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STATE OF MICHIGAN
 DEPARTMENT OF LABOR
 EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING BETWEEN
 ANTRIM-KALKASKA COMMUNITY MENTAL HEALTH SERVICES BOARD
 and
 TEAMSTERS LOCAL #214 UNION PETITIONER

FACT FINDING
 MERC #G87, G-642

KENNETH COOPER - FACT FINDER

FACT FINDING
 and
 RECOMMENDATIONS

Issues

The following is a statement of unresolved issues.

1. Wages
2. Personal Days
3. Part-time Benefits
4. Reclassification of the Clerk-Typist Position

In the pre-hearing both parties agreed to a fifth issue:

5. Current Length of Master Contract

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Antrim-Kalkaska Community Mental Health Services Board

BACKGROUND

The collective bargaining contract between the Antrim-Kalkaska Community Mental Health Services, the employer, and the Teamsters Local #214, the Union, expired on September 30, 1987 pertaining to wages, hours, and working conditions of all full-time and part-time professional and clerical employees of twenty-one full-time and four part-time employees. Antrim and Kalkaska Community Mental Health Service Board is the newest CMHB in the State of Michigan and is formed from two counties, Antrim and Kalkaska with Antrim funding sixty percent and Kalkaska funding forty percent local match.

HEARING AND APPEARANCES

In July 1, 1987, the Union notified the Employer to negotiate the contract for the fiscal year of October 1, 1987, through September 30, 1988.

Negotiations began on September 1, 1987. Twelve proposals were presented by the Union to the Employer.

1. Wage increase of six percent.
2. Continuation of health insurance payments for ninety days following and extended illness.
3. Provide health insurance to all employees working thirty-two or more hours per week.
4. Expand sick leave use to care for a seriously ill relative.
5. Full benefits, on a prorated basis, to part-time employees.
6. Three personal days per year.
7. Increase vacation leave by two days beginning at the eighth year of employment.

8. Longevity plan of three percent, five percent or seven percent depending on length of service.
9. Automatic progression of Clerk/Typist to Clerical Secretary.
10. Hold harmless provision for professional staff with respect to clinical treatment program.
11. Payment for costs of professional licenses.
12. On call reimbursement increased to \$1.50 per hour.

The Union agreed to the adjournment with the understanding that the terms of the current contract remain in effect until the time of a new contractual agreement. Also agreed between the parties that all economic terms reached by agreement were retroactive until October 1, 1987.

Negotiations resumed on December 8, 1987 whereupon an impasse occurred. The parties agreed to seek and use the services of a Mediator.

Mediation was sought with Mr. Rombouts as Mediator. There were two mediation sessions on January 17, 1988, March 4, 1988. Mediation was exhausted with Local #214, Union requesting fact finding by filing a petition on April 15, 1988.

Agreement was reached on four issues between the Union and the Employer.

1. Retroactivity to October 1, 1987.
2. On call reimbursement increased to \$1.10 per hour.
3. Continuation of payment of Health Insurance premiums for sixty days following the month an employee goes on an

extended illness.

4. Automatic upgrade of Clerk/Typist to Clinical Secretary.

Except for the unresolved issues before the Fact Finder all other Union proposed proposals were withdrawn by the Union.

This Fact Finder was appointed on July 6, 1988. The fact finding hearing was held on August 11, 1988 at 7:15 A.M. in the Antrim-County Building, Bellaire, Michigan. Closing briefs were filed on September 1, 1988.

APPEARANCES AT THE FACT FINDING HEARING:

EMPLOYER

Patrick Baker, Director

Shirley Griffin, Director of Administrative Services

UNION

Sheryl Langdon, Steward

Kathleen Flynn Mark, Alternate Steward

Cathy E. Kimball, Bookkeeper

The following exhibits were presented to the Fact Finder:

JOINT EXHIBIT

J. I. The Agreement of Antrim-Kalkaska Community Mental Health Services Board and Teamsters Local #214 Expiring on October 1, 1987.

UNION EXHIBITS

- U - 1. 1988 Directory Community Board of Mental Health are located in Michigan.
- U - 2. Survey from Michigan Association of Counties, 1987, comparability Composities, Northern Michigan.

