

<p>1. Grievant(s): Bargaining unit members of AFGE Local 1612</p>	<p>2. Duty Station: Medical Center for Federal Prisoners Springfield, Missouri</p>
<p>3. Representative of Grievant(s): AFGE Local 1612 Council of Prisons Local 33 American Federation of Government Employees</p>	<p>4. Informal resolution attempted with (name Person): Bradford Mackey, HR</p>

5. Federal Prison System Directive, Executive Order, or Statute violated:

- Master Agreement, Article 4, Section A, B, and C - Relationship of this agreement to Bureau Policies, regulations, and practices.
- Master Agreement, Article 6, Section b(2) - Fair and Equitable Treatment
- Master Agreement, Article 6, Section q - Rights of the Employer and its employees bear a mutual responsibility to review documents related to pay and allowances in order to detect any overpayments/underpayments as soon as possible.
- Master Agreement, Article 36 Human Resource Management-People are the most valuable resource of the Federal Bureau of Prisons.
- Executive Order 11582 – Observance of holidays by Government agencies.
- Title 5, USC 6103 (b) (d) – “In Lieu of” Holiday is necessary to prevent an “adverse agency impact” by designating a different “in lieu of” holiday for full time employees under compressed work schedules.
- Time and Attendance Reporting Handbook for Department of Justice – Holiday Off: Holidays for compressed schedules.
- Title 5, USC 5596 – Back Pay Act of 1966

6. In what way were each of the above violated? Be specific.

USMCFP Medical Administration/Staffing has not been notifying medical staff, in particular, in writing, as to when their “In Lieu of” Holiday was/is scheduled. When a Medical Line Staff member, for example, is scheduled to work a 12 hour shift from 8pm to 8am (12 consecutive hours of duty) and the Federal Holiday falls on the day they are to report for duty at 8:00 pm, they are only paid for four (4) hours of Holiday pay. Medical Line Staff that are working on the actual day of the holiday or on their scheduled “in lieu of” Holiday, scheduled from the hours of 0730-2000, are rightfully being paid 12 hours of Holiday Pay.

The Medical Line Staff member is paid for four (4) hours of Holiday Pay while working a scheduled 12 hour shift. However, due to the duty hours covering a portion of two calendar days, these Medical Line Staff are not receiving Holiday Pay as all other staff members. The "In Lieu of" Holidays that are scheduled for some staff do not fall on the actual Holiday, of course. When a Medical Line Staff is scheduled for "Holiday Off" it, also, does not always fall on the actual holiday. When a 12 hour day Medical Line Staff member is off on the actual holiday, their Holiday is scheduled to be paid on the day before or the day after the actual holiday.

Why are the 12 hour Medical Line Staff, in particular, not given the same compensation for their Holidays? A 12 hour consecutive shift that is worked by one employee is a 12 hour consecutive shift worked by one employee, any way you want to look at it. Medical Line Staff that are scheduled for 12 hour nights are not being treated fairly when it comes to Holiday pay. They are, in a sense, being penalized due to the fact that their schedules in regard to Holiday Pay are treated differently than a Medical Line Staff member scheduled for 8 hour shifts or 12 hour day shifts.

For example, Medical Line Staff T. Jackson was scheduled on Annual Leave during the week of July 4, 2014. On the day of the Holiday, T. Jackson received 4 hours of holiday off on July 4th from 8:00 pm to midnight. T. Jackson's regular schedule is from 8:00 pm until 8:00 am, covering portions of two calendar days, totaling her normal 12 hour shift. However, T. Jackson was only afforded a total of 4 hours Holiday compensation for this Federal Holiday because that is what she was scheduled on the "actual day of the Holiday". However, if looking at the schedule for Medical Line Staff T. Smith, her regular schedule, of 12 hour day shift, does not include the actual day of the holiday on July 4, 2014. This was her regular scheduled day off during this pay period. T. Smith was appropriately scheduled a "in lieu of" date, falling on July 3rd from 0730-2000, in turn, receiving 12 hours of Holiday compensation. T. Smith was not scheduled on the "actual day of the Holiday" and correctly received 12 hours of Holiday Compensation.

