BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, WISCONSIN COUNCIL 40, LOCAL 244-A

and

SUPERIOR HOUSING AUTHORITY

Case 34
No. 59637
MA-11362

(Grievance dated 11/08/00;
Health Insurance Change)

Appearances:

Mr. James E. Mattson, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 1701 East Seventh Street, Superior, Wisconsin 54880, appearing on behalf of the Union.

Hendricks, Knudson, Gee, Torvinen & Weiby, S.C., by **Attorney Kenneth A. Knudson,** 1507 Tower Avenue, 312 Board of Trade Building, Superior, Wisconsin 54880, appearing on behalf of the Employer.

ARBITRATION AWARD

American Federation of State, County and Municipal Employees, AFL-CIO, Wisconsin Council 40, Local 244-A, hereinafter the Union, with the concurrence of Superior Housing Authority, hereinafter the Authority, requested the Wisconsin Employment Relations Commission to designate a member of its staff to serve as arbitrator to hear and decide a grievance dispute concerning a health insurance change and in accordance with the grievance and arbitration procedures contained in the parties' collective bargaining agreement, hereinafter the Agreement. The undersigned, Stephen G. Bohrer, was so designated. On May 17, 2001, a hearing was held in Superior, Wisconsin. The hearing was not transcribed. On August 13, 2001, and upon receipt of the last of the parties' reply briefs, the record was closed.

On the basis of the record submitted, the Arbitrator issues the following Award.

ISSUES

The parties did not agree on a statement of the issues. The Union would state the issues as follows:

1. Did the Employer violate the terms of the collective bargaining agreement and the long standing past practice when it unilaterally and arbitrarily changed to a different health insurance plan (mid contract) offering lower benefits to represented employees than the prior health insurance plan?

2. If so, is the appropriate remedy for the Employer to reinstate the prior level of health insurance benefits and to make bargaining unit employees whole for any and all extra costs the employees experienced due to the lower level of health insurance coverage?

The Authority did not submit a statement of the issue(s).

The Arbitrator frames the issues for determination as follows:

1. Did the Authority violate the parties' 1999-2001 collective bargaining agreement when it changed the level of health insurance benefits available to Union employees effective May 1, 2000?

2. If so, what is the appropriate remedy?

PERTINENT AGREEMENT PROVISION

ARTICLE 5 - MANAGEMENT RIGHTS

The rights, powers, duties and authority of management shall not be affected by the provisions of this Agreement, except in those respects specifically referred to herein or which may be reasonably implied from the language of this contract.

. . .

ARTICLE 11 - HOSPITAL INSURANCE

The Employer agrees to contribute on behalf of all eligible employees the full cost of the hospitalization insurance.

. . .

BACKGROUND

The Authority is a municipal employer with offices at 1219 North Eighth Street, Superior, Wisconsin. The Authority maintains and operates various rental residential apartments for income eligible citizens in Superior, Wisconsin. The Union represents all regular full-time and regular part-time employees of the Authority excluding managerial, supervisory and confidential employees. The Authority and the Union are parties to a collective bargaining agreement from January 1, 1999 through December 31, 2001.

Atrium Health Care, Inc., hereinafter Atrium, has been the health insurance carrier utilized by the Authority and its employees for a number of years leading up to the instant grievance. In April of 1999, the Authority received notice from Atrium that the cost for continuation of the insurance plan was going up by 26%, effective May 1, 1999. The Authority decided to continue with the same Atrium health insurance plan and absorbed that cost increase. In April of 2000, the Authority received notice from Atrium that the cost for continuation of the insurance plan was going up by 25%, effective May 1, 2000.

Shortly after Atrium's notice to the Authority in April of 2000, the Authority changed health insurance plans within Atrium to one that was less costly, effective May 1, 2000. The change to the new Atrium plan resulted in a 5% increase in cost to the Authority for fiscal year 2000-2001. The change to the new plan also resulted in a reduction of health insurance coverage for the Authority's Union employees. At about the same time that the Authority made the health insurance change, the Authority offered to Union employees a Section 125 Plan. Although the Union did not respond to the Authority's offer, the Section 125 Plan was later implemented by the Authority.

On November 8, 2000, the Union filed a grievance alleging that the Authority violated the Agreement when it decreased health insurance benefits effective May 1, 2000. The parties thereafter advanced their dispute to arbitration.

