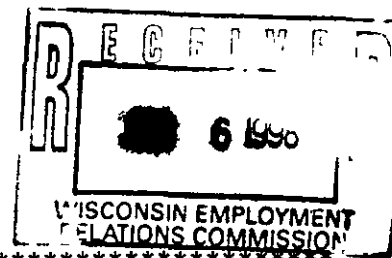


ARBITRATION



In the Matter of the Arbitration between,

MARATHON COUNTY

Petitioner

and

Case 247 No. 55004
INT/ARB-8125

MARATHON COUNTY HIGHWAY
EMPLOYEES UNION
LOCAL 326, AFSCME, AFL-CIO

Decision No. 29179-A

Award of Arbitrator

Introduction

Pursuant to a limited reopener clause in their 1995-1997 Labor Agreement, Marathon County (Hereafter "County" or "Employer") and the Marathon County Highway Department Employees Union Local 326, AFSCME, AFL-CIO (Hereafter "Union"), in September, 1996, commenced bargaining on the issue of health insurance. The parties met and negotiated on several occasions but were unable to reach agreement. On or about March 14, 1997, the County filed a Petition for Arbitration requesting the Wisconsin Employment Relations Commission (WERC) to initiate final and binding arbitration pursuant to Section 111.70 Wis Stat. On June 17, 1997, Marshall Gratz, a member of the WERC staff, conducted an investigation which reflected that the parties were deadlocked. Final offers were exchanged and submitted to Mr. Gratz and on August 13, 1997, the WERC certified that the investigation was closed. Accordingly the WERC issued an order providing for binding arbitration. The parties selected Arlen Christenson of Madison, Wisconsin as the arbitrator. A hearing was held on October 31, 1997. Pursuant to an agreement of the parties, a briefing schedule was established and briefs were filed with the arbitrator. Briefs were received by December 11, 1997. The record was held open for potential reply briefs until December 15 when the arbitrator was notified that no reply briefs would be filed.

Appearances

Jeffrey J. Wickland, Staff Representative, AFSCME Wisconsin Council 40, Stevens Point, Wisconsin appeared for the Union

Dean R. Dietrich, Attorney at Law, Ruder, Ware & Michler, S.C., Wausau, Wisconsin appeared for the County.

Discussion

Introduction

The sole issue in this proceeding is health insurance. The County's final offer is to implement changes in the health care benefit package as developed by a joint study committee (known as the PPO Committee), established to consider changes the health care package. The Union's final offer is to maintain the status quo.

The study committee was called the PPO Committee because its charge included studying the desirability of converting to a preferred provider system of health insurance coverage. The PPO Committee was comprised of 20 members including representatives from each County bargaining unit and the Business agents for the Teamsters Union, WPA/LEER and AFSCME Wisconsin Council 40. The Union was represented on the committee by two people. The committee met ten times before issuing its report on June 5, 1966. The Union's representatives on the committee abstained from voting on the report.

The PPO Committee's report was submitted to all of the County's bargaining units and negotiations followed. The result of the negotiations was that representatives of all of the County bargaining units, except the Union, agreed to the terms of the report and the proposed changes were incorporated into the respective collective bargaining agreements.

Final Offer Terms

The County summarized its final offer as including the following 11 changes:

1. Implement a Preferred Provider Option Network. (The Preferred Provider Option allows employees to choose health care providers outside the Preferred Provider Organization but makes the employee who does so responsible for certain deductibles and a 10% co-payment with a maximum out-of-pocket limit of \$500 per individual and \$1200 per family, and limits charges to usual, customary and reasonable.)
2. Chiropractic benefits to be based on medical necessity and limited to ten (10) visits per year.
3. Implement co-pay for emergency room visit for non-emergency care.
4. Increase nervous and mental health benefit.
5. Implement prescription drug card program with \$2.00 generic and \$5.00 prescription

drug co-payment.

6. Increase lifetime benefit limit to \$2,000,000
7. Improve kidney disease and organ or tissue transplant benefits.
8. Improve routine care benefit - from \$111/\$200 limit to \$250 individual /\$1,000 family coverage.
9. Include vision care benefits, including payment for annual exam and frames/contacts.
10. Change well baby care coverage to allow for benefit to run for 18 months to 24 months.
11. Add long term income continuation (disability) benefit

The Union's final offer is to maintain the status quo on health insurance. The status quo is a fee for service system that allows each employee freedom of choice with respect to physicians. The Union's final offer would exclude all of the changes described in the above description of the County's final offer.

Arguments

The Union argues that it represents a separate bargaining unit whose members have the right to decide for themselves whether or not the proposed changes in health insurance were good for them. Acceptance of the changes by the other bargaining units should, the Union argues, not compel the others to follow "lock-step on all wages and benefits." Because the employees in the Highway department work out of shops dispersed around the county their needs are different from the others. There is no group that is as geographically dispersed as the members of the Union.

