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MANITOWOC COUNTY HEALTH CARE CENTER

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

and

DECISION  
INT/ARB 7208  
Case 285, No. 50568

WISCONSIN COUNCIL 40, AFSCME, AFL-CIO

Decision No. 28048-A

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A. INTRODUCTION

On May 25, 1994, this arbitrator was advised that he had been selected by Manitowoc County (hereinafter referred to as "the County") and Wisconsin Council 40, AFSCME, AFL-CIO (hereinafter referred to as "the Union") to arbitrate the interest dispute between the County and the employees at the Manitowoc County Health Care Center.

A hearing was scheduled for June 22, 1994, at the Courthouse in Manitowoc. It was subsequently adjourned to July 5th. Witnesses testified and exhibits were received. The parties stipulated that Briefs, to be mailed by August 22, 1994, would be exchanged through the arbitrator. The parties would then have an additional fifteen days to file Reply Briefs. The date for submission of the first Brief was extended, by agreement of the parties, to November 1st, with Reply Briefs to be mailed on November 29th. The final Brief was received on November 30th.

B. APPEARANCES

The Union appeared by Gerald D. Ugland, Staff Representative for Wisconsin Council 40. Present as witnesses were Patricia Haupt, a steward and former president of Local 1288; Nancy Becker, a former Union bargaining committee member; and Chris Liska, a current Union bargaining committee member, who was called in rebuttal.

The County appeared by Robert Zeman, Corporation Counsel for the County. His witnesses were Sharon Cornils, County Labor Negotiator; Gary Yahr, Administrator of the Manitowoc County Health Care Center; Lois Hord, Director of Financial Services for the Center; Pat Strege, a Nursing Secretary at the Center, and Dawn Holsen, Nursing Director at the Center.

C. STATUTORY CRITERIA

Section 111.70 (4)(cm) 7 Wis. Stats. sets the criteria an arbitrator must consider in the evaluation of the final offers in public employee contract 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 County Final Offer

ARTICLE 9 - DEFINITIONS OF EMPLOYEES

Article remains as is until "B"

B. Regular Part-Time: A regular part-time employee is a person hired to fill a regular part-time position. Regular part-time employees shall not be used to replace, reduce or displace regular full-time employment.

Regular full-time employees hired prior to January 1, 1984, and working on a continuous basis through December 31, 1983, who are awarded a regular part-time position as a result of posting under Article 21 by December 31, 1995, and regular part-time employees hired prior to January 1, 1984, shall be entitled to all fringe benefits under this Agreement. (Holiday, vacation and sick leave shall be pro-rated.)

ARTICLE 19 - WAGES

Wage adjustments to be effective on January 1, each year of the Agreement, before the application of the general 4.0% wage increase:

	<u>1/1/94</u>	<u>1/1/95</u>
Bookkeeper	\$.12 per hour	\$.13 per hour
Bookkeeper II	\$.12 per hour	\$.13 per hour
Receptionist	\$.12 per hour	\$.13 per hour

ARTICLE 20 - LONGEVITY

After five (5) years	<u>\$.09 hourly</u>
After ten (10) years	<u>\$.13 hourly</u>
After fifteen (15) years	<u>\$.16 hourly</u>
After twenty (20) years	<u>\$.19 hourly</u>

ARTICLE 22 - HOURS AND PAY DATE

Article remains as is until "I", paragraph 2

After the schedule is posted, an employee who requests a day off using holiday, vacation, or for other reasons authorized by this agreement, who provides a qualified employee to replace or exchanges with them, shall be allowed to do so. For the nursing department, up to fifty-six (56) changes per posted schedule will be allowed under this paragraph. This is provided ...

## 2. The Union Final Offer.

The Union is not proposing any changes in the Labor Agreement other than those which have already been stipulated between the parties, and are attached to the final offer.

### E. POSITION OF THE UNION

The Union in this dispute is not seeking any changes in the existing Labor Agreement. The parties already have reached an accord on the changes that are necessary. The proposed changes that the County seeks are unnecessary. The quid pro quo offered is insufficient.

