

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
: MADISON EMPLOYEES LOCAL 60, :
WISCONSIN COUNCIL OF COUNTY : Case LXXXIX
MUNICIPAL EMPLOYEES, : No. 29422 ME-2095
COUNCIL 40, AFSCME, AFL-CIO : Decision No. 19772-A
: :
Involving Certain Employees of :
: :
CITY OF MADISON :
: :

Appearances:

Mr. Darold O. Lowe, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 5 Odana Court, Madison, Wisconsin 53719, appearing on behalf of the Petitioner.
Mr. Timothy C. Jeffery, Director of Labor Relations, City of Madison, City-County Building, 210 Monona Avenue, Madison, Wisconsin 53709, appearing on behalf of the City of Madison.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER CLARIFYING BARGAINING UNIT

Madison Employees Local 60, WCCME, Council 40, AFSCME, having on January 17, 1983, filed a petition requesting the Commission to clarify an existing certified bargaining unit of professional employees employed in the City's Social Services Division of the Department of Human Services, to include six positions, Day Care Program Specialist, Operations Manager, Social Worker Supervisor, Medical Coordinator, LTE Social Worker and Hourly Social Worker; and hearing in the matter having been held on February 11, 1983, at Madison, Wisconsin before Examiner Robert M. McCormick, a member of the Commission's staff; and a transcript of said proceedings having been prepared and received on February 16, 1983; and both parties having waived the filing of briefs and making of oral arguments, and the Commission having considered the evidence and the positions of the parties, and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusions of Law and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

1. That City of Madison, hereinafter referred to as the City, is a municipal employer having its offices in the City-County Building, 210 Monona Avenue, Madison, Wisconsin 53709.

2. That Madison Employees Local 60, WCCME, Council 40, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization having its offices at 5 Odana Court, Madison, Wisconsin 53719.

3. That on September 24, 1982, the Union was certified as the exclusive bargaining representative for certain employees in a collective bargaining unit consisting of all regular full-time and regular part-time professional employees of the Social Services Division of the Department of Human Services (or any successor division or department providing the same function) of the City, but excluding supervisory, managerial, executive, craft and confidential employees and all other employees of the City of Madison.

4. That at outset of hearing the Union amended its petition to delete Social Worker Supervisor and General Assistance Medical Coordinator, contending that the latter position was essentially a Registered Nurse position more properly in the Public Health Department unit represented by United Professionals For Public Health Care; that the City, contrary to the position of the Union, asserted that the duties of the General Assistance Medical Coordinator had always been performed in the division of Social Services and never in the Public Health Department, so that said position should remain in the instant bargaining unit, even though the present occupant is a Registered Nurse as required by the City's prerequisites-for-hire as part of the training and experience for said position.

5. That in course of hearing the parties stipulated that the Operations Manager was a supervisor and properly excluded from the unit.

6. That in the course of hearing the parties stipulated that the position LTE Social Worker and Social Worker-Hourly were professional social workers properly within the Commission's certification (19772, 7/82) "all regular full-time and regular part-time professional employees"; that the record evidence indicates that employees occupying said classifications perform duties similar to those performed by other professionals heretofore included in the aforesaid bargaining unit; that the parties further stipulated at hearing, which stipulation is supported by the record evidence, that the position Day Care Program Specialist is a position outside of the Department of Human Services, currently attached to the office of the Mayor, and that therefore, the position should be properly excluded from the certified unit limited to employees of the Social Services Division of the Department of Human Services.

7. That at least from December 1978 to September 1, 1983, the incumbent in the position Social Worker III (Medical Specialist) E. David Gamble, supervised and coordinated activities related to medical assistance to general assistance recipients, including coordinating medical intake procedures, responsibility for all emergency medical notices filed against the City, coordinating medical services for clients through various medical providers such as V. A. Hospital and University Hospital and negotiation of contracts and inter-agency agreements with other publicly funded medical providers, such as Secs. 51.42 and 51.437 - Boards and DVR of State Health and Social Services; that the City required a Master's Degree in social work and two years of professional social work experience, or the equivalency in a four-year Bachelor's Degree and three years of case work with some exposure to medical assistance; 1/ that Social Worker III (Medical Specialist) was the predecessor position to General Assistance Medical Coordinator with duties assigned exclusively in the Department of Human Services.

8. That, on or near June 1, 1982, a Public Health Nurse from the Public Health Department assisted Gamble with the Medical Specialist's duties and said RN remained on temporary assignment performing Gamble's duties after Gamble left in September 1982; that on January 1, the City retitled the Social Worker III position to General Assistance Medical Coordinator and hired an outsider, a Registered Nurse, Kay Jimenez; that the new prerequisites for the position require an RN or Public Health Nurse, with administrative experience in dealing with review of client requests for medical and dental care; that Jimenez's duties were substantially similar to those of Gamble as a Medical Specialist, in dealing with medical providers, inter-agency and state public health agencies; that in addition Jimenez functions as a liaison between Divisions of Public Health and Social Services; that the current Medical Coordinator performs no duties related to Public Health and that the presence of a Public Health Nurse in Social Services prior to January 1, 1983, was a transitory assignment until Gamble's successor was in place in the new-titled position, Medical Coordinator.

