

FREDERICK P. KESSLER
ARBITRATOR

In the matter of the Interest
Arbitration between

AUG 21 1997

COLUMBIA COUNTY (HEALTH CARE
CENTER)

and

COLUMBIA COUNTY EMPLOYEES'
UNION, LOCAL 2698, AFSCME,
AFL-CIO

Case 173, No. 53430
INT/ARB-7787
Decision No. 28960-A

A. INTRODUCTION

On February 19, 1997, this arbitrator was advised that he had been selected to hear the interest arbitration dispute between Columbia County (hereinafter referred to as "the County") and the Columbia County Employees Union, Local 2698, AFSCME, AFL-CIO (hereinafter referred to as "the Union") regarding the Labor Agreement for 1996 and 1997 for the employees of the Health Care Center. A hearing on the dispute was scheduled for April 9th at 1:30 p.m. at the Health Care Center.

The hearing commenced at 1:30 p.m. and adjourned at 4:55 p.m. Witnesses testified and exhibits were received. The parties agreed that briefs would be exchanged through the arbitrator. The final Reply Briefs, dated June 24, 1997, were received by the arbitrator on return from vacation on July 9th.

B. APPEARANCES

The County appeared by Columbia County Corporation Counsel Donald J. Peterson. He was assisted by James Aiello, County personnel director and Lisa Olejniczak, Director of the County Home who were also called as witnesses. Also present were Columbia County Supervisors Debra Wopat, John Trauberg and Curt Humphrey, and Traci Hohn and Tamara Maier.

The Union appeared by David White, Staff Representative for Wisconsin Council 40, AFSCME, AFL-CIO, who also testified on behalf of the Union. Also present at the behest of the Union were Bob Clark, Kay Rataczak, Dawn Banks and Linda Bradley.

C. PERTINENT STATUTES

Section 111.70(4)(cm)7 of the Wisconsin Statutes provides as follows:

111.70 Municipal employment (4) (cm)

* * * *

7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greatest weight to any state law or directive lawfully issued by a state legislative or administrative office, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

7g. 'Factors given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

a. The lawful authority of the municipal employer.

b. Stipulations 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 employes 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 employes 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 price 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 proceeding.

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 OF THE PARTIES

2. The County's Final Offer

ARTICLE 11 - INSURANCE AND RETIREMENT

11.01 HOSPITALIZATION AND SURGICAL INSURANCE: (DELETE There shall be a group hospital, surgical, dental and vision insurance plans in effect for employees and their dependents.) There shall be two group hospital, surgical, and dental and vision insurance plans in effect for employees and their dependents. The plan shall provide benefits which are at least equal in respect to the group plan attached as Appendices B-D. (DELETE The employer shall pay ninety percent (90%) share of the premium.) The employees have an option to choose either the GHT Standard Plan or the GHT Select Plan which is a managed care plan. A dual choice enrollment will be held in the 1st week of October for any employee opting to change plans with coverage to be effective January 1st. The employer shall pay ninety percent (90%) of the GHT Select Plan premiums, or an equal dollar amount towards the GHT Standard Premiums. The County shall not pay for duplicate insurance coverage for any employee whose spouse works for the County. All employees who average at least thirty (30) hours per week will receive health insurance on the same basis as full time employees. Employees averaging a minimum of twenty (20) hours, but less than thirty (30) hours shall receive insurance benefits on a prorated basis. Average hours shall be reviewed on a quarterly basis.

APPENDIX A - CLASSIFICATIONS AND WAGE RATES

- a. Effective January 1, 1996, increase all rates by \$.20
- b. Effective January 1, 1997, increase all rates by \$.20

APPENDIX C AND D

Add language to cover the GHT Select Plans

- 2. The Union's Final Offer

APPENDIX A - CLASSIFICATIONS AND WAGE RATES

- a. Effective January 1, 1996, all rates increase by \$.25 per hour.
- b. Effective January 1, 1997, all rates increase by \$.25 per hour.