Historically, the parties have had successive collective bargaining agreements for at least 20 years. The language of Article 11 - Hospital Insurance has been a part of the parties' successive collective bargaining agreements during this entire period.

During each of the three prior negotiations for labor contracts since 1993, the Union has included in its proposals for negotiation what both parties characterize as a "maintenance of benefits" type clause. On October 28, 1993, the Union proposed the following addition to Article 11 - Hospital Insurance:

> The present level of benefits provided for by the Employer's Health Insurance plan shall be either maintained or improved by the Employer. In no case will covered employees or dependents lose coverage as a result of changing insurance carriers or policies.

On November 20, 1996, the Union proposed the following addition to Article 11- Hospital Insurance:

> In the event the Housing Authority changes health insurance carriers, the Authority must maintain coverage at levels equal to or better than the current coverage. In no case will covered employees or dependents lose coverage as a result of changing insurance carriers.

On August 24, 1998, the Union proposed a "Maintenance of Benefits Clause" as a new section to be added to Article 19 – Miscellaneous Provisions:

> The Employer will not change any economic benefits enjoyed by members of the bargaining unit during the term of this contract, unless inconsistent with other provisions of this contract, without meeting with and securing the consent of the Union.

At the time of each proposal in 1993, 1996 and 1998, the parties discussed the respective proposal. On each occasion, and following discussion, the Union withdrew the proposal.

Over the years, the Authority has made what the Union characterizes as "minor changes" to the level of health insurance provided to employees which resulted in a reduction in benefits. The Union has not grieved these instances. There is no evidence that the Union objected to any of these reductions.

Additional background information is set forth in the Positions of the Parties and in the Discussion below.

POSITIONS OF THE PARTIES

The Union

The Authority's unilateral change of health insurance plans was done without negotiating with the Union and was midway through the duration of the Agreement. Historically, the Authority has made minor changes in its health insurance coverage for employees. However, the Union's acceptance of these minor changes is not a waiver of its right to grieve major changes in health insurance coverage. Had the Authority in the past made such a drastic reduction, as here, the Union would have grieved those reductions. Just because the Union has not previously grieved the Authority's minor changes does not mean that the Union has acquiesced to major changes or that it is estopped from now grieving a major change.

The absence of a "maintenance of benefits" clause in the Agreement does not provide the Authority with the right to unilaterally alter employee's insurance benefits. Arbitrators have found that where there is a benefit of peculiar personal value that is customarily provided

by an employer, management is not permitted to discontinue that benefit or working condition. Citing, Elkouri and Elkouri, How Arbitration Works, 5th Edition, pgs. 639-641 (1997); also citing, MARATHON COUNTY, WERC, MA-10462 (LEVITAN, 6/99), and LADYSMITH-HAWKINS SCHOOL DISTRICT, WERC, MA-5054 (BURNS, 8/89).

The Authority obscures the issue by basing its position of an unfettered right to change health insurance upon the Union's unsuccessful proposal of a "maintenance of benefits" clause during prior contract negotiations. However, such a clause was never incorporated into any of the collective bargaining agreements. Further, the Authority never proposed changes in health insurance coverage during prior negotiations. *Status quo* on health insurance remained the same until the Authority changed it, effective May 1, 2000.

Not only was the Authority's reduction in insurance benefits a major new economic burden for employees, but the Authority offered no meaningful compensation for such change. The Authority's offer to add a Section 125 Plan, with a $600 cap, is nominal and is not a *quid pro quo* for such a change. Citing, TOWN OF BELOIT, WERC, MA-7333 (BURNS, 4/93).

A decision in favor of the Authority would work a forfeiture, which is to be avoided. Citing, Elkouri, supra, at 500-501. The Authority's assertion that it is free to change the level of health insurance without negotiating with the Union is faulty in logic. Taken to its extreme, the Authority's position would mean that it is permissible for an employer to unilaterally institute an insurance plan with a ten thousand dollar deductible or a million dollar deductible. A decision favoring the Authority's position would render employee health insurance meaningless and would erode a vital benefit. Employees would never receive an offset for this employer takeaway.

Article 11 states that the Authority shall pay "the" insurance, not "any" insurance. Thus, the parties clearly intended not to allow the Authority to offer whatever it wanted in health insurance. Further, the insurance provided by the Authority effective May 1, 2000, is not the insurance of past years.

