider to verify that an employee or the employee's ill family member has a serious health condition under the Family And Medical Leave Act (FMLA). The medical certification also verifies the approximate date that the serious health condition commenced; it's probable duration, whether it will be necessary for the employee to take leave on an intermittent or reduced work schedule, and general information regarding the regimen of treatment. Recertification of the same serious health condition represents new medical certification that may be requested on a reasonable basis pursuant to the applicable provisions of the FMLA.

It is the APWU's position that once an employee has provided the Postal Service with an FMLA medical certification, it is then improper for the Postal Service to automatically require the employee to submit new medical certification (recertification) with the first absence in a new leave year simply because the leave year has ended and a new leave year has begun.

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That would mean that a postal employee with a chronic condition, who has had medical certifications on file with the Postal Service in the past, could then be asked to recertify that condition even when there is no actual need to question the appropriateness of the leave or its frequency and duration. Rather, the Postal Service is automatically requiring that employee to provide new certification (recertification) with the first absence in a new leave year for no reason other than that the leave year has ended and a new leave year has begun.

For example, an employee who submits medical certification or recertification for his/her chronic condition in mid-December could then be required to provide new certification (recertification) for the same serious health condition again in early January – less than 30 days since medical certification was last provided to the Postal Service, even though the Postal Service has no reason to doubt the validity of the medical certification on file. Moreover, the Postal Service could then require that same employee to submit to the second and third opinion process if the employer finds reason to doubt the validity of the new medical certification.

Pursuant to the Department of Labor's FMLA Regulations, 29 C.F.R. 825.308(a), "an employer may request recertification no more often than every 30 days and only in connection with an absence by the employee," except when circumstances in the previous certification have changed significantly or the employer receives information that casts doubt upon the employee's stated reason for the absence.

It is the APWU's position that the practice of automatically requiring employees to submit new medical certification (recertification) for a serious health condition with the first absence in a new leave year simply because the leave year has ended and a new leave year has begun is improper and inconsistent with established past practice, various agreements between the parties, and the collective bargaining agreement.

Article 15 of the collective bargaining agreement provides that within thirty (30) days after the initiation of a dispute the parties shall meet in an

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effort to define the precise issues involved, develop all necessary facts, and reach agreement. It is requested that you or your designee contact my office at 202-842-4273 to discuss this dispute at a mutually agreed upon date and time.

Sincerely,


Greg Bell, Director
Industrial Relations

APWU #: HQTG20086

Dispute Date: 2/25/2008

Case Officer: Greg Bell

Contract Article(s): 10, FMLA;

cc: File

GB/BW