- U - 3. Current Wage and Benefit Survey August 3, 1988.
- U - 4. The Instrument and Letter for the Survey in U - 3.
- U - 5. Wage Benefit Information of Lapeer County.
- U - 6. Personnel Policies of Eastern U.P. Mental Health Boards.
- U - 7. Grand Traverse County Agreement of June 30, 1988.
- U - 8. Cost comparision of May 5, 1988 Assertive Community Treatment Nurse.
- U - 9. Letter by Board to Extend Current Contract.
- U - 10. Cost Comparision to Wages in Northern Michigan.
- U - 11. Cost Comparision of Wages. Focus on Non-Overtime Compensation.
- U - 12. Cost Comparision. Five Average Increases.
- U - 13. Cost Comparision Between Board and Union Wage Proposals Increase.
- U - 14. Sick leave and Personal Leave Composite.
- U - 15. Part-time Benefits Composite
- U - 16. Audit September 30, 1985
- U - 17. Audit September 30, 1986
- U - 18. Audit September 30, 1987

BOARD EXHIBITS

- E - 1. Antrim-Kalkaska Community Mental Health Services Board Description and Narrative of Current Programs and Funding Parameters.
- E - 2. Service Summary and Shared Spending Plan. Fiscal Year 86-87.
- E - 3. Service and Expenditure Report F.Y. 86-87.
- E - 4. Department of Mental Health Contract Language Offer F.Y.88.

- E - 5. Authorization and Contracting Process F.Y. 88
- E - 6. Legislative Reduction of Base F.Y. 88
- E - 7. Minimum Union Wage Rates, 86-87, 87-88.
- E - 8. Positions Descriptions of Eight Positions in Various Counties. July 22, 1988.
 - a) Mental Health Therapist
 - b) Assertive Community Treatment/Adult
 - c) Infant Mental Health Specialist
 - d) Outpatient Therapist
 - e) Assertive Community Treatment Therapist
 - f) Adult Outpatient Therapist
 - g) Community Nurse
 - h) Occupational Therapists
- E - 9. Day Treatment Contract Between State Facilities and Community Mental Health Boards.
- E - 10. Michigan Department of Mental Health Service Areas.
- E - 11. 1988-89 Michigan Association of Community Mental Health Boards,
- E - 12. Michigan's Mental Health Code of 1986.
- E - 13. Service Summary and Spending Plan 1987-88

The post hearing briefs were sent by the parties for evidence on arguments to promote resolution of the five issues.

Exhibits will be retained by the fact finder for twelve months.

The fact finder sets forth reasons and basis for the findings and recommendations. Recognized criteria are applied in making re-

commendations about the collective bargaining agreement between the parties.

In collective bargaining three essential economic criteria are used.

1. Comparisons with other similarly situated employers and employees.
2. Comparisons to economic conditions.
3. Employer's ability to pay.

Both the employer and the union agree that all five of the unresolved issues in this case are economic.

The fact finder reviewed evidence in this case, the detailed testimony of witnesses, and examined the documentary evidence presented by both parties.

Issue Number One - Wages:

The Union seeks a settlement of a 3.5% in wages. The Union proposal is stated to bring employees wages toward parity with other county mental health boards in the surveyed areas of Northern Michigan and to reduce the disparity that exists. Union Exhibits were provided to the fact finder showing comparable positions and ranking in salary, fringe benefits, and costs.

The Employer offers a 2 1/2% increase in salary. Employer exhibits were shown to indicate the limits of available State

funds, State deductions, local match, and revenue reductions.

Fact Finder's Recommendations:

The Employer argues that a complex State funding formula is used and must be followed with restraints and inflexibilities which prevent moving dollars. The Antrim-Kalkaska Area Community Mental Health Board is a shared management Board and cannot move funds, like the other surveyed full management Boards, from one element to another without prior State approval.

Further the Employer argues its budget's 90% State funded and currently 7½% local funded going to a 10% local funding for the local match under Public Act #258 requirements, Employer Exhibit 12.