E. POSITION OF THE UNION

Section 111.70 Wis. Stats. mandates that an arbitrator give "the greatest weight" to any law or directive by the legislature or an administrative officer or agency which limits municipal expenditures, or revenues to be collected by, the relevant unit of government. There is no such administrative or statutory limit on County's ability to pay the cost of this contract. The County's mill rate could be increased by \$.655 under the present statute. Such an increase would raise an additional \$1,400,000.00. It would only cost \$44,000,00 to fund the Union final offer. The County's decision not to raise it's mill rate even less then the level allowed, cannot be considered a legislative restriction. Raising the mill rate would cause little adverse impact. Local economic conditions in the County are good. The County is prospering.

When the local economic conditions are compared with the group of counties that have traditionally been used in as comparable to Columbia County, it is apparent that the County can easily afford to fund the final offer of the Union. Eight counties, Adams, Dane, Dodge, Green Lake, Jefferson, Marquette, Rock and Sauk counties have been recognized on two prior occasions by arbitrators as the appropriate comparable counties. In 1994, Columbia County had a per capita income that was exceed by four comparable counties, Green Lake, Rock, Sauk and Dane. In 1992, Jefferson County also surpassed Columbia County in per capita income. However, the Columbia per capita income increased at a higher percentage rate than all but two of the comparables, Green Lake and Dodge counties.

Another indicator of the County's prosperous economic condition is the sales tax revenues increased at a rate second only to Dodge County.

The "other factors" that may be considered include a comparison of wages with other similarly situated employees in comparable counties. These external comparisons of wages support Union's offer. The five comparable counties which operate nursing homes all offer percentage wage increases at a higher rate over the two year period of the contract than either the County or the Union propose.

Comparing proposed wage increase in cents-per-hour with the five other counties with nursing homes, shows an even more dramatic difference. Both the County and the Union final offers have increases which are not only below the average for the five counties and but also have an increase that is smaller than any of the five comparable counties.

Analysis of the wages in comparison with the other counties, based on benchmarks for three common classifications, Nursing Assistant, Dietary Aide, and Housekeeping Aide, shows that the County's final offer remains in the low end of the range. These positions all fall second from the bottom in 1995 hourly rates. Columbia would only surpassing the rate paid in Sauk County if the County offer is accepted. Columbia County employees are paid approximately 14% below the average rate of their counterparts in the other counties.

The Union's offer is closer to the rates paid in the comparable counties for 1996. Under either the Union or County final offer, the Nursing Assistants and Dietary Aides would still rank fifth; they only exceed the hourly rate paid in Sauk County. Housekeeping Aides would move up to fourth place, although tying under the employers offer with Jefferson County. The same ranking would occur in 1997, the percentage difference below the average wage will grow even larger. The offers of the Union and the County result in a decline in the wages of the Health Care center employees compared with similarly employed workers in these groups. The Union's offer, however, causes a significantly smaller decline.

The proposed health insurance plan changes will result provide inferior coverage to the present plan, the WCA Standard plan. The County currently pays 90% of the cost, the employees pay the remaining 10%. The plan is a traditional fee for service insurance plan.

Under the County's proposal, a second plan is being offered, the "WCA Select" plan. This is similar to a managed care plan. It modifies the existing plan in several important ways. Deductibles are eliminated, as are charges for routine physicals. However, if a patients doctor leaves the plan, they cannot follow the doctor to another practice.

The new plan mandates the use of generic drugs for prescriptions. The current plan recommends, but does not mandate generic drugs. Several drugs are excluded entirely from the co-pay provisions in WCA Select. Vision benefits are also different. Bifocals and protective lenses would not be covered.

Premiums paid by the County for the WCA Standard plan are limited to 90% of the total cost of the new WCA Select plan. The WCA Select plan charges less and provides fewer benefits. This would result in the employees have to have nearly a 52% increase in premiums each month if they chose to continue under the existing plan. The County would pay 90% of the premiums for the WCA Select Plan.

In interest arbitration cases, the party proposing significant changes to the status quo must provide clear and convincing evidence of a need for the changes and must provide a quid pro quo for the proposed change. The County has failed both tests. A change in the health insurance protection this dramatic would never have been accepted at the bargaining table by the Union without a significant quid pro quo.

