

1144

REPORT OF FACT FINDER  
APPOINTED BY THE EMPLOYMENT RELATIONS COMMISSION  
OF THE STATE OF MICHIGAN

IN THE MATTER OF:

FAIRVIEW MEDICAL CARE FACILITY

AND

TEAMSTERS STATE, COUNTY AND  
MUNICIPAL WORKERS LOCAL 214

MERC FACT FINDING CASE NO: G 88 J-824

CHARLES AMMESON, FACT FINDER

APPEARANCES

FOR THE EMPLOYER

Douglas Callander, Attorney  
Jeanette Schies, Administrator  
Betty Rullidge, Legal Asst.  
Eric Conway, CPA  
Fritz Brown, Observer  
Richard Vykydal, Social Services  
Board

FOR THE UNION

Henry Mueller, Business Rep.  
Cheryl McAdams, Business Rep.  
Bette Lucas, Office Member  
Diane Martin, LPN Member  
Kelly Malone, LPN Member

EXHIBITS

FOR THE EMPLOYER:

A. Issues and Exhibits Booklet with attachments

FOR THE UNION:

1. Information Booklet with attachments
2. Attachment 4.19-D  
Sections I-IX plus supplements  
Title XIX policy and methods for establishing payment rates
3. Comparison charts

Exhibits will be retained by the Fact Finder for sixty (60) days

*Fairview Medical Care Facility*

### BACKGROUND

There is a collective bargaining contract between Fairview Medical Care Facility (Employer) and Teamsters Local 214 (Union), which expired December 31, 1988, pertaining to the wages and conditions of employment of three units of employees -- RNs and LPNs; clerical employees; and nurses' aids, cooks, cook helpers, maids and all others. Negotiations for a new contract were complemented with one session of mediation, lasting approximately five hours.

Noteworthy is the fact that an unfair labor practice charge was filed on November 16, 1987 by the Union, alleging that the Employer violated Section 10(1)(a) and (e) of PERA by hiring various RNs and, without any change in their duties or responsibilities, assigning them as supervisors and refusing to recognize the Union as their representative or bargain with the Union regarding their terms and conditions of employment. The case was heard before Joseph B. Bixler, Administrative Law Judge for MERC on April 19, 1988. Judge Bixler ordered the Employer to bargain with the Union regarding the wages, hours and conditions of employment of the supervisory RNS, the RNs and LPNs, upon demand on June 14, 1988.

Negotiations have continued without success up until the fact finding.

### PETITION

The Union filed its Petition, identifying nine unresolved issues, as indicated below:

1. Sick leave.

2. Funeral leave.
3. Vacation.
4. Holidays.
5. Insurance.
6. Longevity.
7. Hours of work.
8. Staffing.
9. Wages.

#### ANSWER

The Employer's answer asserted that fact finding is inappropriate inasmuch as the Employer's financial position dramatically changed, and that further mediation may be worthwhile. The Employer requested the Fact Finder remand this matter to mediation. Additionally, the Employer responded that all issues were unresolved, without identifying specific issues in that regard.

#### PRE-HEARING MATTERS

The Fact Finder entertained a pre-hearing telephone conference on July 5, 1989 between Mr. Callander, Mr. Mueller and himself. Mr. Mueller estimated three witnesses and two hours for presentation. Mr. Callander estimated four witnesses and one-half day for presentation.

### CONDUCT OF HEARING

The hearing was conducted as scheduled on July 14, 1989 at the Fairview Medical Care Facility in Centreville, Michigan. Both the Employer and the Union were represented by their respective chief negotiators, identified in the Petition.

Prehearing matters were reviewed. The Fact Finder ruled that R423.434 mandates the Fact Finder to issue a Notice of Hearing. The Fact Finder ruled that such was not permissive, and the Fact Finder refused to remand or adjourn the hearing.

The Employer raised its objections to the staffing issues, asserting that staffing levels were not a mandatory subject of bargaining, and therefore not subject to fact finding. The Union responded that it was not putting into issue whether the facility met minimum state standards of staffing. The Fact Finder therefore ruled that he would not make any recommendation regarding staffing levels in relation to state requirements.

