
**IN THE MATTER OF INTEREST
ARBITRATION**

OPINION AND AWARD

between

**TEAMSTERS LOCAL 75
(COURTHOUSE UNIT)**

**CASE 706, NO. 64472
INT/ARB-10384
Decision No. 31463-A**

and

BROWN COUNTY

Gil Vernon, Arbitrator

APPEARANCES:

**On Behalf of the Employer: Thomas P. Godar, Attorney - Whyte,
Hirschboeck, Dudek, S.C.**

**On Behalf of the Union: Andrea F. Hoeschen and Asmaa Abdul-
Haqq, Attorneys - Previant, Goldberg, Velmen, Gratz, Miller, Brueggeman,
S.C.**

I. BACKGROUND

Brown County and Teamsters Local 75 were parties to a Collective Bargaining Agreement (CBA) which expired at the end of 2003. The parties in bargaining a successor agreement, covering the years 2004 and 2005, reached an impasse. On February 7, 2005, the Union petitioned the Wisconsin Employment Relations Commission (WERC) to initiate arbitration pursuant to Sec.

111.70(4)(cm)6 of the Municipal Employment Relations Act. Thereafter, a

member of the WERC staff conducted an investigation. On September 20, 2005, the WERC ordered the parties to select an arbitrator. The parties selected the undersigned and his appointment was ordered on October 11, 2005. On October 12, 2005, the Arbitrator offered the parties a list of dates for a hearing that included a date in January, a date in February, and several dates in March and April of 2006. The parties ultimately agreed to a hearing date of May 9, 2006. The hearing was held and the proceedings were transcribed. Following receipt of the transcript, the parties filed post hearing briefs and reply briefs, the last of which was received on August 17, 2006.

On August 31, 2006, the Employer sent to and asked that the Arbitrator consider, a copy of an August 25, 2006, interest arbitration decision by Arbitrator Edward Krinsky involving one of the other county bargaining units. The Union objected to the Employer's action in a letter dated September 6, 2006. The Employer responded to the Union's objection on September 11, 2006. A telephone conference was then scheduled, at the Arbitrator's request, on September 18, 2006. The Employer ultimately requested the records be reopened to receive the exhibit. The Union objected, and added that if the decision was received, they wanted a hearing to be reconvened so they could submit evidence it believed to be pertinent to consider. The Arbitrator issued a ruling on October 5, 2006, based on an agreement expressed at the hearing, that the record be closed as of the submission

of reply briefs for purposes of other pending cases/awards or settlements--that the Krinsky decision should not be part of the record and an additional hearing would not be appropriate. Thus, the matter then proceeded toward a decision.

II. ISSUES

The main unresolved issues for the contract in question (2004-2005) involve: (1) proposals from each party for a wage increase for each contract year; (2) a proposal from the employer to be effective in the second year of the contract to increase the employee contribution toward the applicable health and dental insurance premiums from 5.0% to 7.5%, along with certain plan changes, in the HSP plan option is as follows:

Health Savings Plan Design - Change the HSP plan features as follows:
Increase the Individual annual deductible from \$100 to \$200
Increase the Family annual deductible from \$200 to \$600
Increase the Family out-of-pocket maximum from \$1200 to \$1800.
Increase the Prescription Drug separate out-of-pocket per-person maximum from \$500 to \$1000.
Increase the Lifetime maximum benefit from \$1mm to \$2mm.

The Union does not seek any change in the status quo premium contribution by employees for health or dental insurance which, under the predecessor contract, was 5%.

It should be noted that the final offers of the parties included identical proposals concerning changes in the PPO Health Plan Option and the elimination of the Basic Plan Option. The Union also proposes to add another option for

dental care called Care Plus. There is also a proposal from the Union that employees be allowed to have their parking expense deducted from their paychecks on a pre-tax basis, and a language proposal by the Union that would allow up to three Comm Center employees on the same shift to be on vacation at one time at the County's discretion.