The comparable counties and units of government appropriate for comparison to Manitowoc County were established by Arbitrator Zel Rice in his decision involving the Manitowoc County Human Services Department. In that dispute, Rice found the appropriate comparable governments should include Brown, Ozaukee, Sheboygan, and Washington counties, plus the cities of Manitowoc and Two Rivers. This grouping differs from the County's, which includes Kewaunee county and excludes the two cities.

The major dispute in this arbitration is the County's attempt to change the portion of the Agreement which provides for health care benefits for part time employees who started work with the County prior to 1984. To retain those benefits, the County would require that an employee must post for, and be awarded the part-time job prior to the end of 1995.

Similar provisions are found in the Labor Agreements between the Sheriff's Department and the Wisconsin Professional Police Association, between the Sheriff's Department and AFSCME, and in the Highway Department Agreement. The Agreement for the Registered Nurses and Public Health Nurses provides that if the part-time employee health benefit provisions are removed for other bargaining unit agreements, it will also be removed from their Labor Agreement. The Agreement for the Human Service Professionals contained a similar provision, but it was removed in 1992. The Supportive Services Employees removed a similar provision from their Labor Agreement effective December 31, 1995.

Some of the bargaining units with similar provisions in their Labor Agreements have few or no part-time employees. Only the Health Care Center represented by Local 1288 has a large number of employees who are part-time and would be covered by the provision. In some of those units, the County has reduced the number of part-time positions available. Two of the seven bargaining units in the County have agreed to remove a comparable provision from their Labor Agreements. This does not show a pattern sufficient to support the County's contention that the internal comparable units have accepted the reduction of the benefit.

When the provision regarding part time workers was first incorporated in the Labor Agreement, all employees were effected by the provision. Now, the number of effected employees has declined to only 38% of the total workforce. The number of covered workers will continue to decline as more employees retire. The decision to increase or decrease part-time positions at the Health Care Center is a unilateral decision made by the County. The only limit in the Labor Agreement is that no more than 60% of the employees at the Health Care Center may be part-time. The County has the ability to limit the number of employees who would be eligible under this provision by reducing the number of part-time positions.

No compelling reason has been presented which supports the change in the Labor Agreement. The County cannot argue that it is too great a financial burden because the cost of health insurance has declined this past year. In the previous Labor Agreement, the County obtained a concession from the Union which resulted in the employees paying 5% of the cost of their health insurance. Now the County wants the employees who work only part of the time to pay that 5%, plus the prorated share of the health insurance cost. Since the average proration rate for part-time employees is 74.2%, that would mean that the County would only pay 24.5% of the premium. This would be a substantial loss for a number of the employees.

The quid pro quo that the County is offering to exchange for the reduction of it's share of health insurance costs for part-time employees is not a valid quid pro quo. The three positions with proposed hourly wage rate increases are already so low they deserve the increase without having to give back any other benefit. The proposed wage adjustments are not sufficient to offset the adverse impact to many other employees through the significant increase in what they pay for health insurance.

Similarly, the longevity pay increase being proposed in aggregate does not offset the aggregate economic loss to some of the employees as a result of the health insurance benefit reduction. Although the longevity pay increase might provide some employees parity with the other county employees, it is too great a price for the workforce to pay because of the significant damage it does to many other workers.

Currently, the County posts a four week work schedule for the employees at the Health Care Center. Workers requesting a day off or a holiday may exchange work times with other employees if they choose. The County has proposed limitations on the total number of scheduling changes to fifty-six for each four week schedule. The County Final Offer described in testimony at the hearing, is substantially different from the certified offer submitted to the Wisconsin Employment Relations Commission. Sick leave and funeral leave procedures would be altered by the changes made in the County's new offer. The County did not refute the testimony of it's witnesses who described the effect of the changes.

The County's present use of the term "changes" carries a broader definition than the term "exchanges", which was used in the initial proposal. The new definition drastically alters the meaning of the proposal. This change in the Final Offer is not permitted by law.

A total of only fifty-six changes in the four-week work schedule is far too restrictive for the employees during a four week period. There has been an average of seventy-one changes each time a new schedule has been posted in the past. During one schedule, eighty-one changes had to occur. The limit proposed by the County is unworkable. The Union acknowledges that there is a need for continuity in staffing, but feels that schedule changes should continue to be done on a case by case basis, without the imposition of an arbitrary limit.

The County has not offered sufficient reasons for the changes that it proposed in the scheduling process. It should not be a surprise nor is it unreasonable that scheduling two hundred twenty employees for twenty-four hour coverage takes over two hours each week. The County has not shown how the limits proposed will result in a better scheduling system, while it is clear the employees ability to exchange shifts to accommodate personal needs will be all but eliminated.

For the substantial Labor Agreement changes the County proposes to be accepted, the County must prove that the current language has given rise to conditions which require change. Further the County must demonstrate that the proposed language will remedy the problem, and that the changes will not impose an unreasonable burden on the other party. An unreasonable burden could be offset by an adequate quid pro quo.

The County has not demonstrated a significant problem in scheduling of employees or in providing health insurance for the pre-1984 part-time employees. It is clear that their proposal will place an unreasonable burden on the employees. The quid pro quo the County offers is clearly inadequate. The County's Final Offer should be rejected.

#### F. POSITION OF THE COUNTY

The County proposes that Brown, Calumet, Dodge, Fond du Lac, Outagamie, Ozaukee, Sheboygan, and Washington Counties be used as the comparable counties in this case. Kewaunee County, which is adjacent to Manitowoc, has privatized it's nursing facility.

The County seeks to end the option that pre-1984 full time employees have to transfer to part-time positions at the Health Care Center but retain the same health insurance benefits as full-time employees, with the County paying the same premium it pays for the full-time employees. Nineteen part-time employees receive full-time County paid health insurance coverage.

Those employees who elect part-time work should be treated the same as part-time employees hired after January 1, 1984. Employer contribution to the health insurance premium of part-time workers has been pro-rated since 1984 based on the hours that the part-time employees work. There are currently ninety employees who are presently eligible to transfer to part-time positions.

Health insurance cost to the County has increased dramatically in the past ten years. The monthly premium for a single person went from \$60.45 in 1984 to \$169.57 in 1994. Family coverage cost increased from \$134.24 to \$432.92 per month during the same period. The percentage increase was 180% and 222% for those policies. At the same time, the Consumer Price Index for medical care increased by 106.2%, and the overall CPI increased by 40%. This dramatic rise has placed a tremendous burden on the County, which until recently paid the entire cost of the health insurance.

The comparable counties that the County relies on do not provide the same generous full-time health insurance benefits to part-time employees as does Manitowoc. Sheboygan and Brown Counties provide some health care benefits to part time employees based on a combination of seniority and hours worked. In the rest of the comparable counties, the employees either do not receive such benefits, or pay for health insurance themselves, or have the cost prorated based on their hours of work. Only the pre 1972 part-time employees of Brown County have 95% of their health care premiums paid by the employer. Brown and Sheboygan either have a deductible provision or a co-payment provision. Only Manitowoc County does not have a co-payment provision for part-time employees. Single employees in Outagamie County have a similar provision to Manitowoc, but must pay 6% of their premium and must work at least twenty hours per week.

The 14% decrease in the County's health insurance costs during the past year is of little consequence. It is an isolated occurrence and contrary to a ten year trend. A substantial increase in premiums has occurred repeatedly in the past decade.

The disputed health insurance provision only applies to a small number of the employees. The quid pro quo applies to all employees with five or more years of seniority. That is a substantial part of the workforce. The employees who were hired after 1983 get the benefit of a pay increase without giving up anything in exchange.

The County also wishes to change the method of scheduling employees for the nursing department. Currently the Labor Agreement allows an employee to provide a replacement employee for themselves if they wish to take a day off when they are scheduled to work. The County proposes to limit that privilege to up to fifty-six (56) changes per each posted four week schedule.

During 1993, there were an average of seventy-one schedule changes for every four week posted schedule. This required the employee responsible for employee scheduling to spend an average of two hours a week just rearranging the work schedule. An employee may now, and can continue to request time off prior to making up the schedule. The requested limitation on changes after the schedule is posted is not unreasonable. It avoids an extra, and unnecessary, burden on management.

The County has developed a system for staffing the Health Care Center that enables a unit to best deal with the residents in that unit. This may involve having personnel with particular skills assigned to a job at a specific time. The wholesale personnel changes permitted under the current Labor Agreement are very disruptive to the County's ability to properly provide for the residents it serves by efficient scheduling.

The Union is in error when it describes the County proposal as going beyond the certified Final Offer. The County proposal does not prevent workers from attending funerals, from calling in sick, or from leaving work if injured. The proposal applies only to changes in the posted schedule. Sick or injured workers are not required to find their own replacements.

To offset these proposals which benefit management, the County offers to increase the hourly rate for employees holding the position of Bookkeeper, Bookkeeper II, and Receptionist by \$.12 per hour in 1994 and \$.13 per hour in 1995. This proposed increase is not being offered as a quid pro quo, but is an indication of the County's good faith.

As a quid pro quo, longevity pay would be increased by \$.01 per hour for all employees with five years or more of service. This proposal benefits to all of the employees who have five years of seniority. The existing language in the Labor Agreement will only benefit those few employees, hired before 1984, who decide to take part time positions.

The County's Final Offer more closely adheres to the statutory criteria the arbitrator must consider. The County needs to limit it's health insurance cost. It needs to insure better, more consistent health care is provided to the residents of the Health Care Center by avoiding the disruption caused by the frequent changes in the schedule that are currently allowed. The wage increases are adequate to compensate the workers for the proposed changes.

#### G. DETERMINATION OF COMPARABLE UNITS OF GOVERNMENT

Brown, Ozaukee, Sheboygan, and Washington counties and the cities of Manitowoc and Two Rivers were used by Arbitrator Zel Rice in his decision involving the Manitowoc Social Service Employees. The bargaining unit here is different from the Social Service employees. Nursing home facilities are not operated by most municipalities. Some counties have no such facilities. However, all counties operate Social Service agencies.



The counties that operate long term health care facilities, or nursing homes that are located near Manitowoc County include Brown, Dodge, Fond du Lac, Outagamie, Ozaukee, Sheboygan, Washington and Winnebago. Those Counties operate the following facilities:

- Brown County Mental Health Center
- Calumet County Homestead
- Dodge County Health Facility
- Fond du Lac County Health Care Center
- Fond du Lac Rolling Meadows Home
- Outagamie County Health Center
- Ozaukee County Lasata Nursing Home
- Sheboygan County Institutions
- Washington County Samaritan Home
- Winnebago County Park View Pavilion

Not all of those counties are comparable to Manitowoc. Some have a substantially larger population and are far more urban. Workers have more employment options in some of the proposed comparables counties. Manitowoc County has only one relatively large city, Manitowoc. There also is one medium size community, Two Rivers. Many small villages serve as community centers for the surrounding farm areas. Some residents, in the northern part of the County, commute to the City of Green Bay in Brown County for employment.

Outagamie, Winnebago and Brown are suspect because they are substantially urban areas with an entirely different employment mix from Manitowoc. Ozaukee and Washington Counties are questionable because they are essentially Milwaukee suburban Counties. The income level in Ozaukee is disproportionately high because it contains several affluent suburban communities.

The list of comparable counties should consist of Calumet, Dodge, Fond du Lac and Sheboygan. The counties selected have an income and population pattern similar to Manitowoc. When those counties are compared with the other proposed counties, the contrast is clearly demonstrated. The eight counties that are in the list of the County's comparable show as follows:

<u>County</u>	<u>Population</u>	<u>Per Capita Income</u>		
		<u>1989</u>	<u>1990</u>	<u>1991</u>
Brown	198,696	\$17,111	\$18,230	\$18,837
Calumet	34,799	15,686	15,842	15,905
Dodge	78,032	14,239	15,213	15,469
F. du Lac	91,217	16,012	16,859	17,383
Outagamie	143,765	15,938	16,884	17,568
Ozaukee	74,912	23,580	25,212	25,618
Sheboygan	104,781	17,247	17,898	18,365
<u>Washington</u>	<u>99,444</u>	<u>18,641</u>	<u>19,454</u>	<u>19,734</u>
Average	103,206	17,307	18,199	18,610
Manitowoc	81,439	14,911	15,851	16,484

The comparable counties that are proposed by the Union are also dissimilar from Manitowoc. They have population and income characteristics as follows:

<u>County</u>	<u>Population</u>	<u>Per Capita Income</u>		
		<u>1989</u>	<u>1990</u>	<u>1991</u>
Brown	198,696	\$17,111	\$18,230	\$18,837
Ozaukee	74,912	23,580	25,212	25,618
Sheboygan	104,781	17,247	17,898	18,365
<u>Washington</u>	<u>99,444</u>	<u>18,641</u>	<u>19,454</u>	<u>19,734</u>
Average	119,458	19,145	20,199	20,638
Manitowoc	81,439	14,911	15,851	16,484

The combination of counties selected for the comparable group reflect the following population and income level which is much closer to that of Manitowoc.

<u>County</u>	<u>Population</u>	<u>Per Capita Income</u>		
		<u>1989</u>	<u>1990</u>	<u>1991</u>
Calumet	34,799	\$15,686	\$15,842	\$15,905
Dodge	78,032	14,239	15,213	15,469
F. du Lac	91,217	16,012	16,859	17,383
<u>Sheboygan</u>	<u>104,781</u>	<u>17,247</u>	<u>17,898</u>	<u>18,365</u>
Average	77,207	15,796	16,453	16,780
Manitowoc	81,439	14,911	15,851	16,484

Fond du Lac County is similar to Manitowoc County. It has one large city, Fond du Lac, similar in size to Manitowoc. Ripon, is similar in size to Two Rivers. A number of smaller communities serving the surrounding agricultural area in Fond du Lac County.

Manitowoc County is also similar to Sheboygan County. The Communities Sheboygan, Sheboygan Falls and Kohler are essentially one large city. Plymouth is a medium size community, and a number of small villages serve an agricultural area.

Dodge County will be included among the comparables, even though it is not as close geographically, because it is similar in size to Manitowoc. Dodge County's population distribution is more like the pattern found in Manitowoc, Sheboygan, and Fond du Lac, than what is found in the other urban or suburban counties.

Calumet County, although not as populous, will be included because of it's geographical proximity to Manitowoc and because of the similar demographic character.

## H. HEALTH CARE BENEFITS FOR PART-TIME EMPLOYEES

Responsibility for the cost of health insurance continues to be the major source of dispute between employer and employees in the 1990's, as it has been in the 1980's. The dramatically increasing cost of health insurance has fueled an effort by all parties shift the cost wholly or partially to the other side through labor agreements.

Manitowoc County negotiated prior contracts which provided that a group of senior employees would have their health insurance cost paid as though they were full-time workers, even if they were employed only part time. The only employees who enjoyed that benefit started their employment with the County prior to January 1, 1984. Currently, between eighty-two and ninety employees from a total work force of two hundred twenty, would be eligible for the part-time work, full-time health insurance benefit. The eligible number would decline as the employees retired or left county employment. At present, nineteen employees who started prior to 1984, and who were full-time at some point, are working part-time and receiving the full-time health insurance benefits.

A similar provision was found in the other bargaining unit contracts with the County. In those other units, fewer employees were "grandfathered" by the provision. Two Sheriff's Department employees, covered by the labor agreement with AFSCME are eligible. One Registered Nurse and Public Health Nurse Unit member is eligible, three persons in the Supportive Services bargaining unit and three in non-union classifications are working part-time and receiving County paid health insurance benefits identical to those for full-time employees. Several of the bargaining units in the County have agreed to withdraw the benefit. Those units and the impact on their members, are as follows:

<u>Department-Unit</u>	<u>Part-time Clause</u>	<u>When removed</u>	<u>Benefit Numbers</u>
Sheriff-WPPA	Yes		0
Sheriff-AFSCME	Yes		2
Highway Dept	Yes		0
Supportive Services	Until 12-31-95	1994-95	3
Health Serv. Prof.	No	1992-93	
RN's	Yes		1
Non-Union	No	1993	3
Health Care Center	Yes		19

Section 111.70 Wis. Stats. provides that the conditions of employment in comparable communities must be considered. Insurance benefits should be included in the measure of overall compensation of municipal employees.

The County is not proposing to eliminate the insurance benefit; it is merely seeking to have it prorated based on the hours worked. Two of the comparable counties provide a "grandfathered" provision similar to Manitowoc, and two provide a prorated health insurance benefit payment for some of the part-time employees. The comparable counties provide as follows:

<u>County</u>	<u>Benefit Calculation</u>
Calumet	Employee Must work 50% of time, then county prorates the cost on an annual basis. No "grandfathered" employees
Dodge	County prorates cost on monthly basis. No "grandfathered" employees
Fond du Lac	Must work 20 hours for County to pay cost - "grandfathered" as follows: <ul style="list-style-type: none"> <li>- If 4 yrs seniority - 87.5% single premium</li> <li>- 75.0% family premium</li> <li>- If less then 4 yrs - 85.0% single premium</li> <li>- 65.0% family premium</li> </ul>
Sheboygan	County picks up same for part-time and full-time if employee was: Hired before 1983 - must work 600 hours in 1 year Hired after 1983 - must work 963 hours in 1 year

The employee contribution to the Health Insurance premium varies in each county. All have a \$100 per person/ \$300 per family deductible. The co-payment provisions vary from 80/20 to 90/10, with a different maximum in each county. In Calumet there is a 10% family plan contribution, but none for an individual policy. In Dodge there is a 5% contribution for both. Fond du Lac has a 5% contribution for an individual policy and a 7% contribution for a family plan. Sheboygan requires a \$5 and \$10 contribution for the individual and family plan respectively. Manitowoc requires no co-payment provision and provides for a 5% employee contribution.

The comparable counties do not uniformly provide equal payments for health insurance for some part-time employees identical to that provided for full time employees. The majority of the other bargaining units in the County have retained a similar provision in their Labor Agreements.

The County can limit it's financial liability without incorporation of it's Final Offer in the new Labor Agreement. The County can limit the number of part time workers it hires. Article 5 of the Labor Agreement gives the County the power to determine specific hours of employment, and the length of the work week, in the following provision:

**ARTICLE 3 - MANAGEMENT RIGHTS RESERVED**

\* \* \* \*

Unless otherwise herein provided, the Employer shall have the explicit right to determine the specific hours of employment and the length of work week and to make such changes in the details of employment of the various employees as it, from time to time, deems necessary for the effective operation of the institution. The Union agrees, at all times, as far as it has within its powers to preserve and maintain the best care and all humanitarian considerations of the patients of said institution and otherwise further the public interest of Manitowoc County. The Employer may adopt reasonable work rules except as otherwise provided in this Agreement.

There are some limits on the authority of the County regarding the number of full-time or part-time persons they may employ. Those limits are found in Article 22 of the Labor Agreement.

**ARTICLE 22 - HOURS AND PAY DATE**

- A. Eight (8) hours shall constitute a normal work day.
- B. Five (5) days, Sunday through Saturday, forty (40) hours of work, shall constitute a week's work.
- C. Employees shall receive every other weekend off

\* \* \* \*

- F. The Employer may schedule "short shifts" of less than eight (8) hours but no less than four (4) consecutive hours subject to the following conditions:
    - a. "Short shift" employees shall be scheduled for a minimum of twenty-eight (28) hours per pay period; and
- \* \* \* \*
- f. Short shift employees shall be covered by **ARTICLE 9 - DEFINITIONS OF EMPLOYEES**. It is further understood that no incumbent regular full-time or regular part-time employee shall be required to work short shifts.

The County may schedule which days in a work week an employee may work. It appears that the County could substantially reduce, or eliminate, the part-time employment opportunities that currently exist. The Labor Agreement limits the maximum number of part-time workers. In this era of computers and experienced employees, it is likely that a work force of two hundred twenty persons can be scheduled in a manner which substantially reduces the need for part-time employees.

The Final Offer of the Union is preferred because over all it meets most of the statutory criteria. It is in conformity with the provisions of the plans in some of the comparable counties. It is consistent with the majority of other bargaining units in Manitowoc County. There is another way in which the County could secure it's goal of cost reduction without modification of the Labor Agreement.

#### I. LIMITATIONS ON SCHEDULE CHANGES

The proposed limits on the total number of exchanges that could be made by all employees on a posted four week work schedule clearly is the less significant of the two Labor Agreement changes proposed by the County. The Union has alleged that the testimony at the hearing on this item was a change in the final offer. The County denies that the testimony is inconsistent with it's Final Offer. I am persuaded by the interpretation of the provision by the County.

No evidence has been submitted by either of the parties which suggests a similar provision in any Labor Agreement in any of the comparable counties or in any of the other bargaining units in Manitowoc County.

If this were an an initial contract between a County and a Union, I would hold that scheduling of employees working time is a management right. Restrictions on the authority of the management in this area should be viewed with some caution. If the management wishes to properly provide for the patients it is serving at nursing home facility, it should be able to determine, based on their skills, who it needs to have on duty at a particular time. That right should not be restricted by the Union.

At the same time, employees should have the right to alter their work schedule in the event of a personal emergency. That right would not effected by the current provision in this Labor Agreement or the proposed limits on exchanges. The limitation on the number of exchanges that the County proposed would be preferred to providing unlimited exchanges.

This however, is not the first contract between the parties. The provision on exchanges has been part on the existing Labor Agreement. Changes in such a provision should be made at the bargaining table and not through the arbitration process. Without evidence as to the practice of other internal of external comparable units of government, any action by the arbitrator to change the terms of the provision would be purely speculative.

The final offer of the Union is preferable in regards to the scheduling limits provision.

J. THE QUID PRO QUO OF THE COUNTY

The quid pro quo being offered must be examined carefully. Longevity pay for the employees of the Health Care Center would be increased by \$.01 per hour after five, ten, fifteen and twenty years of employment. This would bring the longevity pay in conformity with the longevity pay provisions of all of the other bargaining units in the County.

In addition, the County is also proposing an increase in the hourly rate for three classifications, Bookkeeper, Bookkeeper II, and Receptionist. Each would receive a one cent an hour increase in addition to the increase negotiated by the parties. The County contends that the increase for the three positions is not being offered as part of the quid pro quo, but is being made to show the good faith of the County.

When the wage rate is compared with the other Counties the rate difference shows that Manitowoc County would rank higher than any of the comparables except as to the position of Bookkeeper II:

<u>County</u>	<u>Receptionist</u>		<u>Bookkeeper</u>		<u>Bookkeeper II</u>	
Calumet	\$6.58	\$8.15	\$7.54	\$9.21		
Dodge	7.56	9.26	7.85	9.55		
Fond du Lac			8.16	9.80		
<u>Sheboygan</u>	<u>7.23</u>	<u>8.40</u>	<u>9.52</u>	<u>10.93</u>	<u>\$10.83</u>	<u>\$11.85</u>
Average	7.12	8.60	8.27	9.87	10.83	11.85
Manitowoc	7.94	9.33	8.48	9.57	8.44	9.83

No evidence has been offered by either of the parties demonstrating the relative cost of the quid pro quo to the cost of the changes in health insurance payments by the County, during the life of the Labor Agreement.

The current Labor Agreement does place a burden on the County to provide part-time employees with the same health insurance as full time employees. The burden will end when the last of the workers in the protected class retires or leaves the employment of the County. This does not create a condition that requires amendment. The remedy proposed by the County to relieve it of the burden does not reasonably remedy the problem.

The changes proposed clearly place a burden on the pre-1984 employees of the Health Care Center who would not be able to secure a part-time position by the end of 1995. They would lose the opportunity to work part-time and get 95% of their health insurance costs paid by the County. The quid pro quo, which gives them an increase in hourly income at a rate substantially less than the cost of an individual policy premium does not appear to be an adequate quid pro quo.

The proposed wage increases for a limited number of employees is not sufficient to offset the loss for the large group of pre-1984 employees. That large group would lose the potential to post for the position as a part-time employee with full-time health care benefits. That is a very attractive alternative for an employee desiring to reduce their workload in the last years of their employment.

**K. AWARD**

The final offer of the Union shall be incorporated in the new Labor Agreement.

Dated at Milwaukee, Wisconsin, this day of 8th day of February, 1995.

FREDERICK P. KESSLER  
Arbitrator