The Union objected to the Employer's inclusion of the following issues:

1. Sick leave.
2. Vacation/leaves of absence.
3. Successor clause.

The Union took the position that these issues were not raised at the bargaining table, and therefore are not subject to fact finding. The Employer asserted that it gave notice that all issues were unresolved in its answer.

The Fact Finder ruled that he would receive evidence on these additional issues, inasmuch as it is mandated by R423.434 that he inquire into all pertinent issues. Having received such

evidence, the Fact Finder rules that all unresolved issues are in fact pertinent and subject to fact finding.

Finally, the Fact Finder marked the exhibits identified herein. Mr. Mueller and Mr. Callander then presented opening statements in that order, and the hearing commenced.

No record of the hearing was requested or made. The parties specifically elected not to waive the reason and basis for the Fact Finder's recommendations.

### ISSUES

In fact, there are nine issues which need to be addressed, even though the Union presented nine issues and the Employer three issues. First, neither the Employer nor the Union presented a funeral leave proposal, although identified as an issue in the petition. Second, the Employer's sick leave and vacation/leaves of absence proposals are issues that have already been identified by the Union in the petition. Thus, the Employer's successor clause issue is, in fact, the ninth issue. Although the Union may have been caught somewhat by surprise on June 23, 1989 with the counter-proposals and the new issue, post-hearing briefs were allowed, and the Union was given sufficient time and opportunity to formulate its arguments in this regard. The Fact Finder is comfortable addressing all issues.

Set forth below is the Fact Finder's understanding as to the parties' positions on each issue.

ISSUE I. SICK LEAVE/LEAVES OF ABSENCE:

UNION'S POSITION: No change in contract language.

EMPLOYER'S POSITION: Decrease sick days one day per year; delete employee's option of being paid one-half of unused sick days; reduce the number of accumulated sick days from 26 to 12; discontinue employee's option to use three sick days as personal days.

ISSUE II. VACATION:

UNION'S POSITION: Increase paid vacation one day for 15-year employees; two days for 16-year employees; three days for 17-year employees; four days for 18-year employees; and five days for 19 plus year employees.

EMPLOYER'S POSITION: Delete section 7 which allows employees to accumulate vacation while on leave of absence.

ISSUE III. HOLIDAYS:

UNION'S POSITION: Add Christmas Eve and employee's birthday (monthly float) as paid holidays.

EMPLOYER'S POSITION: No change in current contract language.

ISSUE IV. INSURANCE:

UNION'S POSITION: Pro-rated benefits for part-time employees.

EMPLOYER'S POSITION: No change in current benefits.

ISSUE V. LONGEVITY:

UNION'S POSITION: Add wording which would provide employees with more than four years of service \$25 longevity pay for each year of service.

EMPLOYER'S POSITION: No longevity language to be added to contract.

ISSUE VI. HOURS OF WORK:

UNION'S POSITION: Change the work week and work day so that it commences at 12:01 a.m., rather than 7:00 a.m., so as to allow 12:00 a.m./7:00 a.m. employees the shift before their holiday morning off, rather than the shift after their holiday evening.

EMPLOYER'S POSITION: No change in current contract language.

ISSUE VII. STAFFING:

UNION'S POSITION: Require the Employer not to assign employees more than two consecutive weekends.

EMPLOYER'S POSITION: Staffing levels will not be negotiated.

ISSUE VIII. WAGES:

UNION'S POSITION: RNs - 6 percent increase; LPNs - \$1.50/hour increase; Nurses Aids - 6 percent increase; All other employees - 6 percent increase, all for 1989. "Me Too" language plus 2 percent for 1990.

EMPLOYER'S POSITION: RNs - \$1.00/hour increase; LPNs - \$1.00/hour increase; Nurses Aids - \$.15/hour increase; All other

employees - \$.10/hour increase, all for 1989. RNs - \$.25/hour increase; LPNs - \$.25/hour increase; Nurses Aids - \$.25/hour increase; All other employees - \$.20/hour increase, all for 1990.

UNION'S POSITION: Plus \$.50/hour overtime premium for Saturday and Sunday worked, pyramided on top of Article 15, Overtime Premiums.

