

This article pertains to RNs, Nurse Anesthetists, PAs, Licensed Practical Nurses (LPNs), Licensed Vocational Nurses (LVNs), Pharmacists, Licensed Physical Therapists, Occupational Therapists, Respiratory Therapists and over two dozen other specialized health care employees who work or worked on weekends and/or after 6 p.m. from September, 1995 to now.

IF YOU WORKED REGULARLY ON WEEKENDS OR AFTER 6 P.M. FOR THE VHA AS A RN, NURSE ANESTHETIST, PA, OR OTHER SPECIALIZED HEALTH CARE OCCUPATION AT ANYTIME SINCE SEPTEMBER, 1995 UNTIL NOW, A FEDERAL COURT HAS RULED THAT YOU ARE ELIGIBLE TO RECEIVE “SUBSTANTIAL” BACK PAY AND INTEREST.

BUT YOU MUST FILE YOUR CLAIM ONLINE AT WWW.VABACKPAY.COM AS SOON AS POSSIBLE OR YOU COULD LOSE YOUR RIGHT TO COLLECT FROM THIS CASE FOREVER

**By Ira M. Lechner, Esq.,
Court Appointed Class Counsel for VA employees**

Registered Nurses, Nurse Anesthetists, PAs, Licensed Practical Nurses (LPNs), Licensed Vocational Nurses (LVNs), Pharmacists, Licensed Physical Therapists, Occupational Therapists, Respiratory Therapists and over two dozen other specialized health care employees employed by the VHA who work (or worked) on weekends, or at night after 6 p.m., have won an important case challenging the VA's pay practices whenever these employees took annual leave, sick leave, military training leave, or jury duty leave. The United States Court of Federal Claims ruled that the VA should have paid these employees the customary weekend premium pay of 25%, or night premium pay of 10%, whenever they used paid leave instead of working their weekend or evening shifts anytime from September 5, 1995 until now. The case has now reached its final stages after having been litigated in the Federal court for over seven years.

Court appointed Class Counsel Ira M. Lechner estimates that approximately 150,000 current and former employees of the VA are potentially eligible to receive back pay and interest in this case of between \$1,000 and \$10,000 each. There are several different groups of current, retired, or separated VA employees who are potentially eligible to receive varying amounts of substantial back pay and interest back pay—registered nurses (RNs), nurse anesthetists, PAs, and over two dozen other job classifications of VA employees who still work, or used to work, in skilled health care occupations.

The Federal Court in Washington, D.C. decided that the VA violated federal pay statutes by not including premium pay when employees used “paid leave” and therefore, these employees are eligible for “substantial” back pay and interest.

The case would affect current and former VA health care employees who are still working at the VA, or who worked at the VA, on Saturdays or at night after 6 p.m. between September, 1995 and the present time. The Court also decided that the VA should have paid Sunday premium pay of 25% to RNs, NAs, PAs, and other job classifications whenever they used paid leave instead of working on their regular Sunday shifts between September 5, 1995 and October 1, 1997.

The Court decided to allow the lawsuit to continue as a class action on behalf of all of these employees who were affected by the VA's violations of federal pay laws. Employees who want to receive back pay and interest must file a claim form to become eligible to receive the back pay and interest. You can file your claim form instantly and easily on the internet by going to www.VAbackpay.com. The website is now activated. You will be able to follow the simple directions and your claim will be filed safely and securely with the independent Class Action Administrator who was appointed by the Federal court to handle all the claim forms.

It takes less than 5 minutes to file your claim on the website. The Court established a security procedure that is designed to protect your privacy.

PLEASE GO TO THE WEBSITE NOW— WWW.VABACKPAY.COM ---TO FILE YOUR CLAIM SAFELY AND SECURELY. THE EARLIER YOU FILE YOUR CLAIM, THE EARLIER YOU CAN RECEIVE YOUR MONEY.

But, unless you file your claim form promptly before the deadline, you will be prohibited from collecting any back pay and interest from this case forever according to the Court's rules. **You have to file an official claim form to receive back pay and interest from this case.** After all the claim forms are filed, the Court will decide how much back pay and interest will be owed to each of those eligible employees or former employees who filed an official claim form. The case is entitled Quimby v. United States, No. 02-101C. The Court specifically ordered interested persons not to call the Clerk's office because all the necessary explanations and instructions are contained on the website www.VAbackpay.com.

