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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

IN THE MATTER OF ARBITRATION
BETWEEN
BARRON COUNTY DEPARTMENT OF SOCIAL SERVICES
AND
NORTHWEST UNITED EDUCATORS
WERC CASE NO. 81
NO. 42129
INT./ARB. 5235
Decision No. 26010-A

AWARD OF ARBITRATION

A hearing on the issues as set forth below was held on September 6, 1989 in Barron, Wisconsin before the undersigned arbitrator. Appearances for the parties were as follows:

Kathryn J. Prenn, Atty.
21 S. Barstow
P. O. Box 1030
Eau Claire, Wi. 54702-1030 For the Employer

Alan D. Manson, Exec. Dir.
Northwest United Educators
16 W. John Street
Rice La Ke, Wi. 54868 For the Union

All parties were afforded full opportunity to examine and cross-examine witnesses and adduce relevant evidence. The parties herein submitted briefs and reply briefs in support of their positions the reply briefs being received by the undersigned on November 7, 1989.

BACKGROUND

Northwest United Educators (hereinafter referred to as the Union) represents all the regular full-time and regular part-time Social Workers and all other regular full time and regular part-time employees of the Barron County Department of Social Services (hereinafter referred to as the Employer or County) excluding the Director, supervisory, confidential, managerial, casual, seasonal and temporary employees. The latest collective bargaining agreement was effective from January 1, 1987 until December 31, 1988. There are approximately 13 social workers in the unit.

On June 6, 1989 the undersigned was appointed as arbitrator herein by the WERC after the parties herein had reached an impasse in their negotiations for a new collective bargaining agreement and the WERC had on May 16, 1989 issued an Order requiring the arbitration be initiated for resolving the impasse arising between the parties.

THE FINAL OFFERS

The issues herein are defined by the final offers of the parties and the parties at the hearing stipulated to the following language thereto:

The remaining issues before the Arbitrator in this dispute are wages, mileage, on-call pay, and insurance. The parties' final offers regarding these issues are as follows:

1. WAGES

COUNTY:

Addendum II - Salary Schedule

1989: Increase all wage rates 4.00% effective July 1, 1989.

1990: Increase all wage rates 3.50% effective January 1, 1990.

UNION:

Wages:

A. Increase all 1988 rates by 4 percent effective 7/1/89;
Increase all 1989 rates by 4 percent effective 1/1/90;

2. MILEAGE

COUNTY: Status quo.

UNION:

Article X - Mileage: Add: "Effective January 1, 1990, the mileage reimbursement rate will be the current IRS business mileage rate."

3. INSURANCE

COUNTY:

ARTICLE XXVI - HEALTH INSURANCE - LIFE INSURANCE

Section 26.01: Revise paragraph 1 to read as follows:

7.08 Effective January 1, 1989, the Employer agrees to pay up to \$232.25 per month toward the single or family health insurance premiums for employees who have successfully completed their probationary period. The Employee will pay up to \$232.25 toward either the regular family plan, or either of the two optional family plans, but only up to the actual full regular insurance single premium for any of the single plans. Effective January 1, 1990, the above-stated dollar amounts shall be adjusted to a flat dollar amount equal to 82 percent (82%) of the County's regular family health insurance plan premium for 1990.

UNION:

Article XXVI - Health Insurance - Life Insurance:
Replace the first paragraph of 26.01 with:
"Effective January 1, 1989, the Employer agrees to pay up to \$232.25 per month toward the single or family health insurance premiums for employees who have successfully completed their probationary period. The Employer will pay up to \$232.25 toward either the regular family plan, or either of the two optional family plans, but only up to the actual full regular insurance single premium for any of the single plans. Effective January 1, 1990, the county will continue to pay up to \$232.25 toward the family plans, plus 90 percent of any increase in the regular family health insurance plan premium above the 1989 premium of \$283.23."

In 26.02 change "\$4.25" to "4.60."

4. ON-CALL PAY

COUNTY:

ARTICLE VII - WORK DAY, WORK WEEK

Add 7.08 (NEW) to read as follows:

Social workers assigned to on-call status shall be compensated \$100.00 per week, including the weekend. An employee on call who is called out during hours outside his/her normal work day shall be provided compensatory time off pursuant to Section 7.02 of this Article. This shall not apply to telephone time. Employees assigned to on-call shall be assigned on a rotating basis.

UNION:

Article VII - Workday, Work Week - Add 7.08 (new) as follows:

Social workers assigned to juvenile court intake on-call status shall be compensated \$100 per week (including the weekend) plus comp. time, according to 7.02, for all telephone time and time called out. Such on-call assignments will be made as uniformly as practical among qualified social workers, including Court Unit and Protective Services social workers.