According to OPM.GOV website, regarding the Policy involving Pay & Leave: Pay Administration: All full-time employees, including those on compressed work schedules, are entitled to an "in lieu of" holiday when a holiday falls on a non-workday. In such cases, the employee's holiday is the basic workday immediately preceding the non-work day. A basic workday for this purpose includes a day when part of the basic work requirement for an employee under a compressed/flexible work schedule is planned or scheduled to be performed.

According to the Time and Attendance Reporting Handbook For Department of Justice – Holiday Off states "Holidays for compressed and flexible schedules: For full-time compressed schedules, full time employees are entitled to "Holiday Off" for the number of hours they are normally scheduled to work (8, 9, or 10) on the Holiday". Medical Line Staff fall under the rules and regulations of a compressed work schedule. Not only does that mean that they can take their scheduled hours as "Holiday Off" on a 12 hour shift but they should also be paid 12 hours of Holiday Pay when they report for duty as assigned.

This is not how Medical Line Staff, 12 hour night shift in particular, are being compensated for their Holiday benefits. For example, Medical Line Staff T. Jackson's regular schedule for May 25, 2014 into May 26, 2014 (Memorial Day) was from 8:00 pm on May 25th until 8:00 am on May 26th. T. Jackson had to use previously earned comp time from 8:00 pm until midnight (4 hours) and then was given her Holiday compensation from midnight to 8:00 am on May 26th, only being compensated for 8 hours.

Federal Law does not require employees to be paid extra, or above normal pay, for working on a holiday. However, if the agency has agreed to provide paid holidays, as listed as one of the benefits of working at USMCFP Springfield, then everyone must be treated and paid equally.

Executive Order 11582 Section 4 (d) clearly states "When a holiday is less than a full day, proportionate credit will be given under paragraph (a), (b), or (c)". Section 4 states "The holiday for a full-time employee for whom the head of the department has established the first 40 hours of duty performed within a period of not more than six days of the administrative workweek as his basic workweek because of the impracticability of prescribing a regular schedule of definite hours of duty for each workday, shall be determined as follows: (a) If a holiday occurs on Sunday, the head of the department shall designate in advance either Sunday or Monday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday."

(b) If a holiday occurs on Saturday, the head of the department shall designate in advance either the Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday. (c). If a holiday occurs on any other day of the week, that day shall be the employee's holiday, and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on that day." The minimum Holiday hours that one should receive are eight (8) hours, respectfully, as the majority of their peers.

Executive Order 11582 Section 5 then states that "Any employee whose workday covers portions of two calendar days and who would, except for this section, ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall instead be excused from work on his entire workday which commences on any such calendar day." The same should stand for employees that physically work a shift that covers portions of two calendar days.

When 12 hour Medical Line Staff scheduled on night shift report for duty as scheduled on the actual day of the holiday, they are being paid for 4 hours of Holiday Pay from 2000-2400. The Medical Line Staff member is paid for four (4) hours of Holiday Pay while working a scheduled 12 hour shift. However, due to the duty hours covering a portion of two calendar days, these Medical Line Staff are not receiving Holiday Pay as all other staff members. The "In Lieu of" Holidays that are scheduled for some staff do not fall on the actual Holiday, of course. When a Medical Line Staff is scheduled for "Holiday Off" it does not fall on the actual holiday. When a 12 hour day Medical Line Staff member is off on the actual holiday, their Holiday is scheduled to be paid on the day before or the day after the actual holiday.

Why are the 12 hour Medical Line Staff not given the same compensation for their Holidays?

According to the Bureau of Prisons Human Resources and Staff Development, Chapter 1, Section 2 states "Holiday: Full-time employees who are not required to work on holiday receive their rate of basic pay for the applicable number of holiday hours. Employees who work a 40 hour basic workweek are generally excused from 8 hour of non-overtime work. Employees who work under a compressed work schedule are generally excused from all of the non-overtime hours they would otherwise work on the holiday. For example, if a holiday falls on a 9 or 10 hour workday, the employee's holiday is 9 or 10 hours, respectively".