A. The Union

The Union first addresses the Employer's proposal to change the status quo concerning the employee's health and dental insurance contribution from 5% to 7.5% and to change deductibles and certain out of pocket maximums. This proposal is described as "unreasonable" because: (1) the County failed to offer a compelling justification; (2) the County's proposal does not reasonably address the problem of escalating health insurance costs; (3) the internal comparables do not support the County's offer; (4) the external comparables do not support the County's offer; (5) the County's proposal is not accompanied by a quid pro quo, and; (6) increased premium sharing is not a necessity.

The Union notes, with several case citations, that it is well established that a party seeking a change in the status quo has the burden of demonstrating a compelling justification for the change. There is a three part test which must be to satisfy this burden. The proposing party must show: (a) a significant problem exists; (b) that the proposed change in the status quo reasonably addresses the

problem, and; (c) that the proposed change is accompanied by an appropriate quid pro quo. In this case, assuming that escalating health insurance costs is a legitimate reason for seeking a change in the status quo, the Union argues the County cannot satisfy the remaining two prerequisites. Whether a party's proposed change in the status quo is a reasonable solution to the perceived problem can be assessed by making internal and external comparisons to other employee groups.

The Union argues, the internal comparisons do not support the County's offer because: (1) many of these employees are unrepresented and their insurance contribution level is unilaterally set by the employer, and; (2) of the eighteen bargaining units in the County, only five have settled with the County and only one (a 13-person unit of nurses) has accepted the same offer as the County is offering in this arbitration. Indeed, the others have later implementation dates concerning the external comparables.

The external comparables the Union relies on are Fond du Lac, Manitowoc, Outagamie, Sheboygan, and Winnebago and they reject the Employers' attempt to add Marathon County and the City of Green Bay. While they recognize that Brown County is not the only municipality seeking to increase employee premium sharing, it is the only one among the agreed-upon external comparables unwilling to pay for it with more attractive wage increases. The external comparables did not

get above a 5% employee contribution by offering paltry 1.9% and 2.8% wage increases. Sheboygan had an increase of 5.5% plus longevity. Winnebago increased employee premium share in October 2004 by 2.5% to 7.5% in October 2005 by 2.5% to 10% but did so with a 4% wage increase in 2004 and a 4.5% increase in 2005. They also capped employee contribution for family coverage at \$100 for 2005. Indeed, if the County's proposal of a 7.5% employee premium share is selected, employees would contribute more, on an actual dollar amount basis, for their health insurance than Winnebago employees, and yet receive only a 4.7% wage increase over two years compared to the 8.5% wage increase in Winnebago County.

The same is true in other comparables. If the County's 7.5% proposal is selected, employees would contribute more for their health insurance, on an actual dollar amount basis, than employees of Outagamie and Fond du Lac Counties. Under the County's proposal most employees (because 155 of the 255 employees in the unit take medical insurance) would have to pay \$103.60 in monthly employee premiums whereas employees of Outagamie County, at 9% contribution, only had to pay \$99.21 for the HMO 2 Family Plan. In Sheboygan County, employees only had to pay \$87.29 for Health Pro Plan family coverage in February 2005. In Fond du Lac County, employees only paid \$88.38 for family coverage despite an employee premium share of 8%, plus the County contributed another

\$156 towards employees' family coverage premiums. In Manitowoc County, employees paid \$104.59 for family coverage in 2005 even though their employee premium share was 8%. Manitowoc County also annually contributes \$200 to a health care reimbursement account for employees with family coverage.

Moreover, Brown County's proposal includes no cap on employee contributions, so in future years employees' actual dollar contributions will depend entirely on how much the County decides to raise premiums, unless the Union can negotiate for a cap in successor contracts. In this regard, the County's argument that no quid pro quo is necessary overlooks the important fact that employee's contribution to the health insurance premium already increases every time the premium goes up. In 2004, employees paid \$50.99 per month for a PPO Family Plan. Under the Union's offer, employees will pay \$69.07 per month for a PPO Family Plan, a 35% increase. The Union also notes that not only has the County not offered a higher wage increase as a quid pro quo, they haven't offered one in any other form. Citing other decisions, it is noted that this has been a basis to reject similar proposals by other employers.