Wisconsin Statute Section 111.70(4)(cm)7 directs the arbitrator to give weight to the factors found in subsections (a) through (j) in making any decision. The undersigned has therefore reviewed all of the evidence presented at the hearing and considered all of the arguments of the parties in the light of the statutory criteria, such criteria being:

'Factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator shall give weight to the following factors:

- a. The lawful authority of the municipal employer.

- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
- e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
- f. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment in the same community and in comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost-of-living.
- h. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pension, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in the private employment.

The parties agree on the eight contiguous counties which should be considered comparable to Barron County, the county involved herein, and they are Burnett, Chippewa, Dunn, Polk, Rusk, St. Croix, Sawyer and Washburn.

Relative to the comparability question the Union maintains that the eight counties surrounding Barron County should be split into 2 groups of 4 counties each; The primary group being Polk, St. Croix, Dunn and Chippewa, and the secondary group being Burnett, Washburn, Sawyer and Rusk. I have examined the evidence presented regarding comparability of the eight counties and the contentions of the Union, and although I find that in some categories such as population, farming and income the counties of Burnett, Washburn, Sawyer and Polk could very well be considered as primary and the other 4 counties could be considered as secondary comparables, but in view of the numerous decisions by arbitrators holding these eight counties to be considered comparables I feel compelled to agree with them and shall consider the eight as a unit as comparables to Barron County.

THE WAGE ISSUE

As seen by the final offer of the parties there is a $\frac{1}{2}$ percent general wage difference beginning January 1, 1990 the Employer having offered a $3\frac{1}{2}$ % general wage increase while the Union seeks a 4% increase. The parties have agreed to an increase in the general wage rate of 4% beginning July 1, 1989. In addition there

is a disagreement in the offer of the Employer and the request by the Union for payment for work on the telephone by employees while serving duty on the on-call status.

It is the contention of the Employer that the settlement trend among the comparable counties is such that the Employer offer of a 4% across the board increase for 1989 meets or exceeds the lift provided by the comparables. It also contends that its wage offer of a 3.5% across the board increase meets or exceeds all of the comparables in terms of actual dollars for 1990.

The Employer maintains that it has maintained its leading position of wage increases of 4% in July 1989 and 3.5% in 1990.

The Employer maintains that its offer is more closely aligned with the comparables and maintains its position among the comparables and its Exhibits 44, 75 and 76 highlight the settlement trend among comparables.

The Union, relative to the wage issue, maintains that although a comparison of the wage rates of Barron County employees in the contractual unit herein to those of the comparable counties are above average, the Barron County's employees carry a much larger case load thereby producing a much lower than average cost per case, which thereby justifies the Union's request for the 4.0% increase for 1990 rather than the Employer's 3.5% offer. The Union asserts that the evidence proves that the Social Workers in Barron County handle more cases per worker and do so more efficiently in terms of actual case per case cost to the County taxpayers, than

the averages in the comparable counties.

The Union evidence indicates that the cost per case as measured by Barron County Social Worker II wages is \$38.80 per case in Barron County, \$55.46 per case in the four primary comparables, and \$47.47 in all the eight comparables. In addition thereto the Union states that the average worker case load in Barron County is 56 cases compared to 39.6 in the four prime comparables and 47.2 in all eight comparables. While there is no way of determining the complexity of the various cases in the various counties it must be assumed that they should be comparable since the parties have agreed to the comparability of the counties. The Union summarizes this factor by alleging that the cost per case in the prime comparables is 142% higher than in Barron County while it is 122% higher in all eight surrounding counties. No evidence was adduced or offered by the Employer to dispute this contention.

The Union further contends that of the eleven employees in the bargaining unit nine are Social Worker II employees, the other two are Social III classified employees, and there are no Social Worker I employees at this time and therefore the wage difference between Barron County and the next highest rate dropped drastically for the Social Worker's II and III.

The Union claims that the U. S. Department of Labor's Consumer Price Index measurement reveals an approximate inflation factor from the middle of 1988 to the middle of 1989. The Union also states that its evidence also reveals that the July, 1989 CPI factor increased by 5.0%.

MILEAGE

In reference to the mileage payments issue the Employer agrees that the current IRS rate is currently set at 24¢ per mile, but that the Union, however, has provided no compelling rationale for the need for such an increase. The Employer also maintains that the Union is attempting to change the status quo without offering a quid pro quo.

Of the eight comparable counties, Burnett pay 24¢ per mile, St. Croix pays 17¢ per mile or the rate paid to County supervisors, whichever is greater, Sawyer paid 22¢ per mile or County reimbursement, whichever is greater, and Washburn pays 22¢ per mile. There was insufficient evidence submitted to determine what the other counties reimbursed for mileage.

In previous contracts between the NUE and this employer, one covering the professional employees and the other covering the court house employees the contracts provide for a sliding scale for payment based on the price of gasoline the same as the Union's contract in issue herein covering the Employer's Social Services employees. According to Employer's counsel no proposals were made by either of those two contracts. The Employer also states that the current language pertaining to mileage in the last contract was originally proposed by the Union, not the Employer, and was part of the Union's 1983 final offer.

The Union is proposing a change in the system used to determine the mileage rate paid. It states that the current system was

agreed to in the early 1980's and the cents-per-mile figure is adjusted upon the price per gallon of gas. The Union contends that the American Automobile Association has determined the average cost per mile between 1983 and 1989 has increased from 23.8¢ per mile to 30.6¢ per mile. The Union further states that the IRS has increased its mileage reimbursement from 20.5¢ to 24¢ per mile from 1983 through 1989.

ON-CALL PAY

The Employer's offer regarding on-call pay provides for on call duty compensation of \$100 per week plus compensatory time for time called out of the employee's home. This compensatory time however would not apply to telephone time.

The Employer states that its on call system is fairly "hit and miss" and requires a list of employees whom the Sheriff's Department contacts by phone when social workers are needed outside of regular working hours (8a.m. to 4p.m., Monday through Friday). Under the County's proposal, the same payment system now in effect would apply, i.e. time and one-half for all work performed from 11p.m. to 5a.m. and at straight time for all other hours outside the normal work day. The County's proposal calls for this payment to apply to all time in which the employee is actually called out of his or her home and the employee additionally receives \$100 per week for being on call whether or not he or she is actually contacted during that period.

The Union proposal calls for payment for telephone time in addition to the \$100 per week and in addition for time called out.

The evidence presented regarding the on-call payment provision shows no pattern whatsoever used by the 8 comparable counties. Only Polk County denotes that telephone time is not eligible for any compensation while two counties (St. Croix and Chippewa) provide for compensation for the telephone time. No evidence was submitted regarding the amount of time spent by the employees called by the Sheriff's Office, and if it was it was not called to the attention of the arbitrator.

The Union maintains that the County offer which would deny workers any compensation for telephone work in fact encourages workers to drive to the office, to the jail or home of clients rather than taking care of the problem or making the necessary arrangements among all the parties by telephone thus keeping the cost per case down to the advantage of the employer.

INSURANCE

This issue of insurance is divided into the method of the payment of health insurance and life insurance premiums.

The Employer contends that the previous collective bargaining agreements between the parties herein have specified for straight dollar amounts for County health insurance contributions. It states that in eight of the past ten years the Social Service bargaining agreements have specified straight dollar amounts for

County health insurance contributions which equal approximately 82% of the family insurance premium. The Employer further states that both the County and the Union call for a County family health insurance of \$232.25 or 82% of the total family premium of \$283.23. The County offer for 1990 extends this methodology by proposing that the contribution be "adjusted to a flat dollar amount equal to 82% of the County's regular family health insurance plan premium for 1990". The Employer continues "Because 1990 premiums have not yet been determined the County formulated this language to maintain the status quo of bargaining flat dollar amounts by providing County contributions of a flat dollar amount equal to 82% of the premium. The Employer feels more comfortable in figuring out its share by continuing its methodology

The Employer continues, "The Union's 1990 offer, however, deviates from the established contribution practice by providing that the County pay in addition to the \$232.25, 90% of any increase in the regular family health insurance plan above the 1989 premium of \$283.23. The County is compelled to point out that this language represents two marked and drastic changes in the status quo for which the Union has offered no convincing rationale and no quid pro quo.

In addition to the above, the Employer objects to the Union's demand for an automatic increase in the Employer's contribution during any hiatus period between contracts The Employer contends that this provision would relegate it to a position that it would require it to pick up insurance increases during hiatus periods automatically, without benefit of bargaining as to what a reasonable County contribution might be.

In regard to the life insurance provision the Employer contends that the Union demands an increase in contribution toward the premiums without offering a change in the status quo.

The Union position pertaining to the life insurance issue which it considers to be a lesser issue is that it feels that its request that the Employer raise the amount paid from \$4.25 to \$4.60 per month translates into a difference of \$142.00 for the entire year of 1989 for all the bargaining unit employees but is justified by an increase of the life insurance premium obligation of the Employer in an amount to the average wage increase. The Union contends that the life insurance policy is the state life plan which is a term life insurance plan with a benefit equal to the next highest \$1,000 dollar amount. As the salaries of the represented employees increase and as the ages of the employees increase, the individual premiums increase. The Union contends that ". . . over the two year term of the agreement in question the total dollar difference is only \$2,600". How this amount was computed is not explained but the Employer has not disputed it or offered any figures of its own.