9. That the incumbent in the position General Assistance Medical Coordinator performs her duties exclusively in Social Services Division; that a substantial portion of said position's duties were performed by her predecessor, then classified as Social Worker III (Medical Specialist), also a position within Social Services; that there is no interchange of assignments of personnel between Public Health Department and Social Services Division to carry out the functions of the Medical Coordinator; that though the incumbent Medical Coordinator is a registered nurse, the position has a community of interest with the remaining positions in the Social Services Division.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

1/ In course of hearing the Examiner took administrative notice of the exhibits submitted at the initial hearing leading to the certification of this professional unit (#19772, hearing date May 6, 1982, Jt. Exhibits #3C and #6).

CONCLUSIONS OF LAW

1. That employes occupying the classifications of LTE - Social Workers and Social Workers-Hourly are professional employes performing similar duties to those performed by the professional employes currently in the bargaining unit set forth in Finding 3 above; and that said positions are properly included in said bargaining unit.

2. That the employee occupying the position of Operations Manager is a supervisor and properly excluded from the bargaining unit set forth in Finding 3 above; that the position of Day Care Program Specialist is one outside of the certified bargaining unit identified in Finding 3, above, and therefore, is properly excluded from the bargaining unit described in Finding 3.

3. That the person occupying the position General Assistance Medical Coordinator, though a registered nurse by professional training and accreditation, is nonetheless performing professional duties exclusively within the Social Services Division of the Department of Human Services and therefore has no community of interest with public health nurses and public health professionals employed in the Department of Public Health; and that, therefore, said position is properly included within the certified bargaining unit described in Finding 3, above, as a successor position to the previously covered unit-position, Social Worker III Medical Specialist.

On the basis of the above and foregoing Findings of Fact, Conclusions of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT 2/


That the positions of LTE Social Workers, Social Worker-Hourly and General Assistance Medical Coordinator shall be, and hereby are, unconditionally included in the unit consisting of all regular full-time and regular part-time professional employes of the Social Services Division of the Department of Human Services (or any successor division or department providing the same function) but excluding supervisory, managerial, executive, craft and confidential employes.

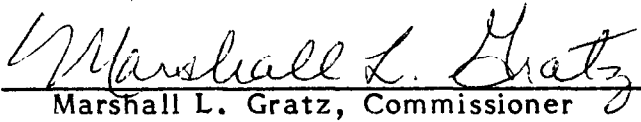
Given under our hands and seal at the City of
Madison, Wisconsin this 23rd day of May, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary V. Covelli, Commissioner


Marshall L. Gratz, Commissioner

- 2/ Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.12(1) and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.12 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the

(Footnote 2 continued on Page 4)

(Footnote 2 continued)

grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.12, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER CLARIFYING BARGAINING UNIT

At outset of hearing, the City and the Union stipulated that the Operations Manager position was supervisory and that Day Care Program Specialist was not a position within the instant departmental unit but was one attached to the office of Mayor. The Commission is satisfied that both positions are properly excluded from the instant bargaining unit based upon the reasons recited in the Findings. At outset of hearing the Union amended its petition so as to delete the classification, Social Worker Supervisor, from those positions it sought to be included in the existing bargaining unit.

The Union also amended its petition to request the Commission to exclude the General Assistance Medical Coordinator and asked the Commission to place said classification occupied by a Registered Nurse in the City's Department of Public Health, which unit includes public health nurses and other health care professionals currently represented by United Professionals For Quality Health Care. 3/ The City opposes removing the Medical Coordinator from the unit of employees of the Social Services Division, Department of Human Services.

The record evidence indicates that the occupant of the Medical Coordinator position performs substantially the same duties as previously performed by the Social Worker III (Medical Specialist). The only evidentiary factors which can be said to approach a community of interest with the public health professionals in the Department of Public Health is the fact that the current occupant of the Medical Coordinator position is a registered nurse, and that for a time prior to January 1, 1983, a public health nurse from Public Health was temporarily assigned to the Social Services Division to work alongside the Medical Specialist in order to process the medical assistance client entries and billings and eligibility determinations for the services of medical providers. The bargaining unit to which the instant Union (and United Professionals in a companion unit clarification case) seek to place the Medical Coordinator, namely the Public Health unit, reflects a certified bargaining unit which consists of:

all regular full-time and regular part-time professional employees classified as public health nurse, graduate nurse, health educator, and communicable disease specialist in the employ of the Madison Department of Public Health"
(Emphasis supplied)

The Commission concludes that the duties of General Assistance Medical Coordinator are not performed in the public health department but on the contrary, are exclusively performed in Social Services Division of the Department of Human Services. The description of the United Professionals' bargaining unit does not cover positions outside of the Department of Public Health. The fact that the Medical Coordinator is a registered nurse by training and accreditation, does not operate to place the position outside of the instant unit represented by Local 60, AFSCME.

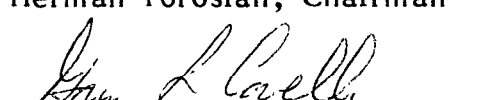
On the basis of the foregoing record evidence and conclusions, the Commission finds that the position General Assistance Medical Coordinator should be included in the professional unit covering positions in the Social Services Division of the Department of Human Services.

Dated at Madison, Wisconsin this 23rd day of May, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner