

BEFORE THE ARBITRATOR

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In the Matter of the Arbitration between

**SHEBOYGAN COUNTY PROFESSIONAL EMPLOYEES  
LOCAL 437, AFSCME, AFL-CIO**

and

**SHEBOYGAN COUNTY**

Case 317  
No. 56061  
MA-10159

*(Mileage Reimbursement Grievance)*

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Appearances:

**Ms. Helen Isferding**, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 1207 Main Avenue, Sheboygan, Wisconsin 53083, appearing on behalf of the Union.

**Ms. Louella Conway**, Personnel Director, Sheboygan County, Sheboygan County Courthouse, 615 North Sixth Street, Sheboygan, Wisconsin 53081, appearing on behalf of the County.

**ARBITRATION AWARD**

The Sheboygan County Professional Employees Local 437, AFSCME, AFL-CIO (“the Union,”) and Sheboygan County (“the County,”) are parties to a collective bargaining agreement which provides for final and binding arbitration of disputes arising thereunder. On February 3, 1998, the Union filed a request with the Wisconsin Employment Relations Commission that it designate a member of its staff to hear and decide a grievance concerning the interpretation and application of the terms of the agreement relating to reimbursement rates for miles driven on official business in private autos. After extensive efforts at mediation failed, the Commission appointed Stuart D. Levitan to serve as the impartial arbitrator. The parties stipulated to a record which was submitted on May 21, 1999. The County filed written argument on June 7; the Union filed written arguments on June 9 and June 22, 1999. The record closed on June 25, 1999 when the County waived its right to file a reply brief.

**ISSUE**

The Union states the issue as:

“Did the employer violate the contract when it refused to pay employees the higher rate of twenty-nine cents per mile for mileage? If so, what is the remedy?

The County states the issue as:

“Did the employer violate the contract when it required the members of the bargaining unit to provide evidence of insurance coverage limits, in order to receive the higher reimbursement as passed by the County Board, and if so, what is the appropriate remedy?

I frame the issue as follows:

Did the county violate the collective bargaining agreement when it required members of the bargaining unit to provide evidence of insurance coverage in order to receive a reimbursement rate of twenty-nine cents per mile? If so, what is the remedy?

**RELEVANT CONTRACTUAL LANGUAGE**

**Article 4 – Management Rights Reserved**

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Sheboygan County may adopt reasonable and binding rules and amend the same from time to time and the Union agrees to cooperate in the enforcement thereof, and the herein paragraph shall be subject to the provision of the grievance procedure.

**Article 23 – Expense Reimbursement**

Social Workers of the Sheboygan County Health and Human Services Department – Division of Social Services shall be reimbursed for all necessary expenses incurred in the performance of their respective duties subject to the conditions and limitations set forth.

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2. Mileage: Mileage shall be reimbursed at the rate of twenty-four cents (\$.24) per mile as actually incurred in the performance of official duties. The date, destination and purpose of each trip shall be itemized with full detailed explanations.

In the event the County Board raises the mileage rate or grants an increased mileage reimbursement rate in any other labor contract involving county employees, such increases shall be paid effective as per said Board resolution or contract.

8. Amendments: It is agreed by the employer that in the event the County Board of Supervisors modifies the reimbursement and expense policy of Sheboygan County for its employees or any portion thereof, said action of the Sheboygan County Board shall be incorporated within the provisions of this contract and put into effect as of the effective date of the said County Board action.

### **BACKGROUND**

This grievance concerns the County's insistence that bargaining unit members provide proof of auto insurance in order to receive a higher level of reimbursement for miles driven in personal cars on official business.

In the late summer of 1992, the County began to consider the issues of insurance and liability for employees driving personal cars on county business. According to the August 20, 1992 minutes of the Loss Prevention subcommittee on Vehicle Liability and Safety:

There is concern regarding the insurance and drivers records for all employees using their own vehicles for County business. We are going to have to do drivers record and insurance reviews on employees using their own vehicles for County business. Mat (Assistant Personnel Director Mat Brown) will develop a procedure for recommendation.

