

**SSA GENERAL COMMITTEE**  
**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

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*Representing over 40,000 SSA employees across the nation, Puerto Rico and Pacific Islands*

**SENT VIA ELECTRONIC MAIL**

**DATE:** December 23, 2025

**TO:** Eddie Taylor

Associate Commissioner  
Office of Labor-Management and Employee Relations  
Social Security Administration  
6401 Security Blvd.  
Baltimore, MD 21228  
Eddie.Taylor@ssa.gov

**FROM:** Jennifer Ramirez-Serrano

General Committee Health and Safety Chairperson

**RE:** Grievance - Agency Failure to Correct EAP Contractor Misinformation and Ensure Contract Compliance with Article 35, Section 5

**GRIEVANCE STATEMENT**

Pursuant to Article 24, Section 10 of the 2019 SSA-AFGE National Agreement, the Union hereby files this grievance on behalf of all affected bargaining unit employees. The Agency has violated Article 35, Section 5 of the National Agreement by:

1. Failing to ensure that its contracted Employee Assistance Program (EAP) providers comply with the contractual requirement to provide up to six (6) sessions per employee;
2. Failing to take effective corrective action after becoming aware that EAP counselors are systematically providing false information to employees regarding their EAP entitlements;
3. Failing to notify all bargaining unit employees that they are entitled to up to six sessions, not one session as EAP counselors have been stating; and
4. Continuing to pay EAP contractors based on a contract that provides for up to six sessions while allowing those contractors to limit employees to one session and misrepresent their benefits.

**STATEMENT OF FACTS**

1. Article 35, Section 5 of the SSA-AFGE National Agreement explicitly states:  
"Employees are on official duty when they meet with the EAP provided they inform their

supervisors of their appointment with the EAP counselor. These meetings with EAP counselors may entail up to 6 sessions with the actual number being based on sound clinical judgment as determined by the counselor."

2. The Agency maintains a contractual relationship with EAP service provider(s) and compensates them based on terms that include the provision of up to six (6) sessions per employee, consistent with Article 35, Section 5.
3. Beginning on or about **July 2025**, the Union became aware through employee reports across the national that EAP counselors employed by the Agency's contracted provider(s) have been informing bargaining unit employees that they are entitled to only one (1) session, not six (6) sessions.
4. Multiple bargaining unit employees have contacted the Union to report that when they accessed EAP services, the EAP counselors explicitly told them they could only receive one session. These employees include but are not limited to:
  - Employees who were informed during their initial EAP contact
  - Employees who requested follow-up sessions and were told they had exhausted their benefits
5. As a result of this false information, employees have:
  - Believed they were not entitled to additional counseling sessions;
  - Foregone necessary follow-up counseling services;
  - Sought and paid for outside counseling believing their EAP benefits were exhausted;
  - Failed to receive the full scope of services to which they are contractually entitled.
6. On or about **July 16, 2025**, the Union notified the Agency of this issue and requested corrective action.
7. The Agency acknowledged that the information being provided by EAP counselors is incorrect. Specifically, it was confirmed that:
  - Employees are entitled to up to six (6) sessions as per Article 35, Section 5 and the EAP contract;
  - The actual number of sessions should be determined by sound clinical judgment;
  - EAP counselors should not be limiting employees to one session.
8. Despite acknowledging the problem, the Agency has failed to:
  - Issue a general notification to all bargaining unit employees correcting the misinformation;
  - Advise employees who were previously told they were limited to one session that additional sessions are available;
  - Demand that the EAP contractor cease providing false information to employees;
  - Implement effective oversight to ensure contractor compliance;
  - Take contractual enforcement action against the EAP provider for breach of contract terms;
  - Provide any timeline for corrective action.

9. The misinformation continues to the present day. EAP counselors are still telling employees they are entitled to only one session, despite the Agency's acknowledgment that this information is incorrect.
10. This is a continuing violation. Each day that passes without corrective action results in:
  - Additional employees being misinformed about their EAP benefits;
  - Continued deprivation of contractually guaranteed services;
  - Ongoing breach of the EAP contract by the provider;
  - Continued harm to employees who need but are not receiving EAP services.

