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STATE OF WISCONSIN
BEFORE THE MEDIATOR/ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

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In the Matter of the Petition of	:	
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MILWAUKEE DISTRICT COUNCIL 48,	:	
AFSCME, AFL-CIO and its	:	Case XLII
affiliated LOCAL 609	:	Number 32669
	:	MED/ARB - 2576
To Initiate Mediation-Arbitration	:	Decision No. 21509-A
Between Said Petitioner and	:	
	:	
VILLAGE OF GREENDALE	:	
	:	
----- x	:	

APPEARANCES: Podell, Ugent & Cross, S.C., Attorneys at Law,
by NOLA J. HITCHCOCK CROSS, appearing on behalf
of the Union.

Lindner, Honzik, Marsack, Hayman & Walsh, S.C.,
Attorneys at Law, by ROGER E. WALSH, appearing on
before the Village.

ARBITRATION AWARD

The Village of Greendale, Wisconsin, hereinafter referred to as the Village or Employer, and Local 609, American Federation of State, County, and Municipal Employees, AFL-CIO, affiliated with Milwaukee District Council 48, hereinafter referred to as the Union, were unable to voluntarily resolve certain issues in dispute in their negotiations for a new, 1984-1985 Collective Bargaining Agreement to replace their expiring 1983 Collective Bargaining Agreement and the Union, on December 23, 1984, filed a petition with the Wisconsin Employment Relations Commission (WERC) for the purpose of initiating mediation/arbitration pursuant to the provisions of Section 111.70(4)(cm)6. of the Wisconsin Statutes. The WERC investigated the dispute and, upon determination that there was an impasse which could not be resolved through mediation, certified the matter to mediation/arbitration by order dated March 19, 1984. The parties selected the undersigned from a panel of mediator/arbitrators submitted to them by the WERC and the WERC issued an order, dated April 10, 1984, appointing the undersigned as mediator/arbitrator. A meeting was held with the parties on July 24, 1984, wherein the undersigned endeavored to mediate the dispute. After a reasonable period of mediation the parties were unable to resolve the dispute and, since neither party indicated a desire to withdraw its final offer, a hearing was scheduled for August 31, 1984. A hearing was held at Greendale, Wisconsin on August 31, 1984, at which time the parties were afforded the opportunity to present such evidence as they desired. Post-hearing briefs were filed and exchanged on October 22, 1984. Full consideration has been given to the evidence and arguments presented in rendering the award herein.

THE ISSUES IN DISPUTE

The parties' final offers reflect that there are two issues in dispute, wages and health insurance. The actual difference between the parties' final offers on the wage issue is relatively minor and both parties agree that the health insurance issue is of far greater significance.

WAGES

There are 27 employees in the bargaining unit, which consists of employees of the Department of Public Works, the Water and Sewer Utility, and clerical employees. Most of the employees are at the top (third or fourth) step of the wage classification rates and the actual 1983 wage rates for the 12 Department of Public Works and 3 Water and Sewer Utility employees ranged from a low of \$8.94 per hour to a high of \$9.73 per hour. The wage rates for the clerical employees ranged from a low of \$6.60 per hour to a high of \$8.24 per hour, with an average wage for said group of \$6.99 per hour. The average hourly rate for the Department of Public Works and Water and Sewer Utility employees was \$9.39 per hour and the average hourly rate for all bargaining unit employees was \$8.85 per hour.

In its final offer the Village proposes to increase all wage rates, across the board, by 5% effective January 1, 1984, with a minimum of 35¢ per hour, except in the case of Step 1 of the Serviceman No. 3 classification for new hires which would remain frozen at \$8.74 per hour. In the second year of the two-year agreement, the Village proposes a 5% increase, across the board to all rates, with a minimum of 40¢ per hour. In the second year of the agreement, under the Village's proposal, the Step 1 rate for Serviceman No. 3 would be increased by 5% to \$9.18 per hour.

In its final offer, the Union proposes to increase all wage rates on January 1, 1984 by 5% with a 40¢ per hour minimum. In the second year of the agreement the Union would again increase all wage rates across the board by 5%, effective January 1, 1985, with a minimum 40¢ per hour increase.