At its meeting of September 23, 1992, the subcommittee adopted a recommendation for a two-tiered system of mileage reimbursements – a basic rate of \$.26 and a rate of \$.28 per mile for employees providing the County with evidence of insurance in the recommended amount. The subcommittee wrote to the Loss Prevention Committee as follows:

The Vehicle Liability and Safety sub-committee is recommending to the Loss Prevention Committee that the mileage reimbursement amount be established at two (2) different levels. For example, if the individual does not carry the

recommended \$100,000/\$300,000/\$50,000 liability insurance, on the automobile being driven on County business, the reimbursement would remain at \$.26 per mile.

However, if the individual furnishes evidence of insurance equal to or exceeding the recommended coverage, they would receive the IRS allowable amount (As of 1-1-92 the amount is \$.28 per mile).

We are requesting your endorsement of this proposal and we will greatly appreciate your support at the Personnel Committee and on the Board floor.

The recommendation was signed by Chairman Fred Meifert and Members Glen Berg, Roger Laning and Cameron Coleman.

According to the minutes of the County Loss Control Committee meeting of September 25, 1992:

The Committee reviewed a letter from the vehicle and registration subcommittee and Mr. Matthew Brown, Assistant Personnel Director in which they would like to recommend to the Personnel Committee that there be two levels of mileage cost, one being the County Board approved rate of \$.26 and the other being \$.28. The \$.28 would be paid to employees who provide the County with evidence of insurability. After a brief discussion, a motion was made by Supervisor Gilligan and seconded by Supervisor Seibold to recommend to the Personnel Committee that Sheboygan County offer their employees two levels of mileage cost, with the higher cost being paid when evidence of insurability is provided. Motion carried.

According to the minutes of the County Personnel Committee meeting of October 1, 1992:

Mr. Matthew Brown, Assistant Personnel Director presented information from the Loss Control Committee regarding a mileage reimbursement incentive for those employees who carry additional liability insurance on their automobile. After considerable discussion on the matter, a motion was made by Supervisor Goehring and seconded by Supervisor Gilligan to request Corporation Counsel draw a resolution that would continue the present mileage rate at twenty-six cents (\$.26) per mile, however, any new increase by the state would only be given to those employees who provide evidence of the increased insurance coverage. Motion carried.

On November 17, 1992 the Sheboygan County Board of Supervisors unanimously adopted the following ordinance:

WHEREAS, Wisconsin County Mutual Insurance Corporation (hereinafter "County Mutual"), the insurance carrier for Sheboygan County, has recommended that the County require a minimum of \$100,000/\$300,000/\$50,000 liability insurance coverage be in effect for personal cars driven by volunteers, employees, and officers for County purposes, and

WHEREAS, County Mutual has said requiring such minimum standard for basic personal insurance coverage will result in an annual savings to Sheboygan County of \$2,216.00, and

WHEREAS, the present mileage reimbursement is 26 cents per mile, and it is recommended that the County freeze the mileage reimbursement rate at 26 cents per mile, unless the employee/volunteer, on an annual basis, provides the Personnel Department with proof of liability insurance coverage equal to or greater than \$100,000/\$300,000/\$50,000 and if the employee/volunteer provides the required proof of liability insurance, he/she would be reimbursed at the higher rate authorized by the State of Wisconsin and approved by the Personnel Committee as set forth in the County Code;

NOW, THEREFORE, the County Board of Supervisors of the County of Sheboygan does ordain as follows:

Section 1. Limiting Mileage Reimbursement. The Sheboygan County Code of Ordinances is hereby amended so that the provisions of Section 45.03 are amended by adding thereto the following paragraph: "But in no event shall such reimbursement exceed 26 cents per mile after January 1, 1993, unless the mileage claimant shall have filed with the Personnel Director proof that he or she has in effect personal car insurance which provides equal to or greater than \$100,000/\$300,000/\$50,000 liability insurance coverage."

Section 2. Effective Date. The herein Ordinance shall take effect on January 1, 1993.

Pursuant to the "me too" provisions of the collective bargaining agreement, members of the bargaining unit have received reimbursement at the rate of no less than twenty-six cents per mile from a time no later than adoption of this ordinance.

On January 19, 1993, the County Loss Prevention Committee distributed the following notice:

### **NOTICE**

Do you drive your vehicle in behalf of Sheboygan County?

Do you claim mileage reimbursement for the miles you drive in behalf of the County?