The County shown no need for the health care changes it proposes. The premium increase in the past three years has been an aggregate of only 7%. Part of the increase is paid by the employees. The County's argument that the rates have increased in an "excessive" fashion is not supported by evidence. The 56% increase in eight years is not excessive. The County offered no evidence that the comparable counties with managed care options have not faced as great an increase in costs whether they are HMO's or standard plans. In short, the HMO's may not necessarily reduce health care costs over time.

The County argues that it is paying higher than average health insurance premiums, and that the premium should be brought closer to the average paid by the comparable counties. At the same time, however, it argues against bringing employee wages closer to the average of the comparable counties. Its efforts to "have it both ways" should be rejected.

The internal comparables do not support County's final offer. Only one of the County's bargaining units, the smallest one, has entered into an agreement with the County permitting the addition of the WCA Select plan. This unit, the nurses, received a higher wage rate increase than is being offered to the Union at the Health Care Center.

The Health Care Center local is the second largest of the County's bargaining units. No other units have accepted this radical change in health insurance. This AFSCME local at the Health Care Center is not a "holdout" local. Only one unit has accepted this proposal on health insurance and it is one of the smallest unions.

The Union's offer should be incorporated in the final Labor Agreement. The County can afford to pay; the external comparable support the Union offer; no quid pro has been given for the County's significant changes, and no need for these changes the provisions of the Labor Agreement has been established.

F. POSITION OF THE COUNTY

Health care costs have increase substantially in the past decade. Since 1991, the County's health insurance costs have increased by over 56% for family premiums and by 55% for single premiums. Employees must become more aware of the high costs of medical and hospitalization care.

The Wisconsin Counties Association Select Plan is similar to an HMO, which gives the County more tools to reduce health insurance costs. The County has proposed this plan, only as an alternative health insurance option, because the evidence has demonstrated that the other counties in the comparison group have been able to exercise better control of their health insurance costs through the use of health management organizations or self insurance.

Both the single and family premiums for the WCA Standard Plan are substantially higher then the average cost in comparable counties for 1996. In 1997, the premiums still cost more then the average, but the difference has narrowed.

If employees wish to maintain their present plan, they may continue do so, but they must absorb the minor cost increases caused by capping the County's premium obligation, and tying that cap to the managed care plan cost. Employees who wish to contain costs may join the WCA Select plan. The County will continue, in either case, to pay higher premiums than the comparable counties.

In other cases involving health insurance, arbitrators have placed a high premium on internal consistency among all the bargaining units of a single employer. The employer must attempt to treat all the units equally or it will be subject to "whipsawing" by different units. Internal consistency of fringe benefits is particularly necessary. That consistency should be honored unless there is a clear showing either that a particular union suffers in comparison, or that there is another compelling reason for the deviation.

The other bargaining units in Columbia County, not represented by AFSCME, have accepted the health insurance plan changes. The plan has been offered to all the County's bargaining units. For an arbitrator to reject the County's proposal would create a double standard between the County Home employees and other County employees. The nurses have accepted the proposal, as have the non-represented employees and the Sheriff's department non-sworn employees. The sworn sheriff's employees are at an impasse over wages, but they have indicated they will accept the health insurance proposal. The remaining bargaining units are all represented by AFSCME, and have not accepted the plan.

Health insurance cost for the County have exceeded the costs of the comparable counties. Specific changes are needed to reduce that cost and bring Columbia County in line. Columbia County has a \$5.00 co-pay provision for prescriptions, while Dane County has a \$10.00 co-pay requirement. Sauk and Rock counties have a \$10.00 drug card feature. Those features are far more expensive for their employees. Instead of seeking limits to, or alterations on, such expenditures, the County tried to give it's employees an additional option, a managed care program, at the same cost to them as the prior insurance plan.

Offering a second, optional, health insurance plan will have no adverse impact on the employees. In 1995, the WCA Standard family plan cost an employee \$53.81 per month. The single coverage cost \$22.53 for that same time. If the employee chose to continue under the WCA Standard plan in 1996, the family coverage would cost \$85.02 and the single coverage would cost \$35.60. If that employee chose to enroll in the WCA Select plan his family coverage would decrease to \$52.74 and his single coverage would cost only \$22.08. Under the Union's proposal the employee would pay more for insurance, \$23.43 a month for single coverage and \$55.96 a month for family coverage.

