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**STATE OF OHIO**  
**STATE EMPLOYMENT RELATIONS BOARD**  
**BEFORE THE FACT FINDER**

*In the Matter of the Fact Finding between:*

**THE OHIO PATROLMEN'S  
BENEVOLENT ASSOCIATION,**  
Union,

Case No. 03-MED-10-1222

-and-

**LUCAS COUNTY SHERIFF**

Fact Finder Stanley T. Dobry

Employer.

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**FACT FINDER'S REPORT AND RECOMMENDATION**

Hearing convened on Saturday, the 17<sup>th</sup> day of January, 2004, before Fact Finder Stanley T. Dobry at the Lucas County Conference and Learning Center, in the County of Lucas, in the State of Ohio.

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**APPEARANCES:**

*Representatives for the Employer*

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FOR LUCAS COUNTY SHERIFF'S OFFICE

**Date of Report: January 26<sup>th</sup> 2004**

## **I. BACKGROUND.**

This case is before the Fact Finder on a number of issues for which the Employer and the Ohio Patrolmen's Benevolent Association ("Union") on a re-opener in their collective bargaining agreement ("Agreement"). The only issues before the Fact Finder is Article 21, Insurance.

The parties mutually selected Stanley T. Dobry as Fact Finder through the State Employment Relations Board. The parties timely filed their position statements.

The parties did execute a waiver of statutory and administrative time limits.

## **II. MEDIATION EFFORTS.**

Before the fact finder was appointed, the parties successfully tentatively agreed to changes in the Lucas County health care plan. Those are the framework in which this fact finding was conducted. The tentative agreements are incorporated into the fact finder's recommendations as though set forth in full.

The parties participated in mediation and fact finding with Fact Finder Dobry on the date of the hearing. The mediation efforts allowed Fact Finder Dobry to become familiar with the issues and interests. Unfortunately, the parties negotiations had rendered the dispute down to some issues that could only be resolved by the fact finder, after a full review of the testimony and documentary evidence.

The parties were essentially in agreement that this was largely a case that was proved in the voluminous documentary evidence that was offered. Those exhibits were received without objection. The employer offered the testimony of **Bridget Kabat and James Wells**. Ms. Kabat is a representative of the Lucas County Office of Budget Management. Mr. Wells is a benefits consultant with Benefits Comprehensive, Inc. of Toledo, Ohio. The union offered the explanation of **Marilyn Widman**, legal counsel of the OPBA.

### **III. THE HEARING.**

The Employer and Union were both ably represented. They engaged in good faith bargaining, so that relatively few issues were presented. I have endeavored to solve the problem based upon the parties' long term interests.

I recognize the effort to prepare and present positions at the hearing was expensive, labor intensive, and time-consuming. I appreciate the parties' work in that regard. I write this opinion with the hope that the parties will avoid the effort, losses, risks and consequences of conciliation. However, that decision is for the parties themselves to make after they review this recommendation.

### **IV. FACT-FINDER'S AUTHORITY AND STATUTORY CRITERIA.**

The following findings and recommendations are offered for the parties' consideration and are the result of careful deliberation of the mutual interests and concerns of the parties and the statutory criteria as applied to the record before me. The applicable statute, Ohio Revised Code Section 4117.14(c), and SERB regulation, Ohio Administrative Code Section 4117-9-05, governs this proceeding. It requires that the fact-finder in making his recommendations consider:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of the unresolved issues 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 the public service;
4. The lawful authority of the public employer;
5. Any stipulation(s) of the parties; and
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determinations of the issues submitted to mutually agree upon dispute settlement procedures in the public service or in private employment.

## **V. DESCRIPTION OF THE BARGAINING UNIT.**

The bargaining unit includes approximately 420 full-time employees in the following classifications, all of which are non-command positions:

- a. Corrections Officers
- b. Deputy Sheriffs
- c. Dispatchers
- d. Call-takers
- e. Clerks
- f. Forensic Counselors
- g. Process Servers
- h. Maintenance Workers

## **VI. BACKGROUND.<sup>1</sup>**

In the past, Lucas County negotiated with the various bargaining representatives of its employees as a group for health insurance benefits, using a “Cost Containment Board” (hereinafter “CCB”) that was comprised of agents for the bargaining groups. While the CCB was not specifically authorized to act as a negotiating committee, it usually worked to obtain acceptable terms and conditions for which the Unions would then sign acceptance. The County hired a consultant, Jim Wells, to assist the CCB in understanding the financial impact of any proposal and to develop acceptable terms for the Lucas County Health Plan (hereinafter “Plan.”) The specific Employer in this case, the Lucas County Sheriff, does not negotiate separately with its Employees for health care: the negotiations occur between the Employees and the County.

The OPBA became the certified bargaining representative for the non-command Lucas County Sheriff’s Office employees in mid-2000, following a representation election. The first collective bargaining agreement (“Agreement”) between the OPBA and the Employer was retroactively implemented to January 1, 2000, although it was not ratified until 2001, through December 31, 2002. The parties negotiated a successor contract in late 2002, the current

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<sup>1</sup>This section is largely adopted from the Union’s brief, and is factually uncontested.

Agreement, and it is effective January 1, 2003 through December 31, 2005.

During the first Agreement between these parties, the CCB met in late 2001 to negotiate changes, at the Employer's request, to the Plan. An attorney for the OPBA attended one meeting, and following that meeting, the County's representative contacted the OPBA to express the CCB's unwillingness to negotiate with the OPBA. Upon review of the Agreement language regarding health insurance, the OPBA determined its members would be best served by enforcing such language and not negotiating changes to it. Accordingly, the OPBA notified the County that it would not meet with the CCB, as no re-opener had been initiated by either the Employer or the OPBA. In January 2002, the CCB members signed off on changes to the Plan, but the OPBA specifically did not sign off on the changes. In fact, the OPBA did not know of the changes until late 2002, when the County announced changes to the Plan that would be effective in 2003.

Until the changes that the CCB agreed to in late 2002, the County offered two different options for health insurance coverage under its Plan: the first option was a fully insured HMO plan through a provider named "Family Health Plan," which plan offered benefits through the Mercy health care system only. The second option was a self-insured, 80/20 plan that offered benefits through both the Mercy and the ProMedica health care systems. Spouses of employees were entitled to "primary" coverage under either program at no cost to the employee.

Upon receipt of the County's notice of Plan changes in late 2002, the OPBA filed grievances to object to them. Specifically, the OPBA objected to the County's elimination of primary coverage for certain spouses of Employees and to the reduction of the Family Health Plan from a one-hundred percent reimbursement plan to a 90/10 cost-sharing plan, both of which changes the OPBA asserted were in violation of Article 21 of the Agreement. The grievances moved to outside binding arbitration, at which the Union prevailed.

Arbitrator Thomas J. Coyne, Ph.D., was appointed in Federal Mediation and

Conciliation Case no. 03-06631. After taking testimony and evidence, on June 14, 2003, at pages 7 and 8 he held inter alia, that:

“The county commissioners entered into a binding contract, one from which they cannot extricate themselves based on highly questionable advice from a health consultant and/or an advisory board. Words mean things! When anyone, anywhere enters into a binding contract, in a word, it is binding! Advice to the contrary is very poor advice, and cannot supersede provisions contained in a negotiated contract.

“Contractually and by past practice, spouses can only be ‘encouraged’ to enroll in alternative health plans; they cannot be ‘required’ to enroll as envisioned by the county commissioners in this case; moreover, alleged notice of pending changes in health care coverage given to the union, thereby placing the union ‘on notice’ as claimed . . . lack credibility. Past practice and existing contract language disallow such action which is considered a very heavy-handed approach to changing contractual commitments. . . .

