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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

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In the Matter of
Conciliation Between:

PORTAGE COUNTY SHERIFF'S DEPARTMENT

SERB Case No. ~~05-MED-1087~~

05-MED-10-1087

-and-

Jonathan I. Klein,
Conciliator

OHIO PATROLMEN'S BENEVOLENT
ASSOCIATION (CORRECTIONS OFFICERS)

LAST BEST OFFER AWARD

Appearances

For the Union:

Michael J. Hostler, Esq.
Francis Puck, Director, OPBA
Sonny Jones, Director, OPBA
Bob Symsek, Director, OPBA

For the Employer:

Ronald Habowski, Esq.
Duane Kaley, Sheriff
Lynn Leslie, Human Resources Director

Date of Issuance: March 3, 2008

I. STATEMENT OF THE CASE

This matter came on for hearing before Jonathan I. Klein, appointed as conciliator pursuant to Ohio Admin. Code Section 4117-9-06 and Ohio Revised Code Section 4117.14(D)(1). The hearing was conducted between the Portage County Sheriff's Office ("Employer"), and the Ohio Patrolmen's Benevolent Association ("Union"), at the Portage County Justice Center located at 8240 Infirmary Road, Ravenna, Ohio 44266. The proceedings were recorded and transcribed by court reporter.

The bargaining unit represented by the Union is comprised of all full-time employees in the classification of corrections officer. There are approximately fifty employees in the bargaining unit.

The unresolved issue at impasse is the question of health insurance. In selecting the last best offer, the conciliator reviewed the stenographic record of the arguments and evidence presented by both parties, together with their respective position statements.

II. LAST BEST OFFER CRITERIA

In the determination of the issue, the conciliator has considered the applicable criteria required by Ohio Rev. Code Section 4117.14(C), as listed in 4117.14(G)(7)(a)-(f), and Ohio Admin. Code Section 4117-9-06(H)(1)-(6). These conciliation criteria are enumerated, as follows:

- (1) Past collectively bargained agreements, if any, between the parties;

- (2) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or private employment.

III. FINDINGS OF FACT AND SELECTION OF LAST BEST OFFER

Position of The Employer

The Employer submits that there is but a single issue before the conciliator: health insurance and the co-payment of insurance premium, if any, by members of the bargaining unit. It reasons that eight to nine other bargaining units in Portage County have adopted the contract language the Union rejects, and six of those contracts are with the Sheriff's Office. The

Employer's final offer is to delete the current Article 25 in its entirety, and to substitute the following language recommended after this same issue went before a fact-finder:

25.1 Effective August 1, 2007, the Employer will provide to his employees that same medical insurance coverage and upon the same terms and conditions, if any as that provided by the Portage County Commissioners for their other County Employees. In any event, the bargaining unit members will not pay a higher premium for health insurance than any employee of the Portage County Commissioners medical coverage plan.

The Employer argues that everyone from new hires to the Portage County commissioners pay the same amount for health care with the sole exception of the corrections officers represented by the Union. Further, it is critical that the collective bargaining agreement contain language that refers to health care plans for employees of the commissioners only, and not "others covered by the plan," which may very well included employees of independent boards such as the Portage County Board of Mental Retardation and Developmental Disabilities. By using "employees of the commissioners" the Employer is able to maintain greater cost control and uniformity. For example, if the contract language were to provide members of the bargaining unit with the same premium contribution as "other members of the plan" or simply "employees in the health care plan" the health care premiums could change for the bargaining unit depending on the actions of other employers whose employees are members of the plan.

The Employer points to the State Employment Relations Board's ("SERB") 2006 Report on Health Insurance Costs in Ohio's Public Sector for more than one purpose. First, the geographic region utilized by SERB in which Portage County falls is the Akron/Canton Region, consisting of Ashland, Carroll, Coshocton, Harrison, Holmes, Medina, Portage, Stark, Summit,

Tuscarawas and Wayne counties. (Employer Ex. 1 at 38). The Akron/Canton region averaged total health care premiums of \$400.17 for single coverage, and \$990.65 for family coverage. The average monthly premium co-payments by employees in the region (without the Portage corrections officers) is \$34.02 for single coverage, and \$82.20 for family coverage. The costs as proposed by the Employer are \$32 per month and \$83 per month, respectively. It should be noted the bargaining unit employees have been making no payment toward the premium, while the Portage County deputies have made premium copayments for over three years.