EMPLOYER'S POSITION: No overtime increase, nor pyramiding.

#### ISSUE IX. SUCCESSOR CLAUSE:

UNION'S POSITION: Maintain private agreement in addition to federal and/or state law requirements.

EMPLOYER'S POSITION: Discontinue private agreement to give two weeks notice of closing, leasing, selling or contracting, and to negotiate over effect of same. Comply with applicable state and/or federal law instead.

#### CRITERIA

As Fact Finder, I am commissioned to ascertain the facts and apply recognized criteria in making a recommendation as to the collective bargaining agreement being negotiated by the parties. This Fact Finder recognizes that in virtually every collective bargaining situation, three essential economic criteria are involved:

1. A comparison with other similarly situated employers and employees.
2. A comparison to economic conditions.
3. The employer's ability to pay.



These economic criteria follow because the collective bargaining agreement is influenced by the economics of the marketplace.

In a non-economic sense, a fourth criteria mandates the Fact Finder to make fair and reasonable recommendations which both accomodate the parties' particular situation and which will assist to effectuate a voluntary, amicable and expeditious adjustment and settlement of the differences and issues between the parties. To this end, the Fact Finder's recommendations must be legal and workable within accepted and established collective bargaining practices between employers and unions, and between the particular parties.

Regarding comparables, the Fact Finder found neither the Union's nor the Employer's comparables completely satisfactory. The Employer focused on other county hospitals throughout the state approximating the size of Fairview Medical Care Facility. Although this is helpful, there is no evidence to demonstrate that the bargaining unit jobs are so specialized that bargaining unit employees are leaving for, being recruited by or economically competing with employees of these other facilities. Some of these facilities are geographically too remote to be comparable.

On the other hand, the Union also focuses comparisons on other county medical care facilities. This Fact Finder observes that most of the bargaining unit positions are not peculiar to county medical care facilities. Likewise, some of the Union's comparables were geographically too remote to offer significant comparison.

From a labor market viewpoint, the Fact Finder observes the Cass County, Branch County and Calhoun County comparables to be geographically contiguous, and the best offered, recognizing these facilities have double the patient care days.

The ability to pay criteria necessitates a discussion of the inter-relationship between the facility's maintenance of effort (M.O.E.), the county pay back, and the Michigan Department of Social Services prospective reimbursement rate.

First, it should be noted that approximately 85 percent of the Employer's patients are Medicaid recipients, and 7 percent Medicare recipients. Thus, Fairview is generally reimbursed by the appropriate governmental agency at rates set by agency regulations, rather than by the patient at market rates. Rather than belabor the complicated reimbursement formula, the bottom line is that as of January 23, 1989, Fairview Medical Care Facility received a total reimbursement rate of \$77.46 per day per Medicaid/Medicare patient. The maximum reimbursement rate is \$86 per day. Apparently, Fairview has a very high reimbursement rate as can be seen on Exhibit 3. The reason for this is that Fairview's costs are relatively high.

Comparing Cass, Branch and Calhoun Counties, it appears there is an inverse correlation between the size of the facility and the cost. The smaller the facility, the higher the costs. Fairview, being one of the smallest county facilities in the state, has one of the highest cost experiences.

M.O.E., as essentially outlined at MCLA 400.109, requires facilities to pay back 45 percent of the amount the reimbursement

rate exceeds a variable cost limit set by the governmental agency. The M.O.E., therefore, is generally related to cost. The higher the cost, the higher the M.O.E. Thus, Fairview has one of the highest reimbursement rates for a county facility in this state. Essentially, facilities must find another source of reimbursement of this excess variable cost component which is caused by the higher number of Medicaid/Medicare patients in the higher variable facility costs.

Different facilities and counties have different ways of handling this shortfall. First, if a facility has kept its costs at or below the variable cost limit, there would be no M.O.E., and the facility essentially would have taken care of the M.O.E. on its own by keeping costs down. Second, some counties cover the M.O.E. directly by a direct pay system to the state. Third, some counties subsidize the facility a portion of the M.O.E. rate. Finally, some counties allocate a millage to the facility to cover the M.O.E. and other costs.