In defending their wage offer the Employer shows the local Boards reliance on the Michigan Department of Mental Health funding. Base budgets are increased based on necessary funds for new program operation less deductions from anticipated Medical revenues. Along with these are Fiscal Year State reductions from anticipated Medical revenues. Along with these are Fiscal Year State reductions. The State economic increase is 1 3/4% Employer Exhibit 6 and the State formula. Employer Exhibit 13 shows the offset to increase reimbursement.

The Employer also indicates higher health insurance and F.I.C.A. costs along with the State reductions in Employer Exhibit 6.

In the examination of witnesses the fact finder asked about fund modifications of the budget. In statements it was expressed that under shared management requirements, the Employer must stay within 15% of the projected expenditures of a program element. Revenues earned through a contract could be moved with a contract amendment and prior State approval. Otherwise funds can not be moved between program elements.

The Employer stated, Mental Health Boards no longer fund on capacity building which includes salaries.

In view of the constraints and limitations which fall on all county mental health boards and even more so on a shared management board such as the Employer in this case the possibility remains for seeking and obtaining adequate funding subject to State approval.

Wage comparisons and tests of comparability in similarly situated Boards were made by the Union in a logical and reasonable manner. Employees of the Antrim-Kalkaska Area Mental Health Board are receiving lesser wages than comparably situated employees, Union Exhibit 10 and 12. On cross-examination at the hearing and Union Exhibit 11 it was found the employees are not receiving wages exceeding employees in other counties in similar Northern Michigan survey areas.

According to Union Exhibit 13 Wage Composites, Current of

nine Northern Michigan Community Mental Health Boards the Employer is at the bottom for wages paid in every one of the eight positions examined.

Audited budgets showed in Union Exhibits 16, 17, and 18 that excess funds were unexpended in each fiscal year for the last three fiscal years and returned to the State.

The Employer stated that revenues are used to develop services. At the hearing the Employer explained that excess funds must be returned to the State. The fact Finder believes that the reasonable expectation of unexpended funds and with recent three year history of this reoccurring three years out of three could be used as part of planning the costs of providing client services and applied to base the budget building process.

No proofs or documentations are offered by the Employer that the Employer is an economically stressed Board or is at the entrance of a defined, probable deficit financial condition. Further the Employer shows no proof or documentation that it is prevented by lack of abilities to pay a reasonable wage or to plan an improvement in wages to submit to the State for an approvable expenditure.

The fact finder is not persuaded that in budget building the shared Employer is significantly unlike the other eleven Boards in the surveys nor that the surveys lack validity.

It is recognized that a shared management Employer has greater constraints placed on it than a full management Employer. However, the financial hardship of the Employer are

not clearly demonstrated. The Employer's position is not justified by the evidence and arguments presented in these proceedings. The economic benefit of the wage sought by the Union is justified.

The fact finder seeks to find a position which will resolve the differences in the wage proposals for the presently expired contract and to set a foundation for the successful negotiations in the future. Therefore, he recommends the parties accept a settlement of a 3.5% in wages.

Issue Number Two - Cash Out of Unused Personal Days

The Union seeks to change the sick leave provision of the current contractual agreement which is six days annually. In Section 12.11 Paid Sick Leave an employee may choose to use the days, cash-out all of the unused days or accumulate unused sick days with no maximum accumulation.

The Union asks to use all days to be cashed-out at 100% cash-out and to accumulate sick days with no maximum in accumulation.

The Employers offered an increase in annual sick days from six to eight maximum with the ability to cash-out 50% of the unused days.

What is unresolved is whether some or all of the unused days be cashed-out at the end of a year by an employee. Personal leave days may be used for any purpose.

FACT FINDERS RECOMMENDATIONS

Sick-leave and Personal Leave Composite of Northern Michigan Community Mental Health Boards Union Exhibit XIV shows eight Boards similarly situated to Antrim-Kalkaska. All of the eight Boards have 12 or 13 sick days annually with personal days from 12 to 13 sick days annually with personal day from 1 to 3. Annual cash-out is only permitted by one other Board, Use of sick leave for other purposes allowed in six others,

Union Exhibit XIV is silent in comparative contract language about how the sick days and personal days are implemented. Thereby no evidence is shown to adequately use for comparability.

Since the parties in a spirit of cooperation already agreed on the conversion of sick days to personal days the fact finder is not inclined to disturb the Employer's last offer of 50% cash-out of unused days,

Issue Number Three - Part-Time Employee Benefits

The Union is striving to extend benefits to part-time employees. Presently the contractual agreement provides benefits for full-time employees.

