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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 214,

Petitioner-Union,

-and-

MERC Fact Finding Case No: L05 B-8006

GENESEE COUNTY COMMUNITY
MENTAL HEALTH (GCMH),

Respondent-Employer.

APPEARANCES

For the Union:

Les Barrett, Business Representative
Teamsters Local 214
2825 Trumbull Ave.
Detroit, MI 48216

For the Employer:

Ray Knott, Labor Relations Consultant
Genesee County Community Mental Health
420 W. Fifth Ave.
Flint, MI 48503

- Petition Filed: 9/19/05
- Fact Finder Appointed: 11/23/05
- Pre-hearing: 1/10/06
- Review positions of parties: 3/16/06
- Hearing: 3/14/06
- Post-hearing position of Employer: 3/29/06
- Report/Recommendation: 4/18/06

Fact Finder:

JOHN A. LYONS

FACT FINDING REPORT AND RECOMMENDATION

BACKGROUND

The parties engaged in a number of collective bargaining sessions based on the language of Article XXXIII, Section 3, Economic Re-opener. That language states:

The parties mutually agree to a reopener for all economic provisions of this Labor Agreement for the last year of this Labor Agreement (October 1, 2005 through September 30, 2006). Negotiations meetings for this economic reopener will be scheduled to begin no later than April 1, 2005 on mutually satisfactory dates at the request of either party. Unresolved issues shall be subject to mediation and fact finding.

They reached tentative agreements on several issues (see Part A of the Union's exhibit entitled "Tentative Agreement"). However, they were unable to resolve all issues. The Union filed its Petition for Fact Finding which set forth the unresolved issues in dispute as:

1. Wages
2. Signing Bonus
3. Retroactivity
4. Retiree Health Care Qualification

The Union noted in item 4a that the parties would be assisted in resolving this dispute by its publication because " . . . it may force the parties into a position where settlement will occur in a much more expeditious manner than if it were not . . . " After the pre-hearing conference the parties were able to resolve the issue as to wages. Bargaining unit employees will receive a general wage increase of 3%. The signing bonus issue was withdrawn by the Union and thus, at hearing, two outstanding issues were presented: retroactivity and retiree health care qualification.

The Labor Mediation Act (LMA), MCLA 423.1 declares the public policy of the state to resolve labor disputes. Section 25 states:

(1) When in the course of mediation under Section 7 of Act No. 336 of the Public Acts of 1947, as amended, being Section 423.207 of the Michigan Compiled Laws, it shall become apparent to the Commission that matters in disagreement between the parties might be more readily settled if the

facts in the disagreement were determined and publicly known, the commission may make written findings with respect to the matters in disagreement. The findings shall not be binding upon the parties but shall be made public.

Rule 137 of the Administrative Rules of the Employment Relations Commission, R 423.137, explains the contents of the fact finder report as follows:

Rule 137(1) After the close of the hearing, the fact finder shall prepare a fact finding report which shall contain:

- (a) The names of the parties.
- (b) A statement of findings of fact and conclusions upon all material issues presented at the hearing.
- (c) Recommendations with respect to the issues in dispute.
- (d) Reasons and basis for the findings, conclusions and recommendations . . .

MERC has explained that "factfinding is an integral part of the bargaining process." *County of Wayne*, 1985 MERC Lab Op 244; 1984 MERC Lab Op 1142 *aff'd* 152 Mich App 87 (1986). The fact finder's report reinstates the bargaining obligation and should be given serious consideration. *City of Dearborn*, 1972 MERC Lab Op 749.

At hearing, the parties presented extensive evidence by way of exhibits. Vice President for Business Operations, Jeff DeLay, testified concerning the financial impact of health care, salary and benefit ratios, the cost of increases and the potential future cost of the health care qualification as it is currently set forth in the collective bargaining agreement.

OUTSTANDING ISSUES

1. Retiree Health Care Qualification

The current provisions state under the retirement section of Exhibit V, attached to the collective bargaining agreement, the relevant part under subsection 8:

Employees, upon retirement, are provided with Employer paid hospital/medical insurance, and dental and optical benefits and a \$12,000 life insurance policy. The Employer will only pay the premium cost of hospital/medical coverage for either the retiree and his/her then current spouse, or the retiree and then current one (1) dependent. Family plan coverage may be purchased by the retiree, with the retiree paying the difference between the two (2) person and family plan premiums. Employees have the option of selecting hospital/medical insurance through Health Plus Plan MN (\$10 office visit copay, \$5/\$15 drug copay), BC/BS Community Blue (\$10 office visit copay, \$10/\$20 drug copay), BC Network I (\$10 office visit copay, \$5/\$15 drug copay), or Traditional BC/BS (\$10/\$20 drug copay). The Employer will pay the full premium cost for retirees who select the lowest premium coverage plan. Retirees who select the higher premium coverage plan are required to pay the difference in premiums. Said retirees shall remain on the active employee's hospital/medical benefit plan until attaining the age of sixty-five (65). Thereafter retirees (and their eligible spouse) are required to enroll and pay for Medicare Supplemental Plan B and are required to select either complementary Health Plus coverage or complementary Blue Cross/Blue Shield Traditional coverage. **Only employees who retire with at least eight (8) years of credited service will be provided with hospital/medical coverage.**

Genesee County Community Mental Health (GCCMH) is an agency of Genesee County. It manages the delivery of mental health services by the use of outside contractors and also directly provides services to clients. There is evidence from Mr. DeLay that indicates that the agency had a disadvantage economically in providing services to clients because of its high cost of fringe benefits when comparing itself to the private sector. Regardless, that is what appears to be the mission of the agency. Services have been eliminated and the work force has been reduced. In fact, the bargaining unit represented by Teamsters Local 214 was reduced from 110 members in 2003 to 89 members in 2005. Obviously, this is a concern, not only to the Employer, but

equally of concern to the Union. The Employer points out that health care premiums have soared in recent years for both retirees and active employees. Evidence has been submitted that the premiums for retirees are higher than those of active employees. Mr. DeLay pointed out that the agency obtained an actuarial study detailing millions of dollars in potential future liabilities because of these costs. The evidence indicates that both the employees represented by the American Federation of State, County and Municipal Employees (AFSCME) and non-union employees at the agency currently have a fifteen (15) year service requirement for retiree health care eligibility.

The Union presented plausible evidence that a number of its employees would be harmed because several have earned the benefit based on the eight year health care qualification. Those employees are listed on Union Ex. C, entitled "Employees who have earned the benefit and would lose it". There are 36 employees listed beginning with Cindy Osman and ending with Gordon Sherman at #36. Also, it points to an additional 19 employees that could be affected by increased qualification requirements.

Both parties have urged that the fact finder consider comparables, and I have reviewed that evidence. As we know, internal comparables are sometimes the most relevant. In this particular case with regard to the issue at hand the AFSCME unit and non-union employees all have a fifteen year requirement for credited service as a qualification to receiving hospital/medical coverage under the collective bargaining agreement, Exhibit V, Section 8. But, it would be unfair to deny those employees who have already "earned" the benefit and could lose it. Therefore, I recommend that the employees listed on Union Ex. C be "red circled". However, the remaining unit members should be subject to the fifteen year requirement for health care qualification based on the financial evidence submitted and the consideration of the internal comparables.

2. **Retroactivity**

It is the Union position that the 3% wage increase that was agreed to by the parties should be retroactive and effective October 1, 2005. The Employer, on the other hand, objects and suggests that the Union has "dragged its feet" and the wage increase should be effective the date that rate is implemented. The 3% increase has not yet been implemented. Simply, it is the Employer's position that there be no retroactivity.

Upon a review of the evidence it is clear that AFSCME, and non-union employees were given wage increases retroactive to October 1, 2005. The fact that the wage increase (3%) is higher than other county mental health agencies, although a consideration, is not as significant as the fact that the recommendation is consistent with that granted to other employees of the GCCMH. Therefore, it is recommended that the wage increase be retroactive to October 1, 2005.

SUMMARY

The tentative agreements reached by the parties, including the general wage increase of 3% should be incorporated into a new collective bargaining agreement.

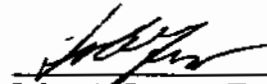
With respect to the outstanding issues:

1. **Retiree health care qualification** should be changed for all bargaining unit employees to fifteen years except for those employees listed on Union Ex. C under the heading of "Employees who have earned the benefit and would lose it". There are 36 employees listed. They should be "red circled". All other employees would be subject to the fifteen year qualification.

2. **Retroactivity of Wages.** Based on the evidence as submitted the Union should receive the 3% wage increase effective October 1, 2005.

The above recommendations are, for the above reasons and conclusions, made in the hope that it will assist the parties in resolving this dispute.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'John A. Lyons', is written over a horizontal line.

John A. Lyons, Fact Finder

Dated: April 18, 2006