It should also be recognized, the Union argues, that the Union seeks to maintain the status quo. Many arbitrators have suggested that, in an interest arbitration proceeding, the offer maintaining the status quo should be chosen unless an adequate *quid pro quo* is provided as part of the opposing offer.

In summary, the Union contends, the County has failed to show that there is a need for the changes its offer proposes and has also failed to show that it has provided an adequate *quid pro quo*.

The County emphasizes that the Union is the only bargaining unit representative that has not agreed to the health insurance changes recommended by the joint study committee consisting of representatives from all of the County's bargaining units. The changes include benefit enhancers

as well as some reductions in benefits that, on the whole, provide more of what the members of the committee determined were beneficial for County employees. The County argues that its consistent pattern of settlements with the other local unions and the acceptance of the health insurance proposal by all but one union supports its final offer.

The County also contends that the bargaining history between the County and the Union supports its final offer. The Union bargaining committee recommended acceptance of the County's offer but that recommendation was rejected by the membership. The recommendation, the County contends, establishes the reasonableness of its offer and should be taken into account by the arbitrator. Moreover, the County points to external comparables and to private sector comparative data to support the reasonableness of the health insurance package. It argues that both sets of data compel the selection of its final offer.

Conclusion

The negotiations between the parties preceding the petition for arbitration were conducted pursuant to a limited reopener clause in their 1995-1997 collective bargaining agreement. That agreement provided that arbitration of a dispute arising out of an impasse in negotiations would be governed by the statutory criteria of Section 111.70(4) (cm) 7 as they were prior to recent amendments to that statute. Neither party, however, suggests that the award should be predicated on any criteria that have been amended or added. It is apparent that the award in this proceeding would be the same whether it is governed by the old statutory criteria or the criteria as amended.

The parties have correctly identified the primary issue in this dispute. That issue is the weight to be given to what have come to be called "internal comparables." The County emphasizes that all of its other bargaining units have agreed to the health insurance packaged proposed in its final offer. The Union points out that it represents a separate bargaining unit that is separate for good reasons. The interests of the members of the Highway Department unit differ from those of employees in other bargaining units. In particular the Union emphasizes the geographic dispersion of the employees in the Highway unit.

While separate bargaining units have differing concerns and interests they also have many things in common. The primary common ground is that they all negotiate terms and conditions of employment with the same employer. It is obvious that negotiation outcomes in one bargaining unit have impacts on negotiations with other units. Prior settlements demonstrably influence the outcome of later negotiations. Likewise outcomes in later negotiations influence negotiations in earlier settling units when they come around again for future agreements. Because arbitrators recognize these consequences for the present and future collective bargaining relationship between the parties, internal comparables have consistently been considered an important factor in interest arbitration awards.

In this case all of the other county bargaining units have agreed to the health insurance terms

recommended by the PPO committee. The internal comparables establish a clear pattern of settlements on the only issue in dispute. That settlement pattern should not be disturbed unless the Union can establish good reasons for doing so.

The Union's primary reason for refusing to accept the settlement pattern established with other bargaining units is that the members of the Highway Department bargaining unit work in a number of locations scattered throughout the county. From this the Union draws the inference that those employees also live in various places in the county and, perhaps, in other neighboring counties. This suggests the status quo health insurance system allowing employees to choose a doctor near their home is preferable.

The evidence shows that the preferred provider organization chosen by the County's final offer includes doctors and health care facilities in communities throughout the county and neighboring counties. In addition to full medical facilities in Wausau, there are doctors, hospitals, mental health facilities and chiropractors in Merrill, Marshfield, Medford and Antigo. Moreover there are doctors' offices in a number of other smaller communities throughout the area. Anyone employed in Marathon county is within a reasonable distance of one medical care from a provider affiliated with the designated PPO.

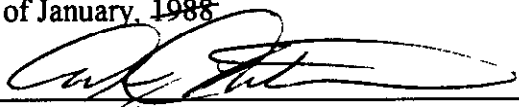
The Union correctly points out that the County should be able to show a need for change in order to justify acceptance of its final offer. The change, to the extent that it requires the bargaining unit to relinquish something, should also include an element of *quid pro quo*. The record, primarily the work of the PPO Committee, demonstrates the existence of both the need and the *quid pro quo*. The PPO Committee studied the matter of health insurance at length and produced a proposal which includes what all agree are improvements in benefits, as well as some reductions. For example, the package includes an income continuation benefit which the Union has sought in the past and it also includes a limitation of chiropractic benefits. Such reciprocal changes provide the *quid pro quo*. The reason the committee was established in the first place was to enable the parties to deal as best they could with rising health care costs. The committee's report reflected their best efforts in this respect.

The County's final offer is for a health care benefit package which meets the needs of the various affected bargaining units as well as the County. All of the other County bargaining units have accepted it. Applicable statutory criteria as well as established principles of labor relations require the selection of the County's final offer.

Award

The County's final offer is selected. It shall be incorporated into and become a part of the collective bargaining agreement between the parties.

Dated at Madison, Wisconsin this 5 day of January, ^{1998 (mb)} 1988


Arlen Christenson, Arbitrator