“Management says all county employees must be treated equally and uses this proviso in the contract as justification for its actions, but management was capable and remains capable of enforcing that contract provision by (1) negotiating with this union to reduce its health care provisions, thereby bringing them into line with lesser contract provision signed by other labor groups, or (2) amending coverage for all these other employee groups, bringing them up to the minimum standards of excellence agreed to in the binding contract with OPBA. Regardless of which approach is chosen by management, the fact remains it violated past practice and the terms of the collective bargaining agreement. It changed the terms of the health insurance coverage without collectively bargaining such changes as required by that contract.

“Clearly, it is within the county commissioner’s power and control to adhere to its binding contract and past practice with this union and have all county employees receive the same health care coverage. There is no conflict in its ability to do both. Quite simply, management chose not to do so. [Emphasis original.]

“The Cost Containment Board is an advisory board. Period! No one is required to give advice; no one is required to accept advice.

“The burden to change health care coverage, if changes are desired, from the existing contract to something more acceptable to the commissioners, rests solely with the county commissioners. They had retained the right to reopen negotiations regarding health care in the late Fall of each year. That the commissioners chose not to open is not the fault of this union. . . . [Emphasis added.]

“The county commissioners have the right to manage, but they must manage

responsibly. They must abide by Article 17. They must honor all contractual commitments. The commissioners may change the contents of Sections 4 and/or 9 of Article 21, of course, but only if they reopen negotiations in compliance with Article 21, Section 13; namely ' . . . during the Fall of each year. . . .'"

As a result of the arbitration award, the Employees have been subject to different health care insurance terms and conditions than other County employees. Specifically, the participating Employees are reimbursed for the difference in their costs between the 90/10 plan and the 100% coverage that existed when the Agreement was negotiated, and the Employees whose spouses had to enroll as primary in other health plans are reimbursed for the cost of such enrollment.

In 2001, prescription drug costs increased for all participating County employees, from \$1 for generic to 10% up to \$5 for generic, and from \$7 brand name to 20% up to \$15 for brand name. In 2002, all County employees again were subject to an increased cost for prescription drugs. The drug co-pay increased from 20% up to \$15 for brand name drugs to 20% up to \$25 for brand names and the introduction of "non-preferred" drugs at a flat cost of \$35 each. In 2002, all participating County employees were subject to an increased cost for office visit co-pays, from \$5 to \$10 for primary care physicians and from \$10 to \$15 for specialists.

During negotiations for the current Agreement in late 2002, after the County had changed its eligibility rules in the manner that resulted in the OPBA's filing of grievances over health care coverage, the Employer attempted to

negotiate a payroll deduction for employees to assist in covering the cost of the monthly health insurance premiums. The OPBA did not propose any change to the language at Article 21, and the OPBA position prevailed at Fact Finding. As a result, the current Agreement has the same language for Article 21 that existed in the first Agreement between the parties.

In 2003, the County learned that Medical Mutual of Ohio was taking over Family Health Plan in such a way that at the end of the Plan year (February 29, 2004), MMO would be the new service provider in lieu of Family Health Plan. The proposal to continue the FHP program for the 2004 Plan year represented a 32% increase in costs for the County, to provide the same coverage. The County bid for proposals for the 2004 Plan year from self-funded and fully-insured program types, and the cost increases for 2004 ranged from 10% to 79%.

The Agreement expires 12/31/2005, but Article 21 allows either party to request a reopener on health insurance “in the late Fall of each year.”

Predicated by Arbitrator Coyne’s decision, the Employer requested a reopener on Article 21, and the parties began negotiating in October 2003. The Employees anticipated multi-Union negotiations to include the bargaining representatives of other Lucas County employees; however, the other Unions refused to participate in negotiations that included the Employees.

Accordingly, while the Employer is negotiating with these Employees, it is concurrently negotiating with other bargaining representatives for

the terms and conditions of the health insurance plan for Lucas County employees, which plan the Employer would like to be consistent and equal for all bargaining units of its employees.

The OPBA reviewed in late November 2003 all the information provided by the Employer with regard to the current budget situation of the County and the requests for proposals. In response to the Employer's information and in consideration of the priority of concerns of the Employees, the OPBA proposed changes to the Plan that result in an approximately 6% increase in cost to the County for the 2004 Plan year.