The County's plan will cost employees less from their own pockets than the employees of comparable counties pay. Even under the WCA Standard plan, when an employee uses his full coverage, paying deductibles, major medical co-pay, and twelve prescriptions, his costs are less than the cost for the same service to other employees in the other comparable counties. This remains true even if the Columbia County employee pays a higher premium for the WCA Standard plan.

The argument that switching from the WCA Standard plan to the WCA Select Plan deprives the employees of their right to chose their own physician must be rejected. 95% of the medical bills currently being received by the insurance company for treatment of County employees come from physicians already in the Select Plan.

The Union's objection to the mandated use of generic drugs in prescriptions covered by the drug co-pay provision must also be rejected. Generic drugs are not mandated. The decision to use generic brands is made between the patient and the physician. Non-generic brand drugs are covered if the doctor directs that there should be no substitutions. If a physician is comfortable with a generic brand, his patient should be as well.

The Union's objection to the vision care changes of the WCA Select Plan are similarly without merit. Blended lenses are not covered under either plan. Services for eye care arising from employment are covered by both plans.

The County's final offer provides for \$.20 per hour wage increase for both years of the Agreement. The Union's offer provides for a \$.25 per hour increase in both years. The wage increase in the County's final offer and in the Union's final offer keeps the employees in same benchmark ranking for both years of the Agreement (Dodge County has not yet settled it's contract, which may change the rankings). In 1997, for wages alone, the Union's offer would cost the County \$15,582 more than the County's offer. Since neither wage proposal would alter the benchmark standings, that expenditure cannot be justified.

The County argues that Jefferson County should not be included in the list of comparable counties for the Nursing Assistant classification. Jefferson County implemented a new salary schedule which distorts the computation of the data. If it is not considered, the County's final offer is not significantly different from the average, either in cents per hour or percentage comparison.

Public interest is best served by incorporating the County final offer in the Labor Agreement. The County Nursing Home facility lost money in 1996. Only when the County appropriated additional money for it's operations did it break even. The combined cost of the wages and health insurance costs in the Union's final offer is \$44,000. This would result in a 0.75% increase in operating costs for that facility, requiring even greater support from the County's general revenue.

A quid pro quo is not necessary in order to adopt the County's offer. The increasing health care costs to the employer reduces or eliminates the need for a quid pro quo. When the comparables support the party seeking the change, the need for a quid pro quo is reduced. The County is not changing the right of the employees to continue to use the existing WCA Standard Plan. It is merely capping it's premium costs on that policy, and giving the employees an additional option which continues the current 90/10 percentage allocation for health insurance costs.

The other internal bargaining units which accepted the changes were not given a quid pro quo. The AFSCME units are the only ones in the county that have not accepted the dual choice health insurance proposals. The holdout posture of the County's AFSCME bargaining units compel the County to seek to resolve this dispute through an interest arbitration.

G. DETERMINATION OF COMPARABLES

Arbitrator Jeffery B. Winton selected Adams, Dane, Dodge, Green Lake, Jefferson, Marquette, Rock and Sauk Counties as the comparable counties in his May 17, 1996 decision in Columbia County Professional Employees Union, Local 2698-A, AFSCME, AFL-CIO and Columbia County, Case No. 28552. Arbitrator Arlan Christenson added Juneau County to the list of comparable counties in his August, 1993 decision in Columbia County Highway Department Employees Union, Local 995, AFSCME, AFL-CIO and Columbia County, Case 116 INT/ARB-6284.