Do you know that the reimbursement rate is \$.26 per mile?

Do you know that the rate of reimbursement will remain AT \$.26 PER MILE? UNLESS YOU FURNISH THE PERSONNEL OFFICE WITH DOCUMENTATION CONFIRMING that you are covered by liability insurance equal to, or greater than \$100,000/\$300,000/\$50,000, as per Ordinance 17 (92-93) as passed by the County Board.

What is acceptable documentation?

A copy of your policy! The single page that your insurance company sends you after you've paid the bill or you can have your insurance agent sent it to Mat Brown, Assistant Personnel Director, Sheboygan County, 615 North 6<sup>th</sup> Street, Sheboygan, WI 53081

Or just drop a copy off at the Personnel Office.

Don't forget to furnish the copy ever time you renew your policy. (Usually every 6 months).

If you do furnish documentation, you will BENEFIT when the County Board increases the reimbursement rate.

Otherwise \$.26 per mile is the higher reimbursement rate that you will ever receive from the County.

On October 21, 1997, Union President J. Cameron Coleman – who five years prior had served on the subcommittee which unanimously recommended the two-tiered system of mileage reimbursements -- submitted the following grievance:

This grievance pertains to Article 23 – Expense Reimbursement and any other article or section that may apply and/or any other violation of State or Federal laws that may apply.

On Wednesday, October 15, 1997, an all agency staff meeting was held. At this meeting Mr. Gary Johnson announced that the County Board may be passing an amendment to increase mileage reimbursement. He also announced that this increase would not be granted to any employee who did not provide insurance documentation to the County. In other words the increase in the mileage rate will be linked to documentation of an employees(sic) insurance coverage.

Article 23 clearly states ... 2. Mileage: Mileage shall be reimbursed at the rate of twenty-four cents (\$.24) per mile as actually incurred in the performance of official duties. The date, destinations and purpose of each trip shall be itemized with full detailed explanations.

In the event the County Board raises the mileage rate or grants an increased mileage reimbursement rate in any other labor contract involving county employees, such increase shall be paid effective as per said Board resolution or contract ....

This article clearly states that all employees will be reimbursed at the new rate. Nowhere is it mentioned that the reimbursement is tied to insurance coverage.

(This should be corrected by:) Management will honor the contract as it is written and shall not tie mileage reimbursement to insurance documentation. Any employees affected by this decision shall be granted monies owed as well as any other options entitled to under the contract. The County shall make the grievant whole.

On October 28, 1997, Ann Wondergem responded on behalf of the county as follows:

This is in response to the first step of the grievance dated October 21, 1997. The grievance is denied based on the following:

- \* Article 4 – Management Rights Reserved. This article provides that Sheboygan County may adopt reasonable and binding rules and amend the same ....

- \* Article 23 – Expense Reimbursement. Number 8 provides for

amendments in the event the County Board of Supervisors modifies the reimbursement and expense policy.

- \* Article 27 – Grievance Procedure. This article provides the county shall not be required to process any grievance filed more than thirty (30) days after the employer (sic) had notice of the event  
.....

The Sheboygan County Board of Supervisors instituted the mileage reimbursement limitation effective January 1, 1993. The vote on Ordinance No. 17 (1992-93) took place at the November 17, 1992 County Board meeting. Refer to the attached.

There is no violation of the labor agreement. The grievance is denied.

After the Union advanced the grievance to the next step on November 10, 1997, County Personnel Director Louella Conway responded on January 31, 1998 as follows:

In response to your second step grievance appeal, please be advised the County Board passed Ordinance No. 17 (1992-93) RE: Mileage Reimbursement Limitation which outlined the provisions to obtain any increase in mileage rate. This Ordinance outlines the requirements to receive any increase in mileage reimbursement. Individuals who have not submitted the required proof of insurance to comply with the Ordinance cannot be paid the higher rate.

There is no violation of the labor agreement. The grievance is denied.

Sheboygan County has coverage from the Wisconsin County Mutual Insurance Corporation (WCMIC), for which Aegis Corporation is the general administrator. During this period, Aegis and WCMIC corresponded with the County Personnel Department on this issue. On November 20, 1997, an Aegis official wrote as follows:

Ms. Ruth Wilsing

RE: PERSONAL VEHICLE USE

Dear Ruth:

Confirming our recent phone conversation, auto liability insurance follows the vehicle. In other words, the owner of the vehicle is responsible for the insurance on that vehicle.