Thus, the essential differences between the two final offers on wages relate to the minimum increase to be granted in the first year (35¢ versus 40¢) and the question of whether the entry level rate for laborers (Serviceman 3, Step 1) should be frozen in the first year of the agreement and not receive the benefit of the 5% increase. The difference between the proposed minimums for the first year of the agreement would impact upon 5 of the 6 clerical employees. Under the Village's offer, one of those employees would receive an additional 2¢ per hour and 4 would receive an additional 1¢ per hour. Under the 40¢ minimum proposed by the Union, 1 of these employees would receive an additional 7¢ per hour and 4 of the employees would receive an additional 6¢ per hour. In its exhibits, the Village estimates the dollar cost of this difference between the two final offers (5¢ for 5 employees for 2,080 hours) at \$520.00.

The Village's proposal to freeze the entry level wage rate for laborers would not affect any current employee and any savings achieved through that proposal would be in the future.

HEALTH INSURANCE

Prior to January 1, 1969 employees were required to contribute a percentage toward their family health insurance premium. That contribution rate was 20% during the term of the 1967-1968 Collective Bargaining Agreement. Beginning in January 1, 1969 and continuing through the term of the 1983 Collective Bargaining Agreement, the Village has agreed to pay a dollar amount equal to the full premium for standard family and single health insurance coverage. Under the then existing policy of insurance. The provision contained in the 1983 agreement read as follows:

"ARTICLE XI - HEALTH INSURANCE

"Section 1. The parties agree that the Village shall provide hospitalization and surgical care insurance for employees covered by this Agreement and shall pay, effective January 1, 1983 up to \$66.03 per month toward the cost of the single premium and up to \$172.48 per month toward the cost of the family premium. The hospitalization and surgical care insurance coverage provided shall be equivalent to the coverage in effect on December 31, 1981. The Village shall provide at least thirty (30) days written notice to the Union prior to any action to change carrier(s) by the Village.

"Section 2. Retired employees shall be allowed to continue under the above Health Insurance but must pay own premium.

"Section 3. Health Maintenance Organizations. The Village shall offer membership in any Health Maintenance Organization which has been certified by the United States Department of Health, Education and Welfare. Any cost above Section 1 rates shall be paid by the employee."

During the negotiations the Village proposed to substitute new contribution amounts which would be equal to the premium costs for the most expensive HMO plan offered to its employees, which amounts would not cover the full cost of the increase in premiums for the "standard" policy provided by Blue Cross and Blue Shield of Wisconsin. The premiums for the standard policy were scheduled to increase to \$232.10 for family coverage and \$39.66 for single coverage, effective January 1, 1984. As part of its offer, the Village also offered to increase the dollar amount of the contribution during the second year of the agreement to match the highest cost of any increase in its HMO plans. The actual wording of the Village's final offer, which would replace Section 3 and Section 1 of the above quoted provision, is as follows:

"Section 1. The parties agree that the Village shall provide hospitalization and surgical care insurance for employees covered by this Agreement and shall pay, effective January 1, 1984, up to \$77.64 per month toward the cost of the single premium and up to \$202.09 per month toward the cost of the family premium. The hospitalization and surgical care insurance coverage provided shall be equivalent to the Village HMO and non-HMO coverages in effect on January 1, 1984. If an employee elects to be covered under the Village's non-HMO coverage, the difference in premium cost between the non-HMO coverage and the above premium amounts will be deducted from the employee's paycheck. In the event during the Contract term the premium cost for any of the Village's HMO contracts exceeds the premium amounts listed above, the Village will pay the increased cost and the above dollar amounts will be automatically increased to reflect new amounts. The Village will send written notification to the Union of such new amounts when they become available. The Village shall provide at least thirty (30) days written notice to the Union prior to any action to change carrier(s) by the Village."

While the Union objected to the Village's proposal and endeavored to make alternative proposals during bargaining, the Union did agree that the Village could increase the dollar contribution levels toward the health insurance premiums to

\$202.09 and \$77.64, respectively, pending resolution of the dispute. Prior to January 1, 1984, the Village advised employees that if they did not elect an HMO alternative, the difference between the new Blue Cross and Blue Shield rates and the Village's proposed contribution level would be deducted from their wages, pending resolution of the dispute. Under the Village's final offer, those employees who did not elect HMO coverage therefore will not receive reimbursement for the difference if the Village's final offer is selected.

