

MAR 14 1989

BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

Case No. 361
No. 40580 INT/ARB-4908
Decision No. 25604-A

In the Matter of the Petition of

BROWN COUNTY MENTAL HEALTH CENTER
PROFESSIONAL EMPLOYEES ASSOCIATION

To Initiate Arbitration
Between Said Petitioner and

BROWN COUNTY

Stanley H. Michelstetter II
Arbitrator

Appearances:

Kenneth J. Bukowski, Corporation Counsel and Gerald Lang, Personal Director, appearing on behalf of the Employer.

McKay, Mohr & Beinlich, S. C., Attorneys at Law, by Frederick Mohr, appearing on behalf of the Union.

ARBITRATION AWARD

Brown County Mental Health Center Professional Employees Association, herein referred to as the "Union" having petitioned the Wisconsin Employment Relations Commission to initiate Arbitration, pursuant to Sec. 111.70(4)(cm), Wis. Stats., between it and Brown County, herein referred to as the "Employer," and the Commission having appointed the Undersigned as Arbitrator on September 8, 1988; and hearing having been held on October 19, 1988, during the course of which the parties having consented to mediation by arbitrator as a result of which, in part, the parties having agreed to modify their final offers^{1/}, but which otherwise was unsuccessful; and the parties having submitted their exhibits and waived further hearing; and the Union having filed a brief which was received January 14, 1989^{2/}; On January 23, 1989, the Employer waived filing a brief in this matter. A delay in the processing of this matter occurred in the scheduling of the Employer's ratification meeting.

1/ Section 1 of the tentative agreement which was not ratified in total, but which provides for adjustment of final offers states: "Accountant II will be placed in a pay rate \$.27 below Reimbursement Specialist. This agreement is final and constitutes a modification of the final offers." This is a newly created position.

2/ In its brief, the Association submitted additional exhibits and facts. The Employer has not objected to the consideration of these and, they are, therefore, accepted for consideration.

ISSUES

The sole issue in dispute with respect to the parties January 21, 1988, to December 31, 1988, agreement is the wage increase. The prior agreement's wages schedule is attached hereto and marked appendix A. The Employer's offer is attached hereto and marked appendix B and the Association's is marked appendix C. The Association proposes to increase all wage rates by 5% across the board. The Employer proposes to increase all wage rates by 7% across the Board, except it proposes to increase the Accountant I by about 8%, the Occupational Therapist Registered by about 10.7% and the Psychiatric Clinical Nurse by 5.5%. The Employer costs the Union offer at 5.14% and its offer at 3.83%.

POSITIONS OF THE PARTIES

The Association takes the position that its total offer is more supported by the cost of living criteria. It compares the parties' final offers to the rate of inflation which has occurred in the first part of 1988 and was estimated for the remainder.

The Association primarily takes the position that unit employees are generally underpaid and are entitled to an increase in excess of the general increase the county and its other units have agreed to, namely 3%. It argues that unit social workers both with bachelors and masters degrees are underpaid when compared to comparable social workers in the Brown County Department of Social Services. The Association compares the Psychiatric Social Worker in this unit to the masters degree social worker in the Department of Social Services Unit. It compares the Social Worker in this unit to the social worker in the social services unit with a bachelors degree. The Association relies on an internal management "study" in which the health center's director (ex. 11), in part, concludes that staff psychologists at the health center are under paid in comparison to lower skill level work performed by social services department masters degree level social workers.

The Association, also, compares itself with Fond du Lac, Outagamie and Winnebago Counties, although it argues that Brown County by virtue of its size has, and should, be paying more than those counties.^{3/} It argues that the most numerous positions in this unit are social worker positions and, therefore, it compares bachelors and masters level social workers with those in Brown County. It notes that, for example, the Employer is offering an extra ordinary increase for the Occupational Therapist Registered, Accountant I and the new Accountant II while those positions' wages levels already far exceed the wage levels of

3/

At pages 9-10 of its brief, the Association has submitted corrections and supporting data for Employer exhibit 8. The Employer has not objected to the corrections. Exhibit 8 appears to be weighted while the submitted data was not. Therefore, the data submitted by the Association is considered independently

similar positions in comparable counties having similar positions. Thus, the Association denies that extra ordinary increases for the positions of Occupational Therapist, Accountant I and II beyond that offered by the Association are justified

The Employer did not submit a brief or make oral argument. Its exhibits demonstrate that its position is that the 3% general increase portion of its offer is strongly supported by the fact that 15 other county units and the non represented group all have settled for 3% general wage increase, with two of those units receiving 3.2%.^{4/} It views its 3.83% total cost package as more consistent with 3.8% rate of inflation for 1987 as measured by the urban wage earners cost of living index, than the Association's 5.14% total cost package. It argues that its reclassification of the Occupational Therapist Registered, resulting in a 10.7% wage increase, is vital because it has been unable to fill the position when vacant. Its offer of 5.5% for the Psychiatric Clinical Nurse is needed because it will have difficulty filling that position. The Employer, also, offered wage rate comparisons for Alcoholism Counselor, Social Worker, Occupational Therapist Registered, Psychiatric Social Worker Accountant I and Accountant II to Fond du Lac, Kenosha, Manitowoc, Outagamie, Rock, Sheboygan and Winnebago Counties to the extent that they have comparable positions.