The county has automobile liability provides coverage for its' vehicles and covers county employees or volunteers while using those vehicles. County employees or volunteers who use their own personal vehicles while working on behalf of the county must carry their own personal auto liability insurance. The personal auto insurance would apply as primary coverage in the event of a loss and the county's liability policy would apply in excess of that personal auto policy.

The Wisconsin County Mutual Insurance Corporation requests that the county obtain evidence of insurance from any employee or volunteer who regularly uses his/her vehicle while working on behalf of the county. Following our recommended limits of liability the county should request:

County Employees - \$100,000 Bodily Injury/\$100,000 Property Damage  
County Volunteer – no minimum limits requirement applies.

It is the county's decision to accept these minimum limit recommendations.

If you have any questions, please do not hesitate to call.

Sincerely,

AEGIS CORPORATION

Karen Flynn

On March 31, 1998, a WCMIC official wrote as follows:

Ms. Ruth Wilsing

RE: Non-owned auto  
Insurance limits

Dear Ms. Wilsing:

Thank you for contacting me the other day on the issue of limits of automobile liability insurance that county employees should carry on their own vehicle when required to drive as course of employment.

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I must first commend you, your staff and the members of the Loss Prevention Committee for developing and implementing the system and procedures used for

managing the information regarding the insurance limits for employee used vehicles. It is a comprehensive system that is contained in one department, namely yours, which means greater control over timeliness of reporting and a centralized data base. Since it is contained in your department, department heads do not have to manage this data individually.

By definition, a mutual insurance company is owned and operated by policy holders whereby, all policy holders have a vested interest in the sound practical operation of the company. The Wisconsin County Mutual Insurance Company is currently made up of 55 counties which is ideal for a mutual insurance company structure as the group is quite homogeneous. The rating structure for Wisconsin County Mutual Insurance Company can also be quite aggressive due to the commonality of the insured group.

One of the important components to the rating structure used is the understanding that each member of the mutual agrees to apply the same controls over for similar expenses that are underwritten and actuarially rated. All of the Wisconsin County Mutual Insurance Company members are applying the limits to their non-owned auto as in Sheboygan County. Some counties have even started asking for \$500,000 limit instead of merely 100/300/100. Company-wide, there has been little resistance or complaint.

An extremely important direct benefit that can not be overlooked is to the financial security and protection of the individual employee. Considering the higher costs of liability judgments and vehicles relating to the high cost of auto property damage losses, the recommended limits are still considered low.

Sheboygan County also enjoys the benefit in the premium of a loss history credit underwriting. If the loss history were to deteriorate the door swings the other way and the underwriter would be able to apply up to a 30% debit.

Since the county has a \$50,000 per claim deductible and a \$250,000 annual aggregate, the current annual deductible fund is at \$169,330 which is held to pay claims under the deductible. Typically, Sheboygan County has received approximately 53% of the deductible fund back on an annual basis as this is what has not been used during the course of the policy year. Should the resolution requiring 100/300/100 limits be changed, the deductible fund could quickly be used for claim dollars not previously seen, and the large deductible refund the county receives grow smaller.

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Another immediate dollar loss would be felt in a portion of the 5% Loss Control points the county has been receiving due to the loss control efforts. Managing the

limits of liability of non-owned autos is a requirement that needs to be met in order to receive a credit.

It is the Wisconsin County Mutual Insurance Company's recommendation that the current resolution in place seeks the 100/300/100 limit of the owners of the non-owned autos NOT be changed.

If you have any questions regarding this letter, please feel free to give me a call at 800-236-6885.

Vance L. Forrest  
Wisconsin County Mutual Insurance Corporation

The collective bargaining agreement between the parties (and their predecessors in interest) has undergone several changes in its relevant provisions over the last thirty years. From October 1, 1968 to December 31, 1971, the relevant language read as follows:

Mileage: Mileage shall be reimbursed at the rate of ten cents (10c) per mile as actually incurred in the performance of official duties. The date, destination, and purpose of each trip shall be itemized with full detailed explanation.