Some of the health insurance benefit changes that occurred effective May 1, 2000, include the following: office co pay from $15 to $25; emergency room co pay from $40 to $50; prescription drugs co pay from $8 to $10; dental care coverage from 100% to 80% after payment of office co pay; home health care coverage from 100% to 80% after payment of office co pay; maternity hospital and postnatal coverage from 100% to 80%; outpatient hospital coverage from 100% to 80%; inpatient hospital/facility visits coverage during covered admission from 100% to 80%; anesthesia by a provider other than the operating/delivering/assisting provider from 100% to 80%; allergy testing/serum and injections from 100% to 80%; surgery including circumcision and sterilization from 100 % to 80%; assisting physician in surgery from 100% to 80%; radiation therapy from 100% to 80%; reconstructive surgery from 100% to 80%; rehabilitation services after payment of co pay from 100% to 80%; skilled nursing facilities from 100% to 80%; and supplies/durable medical equipment and blood from 100% to 80%.

The parties have had a long history and "meeting of the minds" over the level of health insurance benefits. This level has remained essentially the same and the *status quo* has long prevailed. Past practice has been established and the Authority has only made minor changes to employees' level of health insurance benefits. Any assertion by the Authority that it can make major unilateral changes without negotiating with the Union runs contrary to the basic principles of collective bargaining.

The grievance should be sustained. The requested remedy is for the Authority to reinstate employees' prior level of health insurance coverage/benefits and to make affected employees whole for any costs expended due to the change in their health insurance coverage/benefits. The Union also requests that the Arbitrator uphold the fundamental duty of the parties to bargain and negotiate over changes in health insurance benefits.

The Authority

The grievance should be denied.

The Union's grievance is an attempt to obtain an insurance benefit through arbitration rather than through the process of collective bargaining. Executive Director Don Rogers testified that during the 1998 negotiations the Union proposed a "maintenance of benefits" clause to which the Authority responded by asking what the Union would give as a *quid pro quo* for such change. The Union then withdrew its proposal. Rogers' testimony is supported by the stipulated testimony of William Fennessey, the Authority's Chairman of the Board of Commissioners, and by the stipulated testimony of Kenneth A. Knudson, the Authority's attorney. Both Fennessey and Knudson were present during the 1993, 1996 and 1998 negotiations and in each instance the Union withdrew its "maintenance of benefits" clause proposal when it was determined that the Union offered no *quid pro quo* for such a change.

The Union's prior proposals for a "maintenance of benefits" clause proves that the Union considered them to be a proper subject for negotiations. It is contradictory for the Union to withdraw its proposed language and then to assert through this grievance that which the Union has previously withdrawn.

The law on negotiations in good faith is clear: there is no duty to bargain for new benefits and there must be a *quid pro quo* for a benefit sought if the parties do not consent.

An adverse ruling to the Authority would substantially limit an employer's fundamental right to control its budget and to obtain something in return for a substantial benefit. Employers like the Authority need the right to change health insurance providers or to change health insurance benefits unless that right has been bargained away. Common sense dictates that the only control an employer has on the rising cost of insurance premiums is the flexibility to change health insurance carriers and/or to change the level of a carrier's benefits.

The Union's requested remedy is unreasonable in that insurance coverage cannot be changed retroactively.

In Reply

The Union

The Union is not attempting to gain a new benefit through the arbitration process. Rather, the Union is attempting to maintain a benefit, i.e., employees' health insurance benefits, which the Authority unilaterally changed without negotiations. Further, the Authority's major changes in health insurance coverage is a mandatory subject of bargaining.

The fact that the Union withdrew its "maintenance of benefits" clause proposals during past negotiations does not mean that the Union agreed to allow the Authority to change health insurance benefits to whatever level it chooses. Had the Authority previously proposed a huge reduction in health insurance coverage during prior negotiations, the Union would not have agreed without a *quid pro quo*.

The Authority is attempting to secure a gain without negotiating a *quid pro quo*. Typically, when employers are faced with increased costs, they negotiate the impact of those costs with the union and do not resort to unilateral and arbitrary changes in benefits. In this case, the Authority received a benefit without a *quid pro quo* and it failed to bargain in good faith without the Union's consent. The Authority has a duty to bargain over a change in benefits.

The Section 125 Plan provided by the Authority in the current Agreement does not compensate employees for their reduction in health insurance benefits. Local President Hunter testified that the Union never bothered to act upon the Section 125 Plan because it was insufficient to offset employees' added health related costs.