With such proposal, the County and the Employees are unable to reach agreement on three provisions: (1) spousal coverage; (2) prescription drugs; and (3) consideration for the Employees' accepting contract changes that include:

1. Elimination in its entirety of the current, fully-insured HMO program through FHP (MMO), in which about 80% of the employees are presently enrolled;
2. The possible offering of only one program through which employees can have health insurance coverage, whereas the employees have enjoyed a choice since at least 1986;
3. Up to a 20% co-pay for services, whereas the Employees in the FHP have not had any co-pay participation; and
4. Increases in the maximum out-of-pocket annual expenses for Employees who have been in the 80/20 program, from \$1000/\$2000 per year to \$2000/\$4000 per year.

## VII. STATEMENT OF FACTS

A parallel way of looking at this is to overview the facts.<sup>2</sup>

1. The Lucas County Sheriff (“Employer”) and the Ohio Patrolmen’s Benevolent Association (“Union”) are parties to a collective bargaining agreement (“Agreement”) covering 410 “Non-command Unit Employees in the Lucas County Sheriff’s Office” (bargaining unit employees”). The term of the Agreement is January 1, 2003 through December 31, 2005.
2. All county employees, including the bargaining unit employees employed by the Employer, are provided health care benefits through the Lucas County Board of Commissioners (“Commissioners”) pursuant to Ohio Revised Code Section 305.171.
3. Health care benefits provided to all county employees through the Commissioners include family and single hospitalization plans, a prescription drug plan, and dental plans.
4. On March 1, 2003, the Commissioners unilaterally<sup>3</sup> implemented changes in the level of health care benefits and changes in employee eligibility for those benefits which included: (i) decreasing benefits to 90% under the HMO plan, and; (ii) requiring employees’ spouses to be insured, when available, under insurance plans

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<sup>2</sup> These are largely adopted from the employer’s position, and are uncontested.

<sup>3</sup>As to this bargaining unit. The other bargaining units referenced bilaterally agreed to the changes in health care benefits.

other than those provided by the Commissioners unless the employee and spouse qualified for a hardship exemption, and only then could the spouse be covered as primary on health care provided by the Commissioners.

5. As determined by the arbitration award quoted at pages 6 and 7 above, the Employer was required to maintain 100% coverage for bargaining unit employees under the HMO plan. The Employer was also prohibited from “requiring” bargaining unit employees’ spouses to enroll in health insurance coverage when available under insurance plans other than those provided by the Commissioners.
6. As a result of the unchanged contract, as authoritatively interpreted by the arbitration award above, bargaining unit employees have received a higher level of health care benefits than all other county employees since March 1, 2003.
7. As a result of that contractual difference, the Employer’s costs to reimburse bargaining unit employees affected by the change in the 90/10 level of benefits and spousal eligibility rules has to date amounted to \$11,992.57.
8. At a meeting of the Lucas County Health Care Cost Containment Committee held on October 7, 2003, the Union was informed that effective March 1, 2004, there would be a need to change health care benefits as provided by the Commissioners due to the financial conditions of County finances.
9. Article 21, Section 13 of the Agreement provides that either party may reopen negotiations concerning health care benefits during the late Fall of each year.
10. In accordance with Article 21, Section 13, the Employer and the Union have been

in negotiations for proposed changes in health care benefits since November, 2003.