Effective January 1, 1972, the collective bargaining agreement kept the dime rate and added the following:

In the event the County Board raises the mileage rate such increase shall be paid effective as per said Board resolution.

The parties increased the rate to fifteen cents per mile effective January 1, 1976, maintaining all other language. The following year the parties amended the final sentence to read:

In the event the County Board raises the mileage rate or grants an increased mileage reimbursement rate in any other labor contract involving county employees such increase shall be paid effective as per said Board resolution or contract.

Effective January 1, 1991, the collective bargaining agreement increased the reimbursement rate to twenty-four cents per mile, maintaining all other relevant language. It is this language which is still in effect.

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Effective January 1, 1996, the collective bargaining agreement between the County and

the Sheboygan Federation of Nurses and Health Professionals, Local 5011, AFT, AFL-CIO (the professional employees of the Division of Public Health and Division of Community Services) has contained the following language:

Mileage: Mileage shall be reimbursed at the rate of twenty-six cents (\$.26) per mile as actually incurred in the performance of official duties. The date, destination and purposes of each trip shall be itemized with full detailed explanations. The County reserves the right and at its option, to place into use, county owned fleet vehicles for all official county duties. Use of county fleet vehicles would eliminate use of private vehicles for official county duties.

In the event the County Board raises the mileage rate or grants an increased mileage reimbursement rate in any other labor contract involving county employees, such increase shall be paid effective as per said Board resolution or contract.

Effective January 1, 1997, the collective bargaining agreement between the County and Sheboygan County Supportive Services, Local 110, AFSCME, AFL-CIO, has contained the following provision:

Mileage: Mileage shall be reimbursed at the rate of twenty-six cents (\$.26) per mile unless changed to a higher figure by the County Board. Payment is made to the employee who furnishes the automobile that is used in the performance of official duties. The date, destination and purpose of each trip shall be itemized with full detailed explanation for the immediate supervisors (sic) approval.

As noted above, the 1992 ordinance setting the two-tiered reimbursement set the basic rate at twenty-six cents per mile, with a provision for a future "higher rate authorized by the State of Wisconsin and approved by the Personnel Committee as set forth in the County Code." In 1997, the State of Wisconsin increased the authorized mileage rate to twenty-nine cents per mile.

Since that time, the County has applied the two-tiered policy throughout its workforce, with no grievances other than the instant proceeding.

As of May 1999, 32 of the 41 members of the bargaining unit receiving mileage reimbursements had insurance documentation on file, qualifying them for the higher reimbursement rate.

## **POSITIONS OF THE PARTIES**

In support of its position that the grievance should be sustained, the Union asserts and avers as follows:

The bargaining unit employees should receive the higher reimbursement rate of twenty-nine cents per mile because the language of the collective bargaining agreement does not tie a mileage increase to a higher insurance rate. The contract is specific in what is required to get reimbursement; the negotiated requirements are that the employee to receive mileage itemize with full detail the date, destination and purpose of each trip. *There are no other negotiated requirements.*

The “me too” clause in the second part of the language goes to the “rate or increase.” The third part of the language says that either the County increase or the other Union increases are payable to these employees when passed by resolution or contract. The last part of the language “such shall be paid effective as per said Board resolution or contract” addresses the starting date to pay the higher rate, not any requirement in a resolution or contract. The decision of Arbitrator McLaughlin in *Buffalo County* is on point and supports the Union argument, while the case which the employer cites is neither on point nor relevant.

In arguing for a reimbursement rate of twenty-nine cents, the Union is not being illogical or greedy – this rate is firmly grounded in the language of the contract. By its actions here, the employer is saving an additional \$2,126 while unit members will have to pay an additional \$3,800 in extra insurance to collect the higher reimbursement rates. The employer and the insurance company have a good scam going! And it won’t stop here.

The employer should negotiate additional requirements for increased mileage rates, if it desires them. The parties have previously agreed on the requirements of giving the date, destination and purpose of each trip; the mileage increases should be automatic as long as the employer increases it by resolution and/or in another bargaining unit.

The employer should be ordered to cease and desist from making the increased insurance a requirement for the higher mileage rate, and all affected employees should be made whole.