During the collective bargaining negotiations of the 1990s, the Authority offered no changes in health insurance language. Article 11 clearly states "the" hospitalization insurance, not "any" hospitalization insurance. If the Arbitrator in this case were to rule in favor of the Authority, the insurance language would be rendered meaningless and would result in an overly harsh result and burden for employees. Citing, Elkouri, supra, at 495-497.

Although the Union accepted minor changes in health insurance, this does not negate the Union's right to grieve major changes in health insurance.

The Authority's argument that it must have flexibility to make changes to control the rising costs of insurance does not have merit. The Authority must negotiate with the Union over benefit issues. The Authority's concerns over cost controls are not a license to take away employee benefits. In order to take away employee benefits, there must be mutual consent. Here, there was none.

Contrary to the Authority's assertion, the Union's proposed remedy is reasonable and is enforceable. Citing, MARATHON COUNTY, SUPRA; also citing, CITY OF KAUKAUNA, WERC, MA-6597 (NIELSEN, 5/92), and TOWN OF BELOIT, SUPRA. The Union's "make whole" remedy is not unreasonable since employees could submit receipts showing their additional costs incurred since the new health insurance plan came into effect.

If the Authority were to prevail and this grievance denied, the Authority could erode and diminish and eventually destroy any financial benefits currently guaranteed under the Agreement. Over the years, it has been the parties' past practice and "the meeting of the minds" to maintain a level of health insurance benefits. The Authority's change of benefits in May of 2000 was contrary to that intended level and was unilaterally determined. The Authority's acts were contrary to the foundation of collective bargaining.

The Authority

The Union's assertion that there exists a past practice to maintain the level of insurance benefits or plans is not supported. Union witness Hunter testified that he had no knowledge of what occurred prior to the last negotiating session and that he did not remember what occurred during the last bargaining session on issues relevant to this dispute even though he was on the Union's negotiating team.

The Union's position is in conflict with its prior repeated attempts to negotiate a "maintenance of benefits" clause. The Union was aware of the Authority's past practice of modifying benefits to control insurance costs, otherwise it would not have proposed a "maintenance of benefits" clause. The Union was also aware that an agreed to "maintenance of benefits" clause would have a substantial cost impact to the Authority. The Union withdrew its prior proposals probably because it was unwilling to offer a *quid pro quo* for that benefit.

The Authority agrees with the Union that the duty to bargain in good faith and that fundamental issues of collective bargaining are issues present in this dispute. However, these issues should be applied to the Union. For more than ten years, the Union has sought to obtain that which would have prevented the Authority from doing what it did in this case. The Union is now bargaining in bad faith when it seeks to receive through this grievance that which it did not receive through bargaining. Furthermore, the Authority disputes that it failed to act in good faith by not offering something of value to the Union when coverage was changed. The Authority met with the Union and discussed a Section 125 plan as an offset for the change of coverage. It was the Union that refused to talk with the Authority, claiming that the Authority could not modify the insurance plan.

Contrary to the Union's assertion, the word "the" and its use in the phrase "the hospitalization insurance" in Article 11 does not define that phrase. "The" is referring to the cost of hospitalization insurance and not to a guarantee of a plan or to a maintenance of

benefits of a plan. If the Union is correct, then "the full cost" reference in Article 11 means that there must be a set premium identified so that there can be no change in the amount of premium payment by the Authority. Such an assertion is ludicrous.

The Union only partially compares the old Atrium plan with the new Atrium plan. Some items under the new plan were not a reduction from 100% coverage to 80/20 coverage. For example, the new plan has an increase in benefits such as a cap on annual expenditures and the elimination of the drug prescription deductible. There are other increased benefits as well. Further, the Union's partial comparison of plans demonstrates what the cost would have been to the Authority had the Authority agreed to a "maintenance of benefits" clause. If the Union prevails, then no change could occur that would reduce any benefit even if offset by other increased benefits. The Authority would lose its control over the costs of insurance without ever receiving a *quid pro quo*. In this case, the cost of insurance premiums rose by nearly 25% for two consecutive years and were projected to continue. It is reasonable for insurance companies to change their terms to reflect increased costs.

The only real remedy in this case is to require the Union to bargain for a "maintenance of benefits" clause during collective bargaining and not through the grievance arbitration procedure. If the Union wants such a benefit, then it should bargain for it in good faith and it should offer a *quid pro quo* to obtain it. Otherwise, collective bargaining will be through grievance arbitration and not through negotiations.