In terms of external comparables, the Union also argues the County has made no showing that Brown County suffers more because of health insurance trends than the comparables. They also have not demonstrated that premium sharing is needed to maintain the health of the self-funded plan. Thus, while the

County complains roundly about how high health insurance premiums are and how much they have increased, it is the County itself who determines the increase from year to year. The Union does not dispute that a premium increase may be necessary, but they argue that the County has failed to explain why it decided upon the particular increase for 2005. Indeed, the fund has a small surplus for 2005. Another point is made that the County has not exhausted other methods for reducing costs such as preventative programs and cost utilization.

Regarding wages, it is the position of the Union that the County's proposed wage offer is substandard on its face. The Employer's position--that its 1.9% and 2.8% wage increases results in wages better than those offered by the comparables-- is not borne out by the evidence. Because the wage range among the agreed upon comparables is narrow, there are no significant differences between the parties' wage comparisons. Under either offer, Brown County employees earn less than employees in some of the comparables, and more than some others, but the difference is not enough to warrant a sub-standard wage offer for Brown County employees. The Union cites examples of individual position comparisons to support this. They argue, too, that the County's offer gives a paltry increase of 4.7% over two years compared to the next stingiest settlement which was Sheboygan's, with a 5.5% increase over two years.

The Union also addresses the 'cost of living' criteria as well, arguing it

favors the Union's offer. This is because the net effect of increased premium sharing combined with a meager wage increase is that employees will see very little increase in their take-home pay. In fact, it is submitted that the County's offer will result in employees losing money after accounting for inflation. For employees participating in the PPO Family Plan, the County's proposed change will cost the \$.21 an hour. Employees participating in the HSP Family Plan will have a potential cost of at least \$.49 per hour. Significantly, this increased cost does not include the increase the employees would see under either party's offer simply as a result of the increasing premium. After accounting for inflation of 2.7% and 3.4% in 2004 and 2005 respectively, and after accounting for the additional health insurance costs attributable to the County's offer, employees participating in the PPO Family Plan will have an hourly wage loss of between \$.38 and \$.40 per hour at the end of the contract term. Annually, this results in a wage loss of between \$790 and \$832. The wage loss will be even greater for those who participate in the HSP plan. This disparity is not, as the County attempted to show, justified by other benefits, such as sick leave, casual days, vacations, holidays, etc.

Regarding economic conditions, the Union submits that they do not justify the County's offer which really is motivated, not by rising health insurance costs, but the desire, and the campaign promise, to reduce taxes. If Brown County

simply maintained its tax rate at 2003 levels, the Union points out, it would see a significant increase in revenues as a result of the good fortune of rising property values, but instead the County administration decided to reduce tax rates so much as to reduce revenues. The Union also argues that economic conditions in Brown County are the same or better than conditions in the comparables. Brown County had the highest per capita income in 2003, and about the same unemployment rate as the comparables in 2005. Brown County had the greatest increase in property values from 2004 to 2005. It also had the second lowest tax rate. The County's offer is also out of sync with the general economic indicators for the area. Personal income growth for the area in 2004 and 2005 was about 6%. Thus, the County's offer clearly does not put bargaining unit employees on the same footing as the rest of the workforce.

Last, the Union asserts the remaining issues are not determinative. They describe their proposal to add the Care Plus dental plan as a choice as a no-cost proposal with the actual likelihood of saving the County money. In its response to this option, the County has not quantified the costs to it or the employees in offering Care Plus as an option. Any cost to the Union's proposal is negligible. Concerning 'Comm Center' vacation scheduling, the Union's business agent testified, without contradiction, that the management at the Comm Center asked the Union to propose the language. Moreover, the County failed to identify any cost to

this proposal, and made no rational argument that the language would do anything but expand management's discretion.

B. The County

The County, at the outset, stresses how big of a factor insurance cost has become relative to wage increases. For instance, they note the two-year increased cost to Brown County for the Family Preferred Provider Option (PPO-F) (the most popular plan for courthouse employees) under the County's proposal to the Teamsters Local 75 is more than \$2.61 per hour. With their proposed wage increase (of 1.9% and 2.8%) added to insurance, the total two-year increase in costs for an average employee under the County's offer is nearly 12.9%. The monstrous increases in health insurance must be addressed in an environment of fiscal pressure on state and locally raised dollars, including state structural budget deficits at the state level that reduce dollars returned to state and local governments.