I find that the group of comparables selected by Winton is the most appropriate in this dispute. Dane County is much larger, which distorts the population average. However, it is clearly within the same labor market. The other counties either abut Columbia, or because of their proximity to Dane, are in the Madison/Dane County labor market. The January, 1995, populations, 1993-94 per capita income, and 1995 per capita property value for those counties are as follows:

<u>County</u>	<u>Population</u>	<u>93-94 Income</u>	<u>Per Capita Value</u>
Adams	16,766	\$13,567	\$47,413
Dane	393,857	24,437	47,077
Dodge	79,915	19,389	33,077
Green Lake	18,976	19,047	46,233
Jefferson	70,886	18,810	36,519
Marquette	12,994	15,108	44,434
Rock	145,374	20,489	32,888
Sauk	<u>50,090</u>	<u>19,222</u>	<u>43,459</u>
Average	98,857	18,760	41,388
Columbia	47,217	18,927	48,413

Columbia County has the highest per capita value of the comparable counties. It has a per capita income that exceeds the average for the eight counties. Although all of counties do not operate health care facilities, they are nevertheless the government units that should be used in cases involving Columbia County. They have not changed significantly since adopted by Arbitrator Winton. Where possible, consistency in the selection of comparables gives some stability and predictability to the bargaining process.

H. GREATEST WEIGHT CRITERIA

The cost of the Union's offer exceeds the cost of the County's offer by \$43,788.48 over the two years of the contract. The County is not limited in it's ability to meet that offer by any statutory restrictions. It could increase it's mill rate to enable it to raise nearly \$1,400,000 in additional revenue, if it chose to do so. In addition, sales tax revenue in the County has increased at a faster rate than the increase in comparable counties.

Columbia County is a relatively prosperous county in the Madison metropolitan area. It benefits by having many of it's residents working at wage rates available in urban communities; some residents actually work in Madison. It also benefits because a portion of the Wisconsin Dells recreation (tourist) area lies within it's boundaries. "The Dells" the most popular tourist attraction in the state.

I. WAGES

In 1996, the final offers of the Union and the County are only five cents per hour apart for all classification except for Range four. There the difference would only be three cents.

In 1997, the Union's offer provides an additional \$.25 per hour, while the County's provides for \$.20 per hour. Although these amounts appear di minimus, they do effect the County's rankings among the comparable counties.

Five of the comparable counties, Dane, Dodge, Jefferson, Rock and Sauk Counties operate Health Care centers. Wage rates are commonly compared by determining the maximum rate of pay at a benchmark. Dane County, with the City of Madison wholly within it's boundaries, paid the highest hourly wage rate for it's Health Care Center employees in 1995, and under it's 1996-97 labor agreement, will do so again. Rock County, the site of a large General Motors plant, also pays a high rate. Only Sauk County had a lower hourly rate than Columbia County in 1995. The three year wage rate ranking for the Counties are as follows:

Nursing Assistant Benchmarks

<u>County</u>	<u>Classification</u>	<u>1995 Max</u>	<u>1996 Max</u>	<u>1997 Max</u>
		<u>Rate</u>	<u>Rate</u>	<u>Rate</u>
Dane		13.31	13.72	14.20
Dodge		9.18	9.53	9.97
Jefferson		9.14	10.18	10.49
Rock		9.93	10.23	10.53
Sauk		<u>8.21</u>	<u>8.52</u>	<u>8.84</u>
Median		9.18	10.18	10.49
Columbia		8.52		
County			8.72	8.92
Union			8.77	9.02

Columbia County's 1995 ranking for Nursing Assistants continued in both 1996 and 1997 in both of the Union and County final offers.

Dietary Aide Benchmarks

<u>County</u>	<u>Classification</u>	<u>1995 Max</u>	<u>1996 Max</u>	<u>1997 Max</u>
		<u>Rate</u>	<u>Rate</u>	<u>Rate</u>
Dane	Food Serv Helper	12.23	12.59	13.03
Dodge	Food Serv Worker	8.92	9.68	9.60
Jefferson	Food Serv Worker	8.84	8.87	9.14
Rock	Food Serv Worker	9.40	9.68	9.97
Sauk	<u>Tray Aide</u>	<u>8.06</u>	<u>8.36</u>	<u>8.67</u>
Median		8.92	9.27	9.60
Columbia	Dietary Aide	8.23		
County			8.43	8.63
Union			8.48	8.73

Under the County offer the Dietary Aide position remains in the fifth rank for 1996, but declines to sixth rank in 1997. The wages remain at the fifth rank under the Union final offer.