From 1981 to 1988, St. Joseph County subsidized Fairview in an amount ranging from \$55,000 to \$253,000. At times, this covered the M.O.E., and times this did not. In 1987 and 1988, the county allocated millage to the facility in the amount of \$197,000 and \$211,000 respectively. Even though this millage did not cover the M.O.E., other county appropriations made up the M.O.E. plus capital expenditures.

The bottom line is that Fairview loses approximately \$11.48 per day for each Medicare/Medicaid patient. Since 1980, Fairview's operating expenses and M.O.E. have exceeded Fairview's operating income. In 1981, 1985, 1987 and 1988, its operating

expenses alone exceeded its operating income. Fairview is dependent upon county millage and/or subsidy. Without the millage and/or the county appropriation, Fairview loses money. This has been the case since at least 1981, if not before.

Consequently, it could be argued that Fairview itself lacks the ability to pay any wage or compensation increase. Moreover, Fairview itself (emphasis added) can't keep its doors open. On the other hand, even though Fairview may not exist as a direct operating arm of the county, there is a long-standing partnership with the county. Since at least 1981, the commencement date of historical records provided the Fact Finder, the county has appropriated or provided by millage \$1,595,200, an average of \$199,400 per year. The last two years the county has appropriated or provided by millage \$627,200, an average of \$313,600 per year. Fairview is, in fact, becoming more dependent on the county, not only in terms of real dollars, but also by percentage of budget. Part of the reason for this is increased capital expenditures. Part of the reason is increased M.O.E. Part of the reason is that revenues have only increased 10 percent over the past 5 years, while total operating expenses have increased 27 percent. Under current trends, utilizing an historical basis only, Fairview's operating income can be projected to increase to \$1,703,182 in 1989, and \$1,737,245 in 1990, while total expenses can be expected to increase to \$2,099,461 in 1989 and \$2,204,434 in 1990. Thus the shortfall, historically made up by the county, can be expected to amount to \$396,279 in 1989 and \$467,189 in 1990.

Using more accurate and more current information, Fairview's expert projects 1989 income at \$1,831,911.53 and expenses, excluding increased wages and compensation, at \$1,966,779.78, for a budget loss, without county and millage support, of \$134,868.25. It is projected that \$211,000 will be provided by millage revenues, thus leaving \$76,131.75 for increased wages and compensation for the 1989 budget. However, inasmuch as there was a \$15,024.01 cash balance at the end of 1988, a total of \$91,155.76 is available for wages and compensation in 1989, according to the expert. The Fact Finder considers this an optimistic projection.

The Union, on the other hand, aptly argues that the county support is not a separate issue, and that the county has switched its priorities to building a new jail, rather than providing support to Fairview. Quite frankly, it appears to the Fact Finder that the county is switching its priorities. The county has determined to switch Fairview from appropriation support to millage support. This has not been successfully accomplished to date because Fairview's deficit has been increasing dramatically.

In conclusion, Fairview's ability to pay has been, is, and will be directly dependent upon the amount of millage and/or county subsidy. If the September proposed millage fails, Fairview will have less than \$100,000 for increased wages, without additional county support in 1989. If the proposed one-half mill is passed in September of 1989, Fairview will receive an additional \$350,000 in millage. As has been projected, however, this will not leave the facility flush.

Thus, the Fact Finder recognizes ability to pay as a

legitimate restriction for 1990. The county agrees, however, that it has approximately \$91,000 for 1989 increased compensation and wages, if the millage fails, even if the county chooses not to appropriate any additional monies. Even assuming 1 million a year in wages, this allows for a ten percent increase, more than enough for 1989.

1990 is another question. If the millage fails, it will definitely be a tough year. On the other hand, if the millage passes, 1989 will remain the same, but 1990 will be much more promising.

This Fact Finder observes that Fairview is at a turning point. With a strong millage subsidy, Fairview has a fairly secure viability. Without a strong millage, Fairview will either remain a county burden or fail.

