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AFSCME-COUNCIL 40
MADISON, WI

BEFORE THE ARBITRATOR

In the Matter of the Petition of

LABOR ASSOCIATION OF
WISCONSIN, INC.

To Initiate Arbitration
Between Said Petitioner
and

Case 148
No. 63025 INT/ARB-10047
Decision No. 30810-A

WASHINGTON COUNTY

Appearances:

Patrick J. Corraggio, Labor Consultant, appearing on behalf of the Association.
Davis & Kuelthau, S.C., Attorneys at Law, by Nancy L. Pirkey, appearing on behalf of the Employer.

INTEREST ARBITRATION AWARD

Labor Association of Wisconsin (herein "Association"), having filed a petition to initiate interest arbitration pursuant to Section 111.70(4)(cm), Wis. Stats., with the Wisconsin Employment Relations Commission (herein "WERC"), with respect to an impasse between it and Washington County (herein "Employer") involving certain professional social workers in its employ and the WERC having appointed the Undersigned as arbitrator to hear and decide the issues remaining in dispute with respect to the parties' calendar 2004-5 collective bargaining agreement, by order dated March 11, 2004; and the Undersigned having held an evidentiary hearing in West Bend, Wisconsin, on June 9, 2004; and the parties having each submitted post-hearing briefs, the last of which was received August 31, 2004;

ISSUES

The parties' final offers constitute the statement of issues in this matter. They agree on the remaining issues except the wage increase. The only difference between wage positions relates to the position of Senior Social Worker. The parties' positions with respect to the wage issue are summarized as follows:

1. Wages:

Employer: 3% across-the-board increase effective January 1, 2004
3% across-the-board increase effective January 1, 2005

Association:
Social Worker

3% across-the-board increase effective January 1, 2004
3% across-the-board increase effective January 1, 2005

Senior Social Worker

3.89% across-the-board increase effective January 1, 2004
3.81% across-the-board increase effective January 1, 2005

The Association's offer results in a \$.12 per hour additional increase for the Senior Social Workers in each year beyond the 3% increase in each year.

DISCUSSION

Under Section 111.77(4cm, Stats., the arbitrator is to select the total final offer of one party or the other, without modification. The decision is to be based upon the following criteria expressed in the statute:

7. **'Factor given greatest weight.'** In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

7g. **'Factor given greater weight.'** In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. **'Other factors considered.'** In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours, and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.
- e. Comparison of wages, hours, and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.
- f. Comparison of wages, hours, and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in private employment in the same community and in comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost of living.
- h. The overall compensation presently received by the employes, including

direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration, or otherwise between parties, in the public service or in private employment.

The parties have agreed that neither of the greater weight factors applies to this case and, therefore, the remaining factors govern this dispute. They have also agreed that the Employer has the financial ability to meet the offer of the Association.

BACKGROUND

This is a unit of professional social workers. There are 29 employees in the unit. They are in two classifications; Social Workers (14 employees) and Senior Social Workers (15). The Employer has other professional social workers in the position of Psychiatric Social Worker. There are at least 6 employees in this classification. Those positions are unrepresented and are not in this bargaining unit. They are assigned to CCSA-Mental Health Services Department. The Employer has six other bargaining units. They are the Deputy Sheriffs, Highway Department, Corrections and Communications Officers, Park/Golf, Clerical Paraprofessionals, and Samaritan Health Center. It also has a sizeable group of unrepresented employees.

WAGE INCREASE

Positions of the Parties

The Employer takes the position that the arbitrator should adopt its final offer based upon the fact that all of its other bargaining units have settled for the same general percentage wage increase it is offering the Association. In its view, the overwhelming pattern of other settlements have supported its view and, therefore, it should be given heavy weight by the arbitrator. The Employer disputes the Association's position that there is any comparability between the non bargaining unit position of Psychiatric Social Worker and the unit position of Senior Social Worker. The former perform counseling to patients. Senior Social Workers do not. The qualifications for the former are more exacting than those of Senior Social Workers. It also notes that Senior Social Workers are among the highest paid of comparable employees among other similar employers. [The parties have used the same set of external comparable public employers.] Only two of the five comparable employers pay more than Washington County. It notes that the Association has made its comparisons to positions in those comparable counties which are not similar to the Senior Social Worker here. The offer of the Employer is comparable to the wage increase comparable positions received in comparable counties. The Employer's offer will maintain the relative pay ranking of the Senior Social Workers. The Employer notes that its offer is supported by the cost of living criteria. It also notes that economic conditions in Washington County do not favor an extra-ordinary increase for the Senior Social Workers.