In its final offer, the Union proposed to increase the dollar contribution amounts to equal the new, 1984 Blue Cross and Blue Shield premiums and to provide that the Village would agree to pay any increase in the premiums during the term of the agreement. It also proposed that the Village be required to reimburse those employees who elected to continue with the Blue Cross and Blue Shield coverage for that portion of the increase in premiums which was deducted from their paychecks beginning on January 1, 1984 and continuing thereafter. At the time of the hearing there were approximately 9 such employees. Earlier in the year there were apparently 11 such employees. In addition, the Union proposes that those employees who elected to transfer to a HMO be given the option to transfer back to Blue Cross and Blue Shield within 30 days after the issuance of the award.

UNION'S POSITION

According to the Union, several of the statutory criteria are not implicated in this case. Specifically, the Union contends that there is no issue with regard to the lawful authority of the Village and the Village "conceded" any possible issue concerning the Village's ability to pay when it failed to refute the Union's evidence in that regard.

According to the Union, the most important criterion, according to the decisions of arbitrators, consists of "intra-industry" comparisons in comparable communities. In support of this contention the Union cites certain language contained in the decision of Arbitrator Petrie in Sheboygan County, WERC Decision Nos. 20723-A through 20726-A, dated January 6, 1984. The Union relies upon that language, found at pages 7 and 8 as well as the citations contained therein to support its position on the importance of such comparisons.

According to the Union, the most important exhibit in the proceeding, from its point of view, consists of its Exhibit No. 7 which compares 9 municipalities, which it contends are truly comparable, based upon their contribution towards health insurance premiums. That exhibit shows that, of the nine municipalities in question (Hales Corners, Greenfield, Franklin, Oak Creek, Cudahy, South Milwaukee, St. Francis, West Milwaukee, and Greendale School District) only one (West Milwaukee) pays less than 100% of the full cost of health insurance premiums. The family rates paid by those municipalities range from a low of \$208.82 in West Milwaukee to a high of \$282.00 in Franklin for family coverage and from a low of \$62.90 in Greenfield to a high of \$102.00 in South Milwaukee for single coverage. The Union notes that in West Milwaukee the percentage contribution is in the 96-97% range whereas the proposal by the Village is in the 87% range. Also, the Union argues, that its exhibits demonstrate that the actual coverage of the various policies in question are substantially similar.

The Union challenges the Village's selection of "comparable communities" and argues that it should be foreclosed from proposing the comparables set out in its exhibits because of

prior arbitration decisions involving the Village and nearby communities. Specifically, the Union relies upon the decision of Arbitrator Grahm in Village of Greendale (Fire Department), WERC Decision No. 15363-A, dated June 29, 1977 indicating a preference for that union's more limited nearby community comparisons. In addition, the Union relies upon a number of arbitration decisions cited by the union in that proceeding as having used identical or substantially identical communities for comparison purposes. For these reasons, the Union argues that the undersigned should utilize comparable communities consisting of those municipalities within Milwaukee County which lie south of the City of Milwaukee itself. It urges the undersigned to reject communities which lie elsewhere and/or are unrepresented.

Although the Union believes that the above drawn comparison constitutes reason enough for adopting its final offer in this proceeding, it makes a number of additional arguments based upon the other statutory criteria, as follows:

1. Selecting the Village's offer would be contrary to the interests and welfare of the public because of the extreme medical hardships which would be imposed upon employees in the bargaining unit. A diminution of the health and welfare of employees or their family would have a detrimental effect upon the community, it is argued. While many employees were "forced" to switch to an HMO because of the requirement that they contribute, many were not able to do so because of the anticipated detrimental effect to their family's health or the total lack of coverage for their dependents which might result. In this regard the Union points to the testimony of the HMO sales representative called on behalf of the Union who indicated that it would be unwise for employees in a number of established fact situations to switch. After reviewing each of those fact situations, the Union argues that it would be contrary to the public interests and welfare to adopt the Village's offer, because of its impact upon said employees.

2. While cost containment of health care and hospitalization is in the public interest, the Village has not justified its proposal either as a viable cost containment measure or as the only appropriate route to increasing employee awareness of the problem. On the contrary, it is argued, Village employees are very aware of the problem but many are unable to switch because of particular family health problems. Further, the testimony establishes that the Village refused to discuss possible alternative approaches or carriers. On the other hand, literature introduced into evidence by the Union demonstrates that other alternative approaches are possible which do not penalize employees.

