

FREDERICK P. KESSLER
ARBITRATOR

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In the matter of the Interest
Arbitration between:

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

FOND DU LAC COUNTY PROFESSIONAL
SOCIAL WORK ASSOCIATION

Case 116, No. 44958
INT/ARB-5852
Decision No. 26924-A

and

FOND DU LAC COUNTY

A. INTRODUCTION

On August 5, 1991, this Arbitrator was advised of his selection by the parties to hear the interest arbitration dispute involving Fond du Lac County ("the County") and the Fond du Lac County Professional Social Work Association ("the Association"). A hearing date of August 30, 1991, was selected to begin at 9:30 a.m., at the Courthouse in the City of Fond du Lac. Witnesses were heard and exhibits were submitted at that proceeding. The hearing adjourned at 11:45 a.m.

The record was left open until September 13th for the further submission of exhibits. The parties stipulated that briefs would be given to the arbitrator by October 14th. Reply Briefs were due on October 28, 1991. The Reply Briefs were received on October 30, 1991.

B. APPEARANCES

The Association was represented by Attorney Gordon E. McQuillen, of Cullen, Weston, Pines & Bach. He was assisted by Richard T. Little, a bargaining Consultant for the Wisconsin Professional Police Association, the parent union for the Fond du Lac County Professional Social Work Association. Also present were Amelia Butzen, Association President, Jamie Sigafus, Secretary, and Jean Ihlenfeldt, Treasurer.

The County was represented by Richard Celichowski, Director of Administration for Fond du Lac County. He was assisted by Ed Schilling, the Deputy Director, and Richard Brzozowski, Personnel Director. Also present was Bob Fox.

C. STATUTORY CONSIDERATIONS

Section 111.70 (4)(cm) 7 Wis. Stats. sets the criteria an arbitrator must consider in the evaluation of the final offers in an interest arbitration disputes.

111.70 Municipal Employment (4) (cm)

7. 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. Stipulation of the parties.
- c. The interest 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 proceeding with the wages, hours and conditions of employment of other employees performing similar services.
- e. 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 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 with other employees in private employment in the same community and 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 pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

D. FINAL OFFERS

1. The Association The final offer of the Association contains the following provisions:

Insurance. The Union proposes that Article XVI, Sec. 1, be amended to provide as follows:

"Effective January 1, 1991, the employer will pay 100% of the total monthly premium cost of the single plan and the family plan for all regular full-time employees electing coverage and enrolled under the single and family plans.

Any increases in insurance premiums for 1992, for all employees shall be paid 100% by the Employer."

Classification and Pay Schedule. The following proposal is offered:

"Delete all reference to any total maximum number of positions in the Senior Social Worker classifications.

Reclassification: Any employee shall be reclassified to a higher classification when he or she has met the qualifications and prerequisites of the higher classification and has demonstrated the capacity to perform the tasks required of the higher classification."

Pay Schedule. The proposed classification and pay schedule is as follows:

<u>CLASSIFICATION</u>	<u>HIRING RATE</u>	<u>STEP I</u>	<u>STEP II</u>	<u>STEP III</u>	<u>STEP IV</u>
Interval		1 yr.	1 yr.	1 yr.	2 yr.
<u>Effective 1-1-91</u>					
Social worker *	10.02	10.62	11.22	11.82	12.42
Social worker **					13.02
Sr. Social worker	12.73	13.14	13.56	13.97	14.39
<u>Effective 7-1-91</u>					
Social Worker *	10.27	13.14	13.90	12.12	12.73
Social Worker **					13.32
Sr. Social Worker	13.05	13.47	13.90	14.32	14.75
<u>Effective 1-1-92</u>					
Social Worker *	10.58	11.56	11.85	12.48	13.11
Social Worker **					13.72
Sr. Social Worker	13.44	13.87	14.32	14.75	15.19

Effective 7-1-92

Social Worker *	10.90	11.56	12.21	12.85	13.50
Social Worker **					14.13
Sr. Social Worker	13.84	14.29	14.75	15.19	15.65

* Hired after 1-1-87

** Hired prior to 1-1-87

2. The County. The County's final offer contains provisions relating to insurance, wages and the number of provisions:

Insurance. The County proposal relating to insurance proposes the following language in Article XVI, Section 1,

"Effective January 1, 1991, the Employer will pay as to its share of the total monthly premium cost up to \$116.19 per month of the single plan and up to \$320.89 per month of the family plan for all regular full-time employees electing coverage and enrolled under the single and family plans.

Under the carrier in effect January 1, 1991, the contributions for regular full-time employees are as follows:

	<u>Plan</u>	<u>Total cost of coverage</u>	<u>Employer share</u>	<u>Employee share</u>
w/\$100	Single	\$129.10	\$116.19	\$ 12.91
Deductible	Family	356.54	320.89	35.65
w/o	Single	154.41	116.19	38.22
deductible	Family	426.73	320.89	105.84

Effective January 1, 1992, revise rates and contributions in accordance with the following schedule:

<u>Employer contribution</u>	<u>Single Plans</u>	<u>Family Plans</u>
Regular full-time employees	90% of \$100 deductible single plan	90% of \$100 deductible Family plan
Regular part-time employees	75% of \$100 deductible single plan	60% of \$100 deductible single plan

Senior Social Worker Positions. The County proposes as follows:

<u>Maximum Number of Positions</u>	<u>Classification</u>
15	19 Social Worker
16	18 1/2 Senior Social Worker

Wages. The County proposes wage increases at the following times in the following increments:

	<u>1-1-91</u>	<u>7-7-91</u>	<u>1-1-92</u>	<u>7-5-92</u>
Across the board increase	3 1/2%	1%	3%	2%

E. THE ASSOCIATION'S POSITION

The three areas of difference between the final offers of the parties are health insurance, wages, and the number of positions designated as Senior Social Workers. The County is offering a salary increase to the Social Workers that does not keep pace with inflation. The Union's proposed rate is at or slightly below the inflation rate. The County is seeking a health insurance contribution from the Social work employees that is higher than that paid by other employees. The Union's offer seeks a 100% payment of the health insurance premium by the County. The final area of contention is the county's unwillingness to modify the limits of numbers of Senior Social workers more than slightly. The Union seeks to removes the limits entirely.

The comparable counties to be used considered are Outagamie, Winnebago, Sheboygan, Washington, Manitowoc and Dodge. The County's suggestion of Green Lake and Calumet must be rejected because their populations are so small in comparison to Fond du Lac.

Only Dodge and Fond du Lac counties do not have at least one insurance plan fully paid by the county. The employee contribution rate, under the final offer of the County, would be the highest of all the comparable Counties. The percentage of the total premium paid by employees would increase from 1990 to 1991, in every plan alternative available, if the County's offer was chosen.

The employees have always paid a set dollar amount for health insurance. This is the first time that a percentage is being proposed. The County has paid an average of 93.6% of the premium for the family plan, but is now seeking to reduce that to 90%. The Association's proposed changes in the health insurance plan is preferable. The Association rejects the County's fear that everyone would switch to the non-deductable plan.

The rate of pay proposed in the County's offer would result in the top Senior Social Workers dropping in rank from fifth to sixth place when compared their colleagues in the other counties. The highest paid employees suffer a relative drop in compensation even under the Union's proposal.

The limitation on the number of Senior Social Worker positions is only found in Fond du Lac and Outagamie counties. The other comparable counties do not place an artificial barrier on advancement. The lack of such a comparable limitation supports the Association's offer.

The internal comparability arguments made by the County should be rejected. The other units settled for an increase that was far below the Consumer Price Index. The 1992 CPI for small metropolitan areas, Fond du Lac County's classification, was 5.2% for 1992. This was far above the County's final offer. In 1992, the CPI was 6.4%. Even the Association's offer was 1.65% below that figure. The offer of the County was below that increase even when the lift was included in the calculation.

The argument that the "risk" of health insurance cost increases should be "shared" between the employer and employees has some serious deficiencies. Employees must pay their "share" of health costs with after-tax dollars. The County's payment is with pre-tax dollars, thereby assuring that a higher proportion of the aggregate compensation remains in the hands of the employees. The County, with its financial resources designated for the payment of insurance premiums, is in an excellent position to bargain with the insurance companies to control costs. It has failed to use its leverage for that purpose. It would now be unjust to shift the cost to employees and blame the Association for the increase.

There is no justification for continuing a two tiered system of Social Workers. No examination is required to become a Senior Social Worker. The Union did not offer a quid pro quo for this proposed change because none was felt to be necessary since the distinction is merely academic.

F. COUNTY'S POSITION

The County proposes that additional counties be added to the list of comparable counties. Calumet and Green Lake are proposed because they are adjacent to Fond du Lac County and are in the same geographic marketplace for social service employees. Eau Claire and LaCrosse Counties are proposed because they have nearly identical populations and have similar demographic characteristics.

The Union is seeking a major change in the health insurance system by having the County pay 100% of the insurance premiums. The effect would be the elimination of the risk sharing that currently occurs when some workers enroll in the insurance plan with a deductible provision. If 100% of the cost is paid by the County, none of the 32 employees currently in the deductible plan will likely stay. Why should they remain in a plan with a contribution requirement when a no contribution alternative exists? Every previous plan that was in effect for the last eighteen years in Fond du Lac County contained an employee contribution provision. The County has never paid 100% of the insurance for any employee.

The Union has not shown a need for the elimination of the limits on the number of positions as Senior Social Worker. This position was modified in the past to eliminate it's requirement for a Masters Degree. As a result only 10% of it's Social Workers have Masters Degrees. This is a lower rate of Master degrees than any comparable County. A Social worker without a Masters Degree has a better chance of reaching the highest level of compensation in Fond du Lac County than in any of the other Counties. The changes now proposed are being offered without giving any quid pro quo in return.

The Association's proposed wage increase is in excess of that given to other workers in Fond du Lac or in other comparable counties. The County's final offer proposes a wage increase nearer the average increase of the comparable counties, for both Social Workers and Senior Social Workers.

The Union, by it's health insurance proposal, has incorporated fundamental structural changes in the relationship with the County in it's final offer. Change of this nature should be achieved by negotiations between the parties, not by an arbitrator.

G. DETERMINATION OF COMPARABLE COUNTIES

Fond du Lac County is a small urban county, dominated by one city located on the shores of Lake Winnebago. The City of Fond du Lac contains a nearly half of it's population and the bulk of it's industry and commercial activity. It is best compared with similarly situated counties such as Winnebago and Outagamie which also share Lake Winnebago's waters. Sheboygan and Manitowoc Counties are similar in size, with one community that has nearly half the county's population. Although Washington County, which is suburban, and Dodge County, which is rural do not share the same demographic characteristics, they abut Fond du Lac and are similar in size. They also should be considered comparable.

<u>County</u>	<u>Population</u>
Outagamie	140,510
Winnebago	140,320
Sheboygan	103,877
Washington	95,328
Manitowoc	80,421
<u>Dodge</u>	<u>76,559</u>
Average	106,169
 Fond du Lac	 90,083

The inclusion of Green Lake County and Calumet County is specifically rejected. Green Lake County with a population of 18,651 and Calumet County, with a population of 34,291, are not comparable in population of urban characteristics. Eau Claire and LaCrosse Counties, although similar in size and demographic character, are located at western edge of the state, far from Fond du Lac and thus are not influenced by similar market facts.

Arbitrators Imes and Ziedler have used these same six counties for comparison purposes in other cases. I concur with their conclusions in that regard.

H. HEALTH INSURANCE

This is the most significant of the three issues that divide the parties. Both propose changes in the method of employee contribution for health insurance costs. The Association is asking that 100% of the cost be paid by the County. The County is seeking to limit it's exposure 90% of the cost of the current coverage.

The 1989-90 contract contains the following language as to health insurance:

"Effective January 1, 1989, the Employer will pay as to its share of the total monthly premium cost up to \$77.81 per month of the single plan and up to \$214.76 per month of the family plan for all regular full-time employees electing coverage and enrolled under the single and family plans.

Under the carrier in effect January 1, 1989, the contributions for regular full-time employees are as follows:

	<u>Plan</u>	<u>Total cost of coverage</u>	<u>Employer share</u>	<u>Employee share</u>
w/\$100	Single	\$ 78.81	\$ 77.81	\$ 1.00
Deductible	Family	217.76	214.76	3.00
w/o	Single	87.57	77.81	9.76
deductible	Family	241.95	214.76	27.19

Evidence was received that indicates the County and the Association have had a contractual relationship for eighteen years under which employees make a fixed dollar contribution to the cost of their health insurance premium. The County offers two options to it's Social Work employees; one has a \$100 deductible provision, and the lowest premium contribution, while the other has no deductible and requires a higher contribution.

Sheboygan County and Manitowoc County do not require a contribution for the health insurance premiums from their social service employees. The other comparable counties do, with variations as to the amount contributed.

A change of the nature that is being suggested by both of the parties is more appropriately made as a result of an agreement reached through bargaining. If only one side were proposing such change, this arbitrator would likely view that change with great reticence. Here, however both parties are asking for substantial alterations. Their proposed alterations are not similar as to their substance nor their financial impact.

The County is seeking to substitute a percentage for a fixed dollar amount with a percentage. In Nekoosa School District, Case No. 25817-A, (1989), I stated:

"The change from a flat dollar amount limitation in the employers contribution to a percentage limitation constitutes a structural change in the contract which is more appropriately done by agreement of the parties, rather than through an arbitrators award."

If that were the only proposal on the table, I would reject it. However, the change the Association is seeking is even more drastic. The Association would have the employee contribution eliminated entirely. Any future cost increase would be the sole responsibility of the County.

The alteration the Association is seeking would change the relationship between the parties more significantly than the County proposal. It not only substitutes a percentage figure, it also eliminates any employee contribution. This dissipates cost control incentives by encouraging unlimited use. That has a greater impact than the County's final offer. Therefore, I would conclude, that as to the health insurance proposals, the final offer of the County is preferred.