The Association takes the position that it has agreed to a general increase for all unit employees of 3% in each year. It notes that the general increase is slightly less than the average cost

and wage lift of the average increase granted among the comparable counties (3.3% cost, 3.8% year end lift). The Association argues that the Senior Social Workers are underpaid in comparison to the Psychiatric Social Workers employed by the Employer and to comparable Senior Social Workers among the comparable counties. The primary reason for the Association's offer for a small additional increase for the Senior Social Workers is to further its bargaining goal of closing the disparity to the Employer's unrepresented Psychiatric Social Worker position at its 66 month step. [The 78 month step is a merit step not available to represented employees.] It notes that in the negotiations leading to the 2002-3 collective bargaining agreement, the Association successfully sought to close the disparity between the non-represented social workers and unit social workers. Historically, the Employer has not negotiated consistent settlements among its bargaining units, but has granted greater increases or adjustments to units or positions which were comparatively underpaid. In this regard, the Employer granted this unit additional increases of \$.40 per hour and \$.20 per hour to the top step of the Social worker and Senior Social Worker classifications in the 2003 wage increase to close the disparity. It argues that the Employer has not explained at this hearing why it reclassified the Psychiatric Social Worker position to a higher pay grade for the year 2000 (about \$2 per hour higher). Prior to the reclassification, the Union had been making slow, steady progress toward closing that pay gap (\$.12 per hour in each year, 2001-2003). In its view, there is little difference between the two positions. The Psychiatric Social Worker and Senior Social Worker both require a social work masters degree. The Psychiatric Social Worker position does require 3000 hours of clinical experience, while the Senior Social Work position does not. In its view, the 3000 hour difference does not justify a wage rate disparity of almost \$3.00 per hour. The Association notes that the positions of Senior Social Worker and Psychiatric Social Worker have far more similarities than dissimilarities. In its view, the two positions are equivalent at the 66 month level with the 78 month level of the Psychiatric Social Worker compensating the latter for its higher qualifications. The Union also argues that the fringe benefits at Washington County are lower than comparable employees' fringe benefits.

Discussion

The central issue in this matter is whether the Senior Social Workers are entitled to an additional wage increase because of a wage disparity. The Employer's offer would otherwise be preferred. The Employer's offer of 3% general wage increase for each year of the agreement is comparable to the settlement it reached with all of its other bargaining units. The parties have correctly agreed that external comparisons should be made to employees in similar classifications in Dodge, Fond du Lac, Ozaukee, Sheboygan, and Waukesha Counties. There are no comparable wage settlements for these counties for the 2005 contract year. The average increase among those comparables is 3.2% for the 2004 year. Waukesha has also increased the maximum range for most the equivalent of those in the Social Worker classification. The cost of living supports the overall offer of the Employer. Wage rates here are higher than the average of similar positions among the comparables, but benefits here are somewhat less. Under the facts of this case, I would give heavy weight to the internal settlements were I not to conclude that the Association is correct in its position that Senior Social Worker rates should be adjusted as it has proposed.

The Association's argument in favor of the extra-ordinary adjustment for Senior Social Workers is based upon its argument for "parity" with the Psychiatric Social Worker which it variously argued as being closely comparable or, if not, as being treated in a manner inconsistent with the Senior Social Worker. The Employer has argued that Senior Social Workers are paid better than average of similar workers in the comparable counties. It, therefore, believes the analysis stops there. The determination of this matter rest on statutory factors of, overall compensation, comparison and public interest factors. I am satisfied that the Employer's current wage structure for Senior Social Workers is inconsistent with the logic of its overall pay structure. The public interest is better served by a more logical structure which provides an appropriate incentive for social workers to seek further

education and advancement to higher rated positions with the Employer.