Historically, the county has essentially underwritten Fairview's M.O.E., inasmuch as the county has contributed \$1,595,200 to Fairview over the past eight years and the M.O.E. has amounted to \$1,585,621 for the same period. This Fact Finder has no hard data upon which to base a determination as to the county's willingness or ability to appropriate money to Fairview in addition to the millage, other than Fairview's assertion that it cannot count on the county, inasmuch as it is not obligated. However, it would be reckless for the county to completely cut off appropriations and expect the employees of Fairview to completely subsidize Fairview, while the county has historically met the M.O.E. obligation. The M.O.E. for 1989 is estimated to be \$233,500, and the Fact Finder is of the opinion that if such

obligation is met by the county, there will be approximately \$113,655.76 for wage and compensation increases in 1989. If the millage passes, there will be future money to cover same. If the millage fails, the county will either have to minimally subsidize, or Fairview will incur a deficit.

Finally, the non-economic criteria must be considered in the present situation. Fairview hired RNs as supervisors and excluded them from the bargaining unit, as well as paid these RNs above bargaining unit rates. On June 14, 1988, Fairview was ordered to treat these nurses as bargaining unit employees. However, Fairview properly determined it could not unilaterally reduce their rates. Fairview now proposes to drop these employees' rates to bargaining unit rates. However, both parties agree that nurses' rates must be increased to attract nursing staff. Additionally, these nurses are essentially performing the work they were hired to do. In fact, the 1988 operating expenses reflect the higher rates for these nurses. It is obvious that the circumstances of the ULP have made the present negotiations more difficult. This Fact Finder appreciates both parties' concerns and positions. Why should the Employer pay more than negotiated pay if the nurses are part of the unit? Why should the nurses take a pay cut for doing the same work just because the Union prevailed on the ULP? However, the economic reality is that Fairview is having difficulties attracting professional staff, even at the increased rates. Without professional staff, Fairview cannot exist. Thus, there is no rational basis to conclude that significantly decreasing nurses' rates would be in anyone's best interests.

### FINDINGS OF FACT

1. Fairview may have a restricted ability to pay for 1990. Fairview's ability to pay is adequate for 1989.
2. Fairview's ability to pay for 1990 is dependent upon the success of the September 1989 millage proposal.
3. The best comparables are geographically neighboring counties.
4. There is no rational economic basis to decrease present RNS' pay.
5. \$113,700 is the most that the Employer can reasonably allow for compensation and wage increases for 1989.
6. Because of the uncertainty of the September 1989 millage and the ability of the Employer to pay in 1990, it would be unwise for the parties to enter into a contract extending beyond December 31, 1989.
7. Wage and compensation increases should be allocated primarily to wage rates.

### RECOMMENDATIONS

#### ISSUE I. SICK LEAVES/LEAVES OF ABSENCE

RECOMMENDATION: No change in current contract language.

#### ISSUE II. VACATION

RECOMMENDATION: No change in current contract language.

#### ISSUE III. HOLIDAYS

RECOMMENDATION: No change in current contract language.

#### ISSUE IV. INSURANCE



RECOMMENDATION: No change in current contract language.

ISSUE V. LONGEVITY

RECOMMENDATION: No longevity language to be added to contract.

ISSUE VI. HOURS OF WORK

RECOMMENDATION: Change work day and work week so that they commence at 12:01 a.m., rather than 7:00 a.m., so as to allow 12:00 a.m./7:00 a.m. employees the shift before their holiday morning off, rather than the shift after their holiday evening, with specific language indicating that such change shall not impact current overtime payment practices and schedules.

ISSUE VII. STAFFING

RECOMMENDATION: No staffing language to be added to contract.

ISSUE VIII. WAGES

RECOMMENDATION: 4-1/2 percent wage increase across the board, including the RNs, but excepting LPNs. (All present LPNs or RNs being paid \$11.54 to remain at that rate as a "grand fathered" rate). All other LPNs to be compensated at \$10.00 per hour.

ISSUE IX. SUCCESSOR CLAUSE

RECOMMENDATION: Maintain present December 4, 1981 letter of understanding in addition to federal and/or state law requirements.