## **ARTICLES AND SECTIONS VIOLATED**

### **Article 35, Section 5 - Access to Services**

Article 35, Section 5 guarantees employees access to "up to 6 sessions with the actual number being based on sound clinical judgment as determined by the counselor." The Agency's failure to ensure that EAP contractors comply with this provision, and its failure to correct ongoing misinformation about employees' entitlements, constitutes a direct violation of Article 35, Section 5.

The Agency cannot satisfy its obligations under Article 35 by merely contracting EAP services. The Agency must also ensure that:

- Contractors perform according to contract terms;
- Employees receive the benefits guaranteed by the National Agreement;
- False or misleading information is promptly corrected;
- Effective oversight prevents future violations.

### **Article 35, Section 1 - Policy Statement**

Article 35, Section 1 states that "the Employer and the Union will work together to encourage troubled employees whose work performance is adversely affected to pursue counseling help or treatment." The Agency's failure to ensure employees are accurately informed of their full EAP entitlements undermines this joint policy commitment and discourages employees from pursuing the help they need.

### **Article 3, Section 2(a) - Employee Rights**

The Agency's failure to ensure employees receive the benefits negotiated in the National Agreement interferes with employees' rights to fair and equitable treatment in all aspects of personnel management.

### **Agency's Duty to Manage Contracts**

The Agency has a fundamental obligation to manage its contracts effectively and ensure vendors perform according to contract terms. The Agency cannot shield itself from responsibility by claiming the misinformation comes from a contractor. When the Agency becomes aware that a contractor is violating contract terms and depriving employees of negotiated benefits, the Agency has an affirmative duty to take corrective action.

## **HARM TO EMPLOYEES**

The Agency's failure to take corrective action has caused substantial and ongoing harm:

### **1. Deprivation of Contractually Guaranteed Services**

Employees who relied on the false information from EAP counselors were deprived of up to five additional counseling sessions to which they were entitled. For employees dealing with:

- Work-related stress
- Personal or family issues
- Substance abuse concerns
- Mental health challenges

The difference between one session and six sessions can be the difference between successfully addressing a problem and allowing it to worsen.

### **2. Financial Harm**

Employees who believed they had exhausted their EAP benefits after one session may have:

- Paid out-of-pocket for private counseling
- Incurred co-pays and deductibles through their health insurance
- Foregone needed services due to cost concerns

These are costs employees should not have incurred given their entitlement to up to six EAP sessions.

### **3. Work Performance Consequences**

EAP services are designed to help employees address issues before they negatively impact work performance, attendance, or conduct. Employees limited to one session may have:

- Experienced continued performance issues
- Faced disciplinary action
- Failed to resolve problems that adequate EAP services could have addressed

### **4. Undermining the Purpose of EAP**

Article 35, Section 1 recognizes that employees should "constructively address these problems through participation in counseling and treatment where appropriate." One session is rarely

sufficient for meaningful counseling. The contractor's systematic limitation to one session nullifies the purpose of the EAP program.

### **5. Chilling Effect**

Employees who learn that EAP "only provides one session" may not access EAP at all, believing one session will be insufficient to address their needs.

## **THE AGENCY'S INACTION IS A VIOLATION**

Assuming, arguendo, that the misinformation comes from the contractor, the Agency is still in violation of negotiated Contract provisions.

### **1. Agency Knowledge**

Once the Agency became aware that the contractor was providing false information and violating contract terms, the Agency had an affirmative duty to take corrective action. Knowledge without action equals violation.

### **2. Agency Responsibility**

The Agency cannot contract away its obligations under the National Agreement. Article 35, Section 5 guarantees employees up to six sessions. Whether services are provided directly by the Agency or through a contractor, the Agency remains responsible for ensuring employees receive what the Agreement guarantees.

### **3. Agency Control**

The Agency has multiple mechanisms to ensure contractor compliance:

- Issuing corrective directives to the contractor
- Notifying employees of correct information
- Implementing oversight and monitoring
- Exercising contractual remedies for non-performance
- Terminating the contract if necessary

The Agency's failure to exercise any of these mechanisms while continuing to pay the contractor constitutes a violation.

### **4. Continuing Nature**

This is not a one-time error that was quickly corrected. The Agency has known about this problem since at least **July 2025** and has failed to take effective action. New employees continue to be misinformed each day.