In support of its position that the grievance should be denied, the County asserts and

avers as follows:

The provisions of the collective bargaining agreement are clear, and indicate that any higher rate of reimbursement will be paid consistent with County Board resolution. This cannot be interpreted in any way but to give it clear meaning. As in a case involving the Michigan Nurses Association, the reimbursement is based on County Board action.

Further, the employer has the right to establish rules and amend them under the provisions of the Management Rights clause.

At the time the County adopted the relevant ordinance, there were no grievances filed with regard to the change in the requirement for the higher reimbursement rate. Nor was there any discussion or changes in subsequent labor agreements. This failure to address the issue by the bargaining unit portrays an acceptance of the rule change as outlined by the County Board.

There are differences in the specifics which make the Buffalo County case a poor comparison and basically inapplicable to the situation before the arbitrator. But to the extent that that decision found mileage reimbursement to be a mandatory subject of bargaining, the Union here did not attempt to bargain any changes in the relevant language, indicating that it was not concerned that the County Board changed the policy back in 1993.

The labor agreement is clear. The reimbursement is based on the contract language which references that any change shall be paid as per Board resolution or contract. The County granted the Union ample time to address the change as provided in the 1992-93 ordinance. However, the unit chose not to, and the issue was never brought up at the bargaining table.

Management rights provides that the employer can adopt reasonable and binding rules and amend the same from time to time and the Union agrees to cooperate in the enforcement thereof. A grievance was not filed when the County Board adopted the ordinance, a reasonable rule, indicating that any increase in mileage rate would be tied to the proof of liability insurance coverage. The bargaining unit chose not to address this issue through negotiations even though they had several opportunities to do so.

The employer did not violate the collective bargaining agreement when it

required evidence of liability insurance coverage in order to receive a higher mileage reimbursement rate. The contract language is clear. It references County Board action as a catalyst to any change and the change shall be effective as per such action. Based on these reasons there is no violation of the labor agreement and the grievance must be denied.

In its reply brief, the Union reiterates its position that the collective bargaining agreement is specific in its requirements, and that the negotiated provisions do not include reference to insurance as a condition for mileage reimbursement. The Union further states that, given the difference between the language at issue in this instant grievance and the language in other collective bargaining agreements, the lack of grievances filed by other locals is irrelevant.

### **DISCUSSION**

This grievance concerns the county's decision to require members of the bargaining unit to obtain insurance coverage in order to receive an additional three cents per mile in mileage reimbursement.

Under the terms of the collective bargaining agreement, members of the bargaining unit who use their personal vehicles in the performance of their official duties are guaranteed a reimbursement rate of twenty-four cents per mile. In order to receive this reimbursement, they must submit itemized explanations stating the date, destination and purpose of each trip.

The agreement also provides to members of the bargaining unit a higher rate in the event the County Board raises the rate or grants an increased reimbursement rate in any other labor contract, with such increase "paid effective as per said Board resolution or contract."

For approximately the past seven years, the basic reimbursement rate for all county employees has been twenty-six cents. Consistent with the requirements of the collective bargaining agreement, the employer has paid that basic rate.

Pursuant to a 1992 county ordinance, the employer has also offered a second, higher rate (currently twenty-nine cents), with one condition on its availability – employees who seek the higher rate must submit evidence of insurance coverage at a certain level set by the County Board. The Union argues that this violates the terms of the collective bargaining agreement, by adding an additional criterion beyond the itemized statement of date, destination and purpose. The County contends that the added condition is clearly contemplated by the reference to a Board resolution, and is a reasonable and binding rule as authorized by the Management Rights Clause.

Case 63, No. 56914, MA-10456 (3/99), is applicable and supportive of its position. I find that it is neither.

The language in the collective bargaining agreement that Arbitrator McLaughlin interpreted read as follows:

The County shall reimburse employees for the use of their automobile on County business at the rate of twenty-six cents per mile or County policy, whichever is greater, effective January 1, 1996.

As in the case before me, Buffalo County sought to have its employees provide their own primary liability coverage for the use of their private automobiles on official business. Arbitrator McLaughlin found it could not do so under the terms of the collective bargaining agreement, and the Union asserts I should reach a like result in this proceeding. There are several aspects, however, which distinguish the two cases, including fundamental differences in the language under review, and the impact of the respective employer's actions.