The Employer rejects the Union's proposed language both as to its dual, and arguably conflicting standards, as well as the Union's proposal to seek a cap on contributions of 90/10.¹ The Employer seeks contract language similar to that contained in another OPBA contract with the Jefferson County Sheriff, wherein the conciliator set the employee's share of healthcare premium at \$87 per month for single, and \$128 per month for family coverage. (Employer Exs. 6 and 7). In further support for its contract proposal on health insurance, the Employer referenced the fact-finder's decision in this case and a separate fact-finder's report and recommendations involving the Employer's corrections corporals and sergeants represented by the Union. (Joint Ex. 2 and Employer Ex. 8). Both fact-finders rejected similar attempts by the Union to modify

1. The parties agreed at hearing to permit a modification of the Union's proposal on page 4 under Roman numeral II, so that the proposal would read, in part: "The Employer will continue to provide hospitalization and major medical service coverage under the Portage County health benefit plan, with the following cost containment provisions:" The balance of the Union's proposal for Section 25 and Appendix E - Schedule of Benefits, would remain as set forth in its proposal.

the contract language on health insurance, and each recommended the Employer's proposal for the same language for Article 25 as negotiated with other bargaining units in the county.

Under its insurance plan the Employer offers the employees three alternatives, with varying deductibles and premium rates, and the employees are free to choose the plan which best suits their individual needs. The sole exception at the time of hearing was the Health Department, which is a separate employer although its employees participate in the plan. The same plan and employee contribution to premium costs proposed by the Employer can be found in the Employer's agreement with the deputy sheriffs (Employer Ex. 10); the Employer's agreement with the sergeants and lieutenants (Employer Ex. 11); the collective bargaining agreement pertaining to the Portage County Building Department (Employer Ex. 12); the Portage County Dog Warden collective bargaining agreement (Employer Ex. 13); the agreement covering the Portage County Engineer's Office (Employer Ex. 14); the collective bargaining agreement covering employees in the Portage County Department of Job and Family Service (Employer Ex. 15); the contract for the Portage County Motor Pool (Employer Ex. 16); the Portage County Nursing Home (Employer Ex. 17); and the Portage County Sanitary Engineer agreement (Employer Ex. 18). A slight variation on the same theme can be found in the contract covering employees in the Portage County Solid Waste Management District. (Employer Ex. 19).

Each of the aforementioned collective bargaining agreements were identified by the human resources director for Portage County, Lynn Leslie. Leslie further described the stated intent of the Portage County commissioners to seek uniformity of health insurance language for all bargaining units within the county so as to facilitate the administration of the health insurance

plan. He pointed out as problematic the Union's proposal for an employee to pay a portion of the health insurance premium in the language tying that payment to other "members" of the health care plan. The reason, according to Leslie, is that not all members of the health care plan are employees of the county commissioners. Arguably, the Union would seek a decrease if the premium costs for members of the health care plan who are not employees of the county commissioners were to be decrease. In the event of a premium increase, however, the Union would seek to tie its members exposure to any potential increase only to other employees of the commissioners, thereby leading to an internal inconsistency in the proposal and lack of uniformity.

Position of The Union

The Union reasons that its members are not the highest paid corrections officers, and that at the core of their employment is receipt of sound benefits. It agrees that its members must contribute to the costs of health insurance premiums, but the membership voted down the fact-finder's report due to its ambiguity.

Through the testimony of corrections officer Francis Puck, the Union traced the history of the negotiations leading up to the rejection of the fact-finder's report and recommendation on this issue. Puck opined that the only open issue on health insurance to be addressed at fact-finding was the 9:1 ratio cap on future health care costs. Evidence of tentative agreements reached by the parties on April 4, 2006, were referenced and described by Puck. The thrust of Puck's testimony was to suggest that the negotiations over health insurance were limited to the fact the

bargaining unit members would begin to pay a portion of the insurance premiums, and the 9:1 cap, but there was no “talk about changing the language” of the health care article. (Tr. 92). This testimony all tied in to the fact that an unfair labor practice charge was filed with SERB in which the Union apparently claimed that the parties had reached a tentative agreement and voted on health insurance – a position rejected by the Employer, and ultimately SERB when it dismissed the ULP.