It is the position of the County that its proposal is supported by its overall value and cost. Focusing first on the value of the health insurance benefit proposal, they examine the PPO-F premium (since 155 of 255 employees participate in this option). In 2003, the employer contribution was \$5.25 per hour.

In 2004, the employer contribution was \$5.96 per hour whereas the employee contribution will be \$.31 per hour. If the employer's offer for 2005 is implemented, the employer contribution will be \$7.86 per hour and the employee contribution will be \$.64 per hour. Under the Union's offer, the employer's contribution will be \$8.08 per hour and the employee's contribution will be \$.42.

In comparison to the employer offer, which is valued at 12.8%, the Union's proposal would have an increased cost of almost 15% during these two years. The total new money needed to fund the Union's proposal for two years is \$2,379,501, a difference between the proposals of \$329,000. Under the proposal offered by the County, the annual value of the offer to the employees, using the weighted average wage of \$15.55 per hour in 2003, was \$51,622 in 2004, which increased to \$56,520 in 2005. The Union's offer would push this 2005 total wage and benefit cost to \$57,531, or more than \$1,000 difference per employee from the County's offer. The County also does this same sort of analysis for a number of specific positions.

The County, noting that the arbitrator must take the "economic conditions" of the Employer's jurisdiction into consideration and that he must also weigh the ability of the local economy to sustain the offers made by either the Union or the Employer, also argues that the financial climate facing Brown County makes the Employer's offer the more reasonable one. The Union's offer would require \$2.4 million dollars in new spending over a two year period. The Employer's offer is more prudent given: (1) an increasing unemployment rate to 10% in early 2006; (2) several local plant closures; (3) increasing tax levy; (4) increasing operating and tax levy's; (5) increasing budget; (6) a relatively high poverty rate of 7% compared to 3.5% for Manitowoc and 4.7% for Outagamie; (7) lower average income than that of Outagamie; (8) the lowest homeownership rate of all the

comparables, and; (9) a falling fund balance. There are state levy limits, too, that force the Employer to adopt only modest tax increases. The County's offer, compared to the Union's, far outstrips those modest increases. The lower County increase is, per se, more reasonable when compared to the state levy limit restrictions.

The County believes, of the various statutory criteria, that internal comparisons are particularly important in this arbitration because, as arbitrators have recognized, one of the major issues is health insurance. The County also believes that these internal comparisons support their offer. The County's offer-- which they describe as providing for only a "slight amendment" in premium sharing and plan changes in the HSP Option, which only affects 15% of the bargaining unit at the expiration of the contract--is consistent with the wages and benefits offered to other Brown County employees, both represented and non-represented, and conforms to the agreement reached with several hundred represented employees of Brown County for 2004 and 2005. The County's offer would also increase the lifetime benefits for HSP participants from one million to two million dollars. Further, the County's offer would enhance the PPO plan by providing for a maximum annual \$1,000 co-payment towards prescriptions per participant.

At the time of the hearing, the County had reached agreement with the

following represented employees: (a) Human Services Professionals; (b) the Medical Examiner Deputies; (c) the Mental Health Center Employees; (d) the Public Health Nurses, and; (e) Human Services Para-professionals. The County's offer to the Union is consistent with the compensation and benefit package provided to the 231 non-represented employees, as well. There have been only slight variations in the settlements. For example, two units only received 1.9% increases instead of the 2.8% increase because they either did not choose, accept at all, or delayed the 7.5% premium sharing option.

The County submits that the Union's offer is wholly inconsistent with this pattern and, instead, the internal comparables heavily favor the Employer. This should be the most persuasive factor in selecting the Employer's offer. The Employer cites a number of cases involving insurance issues where arbitrators have held that internal comparability should receive paramount consideration. To agree with the Union would be to penalize those groups who have compromised and accepted the Union's offer. Further, those employees who have not yet concluded an agreement with the County would be incented to abandon voluntary bargaining in hopes that interest arbitration would provide a greater payoff than voluntary agreement among the parties. To ignore the pattern would ignore basic fairness as well.