## **REQUESTED REMEDY**

To make whole the affected employees and prevent future violations, the Union requests the following specific remedies:

### **1. IMMEDIATE NOTIFICATION TO EMPLOYEES (Within 5 Business Days)**

The Agency shall issue an official communication to all bargaining unit employees via:

- Agency-wide email
- Intranet posting
- Posted notices in all facilities
- Any other official communication channels

The notification shall:

- Acknowledge that EAP counselors have been providing incorrect information about the number of sessions available;
- Clearly state that employees are entitled to up to six (6) sessions with the actual number determined by sound clinical judgment per Article 35, Section 5;
- Advise any employee who was previously told they were limited to one session that they may contact EAP to schedule additional sessions;
- Provide clear contact information for accessing EAP services;
- State that employees are on official duty for these sessions when they inform their supervisor.

A copy of this notification shall be provided to the Union **for input** before distribution.

### **2. CONTRACTOR COMPLIANCE ENFORCEMENT (Within 3 Business Days)**

The Agency shall:

- Issue a formal written directive to all EAP contractors requiring immediate cessation of any statements limiting employees to one session;
- Require the contractor to provide written confirmation of corrective action within 48 hours;
- Require the contractor to provide remedial training to all EAP counselors who work with SSA employees within 10 business days;
- Provide the Union with copies of all communications with the contractor.

### **3. RETROACTIVE RELIEF**

The Agency shall:

- Allow any employee who was told they were limited to one session to access the full complement of up to six sessions without regard to when their initial EAP contact occurred;
- Provide official duty time for all additional sessions in accordance with Article 35, Section 5;
- For any employee who incurred out-of-pocket expenses for private counseling after being told their EAP benefits were exhausted as well as mental health related courses that could have been provided by EAP) including mileage, travel/parking expenses, provide a process to submit receipts for reimbursement, with the Union's involvement in the review

process. Reimbursement will be issued within 30 days of settlement or grievance decision.

- Employees who had to take their leave (sick, annual, lwop) to receive outside counseling services as well as any leave taken after denial of additional EAP sessions due to sickness or mental distress will be restored by the agency within 30 days of settlement or grievance decision.
- The Agency reimburse the Union for all expenses that resulted from addressing this issue including but not limited to; attorney fees, travel costs for experts and witnesses.

#### **4. CONTRACT OVERSIGHT AND ENFORCEMENT**

Within 30 days, the Agency shall:

- Conduct a comprehensive review of the EAP contract to identify any other areas of non-compliance;
- Document the contractor's failure to perform and issue appropriate contractual notices (cure letter, corrective action notice, etc.);
- Implement enhanced oversight procedures including quarterly reviews of contractor performance;
- Designate a specific management official responsible for EAP contract oversight;
- Establish a mechanism for employees and the Union to report EAP-related concerns;

#### **5. UNION NOTIFICATION AND INVOLVEMENT**

The Agency shall:

- Provide the Union with copies of all notifications sent to employees;
- Provide copies of all communications with the EAP contractor regarding this matter;
- Provide quarterly reports for the next 12 months on EAP utilization statistics, including number of sessions per employee;
- Include the Union in any discussions regarding EAP services, contract modifications, or contractor changes;
- Consult with the Union before implementing any changes to EAP services or policies.

#### **6. TRAINING FOR MANAGEMENT**

Within 45 days, the Agency shall:

- Provide mandatory training to HR staff and management officials on their responsibilities regarding EAP oversight;
- Ensure managers understand employees' rights under Article 35;
- Establish clear procedures for addressing contractor non-compliance;
- Document all training provided.

#### **7. POSTING AND ACCOUNTABILITY**

- Post this grievance decision (upon resolution) on employee bulletin boards and/or readily-visible locations where all employees can see it such as break room or common areas and the intranet for 60 days;
- Include information about Article 35, Section 5 in new employee onboarding materials.

## **8. CEASE AND DESIST**

The Agency shall immediately cease and desist from:

- Allowing EAP contractors to provide false information about employees' entitlements;
- Failing to take appropriate corrective action when contractor non-compliance is identified;
- Paying contractors for services the contractors are not properly providing;
- Any other conduct that deprives employees of their Article 35 rights.

## **9. MAKE WHOLE RELIEF**

Any and all other remedies necessary to make affected employees whole, including but not limited to compensation for demonstrable harm resulting from the Agency's failure to ensure contractor compliance.