Housekeeping Aide Benchmarks

<u>County</u>	<u>Classification</u>	<u>1995 Max Rate</u>	<u>1996 Max Rate</u>	<u>1997 Max Rate</u>
Dane	Janitor	12.47	12.85	13.31
Dodge	Housekeeping Aide	8.92	9.27	9.60
Jefferson	Housekeeping Aide	9.02	8.43	8.68
Rock	Eviron. Serv. W.	9.83	10.13	10.43
Sauk	H. & C. Aide	<u>8.06</u>	<u>8.36</u>	<u>8.67</u>
	Median	9.02	9.27	9.60
Columbia County	Housekeeping Aide	8.23		
	County		8.43	8.63
	Union		8.48	8.73

The County's offer results in the Housekeeping Aide being tied for fourth rank for the first year, then declining to sixth place in the second year. The Union's offer keeps the position in fourth rank for both years.

Neither final offer results in substantial movement in employee rankings. The wages for all three classifications continue to remain well below the median for similar positions in the comparable counties.

RANKING OF BENCHMARKS

<u>Position</u>	<u>1995 Rank</u>	<u>Offer</u>	<u>96 Rank</u>	<u>97 Rank</u>
Nursing Assistant	5	Union	5	5
		County	5	5
Dietary Aide	5	Union	5	5
		County	5	6
Housekeeping Aide	5	Union	4 tie	4
		County	4	6

The final offer of the Union comes closer to fixing salaries at a comparable level with the surrounding counties. Among the other factors that the statute permits an arbitrator to consider are the wage rates paid to employees doing similar work. The Union final offer, although not significantly higher than the County's, brings the Health Care Center employees closer to the median hourly wage paid to their counterparts in the comparable counties. The final offer of the Union is, therefore, preferred on this issue.

J. HEALTH INSURANCE PROVISIONS

Health Insurance costs have increase at a rate faster than inflation over the last seven years. They have increased in Columbia County at an average of 8% each year. There is nothing inappropriate about a county seeking to place a limit on it's health insurance premiums. The decision to offer it's workers a alternative program, an HMO, is a way in which those costs can apparently be significantly reduced, at least in the short term.

Columbia County has been generous in the type of health insurance package it has provided for it's employees. In addition to medical insurance, the County has offered dental insurance. Columbia County also is the only county in the comparison group offering vision insurance to it's workers.

The largest portion of the health benefits cost is the cost of medical insurance. Under the proposed Labor Agreement, the total cost of those policies, and the proportion paid by the counties for 1996 and 1997, will be as follows:

<u>COMPARISON OF 1996 MONTHLY MEDICAL INSURANCE PREMIUMS</u>					
<u>County</u>	<u>Carrier</u>	<u>Single Premium</u>	<u>County %</u>	<u>Family Premium</u>	<u>County %</u>
Dane	Dean Care PTS	\$210.13	100	\$502.96	95
	Dean Care HMO	179.97	100	419.18	100
Dodge	Self-insured	220.00	95	538.00	95
Jefferson	Self-insured	145.00	100	445.00	100
Rock	Self-ins.(1-1)	172.61	100	495.01	100
	Self-ins.(7-1)	146.72	100	420.78	100
Sauk	WCA	238.21	93	558.47	93
	Unity	171.78	93	428.70	93
	<u>Dean Care</u>	<u>158.78</u>	<u>93</u>	<u>428.70</u>	<u>93</u>
	Average	183.74	\$166.73	470.82	\$434.32
Columbia					
Union		234.31	\$210.88	559.83	\$503.85
County	WCA Standard	234.31	\$198.71	559.83	\$474.62
	WCA Select	220.79	\$198.71	527.35	\$474.62