The unit Social Worker assesses service requests and referrals, through interviews, home visits, and collateral contacts. The Social Worker determines eligibility for services, explains services and arranges for the client to receive needed services. He or she provides on-going services in family cases with individuals or families using family philosophy. In this regard, the Social Worker may conduct sessions with individuals or the entire family. The Social Worker may facilitate educational or counseling groups for selected clients. This position requires a bachelors degree in social work or a related field.

The Senior Social Worker position requires a masters in social work or a related field. The position requires a Level II certification by the State of Wisconsin Department of Licensing. By contrast to the Social Worker, the Senior Social Worker accepts only selected cases for diagnosis and treatment. The Senior Social Worker provides intensive individual, family, and/or group therapy to the selected clients to achieve better adjustment. In this regard, he or she maintains intensive contacts with the clients. Senior Social Workers are responsible for child welfare, juvenile court-ordered assessments, and for investigations with respect to family court matters.

The non-unit Psychiatric Social Worker requires a masters in Social Work or Psychotherapy and a Level IV certification by the State of Wisconsin. The Level IV Certification, unlike the Level II certification, requires that the social worker have 3000 hours of clinical experience of which 1600 hours must have been actual therapy to clients. In order to obtain the certification, the applicant must have some masters level course work in areas relating to psychotherapy. State requirements also require that the employee pass a national clinical level exam. Senior Social Workers are required only to pass an intermediate level national exam. The Psychiatric Social Worker diagnoses and develops an individual treatment program. The Psychiatric Social Worker then provides on-going psychotherapy for the individual. Psychiatric Social Workers are assigned to three of the four programs administered in their department. One department provides out-patient services to severely mentally ill patients for the purpose of assisting them to remain in the community at large. Others work performing services in the in-patient treatment program. One of the six Psychiatric Social Workers is designated as a crisis intervention social worker in the Child Services Program. The employee intervenes in crises involving children and provides therapeutic services in that position. He or she also supervises social work interns and others in the program. The Psychiatric Social Workers do not participate in the AODA program.

There was extensive testimony as to how closely related these positions are to the work of the Senior Social Workers. Senior Social Worker Mylly provided the testimony for the Association. She analogized the duties of the two positions on the basis of the similarity of their assessment and treatment planning functions. She also testified to the effect that the on-going counseling provided by the Senior Social Workers was closely analogous to the psychotherapy provided by the Psychiatric Social Workers use more advanced psychotherapy techniques. She admitted that while Senior Social Workers primarily use behavioral modification techniques, the Psychiatric Social Workers. She did testify that the Senior Social Workers here all have followed the clinical track in their masters program and, therefore, have the educational requirements to become Psychiatric Social Workers. Some of the Senior Social Workers in the unit have the level III license enabling them to obtain the experience necessary for the level IV license, although that is not required by the Employer for the Senior Social Worker position. The level III license is not required. It is also important to note that many Senior Social Workers have gained the 3000 hours required for a Level IV certification through their work in Washington County or through work they have done privately. It is very likely that at least some Senior Social Workers would view the Psychiatric Social Worker position as a promotional opportunity and would be reasonably in a position to seek those positions should they become available.

Every one of the external comparables pays their Psychiatric Social Workers differently than their Senior Social Workers. All but Sheboygan pay theirs more. Among those making substantial differences between the pay of the two positions, no one but Waukesha pays their Psychiatric Social Worker more than \$2.60 per hour more for 2004. Washington County has recently substantially increased the pay of the Psychiatric Social Worker. It appears that this was done pursuant to a consultant's study, but no details or information has been offered about that study. There is no evidence that the Employer considered the relationship of Senior Social Worker pay to Psychiatric Social Worker pay with that study. Washington County pays its Psychiatric Social Worker \$3.78 more than its Senior Social Workers.