DISCUSSION

Article 11 - Hospitalization Insurance is ambiguous because it does not indicate the nature of the health insurance for which the Authority is obligated to pay. It does not state, as some contracts do, that a particular plan is the standard by which the insurance is measured or that the insurance provided shall be comparable to an insurance plan or policy in place on a set date in time. Further, there is no evidence of what the parties intended this language to mean relative to the nature of the health insurance when it was written more than twenty years ago. Article 11 is clear in that the Authority is mandated to pay for the entire cost of whatever health insurance is to be provided. However, it is ambiguous as to the type or the kind or the level of health insurance benefits that the Authority is required to provide. I disagree with the Union that the reference to "the" in "the hospitalization insurance" unambiguously defines the insurance that shall be provided. That reference does not unambiguously mean a fixed or firm level of insurance coverage. Moreover, the fact that over the years the Union did not grieve "minor changes" which resulted in reductions of insurance benefits, and the fact that there is no evidence that the Union objected to these reductions, does not support the Union's contention in this regard.

The issue is whether Article 11 means that the Authority is prevented from reducing the level of Union employees' health insurance benefits. This turns on whether, as the Union asserts, there is an implied prohibition against reducing insurance benefits. The Union points

to the Authority's past practice of providing health insurance benefits while making only minor changes in coverage, in support of its interpretation. The Authority disputes this implied term and asserts that the Union's repeated and unsuccessful proposals for a "maintenance of benefits" type clause during the last three precontract negotiations undercuts the Union's interpretation and that the Union is attempting to obtain through grievance arbitration that which was unsuccessfully obtained through bargaining.

It is generally accepted that precontract negotiations provide a valuable aid in the interpretation of ambiguous provisions. Elkouri and Elkouri, How Arbitration Works, 5th Edition, p. 501 (1997). The most important factor considered by arbitrators on this subject is the intent manifested by the parties during negotiations. ID., at 504. More specifically, the Elkouris state the following:

> If a party attempts but fails, in contract negotiations, to include a specific provision in the agreement, many arbitrators will hesitate to read such provision into the agreement through the process of interpretation. Arbitrator Edgar A. Jones explained that "there is a hazard" in making a specific contract demand in negotiations:
>
> > If the provision gets caught up in the grievance, the Party who proffers the language will have to bear the burden of demonstrating in a later arbitration proceeding that its omission ought not to be given its normal significance. Normally, of course, the plain inference of the omission is that the intent to reject prevailed over the intent to include.
>
> However, where a proposal is made for the purpose of clarifying the contract, the matter may be viewed in a different light. Arbitrator Sidney A. Wolff explained:
>
> > [I]t is fundamental that it is not for the Labor Arbitrator to grant a party that which it could not obtain in bargaining.
> >
> > This restriction, however, has its limitations. If, in fact, the parties were in dispute, on the proper interpretation of a contract clause and one of them unsuccessfully sought in collective bargaining to obtain clarification, it would not necessarily follow that the interpretation sought by the unsuccessful party was wrong.
>
> Then, too, a party's unsuccessful attempt to obtain a clause severely restricting the other party does not compel the conclusion that a limited restriction does not inhere in the contract.
>
> The withdrawal or rejection during contract negotiations of a proposed clause spelling out a right has been held not to be an admission that the right did not exist without the clause, where the proponent stated at the time that it would stand firm on the position that the right existed even without the proposed

> clause. A similar result was reached where withdrawal of a proposal was encouraged by the other party's statement that the proposal was not necessary.

Elkouri and Elkouri, supra, at 504-505. (Citations omitted). Thus, and in this case, I adopt the above rule of interpretation, as stated by Arbitrator Jones, including the above stated arbitral exceptions to this rule.

The evidence shows that the Union proffered additional language to Article 11 in 1993 and 1996, during separate precontract negotiations, which would have had the effect of prohibiting the Authority from reducing the level of health insurance benefits. If the 1993 language had been adopted, the Authority would have been required to "maintain or improve" the "present level of benefits." Similarly, if the 1996 language had been adopted, the Authority would have been required to "maintain coverage at levels equal to or better than the current coverage." Authority witnesses Fennessey and Knudson provided stipulated testimony that during each precontract negotiations period, the parties discussed the Union's proposal whereupon the Union withdrew it. Although the details of what was said during the parties' discussions relating to these proposals are sketchy, there is no evidence by the Union to contradict that the proposals were duly considered by the parties and then withdrawn by the Union. Applying Arbitrator Jones' rule, therefore, I find that the plain inference is that the parties' intended Article 11 to not include a "maintenance of benefits" or "maintenance of standards" meaning. If a prohibition in the reduction of benefits was implied, there would have been little need for the Union to propose it.