<u>COMPARISON OF 1997 MONTHLY MEDICAL INSURANCE PREMIUMS</u>					
<u>County</u>	<u>Carrier</u>	<u>Single Premium</u>	<u>County %</u>	<u>Family Premium</u>	<u>County %</u>
Dane	Dean Care PTE	\$215.28	100	\$517.68	95
	Dean Care HMO	185.24	100	431.43	100
Dodge	Self-insured	220.00	95	582.00	95
Jefferson	Self-insured	135.00	100	435.00	100
Rock	Self-insured	144.40	100	434.15	100
Sauk	WCA	369.23	93	865.65	93
	Unity	177.98	93	471.65	93
	<u>Dean Care</u>	<u>161.54</u>	<u>93</u>	<u>436.16</u>	<u>93</u>
	Average	201.21	\$167.58	521.71	\$445.87
Columbia					
Union		234.31	\$210.88	559,83	\$503.85
County	WCA Standard	234.31	\$198.71	559.83	\$474.62
	WCA Select	220.79	\$198.71	527.35	\$474.62

Under the Union's proposal, the cost to the County was projected to be substantially higher than under the County proposal because it must pay 90% of the premium of the WCA Standard plan. This was higher than the average premium cost for the comparable counties and higher than all but three of the plans offered by the same counties.

The County share of the WCA Select plan premium is higher than the average county share for the comparable counties. Under the County's proposal, the County still must pay an amount that is even higher than the average in the comparable counties under either of the plans, even if it limits itself to pay the amount it would under the WCA Select plan.

Several other features of the WCA Select Plan differ from the plans for other counties in the comparison group. Among the most significant differences are the portion of the cost of prescription drugs to be paid by the employees and the amount of the deductibles. While these are important differences, they are not as significant in the evaluation of the final offers as the capping on the County's portion under the WCA Standard plan.

The County's final offer has some features in the health insurance proposal that make this a difficult decision. Employees pay a larger portion of the premium in the County than in any of the comparables. However, the County is the only one of the comparables that is not self-insured or has an HMO.

Insurance cost has been an escalating feature in benefit costs for all employers during this decade. In many interest arbitration disputes, each side has attempted to shift a larger portion of those costs to the other side. This is generally attempted by proposing to place a cap on their own contribution. Here, the County has offered the Union, an uncapped alternative, the WCA Select plan. This is an HMO plan, which is an attempt to exert some control over the cost of health insurance. It is entirely appropriate for this type of alternative to be proposed and adopted. Standing alone, it is the better solution to a serious and chronic problem.

K. LONE HOLDOUT

A revision in a fringe benefit that has been agreed to by a substantial majority of the bargaining units in a county or municipality should not be ignored in the remaining units just because a minority of the bargaining units or a single bargaining unit, will not accept it. Good public policy does not permit government to be whipsawed by the multiple bargaining units over a single item which the great majority of the units have accepted. When that occurs, imposition of the disputed item may be appropriate even without quid pro quo. Particularly in the administration of health insurance benefits, a government should be treating all of its employees the same.

Arbitrator Stern, in City of Oshkosh, (Decision No. 15258-A; 4/77), dealing with that city's police unit and the City's proposal for a uniform contribution toward health insurance wrote:

"Where an employer has persuaded the other groups of employees with which it bargains to adopt a uniform contribution toward health insurance, a final remaining group should not be able to use the power of the Arbitrator to achieve a result in bargaining that differs from that achieved by other groups unless there is a good reason for such a difference."

That view was also recognized by Arbitrator Friess in Pierce County Sheriff's, (Decision No. 28187-A, 4/95). He wrote:

"I think the County has an extremely strong (perhaps classic) case for the arbitrator to place controlling weight on the internal settlement pattern. The fact that four out of the six organized units settled (and 5 of 7 county employee groups) with the exact same offer as being put forth here to this unit is extremely important. Given that the other "hold out" unit is represented by the same union is also an important factor. The negative impact on the future bargaining environment of an arbitration award that goes against voluntary settlement pattern cannot be over stressed."

Columbia County employs 360 unionized employees and 91 non-unionized employees. The 84 union members in the Health Care Center are represented by AFSCME, as are 72 employees in the Highway Department, 99 employees in the Courthouse/Human Services Bargaining unit and the 29 employees in the Professional bargaining unit. The total AFSCME membership is 284 employees or just over 63% of the County's employees.