Concerning external comparables, the County first argues that the external comparables they propose should be preferred over those proposed by the Union. They propose six external comparables; Manitowoc County, Marathon County, Outagamie County, Sheboygan County, Winnebago County and the City of Green Bay. They note all of these counties (except Marathon) have historically been used as comparables for Brown County and they cite four arbitration decisions where this was true. As for the City of Green Bay, it is included for obvious reasons in that it is a local public employer with many of its employees performing the same duties as those performed by Brown County employees. As for Marathon County, it, like Brown County, has one dominant city (Wausau) surrounded by several smaller cities with both an agricultural and industrial base. It is in the middle of the pack, based on the number of employees, population, and average income and is as close as Fond du Lac County (advanced as a comparable by the Union). Fond du Lac County might ordinarily be used but, in this case, they have no omnibus unit or even a courthouse unit which the parties can use to make comparisons.

The County makes a number of comparisons to these employees and contends that their offer maintains and/or enhances the position of the County, both in terms of wages and in terms of the annual overall value to the employees. In making their comparisons, the County focused on positions that are relatively

standard and those most populated. They note approximately 100 employees are captured in their comparisons, rather than under the Union's methodology. The Union picked comparisons regardless of how many people were in the group (sometimes only 1) and with regard only to titles--not job descriptions. They question the validity, too, of the Union's math.

The comparisons show that both the County and the Union's proposals, basically, maintain the employees in the same relative wage rank enjoyed by the employees in 2003 compared to other municipal employees. They also believe total package increase comparisons are particularly relevant and, if the arbitrator were to look at the total value increase over the two years of the County's offer compared to any of the comparables under any measure proposed by either of the parties, the County's increased cost for its courthouse employees far outstrips any other county.

The County also looks at specific insurance comparisons. In 2003, nearly all of the comparable counties and the City of Green Bay paid 5% of the health insurance premiums toward the insurance plans. However, in 2004, Fond du Lac, Manitowoc, Sheboygan, and Winnebago Counties all increased the employees' share of health insurance premiums. The average premium cost moved from 4.9% to 6.2%. In 2005, when the Union seeks to maintain a 5% premium sharing, every county except Marathon is at or above 7.5% premium sharing; Green Bay

and Winnebago are at 10%, Outagamie at 9%, Manitowoc and Fond du Lac at 8%, Sheboygan at 7.5%. Even the County's proposal, to have employees contribute 7.5% of the insurance premiums, is only to be at the lowest end of the comparables. This comparable contribution rate favors the County.

As for the increase in the deductible for its most popular plan, the PPO-F, in 2005, of \$50 for single and \$150 for family, they note that many of the most essential procedures, under the County's plan, are paid with no deductible. Moreover, except for the HMO options that might be offered, these are the lowest deductibles of all plans with a deductible. Most other deductibles, for the comparable counties, are from \$250 single to \$500 per family.

Concerning the County's contribution, it will, in 2005, be more than \$1,300 a month for PPO-F which is \$250 more than Fond du Lac County pays for its employees per month, and \$75 more than Manitowoc County pays for its employees per month, and almost \$100 more than Marathon County pays for its employees per month. This is \$477 or \$275 more than Outagamie County pays for its family insurance premiums for its employees per month (depending on plan selection by employee), and \$180 or so more than Sheboygan County pays for its employees per month, and depending on the plan in Winnebago County, is anywhere from \$145 to \$325 more, per employee, per month for family coverage. This equates to differences in dollars per hour not cents per hour.

Additionally: (1) the County's prescription plan, new in 2005, for 85% of people in the PPO plan is as good as any and better than most. It includes a very valuable out-of-pocket maximum of \$1,000, and; (2) the County has also created an excellent dental insurance benefit where the employee only pays a fraction of the premium and which has experienced no premium increases in over the past three years. Whereas, other counties either don't offer dental or offer it at dramatically higher employee contribution rates (10%-100%).

The Employer anticipates that the Union will no doubt try to take the County to task because of its 1.9% increase in 2004, which is lower than some comparable counties. The fact is, it is less than 1% different than the average of the comparable counties, and the County's 2.8% offer is exactly on average with the other comparable counties, while the Union's offer exceeds the average 2005 increase for comparable counties. It is the County's position, however, that when taking into account the total picture including the employees' comparable counties' higher sharing on insurance premiums, in almost all cases and the County's maintenance of such rich benefits, that the cost of the health and dental insurance has far outstripped those other counties. Brown County is providing a much more generous total package to their employees than other counties. The County's offer also compares favorably to the City of Green Bay.