3. Past practice and negotiations history are also given appropriate consideration under the statutory criteria, according to the Union, and can serve as very persuasive evidence as indicated in the opinion of Arbitrator Petrie in the same opinion cited above. According to the Union, the Village has failed to meet its obligation to provide persuasive evidence to justify a "take away" of a longstanding practice, which, Union exhibits demonstrate, dates to the negotiations in 1968. The only justification advanced by the Village relates to internal settlements which, in the Union's view, are not as significant as external comparisons. This is particularly so, according to the Union, since the evidence demonstrates that the police and firefighter units have not been treated the same as the instant bargaining unit and that the other bargaining units in question enjoy benefits not enjoyed by this bargaining unit. Finally, the Union suggests that the situation might be different if the external comparisons were not so nearly unanimously in favor of the Union's position.

4. The cost of living criterion supports the Union's offer since the Village offer would result in a total package increase of 3.1% (in the case of those employees who did not elect an HMO), compared to a 5.0% increase under the Union's offer. Thus, the Union's offer more nearly approaches the 7.9% increase in the cost of living reflected in the Union's exhibit for urban wage earners and clerical employees in Milwaukee from January 1983 to January 1984.

5. The Union's proposal is more sensible from a tax standpoint since health insurance premium payments would be made with pretax dollars under its proposal. Also, the Village's proposal would be inequitable and regressive by failing to take into account the comparatively low wage levels of bargaining unit employees compared to other Village employees and the flat dollar contributions required, regardless of wage rate. If the Village succeeds in a take away of this type it could lead to further "give back demands" which "would radically alter the Union's bargaining stature and would thus be an inappropriate outcome in mediation/arbitration."

According to the Union, its wage proposals are also supported by the statutory criteria. Thus, even though the difference between the two final offers is slight, the higher floor contained in the Union's first year proposal is justified in view of the Consumer Price Index referred to above and the relatively low hourly wage of the clerical employees affected by it. Also, the Union's comparables support its offer as well, it is argued. The wage rate for clericals is ranked sixth out of eight according to Union data and the floor is therefore necessary to prevent the Village clericals from falling further behind.

With regard to the Village proposal to exclude the entry level Serviceman 1 rate from the across the board increase, the Union also argues that said proposal is contrary to its data concerning comparisons. That data shows that the top increment for the Serviceman 1 position would improve in rank from sixth to third under either proposal but that the entry level Serviceman 1 position would remain at sixth out of nine. According to the Union, the Village has offered no reason for singling out this position for exclusion from the wage increase in question.

VILLAGE'S POSITION

At the outset of its argument, the Village acknowledges that the difference between the parties' wage offers does not explain why the parties have been unable to resolve the dispute in this case. Nevertheless, it argues that its wage offer is more reasonable than the Union's. Further, it argues that the 5% increase contained in both final offers represents one of the highest increases in the area and is substantially in excess of the average increase in the area.

Utilizing corrected Union data concerning wage rates, the Village contends that the average increase for clerical employees was 3.4% compared to the 5.1% for clerk/typists under the Village's offer (as opposed to 5.9% under the Union's offer). In fact, according to the Village, its offer has more than kept pace with the average wage increase in the area and is over 1% higher than other increases. With that offer it has maintained the previous wage ranking for its clerical employees, it is argued. According to the Village, arbitrators have shown reluctance to upset existing wage relationships through arbitration.

Similarly, the wage increase for Public works and Utility employees also exceeds the average increase in the area, according to the Village. Relying upon its own exhibit

concerning percentage increases, the Village contends that the average wage increase for 19 area municipalities was 4.1%. It argues that this area-wide average is consistent with Union data which reflect increases for truck drivers, laborers, mechanics and equipment operators in the range of 3.2% to 3.7%. The Village's offer would generate a percentage increase greater than any of these increases and a cents per hour increase greater than the average of these increases. It would maintain the ranking of three of the four job classifications and increase the ranking of truck drivers from sixth to third. For 1985 the Village's 5% offer compares favorably to the average of the four other available settlements which average 4.9%, according to the Village.