Any and all other remedies deemed necessary and proper by the union or arbitrator to make the Bargaining unit employees whole.

## **GRIEVABILITY AND ARBITRABILITY**

### **Grievability**

This grievance is grievable under Article 24, Section 2 as:

- A complaint by the Union concerning a matter relating to the employment of bargaining unit employees (Section 2.B);
- A complaint concerning the effect or interpretation, or a claim of breach, of the collective bargaining agreement (Section 2.C.1), specifically Article 35, Section 5.

This matter does not fall within any of the exclusions listed in Article 24, Section 2.D.

### **Arbitrability**

Should this matter remain unresolved, it is arbitrable under Article 25. The grievance involves interpretation and application of the National Agreement and presents no barrier to arbitration. The Union reserves the right to raise any additional grievability or arbitrability issues should Management challenge the grievability or arbitrability of this matter.

## **TIMELINESS**

### **Continuing Violation**

This grievance is timely under Article 24, Section 7.A as it concerns a continuing practice and condition. The Agency's failure to correct the EAP misinformation and ensure contractor

compliance is an ongoing violation that persists each day the Agency fails to take effective action. Each day:

- Additional employees are misinformed about their benefits;
- Employees are deprived of services to which they are entitled;
- The contractor continues to breach contract terms;
- The Agency fails to fulfill its Article 35 obligations.

Under established precedent, a continuing violation may be grieved at any time because the violation is not a single past act but an ongoing condition that harms employees daily.

### **MEETING REQUEST**

Pursuant to Article 24, Section 10, the Union requests a meeting to discuss this grievance. The Union is available to meet within ten (10) working days after receipt of this grievance. Alternatively, if Management is prepared to grant the requested remedies in full, the Union is willing to waive the meeting in favor of a prompt written decision and/or signed settlement agreement.

### **CONCLUSION**

This grievance involves a straightforward contract violation. Article 35, Section 5 guarantees employees up to six EAP sessions. The Agency's contractor is telling employees they get only one session. The Agency acknowledges this information is incorrect but has failed to take corrective action.

The facts are not in dispute:

- ✓ Employees are entitled to up to six sessions (Agency agrees)
- ✓ EAP counselors are saying only one session (Agency agrees)
- ✓ This information is incorrect (Agency agrees)
- ✓ The Agency has not corrected the misinformation (Undisputed)
- ✓ The Agency has not notified employees of their full entitlements (Undisputed)
- ✓ The Agency has not demanded contractor compliance (Undisputed)

The only question is whether the Agency can acknowledge a violation of the Agreement and then refuse to take corrective action. The answer is no.

The Agency cannot hide behind the contractor. When the Agency contracts out services, it remains responsible for ensuring those services comply with the National Agreement. Once the Agency became aware the contractor was providing false information and depriving employees of their negotiated benefits, The Agency had an obligation to act.

The Agency's continued inaction is particularly troubling because:

1. **Employees are being harmed** - they are not receiving services they need and are entitled to receive;
2. **The harm is ongoing** - new employees are misinformed every day;
3. **The solution is simple** - notify employees and direct the contractor to comply;
4. **Management acknowledges the problem** - yet refuses to solve it.

This case is fundamentally about the Agency's obligation to ensure that employees receive the benefits negotiated in the National Agreement. When the Agency pays a contractor to provide services but allows that contractor to deny those services and misinform employees, the Agency violates the Agreement.

The Union requests prompt resolution of this grievance and full implementation of the requested remedies to make whole the employees harmed by this violation and prevent its continuation.

Respectfully submitted,

Jennifer Ramirez-Serrano  
Health and Safety Chairperson  
AFGE SSA General Committee

Cc: Rich Couture, AFGE GC Spokesperson  
Jessica LaPointe, AFGE C220 President  
BarriSue Bryant  
Shelley Washington  
Beverly Parks  
Earl Tucker

**PROOF OF SERVICE**

This grievance was served on December 23<sup>rd</sup> 2025 via electronic mail to OLMER Associate Commissioner, Eddie Taylor (Eddie.Taylor@ssa.gov)

\_\_\_\_Jennifer Ramirez-Serrano\_\_\_\_  
Name

A handwritten signature in blue ink, appearing to read 'JRS', is written above a horizontal line.

Signature

\_\_12/23/2025\_\_\_\_  
Date