DISCUSSION

There is little doubt that the total package offer of the Employer is more appropriate as a general increase. All of the other units have settled for 3% general increase. Contrary to the position of the Association, unless the bargaining history of the parties indicates otherwise, the cost of living criteria is appropriately applied to the year before the year in question, in this case, 1987. The main issue in this case is whether the Association's proposed increase is justified because unit employees are under paid.

This unit consists of 41 full time equivalent positions spread over 20 classifications. 20.5 positions are now in the \$9.98-11.74 per hour pay range. Of these 2, or, possibly, 5 are social workers. There are 13.5 positions in the \$11.80-13.88 per hour range. Of those 8.5 are psychiatric social workers and 2 are staff psychologists.

The available evidence in this case strongly indicates that 10.5 of the unit employees in the \$11.80-13.88 range are underpaid and that it is very likely the entire classification is under paid. This evidence, also, strongly supports an adjustment of the magnitude of the Association's offer for these positions.

^{4/} There is some dispute as to whether the social services and assistant DA's units received 3% or 4%, 9% respectively. It is undisputed that the general wage increase in those units was 3%.

The Association has introduced a report by the director of the psychology staff in which he sought wage increases apparently for himself and staff psychologists under his direction. He compared the masters degreed social workers in the social services unit (also represented by the Association) to the staff psychologist. His statement demonstrates that the staff psychologists not only do the same work as the social services masters degree social workers of assessment, psychotherapy, case management, but that they provide different, possibly higher skill level, work such as differential diagnostic evaluations.^{5/} The 1988 maximum rate for the social services masters degreed social workers is \$15.27 per hour while the Association has proposed a maximum rate for this range of \$14.57 and the Employer has proposed \$14.30 per hour. This internal comparison strongly supports the Association's position with respect to staff psychologists.

The Association has also argued that the 8.5 psychiatric social workers in this same pay range are under paid by virtue of the same comparison. These social workers are masters degreed social workers sharing virtually the same qualifications as the social services social workers. This evidence indicates that by the internal comparisons, psychiatric social workers are under paid.

The external comparison supports this view. Outagamie County which generally pays lower wages than more populous Brown County, pays its psychiatric social workers \$16.12 per hour at the top of its range.

Based on the fact that the parties have historically included the AODA Counselors III, in the same pay range as the psychologists and the psychiatric social workers, and they all share heavily related duties, it is likely that they are, also, under paid. I am satisfied by a preponderance of the evidence that this 1/3 of the unit (13.5 positions) are under paid and the Association's proposal is necessary to correct the inequity.

Evaluations of the \$9.98 to \$11.74 per hour range as a range is made difficult by the absence of a representative classification. However, the evidence does strongly indicate a number of positions in that range are under paid.^{6/} 3 of the 20.5 positions are Occupational Therapist Registered and 1 is an Accountant I. The Employer has sought increases in excess of the general increase for these positions essentially by reclassifying them to higher pay ranges. Other than difficulty in hiring, the Employer has offered no explanation for any of these reclassifications.

The Association indicates that the 2 social workers in this wage range perform identical duties to those in the the social

^{5/}
p. 5 of his report.

^{6/}
The Employer has, also, sought an extra-ordinary increase for the one medical technologist. This position is underpaid.

services unit. The social services bachelors degreed social workers for 1988 receive a maximum wage rate of \$12.35 per hour. The Association's offer yields \$12.33 per hour while the Employer's yields \$12.09. This evidence strongly supports the Association's view.

The external comparisons for this position indicate that Outagamie County pays a maximum of \$13.76 per hour for a social worker in 1988, while both Fond du Lac and Winnebago Counties pay substantially less than the Employer's offer. Given the disparity here, the internal comparison is given primary weight.

Direct evidence in this case indicates close to half the unit employees are under paid and strongly suggests 3/4 of the unit is under paid. The Association's offer is needed to correct the inequity. Based upon the foregoing, the Association's offer appears to be the most appropriate and it is adopted.

AWARD

That the final offer of the Association be, and the same hereby is, adopted.

Dated at Milwaukee, Wisconsin this 9th day of March, 1988


Stanley H. Michelstetter II,
Arbitrator