The fact that the Village's offer is approximately 1% greater in the first year than area settlements is alleged to be important in relation to the issue of health insurance premium contributions.

The Village also argues that its proposed wage increase exceeds that granted to private sector employees for 1984 and that it exceeds increases in the Consumer Price Index for 1983 and for the first seven months of 1984. The Village relies upon data concerning changes in consumer prices for all urban consumers and urban wage earners and clerical workers for all cities in connection with this latter argument.

According to the Village, its health insurance offer is the most appropriate one. In support of this position it argues that its offer represents a continuation of the concept of full payment of health insurance premiums, while at the same time attempting to control health care costs. According to the Village, a number of Union exhibits inaccurately characterize the Village's offer in this respect.

In its brief, the Village reviews the history of increases in health insurance costs which have exceeded the increase in the cost of living generally and makes reference to the rising public concern about containing health care costs. The Village notes that while the Union is very critical of the premium-sharing approach to containing health care costs, some arbitrators have endorsed a practice in that regard. Further, the Village argues that it did not utilize premium sharing as its proposed method of cost containment. After reviewing cost containment methods such as deductibles and co-payments and second opinions and concluding that the savings was slight, the Village decided to participate in several HMO plans and offer such lower cost coverage to its employees. A substantial number of employees have agreed to participate in the plans, which offer many benefits which are better than standard Blue Cross-Blue Shield programs. Therefore, contrary to the Union's claims, the Village contends that it has provided its employees with a positive alternative rather than insisting upon deductibles and co-payments.

The Village also takes issue with the Union's claim that the total package increase only equals 3.1% in the first year, because that calculation is based on the assumption that all employees have continued with Blue Cross and Blue Shield coverage. While it is true that such continuation would equal approximately 17¢ per hour, the Village argues that the average reduction in take home pay for the bargaining unit is only approximately 7¢ per hour, based upon an assumption that there are seven regular employees in the family plan and one regular employee in the single plan. Based upon these calculations, the Village contends that the increase offered under its proposal still exceeds the average wage increase in the area, whether measured in cents per hour or percentage terms.

The Village also points out that other elements of the settlement, based upon stipulated items, should be taken into account. Thus, the fact that the Village has agreed to improve the longevity pay program and to give its mechanics a tool allowance should also be considered.

Secondly, the Village argues that its offer on health insurance is more appropriate because it has been voluntarily accepted by all other bargaining units in the Village and has been put into effect for all unrepresented employees. The Village's agreements with the police officers and firefighters both provide for switching from payment of the dollar amount equal to standard coverage premiums to payment of the full cost of HMO coverage. In both agreements the Village has agreed to continue to pay the full amount of the highest HMO premium. Thus, it is argued, the Village's offer on the payment of health insurance premiums for the Union is the same as that which it voluntarily negotiated with the only other two bargaining units representing its employees and established for its non-represented employees.

According to the Village, arbitrators are very reluctant to disturb internal settlement patterns, once established through the process of voluntary collective bargaining, especially in the case of benefits such as health insurance. The Village quotes from a number of arbitration awards in support of this argument. According to the Village, while unions may object to being forced to accept such pattern settlements, the alternative is much worse, that being the destruction of voluntary collective bargaining. The Village also cites arbitration awards discussing the negative impact of such results on the collective bargaining process.

According to the Village, the Union has attempted to show that there is no pattern of settlements. The Village acknowledges that there may be some slight deviation from the pattern in wages but argues that considerable consistency exists. In support of this argument the Village cites certain data contained in a Union exhibit concerning dollar increases and percentage increases for Village employees and argues that that data actually demonstrates that Village employees have been treated somewhat similarly with respect to wages. Further, it notes that health insurance premium contributions have been the same for all units.

In response to Union exhibits dealing with variations in other benefits, the Village contends that those deviations are slight and often relate to the unique work week of firefighters and the unique retirement program for firefighters and policemen.

In response to the Union's contention that the HMO plan cannot be utilized by several employees in the bargaining unit, the Village argues that this is true in the case of only two employees, one whose dependents live in another state and another whose wife utilizes chiropractic services. In the latter case, the Village suggests that it might be possible for the employee to assume the chiropractic costs himself if they amount to less than \$30.00 per month. In the case of all other employees, the Village argues that the employees in question could utilize HMO plans but instead choose to remain with their current physician, specialist, therapist, or counselor. Alternative physicians, specialists, therapists, or counselors could have been provided under the HMO plan had they elected to participate.