REASONING AND BASIS

I. SICK LEAVE/LEAVES OF ABSENCE

The present personal leave language in the contract compares

adequately with Branch, Calhoun and Cass Counties. The Employer offered no evidence as to the cost savings of eliminating personal leave, reducing sick leave or forfeiting the employee's right to one-half compensation if sick leave is not used. Sick leave is a fringe benefit which offers stability and is particularly important in a health care facility. The one-half pay in lieu of leave mitigates abuse of this benefit. The Fact Finder received no evidence or other basis upon which to determine that the Employer's proposal would significantly reduce expenses.

#### ISSUE II. VACATION

Vacation benefits already exceed or match the benefits in Calhoun, Cass and Branch counties. Increased benefits would have a definite and significant impact upon expenses. Regarding the Employer's requested deletion of Section 7, the Employer appears to have adequate discretion and control over the number of personal leave absences. The Employer should address leave of absence problems by exercising this discretion.

#### ISSUE III. HOLIDAYS

Holiday benefits already exceed the benefits offered in Cass, Calhoun and Branch Counties. Other leave of absence policies are liberal. Increasing holiday benefits would only increase costs with no apparent labor market justification.

#### ISSUE IV. INSURANCE

Cass County offers no part-time benefits. Calhoun County does offer pro-rata benefits. Branch County offers some hybrid pro-rata benefits. Therefore, labor market comparisons do not

necessarily mandate part-time benefits. Beyond this, the cost of such proposal would be significant.

Inasmuch as monies for compensation and wage increases may be limited, they should be allocated to wages and given to all (emphasis added) employees, rather than prioritized to part-time employees.

#### ISSUE V. LONGEVITY

Again, limited resources for compensation increases should be allocated to all employees, and not just senior employees, even though Branch, Calhoun and Cass Counties offer longevity benefits.

#### ISSUE VI. HOURS OF WORK

As recommended, the change in work day and work week hours should have no monetary impact on the facility. The sole purpose is to accomodate the midnight employees' preference regarding holiday hours with their families. The Employer could offer no evidence demonstrating an adverse impact upon its operations.

#### ISSUE VII. STAFFING

The Union did not propose specific staffing language. The Union conceded that this issue did not involve whether the Employer met minimum state requirements. The Union's basic complaint is that employees are being requested to work too many consecutive weekends.

The Employer should take note of this complaint. However, it is obvious that any "formula" or contract language regarding staffing is difficult to formulate, and it is almost a certainty that any such "formula" or contract language would be even more difficult to administer.

## ISSUE VIII. WAGES

First, even though the Employer proposes a two year contract, the millage and county appropriation uncertainty marshalls against contracting for a second year. The Union proposes what is known as "Me Too" language for the second year. "Me Too" language fails to allow for changes in circumstances regarding the Employer and the Union. It is particularly important in the present case that the economic circumstances of Fairview be monitored. To put wages on a "cruise-control" could be disastrous to both parties. The Union's inability to formulate a cogent second year demand indicates further that a two year contract is inappropriate.

As can be seen, the Fact Finder has, by a process of elimination, recommended that all increased compensation be allocated to wages. Thus, the only questions that remain are how to allocate the wages among the unit employees, and how to cost the wages.

Regarding allocation, the Fact Finder has compared the wages of all categories of employees with those in Cass, Calhoun and Branch Counties, averaging the pay ranges. The comparison is set forth below:

Category	Branch County	Calhoun County	Cass County	Fairview
Nursing/ Assistant	\$5.75/hr	\$4.76/hr	\$5.30/hr	\$5.44/hr
Dietary Aid	\$5.52	\$4.76	\$5.10	\$4.32
Cook	\$5.77	\$4.50	\$5.45	\$5.74
Maintenance	\$8.25	\$5.52	\$7.79	\$5.55

Custodial	\$6.18	\$4.85	\$5.89	\$5.55
Secretary	\$7.28	\$5.75	\$7.92	\$6.96
Account Clerk	\$5.55	\$7.75	\$7.63	\$6.95
Medical Rcds Clerk	\$8.06	\$5.00	\$5.80	\$6.95

RN	\$12.05	\$10.62	\$10.49	\$11.54 Actual 24K 2080
LPN	\$8.50	\$8.23	\$8.55	\$7.22 Contract
				\$11.54 Actual 24K 2080

This comparison demonstrates that all categories, except for RNs (contract) and LPNs (contract), fall within the comparisons. RNs, by comparison with their actual wage, \$24,000, (24,000 divided by 2,080 equals \$11.54) fall well within the range of comparables. New LPNs, by comparison with their actual wage, \$24,000, (24,000 divided by 2,080 equals \$11.54) fall substantially above the comparables.

