

**U.S. Office of Personnel Management
Compensation Claim Decision
Under section 3702 of title 31, United States Code**

Claimant: [name]

Organization: [agency component]
Department of Veterans Affairs
[city & State]

Claim: Back pay for time spent in Nurse
Manager position

Agency decision: N/A

OPM decision: Denied; Lack of jurisdiction

OPM file number: 13-0045

/s/ Judith A. Davis for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Merit System Accountability and Compliance

9/30/13

Date

The claimant is currently employed in a Registered Nurse, Admissions/Discharge Coordinator, VN-0610-11, position with the Department of Veterans Affairs. In her April 24, 2013, letter received by the U.S. Office of Personnel Management (OPM) on May 28, 2013, the claimant "is requesting to receive compensation as a Supervisor/Manager for the duration that [she] was the Bed Management Coordinator [March 13, 2011 through November 8, 2012]." We received additional information from her employing agency on June 20, 2013. For the reasons discussed herein, the claim is denied.

Section 7121(a)(1) of title 5, U. S. C., directs that except as provided elsewhere in the statute, the grievance procedures in a negotiated collective bargaining agreement (CBA) shall be the exclusive administrative remedy for resolving matters that fall within the coverage of the CBA. The Court of Appeals for the Federal Circuit has found the plain language of 5 U.S.C. § 7121(a)(1) to be clear, and as such, limits the administrative resolution of a Federal employee's grievance to the negotiated procedures set forth in the CBA. *Mudge v. United States*, 308 F.3d 1220, 1228 (Fed. Cir. 2002). Further, the Federal Circuit also found that all matters not specifically excluded from the grievance process by the CBA fall within the coverage of the CBA. *Id. at 1231*. As such, OPM cannot assert jurisdiction over the compensation or leave claims of Federal employees who are or were subject to a negotiated grievance procedure (NGP) under a CBA between the employee's agency and labor union for any time during the claim period, unless the matter is or was specifically excluded from the CBA's NGP. *See* 5 CFR 178.101(b).

The CBA between the Department of Veterans Affairs and the American Federation of Government Employees, covering the claimant during the period of the claim, does not specifically exclude compensation issues from the NGP (Article 43). Therefore, this claim must be construed as covered by the NGP the claimant was subject to during the claim period, and OPM has no jurisdiction to adjudicate this claim.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the claimant's right to bring an action in an appropriate United States court.