Further, the Village argues that the fact that not all employees choose to participate in the HMO plan does not

constitute a reason to deviate from the established bargaining pattern. All employees have an insurance program made available to them and only a few will pay a portion of the premium from wage rates which are higher than they would have been, had the Village not tied its health insurance premium payment to the HMO rate. According to the Village, the bargaining unit on the whole has benefited from the Village's approach and the bargaining unit represented by the Union here is no different than the units represented by other unions. Other units have employees who did not elect to participate in an HMO as well, including 11 of 18 administrative personnel, 1 firefighter and 6 police officers. According to the Village, the arbitrator should not disrupt the concept of voluntary collective bargaining and grant the Union's different health insurance benefit, with its substantial additional cost since the Union has failed to show that its situation is so unique from that in existence with other groups of employees of the Village.

According to the Village, its approach to health care cost containment is not unique. In this regard it points to a recent agreement in the Village of West Milwaukee, also represented by District Council 48. In that agreement the parties set the pre October 1, 1984 Blue Cross - Blue Shield rate as the ceiling for the balance of the contract and the Village agreed to pay the full cost of HMO premiums for the balance of the agreement. A similar agreement was entered into with the firefighters in West Milwaukee. The Village also points out that in the Village of Butler the Village substituted an HMO plan for its regular Blue Cross - Blue Shield program for its police officers and Public Works employees and that in the City of Muskego, the City offers both types of plans to its Public Works employees, but limits its premium payment to the premium for the comp care HMO. In fact, Blue Cross - Blue Shield itself has recently negotiated the contract with its own employees in which it has agreed to pay only up to the Comp Care rate toward the cost of standard Blue Cross - Blue Shield coverage, with the employee paying the \$30.00 per month differential. In effect, according to the Village, there is a "growing trend" away from employer payment of the full cost of a standard Blue Cross - Blue Shield health insurance program.

Finally, the Village argues that the increase in health insurance premiums that will be paid by the Village under the Village's offer more closely approximates the average increase in health insurance premiums paid in 1984 by other municipalities in the area. In this regard, the Village notes that the increase in its premiums was one of the highest in the area and substantially higher than the average increase in the area. In fact, the average increase for 5 of the 8 municipalities relied upon the Union as comparables, for which Village data is available, reflect an average increase of \$31.48 compared to the Village's experience of \$59.62. According to the Village, its offer is closer in dollar amount to the average amount actually agreed to be paid by other municipalities in the area; whereas the Union's offer is almost twice as much.

DISCUSSION

Before turning to the central issue in this case, dealing with health insurance contributions, the differences between the two final offers on wages should be discussed. While both parties agree that those differences, in themselves, are not sufficient to determine the outcome of this proceeding, they do have a bearing on the overall reasonableness of the two offers. In addition, the general level of the wage increase proposed in both final offers is relevant for purposes of an overall

evaluation of the two final offers, particularly in relation to internal and external comparables. The latter aspect of the wage proposals is discussed at the conclusion of the award.

WAGES

Although the Village proposes to freeze the hiring rate for the Serviceman III classification, it offers little in the way of justification for such proposal. The Village's data with regard to private sector settlements, cost of living increases, and settlement patterns do not provide any specific support for this aspect of the Village's offer. On the other hand, the data contained in Union exhibits tends to contradict the need for such a "freeze." The top rate for the Serviceman III classification as of January 1, 1983 ranked eighth out of nine among the municipalities alleged to be comparable by the Union. Adding 5% to that rate as of January 1, 1984 would not affect the ranking of the Village and the top rate for this Serviceman III classification would not appear to be at all out of line with that group. As the Union notes in its arguments, there is no serious dispute in this case concerning the Employer's ability to fund either final offer and there is no evidence that freezing the hiring rate for laborers would have a significant impact on the Village in either event.