Thus, this Fact Finder concludes that labor market criteria (criteria No. 1) do not indicate a significant need for wage increases in any of the categories.

Evaluating this situation in light of criteria No. 2, economic conditions, indicates that the Consumer Price Index for all items and major group figures for urban wage earners and clerical workers from January 1988 to January 1989 increased from 114.5 to 119.7, or 4.5 percent. Economic conditions would warrant a 4.5 percent increase for all groups except LPNs, who are significantly above or below comparisons, depending whether one utilizes contract rates or not.

This Fact Finder has exhaustively discussed the Employer's ability to pay. Thus, the cost of a 4.5 percent increase must be measured (costed) in regard to this figure. Even under the Employer's costing formula, Attachment Y to Exhibit A, a 4.5

percent increase falls within the Employer's ability to pay:

A. RNs and LPNs:  
$$\frac{(5 \times \$2.78)}{8} = \$1.74$$

$$\$26,112 \times \$1.74 = \$45,434.88$$

B. Other employees:  
$$\$763,302.84 \times .045 = \$34,348.63$$

Total Wage Costs equals \$79,783.51

Plus Impact Costs

$$\begin{aligned} \text{FICA} \times .0751 &= \$5,991.74 \\ \text{Work Comp} \times .058 &= \$4,627.44 \\ \text{Retirement} \times .0525 &= \$4,188.63 \\ \text{Overtime} \times .0302 &= 2,409.46 \end{aligned}$$

$$\text{Total} \qquad \qquad \qquad \$17,217.27$$

$$\text{Total Costs} = \$97,000.78$$

Addressing the last criteria, workability, there is an apparent inequity in the pay of RNs and LPNs who fall under the contract and those who were hired at the \$24,000 yearly level (\$11.54 hourly). In order to accomodate this situation, it is this Fact Finder's recommendation that all LPNs hired under the contract be paid the \$10.00 rate. The LPNs already earning \$24,000 will maintain that "grand fathered" rate. This is within the ability to pay of the Employer, and addresses the recruiting problems as acknowledged by both parties. Although there is still a discrepancy in the rates LPNs are paid, both rates for LPNs are still significantly higher than comparable rates. Eventually the rates will equal out if the "grand fathered" rate is not increased. RNs should receive a 4.5 percent pay increase to \$12.06 per hour.

## ISSUE IX. SUCCESSOR CLAUSE

The Employer takes the position that the present letter agreement is unnecessary and merely a restatement of the law. If so, it causes no harm. If not, or if the law changes, the agreement remains.

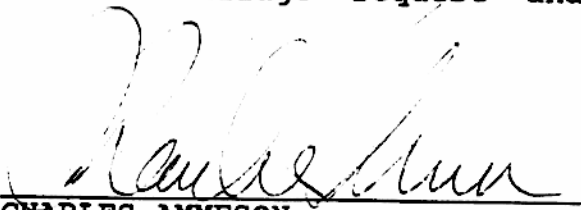
## CONCLUSION

Fact finding recommendations are just that -- recommendations. Fact finding is not a procedure to assist or penalize any party.

The parties have demonstrated the extent of their convictions, and the representatives have effectively set forth their positions at the fact finding hearing and in post-hearing briefs.

This Fact Finder is committed to making a recommendation which is workable and fair to all involved. Based upon the evidence presented, the economic circumstances recognized, these recommendations meet the legitimate needs of the Employer, the Union and the public. Constitutents and decision makers for both the Employer and the Union are urged to accept the recommendations and work together on the millage request and other unresolved issues.

Dated: September 8, 1989

  
CHARLES AMMESON  
FACT FINDER