From the Department of Justice Time and Attendance Reporting Handbook, dated October 12, 2012, states "For full-time compressed schedules (AWS Code 3 or 5), full-time employees are entitled to "holiday off" for the number of hours they are normally scheduled to work (8, 9, 10) on the holiday".

If our staff members that are affected with this are scheduled from 8 p.m. to midnight and they are on Annual Leave for example, they received Holiday Off Compensation for 4 hours and then, for example, are charged 8 hours of Annual Leave to cover the regular scheduled 12 hour shift.

When a staff member is working a Compressed work schedule Holiday Pay should be paid exactly like the staff member is to be compensated for Sunday Differential. Staff members should be compensated in this manner because the staff member "worked" the entire scheduled shift for the Holiday. For example the Department of Justice Time and Attendance Reporting Handbook Dated October 12, 2012, under Chapter 1, Sunday Premium states: "25% Sunday Premium is paid when a full-time or part-time employee's regularly scheduled non-overtime tour falls on Sunday, even if only 15 minutes of the daily scheduled tour runs over a Sunday, and the employee has worked. **EXAMPLE:** If a daily tour begins on Saturday night and runs through Sunday, or begins on Sunday night and runs through Monday, the ENTIRE daily tour would be reported as "Sunday Differential" (plus any applicable night differential), as long as the employee has worked. If the employee is absent from work, Sunday differential must not be reported/paid."

Refer to the OPM Policy, Alternative Work Schedules, Appendix A for "A Comparison of Flexible and Compressed Work Schedules".

The Union has attempted Informal resolution; however, informal resolution efforts have been unsuccessful. The

Union requested Management to look into this issue and as of October 23, 2014, Management has not given a response.

Examples:

