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**STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

**IN THE MATTER OF THE
FACT FINDING
BETWEEN**

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

WESTERN U.P. HEALTH DEPARTMENT,

Employer,

MERC Case No: L05 A 5027

-and-

AFSCME, MICHIGAN COUNCIL 25, LOCAL 3626,

Union.

FACT FINDING REPORT AND RECOMMENDATION

APPEARANCES

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REPORT

A petition for fact finding for the home health aides, clerks, technicians, coordinators, counselors, sanitarians and custodians of the Western U.P. District Health Department was filed on January 6, 2005. The Health Department covers Houghton, Keweenaw, Ontonagon and Gogebic Counties. There are 22 full time and 15 regular part-time employees in the bargaining unit.

Following mediation, a tentative agreement was reached on December 3, 2004. Regarding wages, there was to be a one percent of salary bonus to be paid by Christmas of 2004. Thereafter, a one percent salary increase was to be paid in October of 2005, along with a \$100 bonus. This TA was not ratified by the membership.

The only remaining issue for fact finding is wages. In its last best offer, the Union offers 2%, effective 10/01/04 and 2%, effective 10/01/05. The Employer offers a 1% bonus for 10/01/04 to 9/30/05 and a 1% increase, effective 10/01/05.

The nurses represented by the MNA received a 1% increase for the fiscal year beginning in October of 2004 and 9% for the fiscal year beginning in October of 2005. The administrators received 2% and 3.4% wage increases.

The Employer indicated that increases were awarded to the nurses because they were being paid below the market average. This was also the case for the administrators. The Health Department views the AFSCME unit as being ahead of the market average. The Union in its review of its comparable agencies concludes that there has been a 2-3% wage increase. For its comparables the Union uses the Health Departments in Marquette, Dickenson-Iron County, Delta-Menominee and Chippewa counties.

The Employer contends that it cannot pay the increases sought by the AFSCME unit because the Department projects a deficit next year, and the general account surplus at \$693,000.00 is considered inadequate. The Union asserts that account surplus is adequate and represents 10% of the total budget.

The Employer points out that the nurses and the administrators have accepted a lower cost insurance package than the AFSCME unit. It also contends that there has been a significant reduction in revenue. State grants are said to have dropped 60%, and medicare funding is also said to have significantly been reduced. The Employer contends that equity requires that the AFSCME increases be limited.

The Union argues that the Employer's comparables lack adequate supporting data, and that the private sector employers that the Employer has utilized are inappropriate. It further maintains that the bargaining unit is 6% below the average of other UP health employers. If the Union increases are granted, it is maintained that the Western UP employees would still find themselves below the market average.

The Union further points to the CPI as supporting the Union's demand. It is maintained that there was a 2.4% increase for 2004 and a 4.1% increase for 2005.

It is emphasized by the Union that the nurses received between a 7% to 9% increase in October of 2005, and that they will receive 3% increases in 2006 and 2007. The Union maintains that the Employer spent money on the nurses and administrators to the detriment of the AFSCME unit. The Union also contends that the fund balance is sufficient based upon its own expert's analysis of the budget.

The Union also points out that the Employer forgave 50% of its allocation from Houghton and Gogebic Counties.. This is said to have reduced the Health Department's revenue by \$80,000.

The Western U.P. Health Department argues that it has acted consistent with its goal of providing the market average for the Union, which it defines as the five county peer group of health care employers, the group with which it competes for labor. The Employer further asserts that its wage offer has kept pace with the CPI over the past 10 years.

The Employer contends that even without an increase, AFSCME wages are on par with the market average. The Union's exhibits are argued to be inaccurate, insofar as the Level II clerical job grades from Dickenson and Marquette counties are used as a comparison to the entry level wages at Western U.P. The Employer further argues that the wrong levels are also used to compare the secretary's pay level.

The corrected data is said to show that AFSCME is between 3 to 8 percent above the average of its comparables. The Employer maintains that it has been fair in its analysis and offers.

RECOMMENDATION

The statutory purpose of fact finding is to facilitate a settlement. In evaluating the respective positions of the parties, it is useful to employ the criteria used by arbitrators in Act 312 cases, where the arbitrator chooses last best offers in police and fire interest arbitrations. Among the statutory criteria in Act 312 cases are ability to pay, comparability, both internal and external, and a consideration of factors that are normally used in collective bargaining. With this perspective, a recommendation will now be made.