The evidence shows that the Union proffered additional language to Article 19 – Miscellaneous Provisions in 1998, during the precontract negotiations period leading up to this Agreement, which would have prohibited the Authority from changing "any economic benefits" without "the consent of the Union." If this language had been adopted, the Authority would have been required to maintain all economic benefits during the term of the Agreement, including the level of health insurance coverage, unless the Union agreed otherwise. Authority witness Rogers credibly testified that the 1998 proposal was discussed by the parties and when the Authority asked what the Union was offering as a *quid pro quo*, that the Union withdrew its proposal. Although the 1998 proposal, by itself, is not as helpful in determining the parties' intent of Article 11 as the Union's 1993 and 1996 proposals because of the breadth of the 1998 language, such evidence is consistent with the prior two precontract negotiations to "maintain" benefits and there is no evidence to indicate a departure by the parties of their intent to the meaning of Article 11.

Looking to the exceptions of the rule, I do not find any evidence that would support an assertion by the Union that its current interpretation of Article 11 was preserved at the time of withdrawing its proposals in 1993, 1996 or 1998. There is no evidence, for example, that the Union stated it was withdrawing its proposal without prejudice to its understanding of

Article 11 or that the Union's interpretation of its rights in Article 11 are already inherent in the collective agreement. Therefore, and because of an absence of this evidence, the rule of exception does not apply to this case.

In addition, the evidence of unilateral "minor changes" to health insurance that resulted in a reduction in health insurance benefits further buttresses the conclusion that the parties did not intend Article 11 to include an implied prohibition of a reduction in health insurance benefits. The Union's failure to grieve even "minor changes" implies that there never was a "meeting of the minds" as to an implied prohibition for the reduction of health insurance benefits.

Consequently, I do not find that the Union has met its burden in demonstrating that their withdrawn proposals in 1993, 1996, and 1998 should not be given their normal significance. I do not find an inference that the intent of Article 11 includes a prohibition against the Authority reducing the level of health insurance benefits. Further, I do not find anything in Article 5 – Management Rights that would otherwise restrict the Authority from reducing the level of health insurance benefits provided to employees. I agree with the Union regarding the basic premise that the absence of a "maintenance of benefits" clause in a collective agreement does not necessarily provide an employer with the right to unilaterally alter an employee's customarily provided benefit or working condition. However, in this case the Union's proposals to provide a "maintenance of benefits" type clause during the last three rounds of precontract negotiations undercuts the Union's interpretation of Article 11.

While it is true that none of the Union's proposals ever made it into a collective agreement, the fact that these were withdrawn, coupled with a lack of evidence that the Union desired to preserve its interpretation of rights inherent to Article 11, leave the undersigned with the conclusion that this is not the proper forum for the Union to advance its current position. I agree with the Authority that the Union should not be permitted to obtain through grievance arbitration that which it was unsuccessful in securing through collective bargaining. See, e.g., CITY OF NEW BERLIN (WATER DEPT.), WERC, MA-8823 (YAEGER, 1/96). With regard to the Union's argument that the Authority did not offer a meaningful *quid pro quo* when it reduced employees' level of health insurance coverage effective May 1, 2000, that is something to be asserted during bargaining and, therefore, the argument does not have merit.

Finally, the Union's argument that an award favoring the Authority will work a forfeiture misses the mark. I agree with the Union that health insurance is a vital and important employee benefit. However, the issue here is not whether the Authority can eliminate Union employees' health insurance coverage. The Union has not alleged that the Authority has constructively eliminated health insurance. The issue, rather, is whether the Authority can change the level of health insurance benefits with a result in the reduction of benefits. I find that the Agreement does not prohibit the Authority from changing the level of health insurance benefits and, therefore, that the Authority's acts in this case and relative to this grievance do not violate the Agreement.

AWARD

Based upon the foregoing and the record as a whole, it is the decision and award of the undersigned Arbitrator that the Authority did not violate the parties' 1999-2001 collective bargaining agreement by changing the level of health insurance benefits provided effective May 1, 2000. Therefore, the grievance is denied.

Dated at Eau Claire, Wisconsin, this 7th day of November, 2001.

Stephen G. Bohrer /s/
Stephen G. Bohrer, Arbitrator

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