The Union submits that the commissioners could simply exclude non-employees from its self-insured plan. Further, unlike the comparables submitted by the Employer, Portage County more closely resembles other counties such as Geauga, Lake, Cuyahoga and Stark – not what SERB designates. Further, because the bargaining unit is a no-strike unit and signed its agreement first, the unit established the base line for all other bargaining units to “coattail” upon. Finally, the Union proposes a 9:1 cap to control for inflation and any new premium increases Portage County may demonstrate are necessary.

Last Best Offer

As noted in prior decisions, this conciliator places particular emphasis on internal bargaining unit parity when addressing issues of health insurance. This case is no different.

Virtually without exception, the bargaining units in Portage County have contract language similar to that proposed by the Employer. The corrections officers have benefitted from not having to pay any insurance premium for a number years during which period other bargaining unit employees have contributed to their health insurance premium on a monthly

basis. As noted by the fact-finder, rising health care costs are a problem for all employers, public or private, since the United States is the only industrialized nation that does not have a national health care plan. (Joint Ex. 2 at 8). It is a critical problem slowly eroding away the wages of employees and the financial reserves of employers, and it appears such erosion will continue unabated into the foreseeable future.

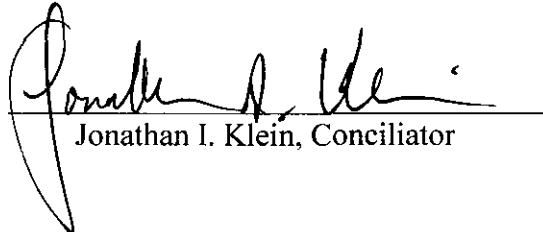
The national consensus that the health care system in this country, and the insurance structure surrounding it, are jeopardizing the national welfare cannot be overemphasized. However, the conciliator must apply the statutory criteria to the evidence presented – broad issues of public policy must be resolved in other forums. What can be said is this conciliator and fact-finders who have preceded him recognize the need for uniformity of health insurance coverage as a reasonable objective to achieve cost savings and reduce the administrative burden caused by varying health care arrangements among employee groups.

The costs associated with the Employer's proposal are in keeping with comparable jurisdictions, in particular those within the Akron/Canton region. While it is possible that the selection of the Employer's proposal as the last best offer will cause an adjustment in the overall ranking of the Portage County corrections officers within the Akron/Canton region, the insurance premium co-pays will more accurately reflect the realities of the public sector workplace, and place the bargaining unit within the pattern established by all but 2 of the counties in the Akron/Canton region.

With the goal of consistency and uniformity on this singularly important issue for all employees, the Union's proposal for new contract language providing a 9:1 ratio for health care

cost as a method to calculate increases in employee contributions runs contrary to this important objective. There is no showing that any other bargaining unit has reached an agreement on the inclusion of similar language in a collective bargaining agreement with Portage County. Moreover, the conciliator is not empowered to alter the language of either party's proposed contract language, and he finds the Union's proposal lacks the clarity necessary to be properly implemented, even if the statutory criteria otherwise demanded it.²

For each of the foregoing reasons, the conciliator selects the Employer's proposal on health insurance as the last best offer.

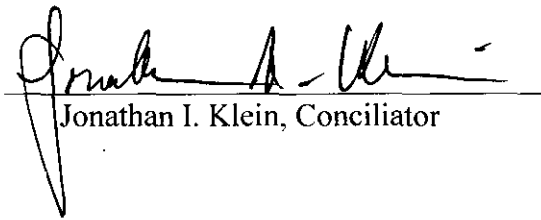

Jonathan I. Klein, Conciliator

Dated: March 3, 2008

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2. The language of the cost cap proposed by the Union for the bargaining unit of corrections officers and dispatch is, as follows: "The employee premium for health care shall not exceed increase 10% for each dollar of increase to the commissioners for the health care programs, over the annual rate of inflation (National)." (Union's submission statement at 12).

CERTIFICATE OF SERVICE

Originals of this Last Best Offer Award were served upon Michael J. Hostler, Esq., Ohio Patrolmen's Benevolent Association, 10147 Royalton Road, Suite J, P.O. Box 338003; North Royalton, Ohio 44133; Ronald J. Habowski, Esq., Christley, Herington & Pierce, 215 West Garfield Road, Suite 230, Aurora, Ohio 44202; and upon Mary Laurent, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, each by priority mail, sufficient postage prepaid, this 3rd day of March 2008.


Jonathan I. Klein, Conciliator