ABILITY TO PAY

Western U.P. certainly faces a challenging environment, with reductions from the state, medicare and third party providers. Certainly, no compensation plan should place the Employer in economic jeopardy; neither should it place the bargaining unit in danger of layoffs.

Having said this, the fund balance, while not ideal, would not seem to be at a seriously problematic level. More importantly, the Employer has shown the economic ability to grant significant raises to the nurses and to the administrators. It is true that it has received health care concessions from these groups, but it was not established that health care was the quid pro quo for the increases; rather, the Employer determined that economic justice required increases for the nurses and the administrators.

While the Employer's approach is laudable, it would not be expected that significant increases would be granted to the nurses and administrators if it lacked an ability to pay for the other necessary expenses of its operation, including pay increases for the AFSCME unit. Moreover, it would not be expected that the Employer would forgive contributions from its constituent counties if it was in financial peril itself. Therefore, ability to pay is not a bar to the Union's offer.

INTERNAL COMPARABILITY

The internal comparables are the nurses and the administrators. The nurses received 1% in the first year; this is consistent with the Employer's offer in this matter if the 1% is folded into the salary scale as opposed to being paid as a flat rate bonus. Therefore, internal comparability favors the Employer in the first year.

In the second year, both the administrators and the nurses received increases far in excess of the Employers offer to the AFSCME unit. Part of this increase can be attributed to a give-back in

health care that was not granted by the AFSCME unit. However, an overall analysis supports that internal comparability favors the Union in the second year.

EXTERNAL COMPARABILITY

The four county health departments offered as comparables by the Union are appropriate. In Act 312, comparable jobs within comparable political entities receive the highest priorities. Townships are often not compared to cities; sheriff's departments are not compared to police departments. Therefore, while health care jobs in the labor market are a factor as presented by the Employer, it is the comparable health departments that are the most important for comparison purposes. These agencies receive similar forms of funding to Western UP and the work is similar. Therefore, Marquette Co HD, Dickenson-Iron Co. HD, Delta-Men. Co HD and Chippewa Co HD are appropriate external comparables.

The analysis is complicated by several factors. First, the sample is small, making a meaningful statistical analysis inappropriate. In statistics when N, the sample, is <10, an analysis is problematic, because either high or low aberrations can skew the sample. Moreover, there are differences within a single employer, when different classifications are considered. For instance, Western UP shows its AFSCME workers between 6 and 8 percent above average in the Tech level clerk level classification, but equal or 3 percent above average in the secretary classification.

To achieve the best possible statistical analysis, the focus should be on overall wage increase percentages, as opposed to wages in any particular classification. Further to reduce the possibility of a skewed sample, the highest and lowest counties should be eliminated. This eliminates Marquette Co HD at 2.5% and 3.0% and Dickenson-Iron Co HD at 1.0% and 0%. Remaining are Delta Men. Co HD at 2.5% and 1.0% and Chippewa Co. HD at 2.0% and 2.0%. The average for two years then is

3.75 percent, which is below the Union's offer and above the Employer's. However, it must be again emphasized that because of the small sample, a pure statistical analysis is difficult.

CONSIDERATION OF OTHER FACTORS USED IN COLLECTIVE BARGAINING

It would be expected in collective bargaining that a previous tentative agreement would offer a template for an ultimate settlement. Therefore, it would be expected that more than one percent would be offered in the second year, since the employer offered 1 percent and \$100 bonus for that year and that one percent would be acceptable in the first year, since that was accepted by the Union in the TA.

THE FINAL RECOMMENDATION

The Employer should pay a 1% bonus, outside of the salary lanes for this first year. This is consistent with the TA and internal comparability represented by the settlement with the nurses in the first year for one percent. The employer should pay a 2% salary increase for the second year, on the salary lanes. This would be consistent with its greater than 1% offer in the TA, the internal settlement with the Nurses, and external comparability. It will move the AFSCME unit towards the mean, while providing an improvement over the previous TA. This recommendation is directed toward achieving a settlement of this matter.

February 24, 2006



Mark J. Glazer, Fact Finder