Both parties propose to establish a cents per hour floor in each year of the agreement and the only dispute is over the amount of the cents per hour floor in the first year. The undersigned agrees with the Village that, contrary to the Union's allegation, its 35¢ floor would impact upon five of the six clerical employees, not just one. However, the size of the additional increase is so small as to be nearly inconsequential. The obvious purpose of such a floor is to strike a compromise between a percentage increase and a cents per hour increase, to give some recognition to the fact that percentage increases are "worth more" in terms of actual dollars and cents to higher paid workers. The Village's proposed floor in the first year really does little to offset that impact. Also, a review of wage data contained in Union exhibits reflects that the higher floor will not result in a disproportionate increase for clerical workers or put their wage rate out of line with the Union's comparables. A number of the municipalities in question have increased the hourly rate for clerical workers during 1984^{1/} in amounts approaching and exceeding 40¢ per hour and 5%. The City ranked seventh among eight in 1983 and will rank sixth under the Union's offer. Only St. Francis at \$7.16 per hour and Hales Corners at \$7.07 per hour will be lower than the Village at \$7.20 per hour.

For these reasons the undersigned concludes that the Union's final offer on wages, insofar as it would not freeze the hiring rate for laborers and would establish a 40¢ per hour floor in the first year, has greater merit than the Village's offer, prior to any consideration of the other arguments in this case, particularly those relating to overall evaluation under the statutory criteria.

HEALTH INSURANCE

This issue is found to be particularly troublesome because

^{1/} This analysis ignores the question raised in the Village's post-hearing arguments concerning the effective January 1, 1984 rates in Greenfield.

of the conflict or tension which exists between the two final offers and certain well established principles in interest arbitration disputes under the statute. First of all, the Union is correct when it argues that a "take away" proposal or a proposal to disturb the status quo on an existing wage hour or working condition, requires close scrutiny. It is to be preferred that parties make such changes through negotiations rather than the compulsory process of arbitration and the party proposing such a change carries a burden of establishing the need for such change notwithstanding the other parties' unwillingness to agree. Further, the Union's data with regard to external comparables clearly establishes that the 100% contribution level and the dollar contribution amount proposed in the Union's final offer is not out of line with what other comparable employers do in this regard. One significant exception exists in the case of West Milwaukee, which apparently has agreed to begin to shift the cost differential between standard insurance and HMO coverage to the employee who elects standard coverage.

On the other hand, the Village points out that the other two bargaining units with which it deals have both agreed voluntarily in negotiations, to accept its proposal on health insurance and that arbitrators have generally placed great reliance upon internal comparables in connection with fringe benefits. As the Village correctly points out, absent unusual circumstances, arbitrators tend to favor the extension of internal comparisons to "hold out" groups to avoid the deleterious affect on the collective bargaining process that results if the "hold out" group is ultimately successful. While the Union draws into serious question the degree to which the three bargaining units of the Village have been treated equally in the past and during these negotiations, the undersigned finds the Union's "hold out" posture in this proceeding to be particularly troublesome. It is beyond dispute that health insurance costs have become a major factor in collective bargaining, robbing both employers and employees of their ability to negotiate freely about wages in relation to traditional yardsticks of measurement, and, in the view of the undersigned, the Village has chosen an appropriate mechanism to deal with that problem. While shifting a portion of the cost of the premium of standard health insurance coverage to employees can be characterized as a "negative" inducement, the actual provisions of the various HMO programs also constitute a "positive" inducement. In the long run, such an approach may encourage all but a few employees, such as the two in this proceeding who literally could not obtain the required coverage from an HMO, to consider the switch. Furthermore, the economic impact that such a trend will have on standard insurance rates could also be positive in the long run.

For these reasons, the undersigned believes that the central inquiry on this issue is whether there are sufficient special circumstances to justify a refusal to impose the Village's proposal upon the Union through this arbitration proceeding. For a number of reasons the undersigned believes that there are.