11. Since October, 2003, the Commissioners have been in negotiations for the proposed changes in health care benefits with a coalition of unions comprised of AFSCME, Ohio Council 8, the Professionals Guild of Ohio, and the UAW, Local 12.
12. The Employer's yearly budget is reviewed, revised and approved by the Commissioners as funded through the Lucas County general fund.
13. For the year 2003, revenues generated to the general fund amounted to \$129,596,797.99; expenditures from the general fund amounted to \$131,325,271.32, and; there was a deficit for year end 2003 of \$1,728,473.33.
14. The Employer's beginning 2003 budget as approved by the Commissioners was \$32,604,382. The budget was revised during 2003 for the amount of \$31,756,776. The Employer's year end actual budget was \$31,548,923.
15. Health care costs paid by the Commissioners for all county employees during year 2003 amounted to \$27,306,606. This does not reflect the additional cost to maintain bargaining unit employees at the higher level of benefits imposed by the arbitration award.
16. Health care costs paid by the Employer for all employees employed by the Employer during the year 2003 amounted to \$3,819,810; representing a cost of \$9,919 per employee for family coverage and \$3,980 per employee for single

- coverage, and; representing 12.11 % of the Employer's 2003 budget.
17. Estimated revenue for the county general fund for year 2004 amounts to \$128,276,793, a decrease of \$1,320,000.00 from the 2003 revenue.
  18. The Commissioners are reviewing an initial general fund draft budget for year 2004 in the amount of \$137,226,000.00, which is based upon all general fund departments' initial budget requests.
  19. A comparison of the estimated revenue of \$128,276, 793 for year 2004 with the initial draft budget for year 2004 shows a projected deficit of \$8,949,207. This reflects no increase in health care benefits, service contracts, or mandated services during 2004.
  20. In addition, as a result of the 2003 budget balancing activities, coupled with the 2004 projections for the local government funds, sales tax and interest income forecasts, the county is anticipating a general fund shortfall between \$8 to \$12 million.
  21. The Commissioners have not approved a final budget for year 2004, but instead have approved an interim budget in the amount of \$61, 514, 392.32 representing the actual expenditures for the first six (6) months of year 2003.
  22. Based upon the 2003 level of health care benefits with an increase in dental benefits, projected health care costs for the service year beginning March 1, 2004, is \$30,326,210, amounting to an increase of \$3,019,610.00 and a 11.10 % increase

in health care costs over 2003.<sup>4</sup>

23. The Employer's proposed budget for 2004 as submitted to, and under review by, the Commissioners for approval is \$32,256,035 an increase of approximately 2% from the 2003 budget. Estimated health care costs are \$3,992,017, representing 12.38% of the 2004 budget. This proposed budget does not include any increase for health care costs from 2003.
24. Through the negotiation process the Employer and Union have tentatively agreed to the following changes in health care benefits for the term of the Agreement:
  - a. One health care plan or a combination of plans that provides "in-network" access to both the Mercy and Pro-Medica systems, without annual deductibles, without payroll deduct or other monthly premium share to the employee for coverage of the employee, except that if more than one plan is offered, no plan shall require more than \$20 per month premium share for the employee's coverage; and limiting the employee co-insurance payment to 20%, with out-of-pocket annual maximums of \$2,000.00 per covered person and \$4,000.00 per family for program year 2004, and \$2,500.00 per covered person and \$5,000.00 per family for program year 2005.
  - b. The prescription drug plan subject to coordination of benefit provisions consistent with state law.
  - c. A mail order option for prescription drugs featuring a 90 day supply, with the same co-payment schedule as retail dispensation of medication can be made available but only with a 30 day supply.
  - d. A 3 tiered employee co-payment schedule, the first tier for generic medication, the second tier for preferred brand name medication, and a third tier for a 30 day supply of non-preferred brand name medications for which a generic medication is manufactured (including DAWs) and including all new brand name medications for a period of not less than 3 years.

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<sup>4</sup>This excludes the costs of compliance with the arbitration award which interpreted the parties' contract.