- ❖ TJ: Actual day of the Holiday was Sunday, July 4, 2010. TJ was scheduled OFF. TJ was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. On Monday, July 5, 2010 TJ was paid Holiday pay wages from 8 p.m. to midnight, 4 hours. Then she was paid Regular wages from midnight to 8 a.m. Holiday was scheduled "in lieu of" on Monday, July 5, 2010.
Paid as follows: CODE 31- 4 hours CODE 66- 4 hours WORKED A 12 HOUR SHIFT
- ❖ TJ: Actual day of the Holiday was Thursday, November 11, 2010. TJ was scheduled OFF. Holiday was scheduled "in lieu of" on Tuesday, November 09, 2010 from 0730-2000.
Paid as follows: CODE 31-12 hours CODE 66-12hours
- ❖ TJ: Actual day of the Holiday was Monday, May 28, 2012. TJ was scheduled OFF. Holiday was scheduled "in lieu of" on Sunday May 27, 2012 as Holiday Off from 2400-0800.
Paid as follows: CODE 31-0 CODE 66-8
- ❖ MS: Actual day of the Holiday was Monday, February 17, 2014. MS was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. **(need to print copy of schedule)**
Paid as follows: CODE 31-4 CODE 66-4 WORKED A 12 HOUR SHIFT
- ❖ MS: Actual day of the Holiday was Monday, January 20, 2014. MS was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. **(need to print copy of schedule)**
Paid as follows: CODE 31-4 CODE 66-4 WORKED A 12 HOUR SHIFT
- ❖ MS: Actual day of the Holiday was Wednesday, January 1, 2014. MS was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. **(need to print copy of schedule)**
Paid as follows: CODE 31-4 CODE 66-4 WORKED A 12 HOUR SHIFT
- ❖ KA: Actual day of the Holiday was Monday, February 17, 2014. KA was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. On February 16, 2014 KA was paid regular wages from 8 p.m. to midnight. Then she was paid Holiday Pay from midnight to 8 a.m. on the day of the Holiday.
Paid as follows: CODE 31-8 CODE 66-8 WORKED A 12 HOUR SHIFT
- ❖ KA: Actual day of the Holiday was Monday, May 26, 2014. Scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. On May 25, 2014 KA was paid regular wages from 8 p.m. to midnight. Then she was paid Holiday Pay from midnight to 8 a.m. on the day of the Holiday.
Paid as follows: CODE 31-8 CODE 66-8 WORKED A 12 HOUR SHIFT
- ❖ DP: Actual day of the Holiday was Monday, November 28, 2013. DP was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. On November 27, 2013 DP was paid regular wages from 8 p.m. to midnight. Then she was paid Holiday Pay from midnight to 8 a.m. on the day of the Holiday. DP then returned to work on November 28, 2013 for a regular 12 hour shift from 8 a.m. to 8 p.m. and received Holiday Pay from 8 p.m. to midnight for an additional 4 hours of Holiday Pay. DP was paid regular wages for the remainder of her 12 hour shift, from midnight to 8 a.m.
Paid as follows: CODE 31- 12 CODE 66- 12 WORKED A 12 HOUR SHIFT
- ❖ DP: Actual day of the Holiday was on Wednesday, December 25, 2013. DP was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. On December 25, 2013 DP was paid Holiday pay wages from 8 p.m. to midnight, 4 hours. Then she was paid Regular wages from midnight to 8 a.m.
Paid as follows: CODE 31- 4 CODE 66- 4 WORKED A 12 HOUR SHIFT
- ❖ DP: Actual day of the Holiday was on Wednesday, January 1, 2014. DP was scheduled for a shift that goes from one calendar day into the next for a continuous 12 hour shift from 8 p.m. to 8 a.m. On January 1, 2014 DP was paid Holiday pay wages from 8 p.m. to midnight, 4 hours. Then she was paid Regular wages from midnight to 8 a.m.
Paid as follows: CODE 31- 4 CODE 66- 4 WORKED A 12 HOUR SHIFT
- ❖ An example of how many staff affected by not being compensated for the correct number of Holiday Hours is on New Year's Day of 2010 falling on a Friday. The staff members that were scheduled to work 12 hour night shifts that weekend were scheduled for 32-36 hours from Friday night at 8 p.m. through Monday morning at 8 a.m. There were an estimated 9 staff members scheduled that particular weekend and received a total of 4 hours of Holiday Compensation from 8 p.m. to midnight on 01/01/2010. While all other staff working in the institution and/or all the staff that received compensation for their Holiday hours off, received a minimum of 8 hours of Holiday Compensation. However, the staff members that were physically inside the institution and/or scheduled on this particular day/weekend received only 4 hours of Holiday.
- ❖ Another example, on Friday July 4th, 2014, staff members that were scheduled to work regular scheduled 12 hour night shifts through the weekend. All were scheduled for 32-36 hours from Friday night at 8 p.m. through Monday morning at 8 a.m. There were an estimated 10 staff members scheduled that particular weekend and received a total of 4 hours of Holiday Pay from 8 p.m. to midnight on 07/14/2014. There again, these staff members were physically in the institution working or scheduled on this day only received 4 hours of Holiday Compensation.

7. Date(s) of violation(s):

Brought to the attention of the Union on or about 09/15/14. Past, Present, and continuing violation

8. Request remedy (i.e., what you want done):

1. To make ALL Line Staff members and other similarly situated Employees, past and present, whole as per Title 5, USC 5596 (Back Pay Act of 1966).
2. The agency to cease and desist, and follow all statutes, laws, regulations, and all rules.
3. Compensation for any damages incurred during these violations including but not limited to monetary damages.
4. Any remedies deemed necessary by a third party or arbitrator.
5. Agency to pay for all costs incurred for violations: including but not limited to attorney fees.

9. Person with whom filed:

Linda Sanders

10. Title:

Warden

11. Signature of recipient:

12. Date signed:

I hereby certify that efforts at informal resolution have been unsuccessful.

13. Signature of Grievant(s):

14. Signature of Representative:

Record Copy - Agency; Copy - Union Local; Copy - Council of Prison Locals; Copy - Grievant

WDP

Prescribed by P3713

This form replaces BP-176(37) Dated October 1984.