ANALYSIS AND CONCLUSION

I have carefully considered all of the relevant evidence presented herein, taken into consideration the arguments of the parties in conjunction with the statutory criteria and have come to the final conclusion as follows:

WAGES

The Employer contention^{is}₄ that it has maintained its position among the comparables and that the settlement trend of the comparables is such that the Employer's offer of a 4% across the board increase for 1989 meets or exceeds the lift provided by the comparables. It also contends that its wage offer of a 3.5% across the board increase meets or exceeds all of the terms of actual dollars for 1990. The Employer's Exhibit 44 does not confirm this and shows the following.

Social Service Settlements Professionals (Wages Only)						
		1988		1989		1990
Burnett	1/1	2.5%	4/1	3.5%		3.5%
	7/1	.5%				
Chippewa		3.5%	7/1	2.0%		3.5%
Dunn		2.75%		2.75%		2.75%
Polk		3.0%		3.5%		Not Settled
Rusk		3.0%		3.0%		3.0%
St. Croix		3.0%		3.25%		3.25%
Sawyer	1/1	2.0%	1/1	3.0%	1/1	3.0%
	7/1	1.0%	7/1	1.0%	7/1	1.0%
Washburn	1/1	2.5%	7/1	4.0%	7/1	4.0%
	12/1	.5%		plus \$.25/hr.		plus \$.25/hr.
Barron						
County		3.0%	7/1	4.0%	1/1	3.5%
Union			7/1	4.0%	1/1	4.0%

This exhibit relied upon by the Employer shows that not a single county decreased its percentage of wage increase for 1988, 89 and 90 except Chippewa which gave a 2% increase in 1989 while its previous increase in 1988 amounted to 3.5%. No evidence was introduced to explain this 1988 increase. In 1990 Chippewa increased its percentage by 3.5%. Since the parties have agreed to the 1989 increase we are therefore concerned only with the 1990 increase.

In 1990 every county that settled their contract either equalled or increased its 1990 contract percentage wise over the previous year. Barron County's offer for 1990 is a decrease percentage wise from 1989 by .5 percent. Although the undersigned does not feel that three years is sufficient time to set a trend, nevertheless this period certainly does not substantiate the Employer's contention herein that it followed the comparables' trend. In fact the Employer's offer of 3.5% for 1990 being .5 less than the 1989 4.0% increase would be a step in the opposite direction.

The Union's evidence set forth above regarding the production of the Employer's employees, the Consumer Price Index and weighing all of the Union's evidence against the Employer's evidence clearly favors the Union in regard to the hourly wage issue.

MILEAGE

The Union in its contention uses the IRS figures of 24¢ per mile and the AAA figures of 30.6¢ per mile to justify its position regarding its request to change the system used to determine the mileage rate paid. It must be remembered that the mileage rate for the employees herein are based upon an agreed upon cost of gasoline while the AAA figures are based on the actual total cost of owning and operating an automobile which are not the same. No evidence was introduced to show how the IRS figures are arrived at.

There is no evidence in the record to show that the price of gasoline will fluctuate to any appreciable degree in the near future. In fact it has remained fairly stable for the last few years after having fallen considerably prior thereto. It must also be remembered that it was the Union that suggested and obtained its formula for determining the mileage rate in the negotiations for the 1983 contract and that formula has continued to date. I find that the Union has failed to show a compelling reason why this formula should be changed and therefore I would favor the Employer's offer regarding the mileage issue.

ON-CALL PAY

The arbitrator, although not presented any figures showing how much compensatory time has been previously issued to employees for telephone time is inclined to agree with the Union that this issue is a minor one and is more in favor of the Union. Regardless of how little time the employee spends on the telephone it is considered work by both parties and he or she should be compensated for it by at least compensatory time as was the previous practice. The arbitrator would therefore favor the Union regarding this issue and not the new proposal by the Employer.

INSURANCE

It is the opinion of the arbitrator that although the Union feels that the insurance issue is a lesser one nevertheless it is

felt that it is the Union's burden herein to show a compelling reason for its request to change the method of computing the percentage of contributions toward the premiums to be made by the Employer which it has failed to do. In addition the undersigned agrees with the Employer that the Union's request is one that would require the Employer to pick up insurance premiums during hiatus periods automatically thereby depriving the Employer of the benefit of bargaining about the amount of the County's contribution.

In regard to the issues regarding both health and life insurance the arbitrator favors the Employer's position.

It is the opinion of the undersigned that since the issues of wages and on-call pay far outweigh those of insurance and mileage in importance the undersigned therefore finds that the final offer of the Union is the more appropriate of the two final offers before the arbitrator.

AWARD

The final offer of the Union herein shall be incorporated into the parties collective bargaining agreement.


EDWARD T. MASLANKA
Arbitrator

DATED 11/29/89, ~~1989~~