Anticipating that the Union will argue that a quid pro quo is necessary for the modest change of the Employer's contribution moving from 95% to 92.5%, the County argues this is not demanded in these circumstances. First, the Employer has acted carefully and prudently in selecting and designing its self insured plan providing great value to employees. They detail a short history of its valuable changes in administration and benefits such as prescription benefits with the effect of keeping delivery of premium benefits cost effective. The County says that an increase in premium sharing is a last resort.

The Employer does not think it should be lost that Brown County provides rich and expensive benefits compared with most Employers or that the County's proposed premium cost sharing does not reduce the "Cadillac benefits," which come at a high cost, but are demanded by the employees. They offer plan feature comparisons to national benchmarks and Wisconsin public entity benchmarks, which for employee premium shares were 13% and 15% in 2005 (single and family premium contributions, respectively) compared to 21% and 26% for the national benchmark. As for premium increases, the 13% and 35% increases for insurance premiums for the County were far greater than the 11.2% and 9.2% increases identified in the Kaiser Family Foundation survey. The average annual cost for a family private sector plan was about \$7,000 and about \$9,000 for public plans, which is about half of what Brown County pays for its family insurance

coverage per employee. Similar trends are apparent between Brown County and its private employer's.

Compared to the external comparables, the County argues that its health and dental benefits are far and away the most expensive and valuable. There was a 50% increase in health insurance premiums between 2003 and 2005. In 2004, the total cost between the health insurance and dental insurance plan for families using the PPO-F was over \$13,376. Premiums for dental and health insurance escalated to almost \$17,721 in 2005. In 2005, when the Employer had sought a very modest increase in cost and premium sharing, the County would pay \$8.40 per hour for family health and dental, whereas, its comparable communities range from a low of \$6.53 an hour for Outagamie County with the closest comparable being Marathon County at \$7.62 per hour. Even under their offer, the cost of the Employer's share of the PPO-F option is \$1.90 more per hour in 2005 than in 2004. In the face of such significant costs, it is the position, with case citation, that no quid pro quo is necessary to justify a modest increase in employee premium sharing. More specifically, they argue that given that the Employer has taken on, over the two years of the contract proposal, more than \$2.50 per hour more in insurance costs than in 2003, and that the employees have only been asked to pay an additional \$.46 per hour under their proposal, no quid pro quo is called for. Even if the Arbitrator were to require a quid pro quo to justify the modest increase in premium

sharing, Brown County has met this by providing an increase of 2.8% in the second year of its contract when others, not participating in the increased premium share, received only 1.9% wage increases.

Addressing other aspects of the Union's final offer, the County offers the following arguments: (1) the Union has offered no quid pro quo for its very significant changes of adding a new dental plan; (2) the issues concerning vacation scheduling and parking are not determinative. They also reject as inadequate and inaccurate the Union's claim that there is a wage loss after inflation under the Union's offer.

IV. OPINION AND DISCUSSION

The Employer, in the Arbitrator's opinion, has made a compelling case that there is a health insurance problem and that the status quo on health insurance must change. The question then becomes which offer, as a whole, more reasonably advances the parties toward a solution to that problem. Expressed another way, it might be said the issue is which offer is less unreasonable in the manner it addresses the health insurance issue in the context of this and the other issues. This alternative statement of the fundamental question before the Arbitrator is sometimes more useful because sometimes the party proposing the change in the status quo can establish the need for change but proposes to address it in an unreasonable and unacceptable manner.

The compelling case for change with respect to health insurance in 2005 is demonstrated by the dramatic increase in the insurance premiums, the fact Brown County has the highest employer cost/share (by far) of any comparable public employers, and the fact that all comparable employers, by 2005, had moved to, at least, a 7.5% employee premium share for health insurance.

