



August 5, 2025

Ms. Christina Ballance
Executive Director, National Labor Relations Office
U. S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: National Grievance and Unfair Labor Practice Charge — Failure to Abide by Awards Procedures in Violation of Article 27 and 5 U.S.C. § 7116(a)(1), (5) and (8).

Dear Ms. Ballance:

Pursuant to Article 45, Section 9 of the 2023 National Agreement (NA) between the Department of Health and Human Services (HHS or agency) and the National Treasury Employees Union (NTEU), NTEU hereby files this national grievance and unfair labor practice charge against HHS. As set forth more fully below, HHS has violated Article 27 of the 2023 NA and the Federal Service Labor-Management Relations Statute (the Statute) by excluding and withholding 2024 performance awards from employees who were voluntarily or involuntarily separated from FDA. This grievance is filed on behalf of all impacted bargaining unit employees and on behalf of NTEU's institutional rights.

On July 9, 2025, the Food and Drug Administration (FDA) sent an email to all employees titled "Calendar Year 2024 Performance Management Appraisal Program (PMAP) Award Guidance." The email provided an overview and a process for the FDA Performance Management Appraisal Program Awards (Performance Awards), and employees were notified that "employees with a 2024 performance rating of 3.1 or higher must select their PMAP award preference (cash, time-off, or combination) within three business days of this guidance's email issuance via the ePMAP Tool (NLT COB Friday, July 11th)." Within the same email, FDA also stated that "only employees who are not scheduled to separate, via voluntary or involuntary program, will be eligible to receive a PMAP Award." FDA asserted that the guidance it circulated is applicable to all FDA non-executive employees, including Title 21, Title 38, and Title 42.

Article 27 Section 1 of the parties' 2023 NA states in relevant part that "all awards programs of the Employer shall be administered in a fair and equitable manner, and in accordance with applicable law, regulation, policy, and this Agreement." Article 27 also states that "awards will be based on merit" and that "all employees who meet eligibility requirements may receive awards, including QSIs." Article 27 Section 2 covers the Performance Awards Program and states that "performance awards will be based upon the employee's overall final

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rating of record.” Article 27 Section 2 further covers what performance award payments employees can seek to receive “employees whose performance earns them the highest summary rating **will** receive a performance award payment up to 5% of salary, employees whose performance results in a summary rating level above the fully successful **will** receive a performance award up to 4% of salary, and employees whose performance results in a successful summary rating may be eligible for a performance award of up to 3.0% of salary.”

In unilaterally denying awards to a group of employees in contradiction of the parties’ 2023 NA, HHS is in violation of Article 27. The agency’s actions also violate the process outlined for awards distribution by not applying the awards criteria equitably. These actions also amount to a ULP under 5 U.S.C. § 7116(a)(1) and (5), for the agency’s failure to comply with a binding contract term.

To remedy these violations, NTEU requests that HHS immediately: (i) cease and desist from violating Article 27 of the 2023 NA and committing an unfair labor practice under the statute; (ii) return to the status quo ante; (iii) remit payment of all overdue performance awards to affected bargaining unit employees; (iv) post a notice in a prominent place at each agency facility, signed by the Secretary of HHS, stating that HHS has committed an unfair labor practice and thus violated the Statute by its actions as alleged herein; (v) pay NTEU reasonable attorney fees in accordance with the Back Pay Act; and (vi) grant to impacted bargaining unit employees and NTEU any other appropriate remedies that are authorized by law, rule and regulation.

NTEU requests that HHS schedule a meeting pursuant to Article 45, Section 9.B.2 of the NA within fourteen (14) calendar days of this filing. NTEU’s representative in this matter will be National Negotiator Rocio Topete. Please contact her at rocio.topete@nteu.org to schedule a meeting.

Sincerely,



Doreen P. Greenwald
National President

cc: Rocio Topete, NTEU National Negotiator
Ryan Soon, NTEU Deputy Director of Negotiations
Ken Moffett, Jr., NTEU Director of Negotiations