I. WAGES

The hourly compensation for a Social Worker and a Senior Social Worker, at the minimum and maximum levels, is increased in both final offers. Comparison of the current hourly rate and the proposed hourly rates with the comparable counties demonstrates the following:

<u>Social Worker</u>				
	1990		1991	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
Dodge	\$ 9.52	\$12.01	\$10.05	\$12.65
Manitowoc	10.28	12.98	---	---
Outagamie	10.00	13.09	10.50	13.76
Sheboygan	9.85	11.53	10.49	12.28
Washington	9.76	11.94	10.15	12.54
<u>Winnebago</u>	<u>9.60</u>	<u>12.39</u>	<u>10.04</u>	<u>12.95</u>
Average	9.85	12.32	10.25	12.84
<u>Fond du Lac</u>				
County	9.68 (5)	12.00 (5)	10.12 (4)	12.54 (4)
Association			10.27 (3)	12.73 (3)

Senior Social Worker

	1990		1991	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
Dodge	\$11.96	\$12.98	\$12.51	\$13.54
Manitowoc	11.92	15.35		16.40
Outagamie	11.65	14.71	12.24	15.45
Sheboygan	11.17	14.13	11.90	15.05
Washington		(not resolved)		
<u>Winnebago</u>	<u>12.55</u>	<u>14.01</u>	<u>13.13</u>	<u>14.53</u>
Average	11.85	14.24	12.45	14.99

Fond du Lac

County	12.30 (2)	13.90 (5)	12.86 (2)	14.53 (4)
Association			13.05 (2)	14.75 (4)

Both the 1990 and 1991 hourly rate for Social Workers is below the average for the six comparable counties. This is true under both offers, both at the minimum and maximum levels. The placement among counties in the group rises however from 5th to 4th in the County final offer, and the dollar gap recedes slightly. The Union offer moves the ranking to third place in a six county grouping, at both the minimum and maximum levels. Both improve the ranking of the counties slightly.

The entry level ranking of 2nd for the Senior Social Workers within the six comparable counties in 1990 is above the average. That ranking is maintained for the 1991 contract if either of the final offers is adopted. The maximum compensation for Senior Social Workers goes from fifth place to fourth place among the six counties. It is still below the average of the comparable counties for both 1990 and 1991.

The 1992 wage offers that are part of the final offers of both parties are harder to compare with the other counties. Only Sheboygan and Winnebago have approved contracts that extend into 1992. The Association's offer is closer to the average, but with only two comparables, the average figure is not reliable. The 1992 figures are given little weight in this decision.

The goal under the arbitration procedures should be to assure workers that they will be compensated at a level similar to other workers doing the same type of work for similar levels of government. It is not expected that an arbitrator render an award that effectively takes a group of employees and places them at the top of their classification when they are compared with similarly situated workers. That type of increase should be determined at the bargaining sessions. A wage offer that brings them near the average if preferable in an arbitration award

The cost of living is also a factor that must be considered. The cost of living increased in Small Metro areas at a rate of 5.2% in the past year, and a rate of 6.4% 1990. This increase is less than, but closer to, the final offer of the Association.

The final offer of the Association as to the rate of compensation more nearly meets the appropriate statutory goals. Therefore the final offer of the Association is preferred as to the wage plan.

J. SENIOR SOCIAL WORK POSITIONS

The Association correctly points out that most of the comparable counties do not have limits on the number of persons who are eligible for the position of Senior Social Worker of the equivalent position. Only Outagamie and Washington County have contractual limits that inhibit the progression from Social Worker to Senior Social Worker.

The arbitration statute requires the comparison of "wages, hours, and the conditions of employment", between the various county and governmental agencies shown to be comparable. It does not mandate a comparison of the number of jobs in a classification. That appears to be entirely a prerogative of management. Different qualifications can be imposed, and different tasks can be assigned. The number of particular positions appear to this arbitrator be a part of management rights.

Removing the limitation on the number of Senior Social Worker positions as proposed by the Association is a structural change better left to the bargaining. Therefore as to this area of dispute, the final offer of the County is preferred.

K. SUMMARY

The most significant of the three areas of dispute in this proceeding is health insurance. The future impact of that provision is more far-reaching than the salary proposals this case. When the removal of limits for the number of Senior Social Workers is added to the equation, the decision tilts in favor of the final offer of the County.

L. AWARD

The final offer of Fond du Lac County is incorporated in the 1991-92 Contract between the County and the Fond du Lac County Professional Social Work Association.

Dated this 13th day of December, 1991,
at Milwaukee, Wisconsin

FREDERICK P. KESSLER
ARBITRATOR