In his analysis of relative premiums, the Arbitrator focused on the PPO Family Option, since in 2004 and 2005 it was the most popular/commonly selected insurance option. In 2005, the PPO family plan option was selected by 155 employees. The PPO single option was selected by 62 employees. Only 38 employees took either the single or family HSP option.

From 2003 to 2004 the premiums for the PPO family option increased 13.64% and from 2004 to 2005 they increased 35.46%; a total of \$1381.30. In 2005, in the Employer's comparable group (set forth in its exhibit 12, which included Fond du Lac County and the City of Green Bay), the average total family premium was \$1147.72 per month or \$233.58 less than the total premium in Brown County. In other words, Brown County paid slightly over 20% more for their family premiums than comparable employers.

Similarly the Employer's share, in Brown County, under either offer would be significantly higher than elsewhere. Again, using the Employer's comparable group, the average Employer's share in 2005 is \$1056.00. If the Union prevails,

the Employer's share in Brown County would be \$1312.00 or \$256/24.2% more than the average. If the County prevails, the Employer's share will be \$1277.00. Still \$221/20.92% more than the average Employer's contribution. By 2005, the average employee contribution toward premiums was 8%. Only Marathon County, whose comparability is questionable, remained at 5%. Fond du Lac County was at 8%, the City of Green Bay was at 7.5%, Manitowoc County was at 8%, Outagamie County was at 9%, Sheboygan County was at 7.5% and Winnebago County was at 10% with a cap.

The foregoing fully satisfies the Arbitrator that the status quo with respect to health insurance costs need to change. The Employee's share of the premium is too low on a percentage basis and the total premium is too high. While Brown County has a self insured plan, there is no convincing evidence, in this record, that the premiums, at its 2005 level, are inappropriately established. While there was a surplus in 2005 of \$3.5 million, the combined health and dental fund operated at a \$1.8 million loss in 2004 and a \$2.1 million loss in 2003.

Given that other measures have been employed in an effort to contain cost, an increase in employee premium share is not unreasonable; particularly one of this size and where the premium share percentage is still below average and is not atypical, in any respect.

The more difficult question, in this case, is the interplay between the health insurance and the wage issue.¹ This relates to the debate between the parties concerning “quid pro quo”. The Employer says one isn’t necessary and, if it is, their offer contains one relative to the internal comparables. The Union contends a quid pro quo is necessary for such a change. They recognize that other comparable employers moved beyond a 5% contribution level, but argue those employers bought or paid for the higher contribution levels with higher wage increases and not with a substandard wage increase such as that proposed by Brown County.

Both parties have cited and relied on well written and reasoned awards to support their positions. On the “quid pro quo” issue, this Arbitrator does not intend to dispute or defend any of those awards. Nor does he intend to write or attempt to write anything definitive on this legal point. It is helpful to note, however, the more compelling the case for change tends to be, the need for a quid pro quo tends to lessen in proportion. The more common a contractual feature tends to be in the comparables, the scale of the corresponding quid pro quo tends to be reduced.

Beyond this, a broad analytical discussion on changes in the status quo and the need for a quid pro quo isn’t particularly helpful since the balancing point in any one case is determined on the whole of the facts, circumstances, arguments, offers of that case, and the fit of the offers within the application of the statutory criteria.

¹ The wage and insurance proposals are considered, by the Arbitrator, to be determinative and the other issues are so, relatively speaking, insignificant, that they do not warrant separate treatment.

Here is how the Arbitrator sees this case as shaping up. The Employer's offer is preferred on health insurance, in its own right, and, relative to the traditional external comparables. The Union's offer is preferred on the wage increase, relative to the traditional comparables. Concerning the internal comparables, there is no clear or controlling pattern. However, the evidence--limited as it is--tends to support the Employer's offer. In all respects, it deserves consideration and weight favorable to the Employer that the Employer's combination of increased premium share and a 1.9%/2.8% wage increase has been accepted by some internal groups and that, where it hasn't (either by delaying the implementation or rejecting it), there has been a roughly corresponding adjustment to the wage increase. On the other hand, there is no internal settlement favoring the Union's position.