The Association's parity argument is without merit. The Psychiatric Social Worker position requires higher qualifications and is required to focus on the duties which require the most advanced skills. By contrast, the Employer's sole reason for maintaining the level of differential between the two classifications, the difference in duties and qualifications, is not credible. This is true because the available evidence suggests that the Senior Social Workers are focused on highly selected cases which may not be true among comparable positions elsewhere. Further, the Employer has undervalued the fact that it has required the Senior Social Worker to have a specialized masters degree while it has over-emphasized the Level IV certification¹. The Employer has not fully explained why it has recently increased the pay of Psychiatric Social Workers to significantly above all, but one, of the comparables. Nor, has it fully explained why the differences in duties require the greater disparity in wages between Senior Social Worker and Psychiatric Social Worker.

Exhibit A attached hereto is the external comparisons of the various positions. The range for social worker positions is relatively close. For 2004, unit social workers are paid slightly more than average, but Waukesha County has combined its Social Worker I and Social Worker II positions and increased their current 6 step salary schedules with a single 9 step salary schedule. Over the next three years the pay for Social Workers in Waukesha County will rise well above average.

The parties disagreed as to what the appropriate position in Waukesha County was to the Senior Social Worker here. The Employer relied upon the Social Worker II in Waukesha County. That position does not require a masters degree and it appears to perform essentially the same work as the Social Worker I position with which it was combined. The Union relied upon the Social Worker IV in Waukesha County which does require a masters degree. Based upon those comparisons with the Social Worker IV used for Waukesha, the average pay for Senior Social Workers for 2004, is \$24.42. The average pay for social workers for 2004, is \$20.62. The difference is \$3.80. However, here the difference is \$3.60.

Again, by contrast, the average pay for Psychiatric Social Workers is \$26.30. Washington pays \$1.95 more than that average. Waukesha County pays \$28.29 which is more than \$1.20 than anyone else. Washington is virtually the same as Waukesha. However, Washington also has a 78 month merit pay step. The only reason the Employer has offered for having recently increased the pay of the non-union Psychiatric Social Workers is their greater qualifications. As noted it did not provide any information about the study. At the same time, it is requiring Senior Social Workers to have masters degrees, but it is under-valuing that requirement *vis a vis* the Social Workers. In the context of these pay structures, the Union's offer is more nearly appropriate as a one-time pay adjustment to apply a more consistent valuation to that position. This approach meets the public interest by encouraging social workers to improve themselves and seek advancement to the higher rated positions with the Employer.

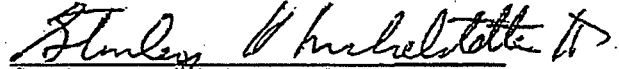
¹See, discussion below.

Accordingly, the Association's position is more nearly appropriate and it is adopted.

AWARD

That the final offer of the Association is to be adopted.

Dated at Milwaukee, Wisconsin, this 29th day of October, 2004.


Stanley H. Michelstetter II,
Arbitrator

Appendix A

Year End Wage Rate Comp.	Seri. Soc. Wkr.		Social Wkr.		Psych. Soc.
	2004		2004		2004
Dodge Sen. Soc. Wkr	\$23.46	Social Wkr. I	\$18.96	Therapist I	\$21.73
				Therapist II	\$24.79
Fond du Lac Sen Soc. Wkr.	\$24.41	Social Worker	\$20.91		\$27.08
Ozaukee er. soc. wkr.II	\$24.09	Social Worker I	\$21.75		\$26.19
Sheboygan Soc. Wkr. III MA	\$25.46	Social Worker I	\$20.82		\$25.13
Waukesha Soc. Wkr IV	\$24.67	Social Worker *	\$20.67		\$28.29
average	\$24.42		\$20.62		
				Dodge I	
				Dodgell	\$26.30
Washington Er.	\$24.47		\$20.86		\$28.25
difference	\$0.05		\$0.24		\$1.95
Washington Un.	\$24.68		\$20.86		
difference	\$0.26		\$0.24		

*Note: Waukesha County combined the Social Worker I and II classifications into one classification. It increased the existing number of steps in the pay scale from 6 to 9 steps effective April, 2004. The former Social Worker I's will receive \$20.67, but will receive step increases in addition to any general increases granted in subsequent years to \$23.24. With this comparison, Social Workers here would be paid \$.28 per hour less than average.