The Union asks for benefits for part-time employees pro-rated personnel need vacations.

The Employer offers nothing in benefits for part-time employees.

In the hearing and in Employer Exhibit 1. the Employer mentioned there is currently no funds available to provide benefits to part-time employees and that the Employer in the past moved part-time employees to full-time positions where as full-time employees they attain benefits according to the contract language.

In the Union Post Hearing Brief pro-rated benefits are shown for part-time employees with reference to Union Exhibits XV Part-time Benefit Composite.

Nine Northern Michigan Michigan Community Mental Health Boards are serviced in a comparable study with the Antrim-Kalkaska Area Mental Health Board.

It is evident from this Exhibit that the concept of Board providing benefits for part-time employees is accepted and in use throughout the similar areas particularly in the benefits of sick leave, vacation, holidays, and personal days. Health insurance and life insurance are also seen in half of the Boards.

Issue Three - Part-time Benefits

The application of these benefits and contract language is missing from evidence shown in the hearing and lacking in Exhibit XV is widely accepted.

This fact finder is not persuaded by either evidence or by the hearing to recommend extension of benefits to part-time employees during this present contract negotiations applied to this contract year being negotiated. It is recommended not to change providing and the extension of benefits to part-time employees, on the basis of facts presented. The parties are encouraged to consider this extension of benefits in a future contractual agreement.

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Issue Number Four - Reclassification of Clerk/Typist to
Clinical Secretary.

The Union sought a procedure to set up a mechanism to enable the consideration of upgrading the Clerk/Typist to Clinical Secretary.

The Employer offered the reclassification of the position.

It is agreed that this upgrading of the position will take place. The disagreement is when this change is to occur.

The Union asks for the change to take place effective October 1, 1988.

The Employer offers to change the position effective December 31, 1988. There is a difference of almost three months in making this change. The Employer wishes to accomplish this change to upgrade Clerk/Typist in the current new contract year. This definite move and upgrading is viewed by the Employer as being more adequate than the Union request.

Both parties agreed this position be definitely upgraded. The cost of this change is \$108.77 and both parties also agree that the tasks are already being performed by the person in the position to be upgraded.

Issue Number Four - Fact Finding Recommendation

Documentation and Statements at the fact finding hearing are minimal from the parties concurring on the automatic upgrading of the position.

The spirit of cooperation is evident among the parties about the upgrading of position.

What is not evident is the reasoning or need to tie the initiation of the automatic upgrading as to when one contractual agreement year begins and the other ends.

The fact finder is not inclined to apply in his recommendations an additional span of months to beginning the upgrading of a position.

The fact finder recommends this agreed position change become effective November 1, 1988.

Issue Number Five - Length of Contract

The length of the contractual agreement depends on the settlement between the parties on wages.

The Employer seeks a 15 month duration of the contract.

The Union wants to keep the length of the contract the same time of 12 months.

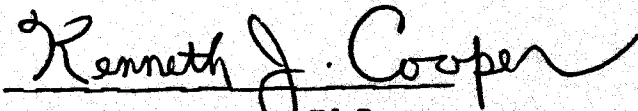
No evidence was provided to demonstrate where an additional three months would promote better contractual relations or operations.

The Fact Finder is inclined not to disturb the present length of the contract and recommends that the parties seek a one year contract of the 12 month duration.

For future contracts the parties are urged to negotiate a multi-year contractual agreement. A multi-year contract is consistent with multi-year planning used in the area mental health plannings. Presented in the hearing is the Michigan Department of Mental Health use, of a continuous format in establishing a future flow of funds between contract years.

Until a multi-year contract is agreed upon by the parties the Employer and the Union will be continuously preparing and conducting negotiations.

The fact finder recommends such a contract in the future could be achieved with annual openers for salary until the parties can reach accord in multi-year salary settlement with staggered percentages in growth in each of the years.

A handwritten signature in cursive script that reads "Kenneth J. Cooper". The signature is written in dark ink and is positioned above a horizontal line.

Kenneth J. Cooper, Ed.D.
Fact Finder