First of all, as noted above, it must be remembered that the Village must show that it needs the requested change through arbitration. Secondly, the existing comparables strongly favor the Union's request to retain a dollar contribution equal to 100% of the standard coverage, which dollar amount is not out of line with what other comparable employers are currently paying. Also, the evidence in this proceeding establishes that there is a disproportionate number of employees who have good reasons for not desiring to switch to an HMO. Nearly one-third of the bargaining

unit was unwilling to make the switch because of existing, long term arrangements with specialists, counselors, and therapists, or because of the need for chiropractic coverage or out of state coverage. The Union endeavored to bargain with the Village concerning alternatives, including a change of carriers but the Village apparently gave no consideration to any alternatives other than the use of deductibles, second opinions, and similar devices to hold down the cost of the current carrier. The undersigned does mean to imply that the Village is obligated to "share" the actual dollar savings with each employee who agrees to switch to an HMO and agrees with the Village that the focus should be on the welfare of the entire bargaining unit. However, under the Village's proposal, those employees who have not elected an HMO will be required to pay 17¢ out of the taxable increase in their hourly wage rate during the first year of the agreement and could be required to pay a substantial additional sum during the second year. In addition to searching for a different carrier who might have been able to reduce the differential, the Village could have explored other possibilities such as providing an alternative "quid pro quo" or grandfathering those employees who literally could not make the switch and still obtain the desired medical services.

The Village contends that its final offer overall contains approximately 1% in additional wages during the first year of the agreement, when compared to other comparable employers. However, as the Union points out, there is some question about the comparability of a number of the municipalities relied upon by the Village in its exhibits. Some of those employers are relatively small and remote from the Village and a number do not have established collective bargaining relationships. It is true, that the Union's own figures reflect that, while some employers have agreed to increases of 5% or more during 1984, some others have agreed to increases of a much smaller amount. However, a review of the actual wage rates which will result with the 5% increase proposed establishes that the entire bargaining unit, not just the clerical employees, will maintain their relative position and comparability with the other municipalities relied upon by the Union. In most cases the Village will maintain a rank of between sixth and eighth of the nine municipalities, for which the Union has provided data. In the case of the one water and sewer clerk, the Village will remain at third rank. Only in the case of the Serviceman I (truck driver) rate, the Village's offer will actually improve the rank from sixth to third.

Finally, a close analysis of the settlements with the police and firefighter bargaining units tends to support a number of the Union's arguments. In the Fire Department employees received a split increase of 4% and 2%. While this equals a 5% value in the first year, it obviously raises the rate in that department by 6%, even though the wages in that department have historically been substantially higher than the Union's bargaining unit. In the Police Department employees also received a split increase which was only 4.5% in value but equal to 5% in lift. However, in addition, the Village agreed to pay 50% of the health insurance premium for employees of the Police Department with ten years of service who retire at age 55 or older, up to the medicare qualifying age. This valuable benefit previously existed in the Fire Department and will not likely be extended to the instant bargaining unit because of the difference in normal retirement ages between the two types of employees. The Village argues that over a long period the percentage increases of the three groups of employees have been roughly the same. While this is true, it is also true that the actual increases in any given year have frequently differed and the dollar value of the increases have been substantially different, apparently because of the practice of utilizing

percentage increases.

For these reasons the undersigned finds that the Union's final offer on health insurance is more reasonable than the Employer's, by a narrow margin.

Contrary to the Union's argument, the increase in the cost of living is not viewed as a factor which favors either offer. Because of the volatility of the Milwaukee index, the undersigned is inclined to rely more heavily upon the all city indexes relied upon by the Village which clearly indicate that both offers are quite reasonable in relation to recent and current changes in the cost of living as measured by such indexes. It is true that those employees who have continued with standard insurance coverage would receive increases in the first year which were not quite equal to such changes, but the difference is slight and the majority of the bargaining unit would receive increases which exceeded such changes. The Union's offer would avoid this problem but would also grant increases slightly greater than those justified by this criterion.

In summary, the undersigned concludes that the Union's offer on wages is to be preferred to that of the Employer insofar as the differences between the two final offers are concerned; the merits of the health insurance issue must be resolved in favor of the Union for the reasons stated above; that overall, based upon both external and internal comparisons, the Union's offer on health insurance and health insurance and wages together is more reasonable; and the other statutory criteria, including cost of living analysis, do not require a different outcome. For these reasons the undersigned renders the following

AWARD

The Union's final offer, submitted to the Wisconsin Employment Relations Commission, shall be included in the parties' 1984-1985 Collective Bargaining Agreement, along with all of the other provisions which were agreed to by the parties for inclusion therein, including those provisions of the prior agreement which remain unchanged by said offer.

Dated at Madison, Wisconsin this 10th day of December, 1984.


George R. Fleischli
Mediator/Arbitrator