Noting that this language was in the Appendix on Wage Schedules, Arbitrator McLaughlin determined that the reference to "County policy" was "to a rate only," and that the placement of the language in the appendix "underscores that it creates a debt from the County to the employee upon the employee's provision of a service." Arbitrator McLaughlin specifically found that the appendix did "not make the debt conditional," and that the reference to "County policy" would apply "only if the rate set by that policy is greater than twenty-six cents per mile."

No such interpretive aspects are present in the case before me. The language under review is not limited to an exclusively economic aspect such as a wage appendix, but is instead in the article governing a variety of aspects of expense reimbursement.

There are also significant distinctions in the processes the respective employers followed. The County of Buffalo implemented its determination unilaterally and peremptorily. The County of Sheboygan undertook a significant and public process reviewing the issue, a process that included the participation of union members. The Sheboygan County process also included the introduction and adoption of an ordinance amendment, with all attendant notice.

There is also a significant distinction in the respective impact of the employers' actions. The County of Buffalo forbade any mileage reimbursement at all unless the employee followed its mandate on insurance coverage; the County of Sheboygan has maintained the levels in the

collective bargaining agreement (and in fact has paid a rate higher than that noted in the collective bargaining agreement, in keeping with the agreement's so-called "me too" provision), and has offered a separate, higher rate for those who choose to provide insurance coverage.



The Union contends that the phrase “shall be paid effective as per said Board resolution or contract,” refers only to the date the new provision became operative rather than its substantive details. While there is some support for this interpretation -- The American Heritage Dictionary of the English Language defines "effective," as “in effect,” in keeping with the need for laws and ordinances to have “effective dates” – this aspect is far from dispositive.

What the Union fails to acknowledge, however, is that **all** other employees, represented or otherwise, must first comply with the insurance criterion in order to receive the higher reimbursement rate. The Union wants the benefits that other employees have been offered – a reimbursement rate of twenty-nine cents per mile – without the attendant duty of providing the insurance coverage that all other employees are required to provide to attain that higher reimbursement rate.

The Union says that requiring the employees to provide their own primary coverage for work-related auto use shows how the employer and its insurance company “have a good scam going!” I do not discount the Union’s analysis that the employer will save more in insurance costs passed on to employees than it will pay in higher mileage reimbursements; certainly, the employer has made an economic decision that it is in its interests, economic and otherwise, to place upon employees the burden, economic and otherwise, of maintaining the primary insurance coverage for their official use of their private automobiles. 1/

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***1/ This award expresses no opinion on the issue of owning and operating a motor vehicle without adequate insurance.***

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But to conclude that the County benefits from this arrangement is not to conclude that it does so only by violating the collective bargaining agreement.

The Counties of Buffalo and Sheboygan both sought to have their employees assume the financial and administrative burden of providing the primary auto insurance coverage, even when the cars were in use on official business. Buffalo County’s method was the restriction of conditioning payment of mileage reimbursement on the provision of such insurance; Sheboygan County’s method has been the inducement of an increase in the mileage reimbursement beyond the base levels.

Arbitrator McLaughlin sustained the grievance before him because he found that Buffalo County’s method improperly violated specific provisions of the applicable collective bargaining agreement. Because I find no such violation in the matter before me, I reach a contrary conclusion.

The collective bargaining agreement before me provides that covered employees will receive a reimbursement rate of twenty-four cents per mile for the use of their personal autos for official business. It further provides that, if the employer raises the mileage rate or grants an increased reimbursement in any other labor contract, such increases "shall be paid effective as per Board resolution or contract."

The County of Sheboygan has set a basic reimbursement rate of twenty-six cents per mile, which it provides to all covered employees, including those in this unit, who meet standard assignment and reporting requirements. It further offers to all employees, including those in this unit, an incentive of an additional three cents per mile so they will provide primary auto insurance.

In so doing, the employer is paying increased reimbursements as per Board resolution or contract. Its actions are not in violation of the terms of the collective bargaining agreement.

Accordingly, on the basis of the collective bargaining agreement, the record evidence and the arguments of the parties, it is my

**AWARD**

That the grievance is denied.

Dated at Madison, Wisconsin this 30th day of July, 1999.

Stuart Levitan /s/

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Stuart Levitan, Arbitrator

SDL/gjc  
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