

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE TEACHERS'
EDUCATION ASSOCIATION

Requesting a Declaratory Ruling
Pursuant to Sections 111.70(4)(b)
and 227.06, Wis. Stats., Involving a
Dispute Between Said Petitioner and

MILWAUKEE BOARD OF
SCHOOL DIRECTORS

Case 163
No. 34305 DR(M)-361
Decision No. 22804

Appearances:

Mr. Stuart S. Mukamal, Assistant City Attorney, City of Milwaukee,
800 City Hall, Milwaukee, Wisconsin 53202-3551.

Perry, First Reiher, Lerner and Quindel, S.C, Attorneys at Law, by
Mr. Richard Perry, 1219 North Cass Street, Milwaukee, Wisconsin
53202.

ORDER GRANTING MOTION TO WITHDRAW STIPULATION

Milwaukee Teachers Education Association, herein MTEA, having on December 20, 1984, filed a petition with the Wisconsin Employment Relations Commission seeking a declaratory ruling pursuant to Sec. 111.70(4)(b), Stats., to ascertain inter alia whether a proposal specifying the identity of health maintenance organizations providing health care benefits to employees would be a mandatory or permissive subject of bargaining during negotiations for a successor agreement between the MTEA and the Milwaukee Board of Directors covering certain employees of the Board; and during an April 17, 1985, hearing on said petition, the Board, through its representative, having stated on the record that an MTEA proposal which required the Board to make available to employees health maintenance organization coverage from specified providers was a mandatory subject of bargaining in "the opinion of the District and in view of current law--state of the law"; and the Board having on June 6, 1985, filed a Motion to Withdraw Stipulation wherein it sought to alter its position inter alia as to the mandatory or permissive nature of the MTEA's health maintenance proposal referenced above; and the MTEA having opposed said Motion; and the parties having submitted written argument the last of which was received June 24, 1985; and the Commission having considered the matter and concluded that the Motion should be granted;

NOW, THEREFORE, it is

ORDERED

That the Motion to Withdraw Stipulation is hereby granted.

Given under our hands and seal at the City of
Madison, Wisconsin this 22nd day of July, 1985.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Herman Torosian, Chairman

Marshall L. Gratz, Commissioner

Danae Davis Gordon, Commissioner

MILWAUKEE PUBLIC SCHOOLS

MEMORANDUM ACCOMPANYING ORDER GRANTING
MOTION TO WITHDRAW STIPULATION

The Board's Motion succinctly states the basis upon which the Board believes it is entitled to withdraw from a stipulation which expressed the parties' mutual position that the MTEA's health maintenance organization identity proposal was a mandatory subject of bargaining.

1. That the stipulation noted above was expressly conditioned upon the Commission's decision in Madison Metropolitan School District, (22129, 22130) 11/21/84 wherein the Commission ruled that the selection of the identity of a "standard" or "basic" health insurance carrier constituted a mandatory subject of bargaining.

2. That the Commission's decision constituted the prevailing state of the law at the time that the afore-mentioned stipulation was entered into.

3. That said stipulation was expressly conditioned upon the fact that the Commission's decision as noted above did constitute the then-effective state of the law.

4. That the Circuit Court for Dane County, the Honorable Daniel R. Moeser presiding, overturned the Commission's decision in Madison Metropolitan School District, supra, by virtue of its Memorandum Decision in Madison Metropolitan School District v. Wisconsin Employment Relations Commission, Case No. 84-CV-6920, May 28, 1985, wherein Judge Moeser ruled that the selection of the identity of a health insurance carrier constituted a permissive, non-mandatory subject of bargaining.

5. That Judge Moeser's decision overturning the Commission's decision in Madison Metropolitan School District rendered the expressed basis upon which the MBSD stipulation of April 17, 1985 was premised a nullity, and therefore voided said stipulation.

The Commission has appealed the Circuit Court's reversal of Madison Schools. Our decision herein is not intended and should not be understood as a recognition that the Circuit Judge's opinion establishes a controlling precedent for the instant case or any other than that at bar in Madison Schools. Nevertheless, we are persuaded that one reasonable interpretation of the phrase "current law--state of the law" is as an expression of the Board's willingness to agree to treat MTEA's HMO proposal as mandatory given the status of the Madison Schools case itself, the lead case on the subject area involved. Because the status of the Madison Schools case itself changed with the Circuit Court reversal, we conclude that it is appropriate to allow the Board to alter its position with respect to said proposal.

Dated at Madison, Wisconsin this 22nd day of July, 1985.


DANIEL R. MOESER, JUDGE