The Arbitrator also must assess the relative damage to be done to the bargaining process by adopting one final offer over the other. To agree with the County might encourage them to seek future changes in the status quo without offering meaningful incentives at the bargaining table. To agree with the Union might encourage them to stick their heads in the sand concerning the need to accept part of the burden of the growing health insurance crisis. This issue has steered collective bargaining, in large part, for the last 20 years and is likely to for years to come. The Union's offer does little to address the overall insurance issue and the Arbitrator is concerned, as evidenced by their reply brief, that the Union might view

health insurance as a given. In response to the Employer's argument that their offer provides greater overall value, the Union argues 'an apple is an apple' whether it is in Green Bay or New York City; thus suggesting Employer insurance costs are irrelevant.

While the 'value' aspect of the Employer's argument was no doubt overstated, the fact is inescapable that the Employer's total wage and benefit bill is going up over the two year contract by 12.8%. The fact is that the employee, on average, benefits to this same extent. The Employer could have perhaps done a better job at controlling health care costs, but the major factor in health care costs, particularly in a self funded plan, is usage. The value of the plan is related to its cost as its costs are related to the services the employee receives. A shifting cost sharing is a stark reality that must be faced.

The Union is correct in that adoption of the Employer's offer will have an effect on "employee's pocketbooks" and, relatively speaking, they will then be less well off. However, it is equally true that the County has a pocketbook, too, and the Arbitrator is left to balance these two competing considerations. The question is-- which is worse.

It is the decision of the Arbitrator that, on balance, the Union's offer is slightly more unreasonable than the Employer's offer. The less-than-typical wage increase relative to the traditional external comparables won't result in any unreasonable wage disparities in key benchmark positions, nor is the Employer's offer outweighed by

cost of living considerations. It is significant too that employees still have a health and dental plan for which, in the later case, they pay very little for in comparison to other employees in other comparable counties. (where employees, by far, pay the lion's share of the dental premiums).

The arbitrator must also respect factor 7g and the economic conditions in the Employer's jurisdiction. This factor is to be given greater weight than to any of the factors listed in 7r of the Statutes. All of the discussion thus far falls under the 7r factors. Economic evidence is difficult to evaluate; particularly when it fails to distinguish the subject municipality from others generally regarded as comparables. Raw economic data isn't a mystery, but when it comes to honing it into a conclusion as to what it means or how it converts into cents per hour, (i.e. whether a 2.8% or 3.0% increase is more reasonable) it presents a bit of a conundrum for parties and arbitrators.

In this case, there is, related to the particular facts and circumstances of this case only and, with no intent to make a broad precedential ruling, an interesting intersection between factors 7g and 7r, d and e as it relates to the City of Green Bay. Arbitrator Malamud considered the City of Green Bay as a comparable in 1998 and was negatively disposed, but it is fair to say he did not unequivocally reject the comparison. As he noted, there are good reasons to be cautious in such comparisons (more so in some work groups than others) particularly regarding precise wage levels as opposed to the determination as to how much of a wage increase is reasonable.

However, it seems that when a city is such an integral and dominant part of a county that the city, as an employer, is at least relevant for section 7r.e purposes. It also seems that, for wage increase and benefit change purposes, it could also be reflective or instructive as to the net effect of local economic conditions where the bargaining dynamics are similar. Indeed, the City of Green Bay faced the same issue.

For 2004, the year Brown County offered 1.9%. Employees in the City of Green Bay received 1.88% and in 2005 they received 2.8%; exactly what the County offers here. Moreover, the City of Green Bay employees agreed to these wage increases at a time when they agreed to change from a 5.0% premium contribution in 2004 to a 7.5% premium contribution in 2005. (see employer tab 12).

The Employer's share of the premium in the City of Green Bay is also significantly lower than Brown County's in 2005 (\$1081 versus \$1277 under the employer's final offer). This certainly reflects on what is a sufficient quid pro quo in terms of wage increases when increasing premium sharing from 5.0% to 7.5%. It also suggests Brown County is entitled to as much relief, given the fact the City of Green Bay and Brown County share many economic similarities and draw medical services from the same service market.

After weighing the offers and evidence in the context of the statutory criteria, the Arbitrator selects the Employer's offer.

AWARD

The final offer of the Employer is adopted.

Gil Vernon, Arbitrator

Dated this 1st day of December, 2006.