In this case, the changes in the health insurance benefits were accepted by one of the County's bargaining units. The Nurses unit, with 19 members is the smallest bargaining unit in the County. Another small bargaining unit, the non-sworn employees of the Sheriff's Department, has 31 members, and has accepted the health insurance proposal; they have not yet ratified their contract. The sworn Sheriff's officers also have indicated they will accept the dual choice plan, but have not yet reached an agreement on wages. The nurses bargaining unit received a wage increase of 8% for it's senior members. It's contract provides for a 3.25% increase, plus a \$.10 addition after four years and a \$.15 cent for the two classifications in 1996, and a 3% increase plus the \$.10 and \$.15 increase in 1997. This is significantly greater than the proposed wage increase for the Health Care Center employee. The size of the nurses increase might be considered a quid pro quo.

The Highway Department employees, the Professional employees, the Courthouse employees, and the Nursing Home employees have not agreed to the proposed dual choice health care plan. To describe 63% of the unionized employees as "lone holdouts" would be a misnomer. Acceptance of a revision, by nineteen, or even fifty employees, out of 360, should not have effect of imposing that provision on the remaining employees under a "lone holdout" theory. Such a result would allow a small minority of employees to determine the bargaining pattern for all the employees.

This is not a "lone holdout" situation. It appears to be the opposite - a "lone acceptance". Acceptance by one isolated bargaining unit, which was offered a greater wage increase than was the unit which subject of this arbitration proceeding, cannot compel the other units to accept the same provision. The attempt to use the units which have not signed labor agreements, as evidence of alleged nearly universal agreement to the health insurance plan would be ill advised. These units may, or may not ratify the agreements with those terms. Until they do, to speculate on the "acceptance" of one of the terms out of entire package would do all the parties a disservice.

The non-unionized employees cannot be counted to determine whether a "lone holdout" exists. They did not bargain for their wages or fringe benefits collectively. Both were unilaterally imposed by the County. Even if the non-union employees were included, 110 non-union employees out of 451 employees still does not make the remaining 284 AFSCME members "lone holdouts".

To allow the County to prevail under a "lone holdout" theory under these circumstance would not be fair and would be inconsistent with the rationale for this concept. The County can have an overall bargaining strategy which might include paying higher wages to small units to induce the acceptance of other terms. There is no reason why four units, all affiliated with the same union, cannot also follow a uniform strategy. AFSCME clearly represents the majority of the employees, not an isolated, recalcitrant minority.

L. QUID PRO QUO

It is well established that major policy changes in a labor agreement should not be imposed by a neutral through interest arbitration. It is preferred that such changes be secured through the collective bargaining process. In an interest arbitration, the offer that makes no policy changes, or that makes the fewest, is generally preferred over one that makes such changes.

On some occasions, an offer that makes substantial policy changes may be preferred. A three prong test has been devised by Arbitrator Malamud in D.C. Everest Area School District (Decision No. 24678-A, February 1988). There he wrote:

"Where Arbitrators are presented with proposals for significant changes in the status quo, they apply the following mode of analysis to determine if the proposed change should be adopted: (1) has the party proposing the change demonstrated a need for the change. (2) if there has been a demonstration of need, has the party proposing the change provided a quid pro quo for the proposed change. (3) Arbitrators require clear and convincing evidence to establish that 1 and 2 have been met."

The County has demonstrated a need for the change in the health insurance portion of the labor agreement. Accelerating health insurance costs require some effort to control costs. An HMO, such as the WCA Select plan is a reasonable way to achieve that goal.

The County has not offered a quid pro quo for this change. The only other provision in their final offer is a wage increase. The wages offered here were less than that proposed by the Union. The wages offered here did not move the employees up in ranking as compared to the employees of other counties. The wages offered here clearly cannot be described as a quid pro quo. The County has failed to meet Malamuds's second test. That failure is fatal to the final offer.

M. AWARD

The County's final offer, although preferred as to the health insurance provision, must be rejected because it imposes a major policy change without offering the Union a quid pro quo.

Therefore the final Agreement between the County and the Union will incorporate the Union's final offer.

Dated at Milwaukee, Wisconsin,
this 20th day of August, 1997



FREDERICK P. KESSLER
Arbitrator