Class Counsel will ask the Court to award attorney fees and expenses for litigating this case for so many years without any compensation whatsoever. **You will not have to pay Attorney fees and expenses.** Here's how it works: The Court has already ruled that the Government is liable for back pay. Attorney fees and expenses would either be deducted from any money obtained for the Class from the Government, or paid separately by the Government. **You will NOT pay Class Counsel directly any fees and costs; all fees and expenses will be paid out of the money obtained from the Government** However, the Court has stated in the Official Notice that if you choose to hire your own lawyer, you will personally have to pay your own lawyer.

HERE IS A LIST OF THE JOB CLASSIFICATIONS OF EMPLOYEES WHO ARE ELIGIBLE TO FILE CLAIMS:

Registered Nurses (RN)

Nurse Anesthetists (NA)

Physician Assistants (PA)

Expanded Function Dental Auxiliary (EFDA)

Certified or Registered Respiratory Therapists

Licensed Physical Therapists

Licensed Practical Nurses (LPN)

Licensed Vocational Nurses (LVN)

Pharmacists

Occupational Therapists

Graduate Nurse Technicians

Audiologists

Speech Pathologists

Audiologist-Speech Pathologists

Biomedical Engineers

Clinical Engineers

Blind Rehabilitation Specialists

Blind Rehabilitation Outpatient Specialists

Dental Hygienists

Dental Assistants

Dietitians

Kinesiotherapists

Marriage and/or Family Therapists

Medical Instrument Technicians

Medical Records Administrator or Specialists

Medical Records Technicians

Medical or Dental Technologists

Nuclear Medicine Technologists

Occupational Therapy Assistants

Corrective Therapists

Orthotist-Prosthetists

Pharmacy Technicians

Physical Therapy Assistants

Prosthetic Representatives

Psychologists

Certified Respiratory Therapy Techs

Diagnostic Radiologic Technicians

Therapeutic Radiologic Technicians

Social Workers

EDITOR; Here is an additional explanation of how this case works if there is room to include this in the article:

The law provides that when a federal employee uses any form of “leave with pay” such as annual leave, sick leave, jury duty leave, and/or military reserve leave, the employees must be paid the same amount of money as they would have earned if you had remained at work instead of using paid leave. That is why it is called annual leave or sick leave or military training leave “with pay,” or “without loss of pay”. The law protects a federal employee from losing any money because they used annual leave or sick leave or any other form of paid

leave. The law also provides how that payment must be calculated. But the VA has violated the law for over 16 years, and it is still violating the law despite the fact that the Court has ruled in favor of the VA's employees.

For example, if VA employees used 80 hours, or 24 hours (or even 8 hours), of annual leave or sick leave during a normal 2-week pay period, the law requires that their pay during that 2-week pay period would have to equal the same pay that they would have received if they had remained at their regularly scheduled work for the entire 2-week period instead of taking any paid leave. Normally, this simply would mean that if they were regularly scheduled to work only day shifts from Monday through Friday each week and they used some hours or days of annual leave or sick leave during the week, the pay during the pay period should equal their basic pay for that period. When they used leave, these employees who work only day shifts on weekdays would be paid just as if they had worked all of the 80 hours in the pay period (less applicable taxes and withholding).

But, what if they regularly worked on Saturday every week, or even every other Saturday, during that 2-week pay period? If they had remained at work on their regular schedule instead of taking annual leave or sick leave, they would have received the benefit of 25% premium pay for working once, or twice, on Saturday during the 2-week pay period. If the VA had obeyed the law when they took paid leave on those Saturdays, their pay should have included the higher rate of 25% Saturday premium pay because they were regularly scheduled to work on one or both Saturdays during the pay period.

The Court found that VA should have paid them, in this example, the same amount of pay as they would have received if they worked their regular schedule—including the 25% premium for Saturday shifts. The VA did not apply the rule correctly. That was the official ruling of the Judge in the United States Court of Federal Claims. This class action lawsuit attempts to correct that error. The Court ruled that the VA must pay the correct amount of back pay and interest to those employees who were “underpaid” in order to remedy its errors of computation and payment. These back pay and interest payments cover all eligible employees and former employees of the VA since September 5, 1995 until the present time. It also covers night premium pay of 10% when certain health care employees took paid leave instead of working regular shifts that included work after 6 p.m. and before 6 a.m. between 1995 and the present time, as well as Sunday shifts between 1995 and 1997.

The back pay and interest could be “substantial” depending on the number of years the employee worked on Saturdays, Sundays, or after 6 p.m., his or her pay grade, and the number of hours these employees took “paid leave” instead of working these shifts.