- e. infertility medications would be considered excluded from coverage in both the retail and mail order plans.
  - f. Certain generic medications available as over-the-counter medications (OTCs) would be available at the generic co-payment schedule.
  - g. Two dental programs options without requirement of premium sharing: a traditional dental indemnity plan and a dental PPO. The dental PPO plan would feature a more expanded panel of dentists than the current PPO and an increase in benefit from \$1000.00 per covered person per year to \$1,500, and an increase in orthodontia benefit from \$750.00 lifetime to \$1,000.00
  - h. Date of termination of benefits would be the last day of coverage including divorce, legal separation, lay-off and disability separation.
  - i. Worker's compensation claims are not eligible under the employee benefits plans.
  - j. Employees working enough hours to be eligible for benefits, but less than full-time, are required to pay a corresponding proportion of their premiums.
25. There remains three (3) areas of dispute which are the subject of this fact-finding:
- The first dispute is whether bargaining unit employees' spouses should be "required" to enroll in their employer's health insurance coverage as provided under the county employees eligibility rules or merely "encouraged" to enroll in such coverage as provided under Article 21 of the Agreement. Further, whether all spouses covered as primary under the family health benefit plan should be required to pay a premium share of \$50.00 per month for the period March 1, 2004 through February 28, 2005, and \$100.00 per month for the period March 1, 2005, through February 29, 2006. The second dispute concerns the amount of employee co-pay at the first and third tier of the prescription drug plan. The third area of dispute concerns whether the bargaining unit employees should receive an

increase from 50% to 65% in sick leave cash-out upon retirement as consideration for the same level of benefits and eligibility rules as required of all other county employees.

26. The Employer's health care proposal if implemented county-wide would cost the Commissioners an estimated \$28,605,182.00, in 2004, a \$1,298,582.00 and a 4.76% increase in health care costs from 2003.
27. The Union's health care proposal if implemented county-wide would cost the Commissioners an estimated \$29,148,419.00, in 2004, a \$1,841,819.00 and a 6.74% increase in health care costs from 2003.
28. Under the County's self-insured plan, spouses cost \$342,000 through October of the 2003 benefit year. For spouses who are primary, the cost totaled \$302,000 and \$40,000 for the spouses who are secondary. This equates to approximately \$218 per spouse per month if the spouse is primary and \$22.47 per month if the spouse is secondary. For the first eight months of the 2003 benefit year, the Family Health Plan cost per primary spouse was \$239.17 per month and \$32.66 per month for a secondary spouse.
29. Insurance records indicate there are approximately 895 primary spouses county-wide, although the County PeopleSoft records indicate there may be an even higher number. With 895 primary spouses, a \$50.00 per month premium share would provide a \$537,000 contribution toward the 2004 health care costs. The \$10.00 per month premium share as proposed by the Union would represent only a

- \$107,400 contribution toward the 2004 health care costs, a difference of \$429,600.
- 30 For the Employer, PeopleSoft records indicate that there are 143 spouses that are primary within the bargaining unit. The \$50.00 per month premium share cost to those spouses who are primary would result in \$85,800 cost that the Employer would not have to pull out of an already deficit budget. The \$10.00 per month premium share as proposed by the Union would represent only a \$17,160 savings, a difference of \$68,640.
  31. To reduce the financial impact of the spousal premium share on employees, the Commissioners are prepared to expand the Section 125 Cafeteria Plan to allow employees to use pre-tax dollars to pay for the spousal premium share, reducing the actual out-of-pocket costs to the employees.
  32. The total estimated costs for prescription coverage for benefit year 2003 is \$5,965,000.00. The average cost per Lucas County employee is \$131.00. The estimated prescription drug costs for the 410 bargaining unit employees is \$644,520.
  33. The estimated cost for the Employer's prescription drug proposal implemented county-wide for benefit year 2004 is \$6,621,000.00. The estimated cost for the Union's prescription drug proposal is \$6,734, 637.00, a difference of \$113,637.00.
  34. The estimated cost for the Employer's prescription drug proposal implemented upon the bargaining unit for benefit year 2004 is \$715,068.00. The estimated cost for the Union's prescription drug proposal is \$727, 341.00; a difference of

\$12,273.00.

35. The estimated cost of the Employer's health care proposal on the bargaining unit for benefit year 2004 is \$3,061,555.00. The estimated cost of the Union's health care proposal upon the bargaining unit is \$3,142,468.00; a difference of \$80,913.00.

## **VIII. DISCUSSION OF UNRESOLVED ISSUES.**

The parties have had the good sense to resolve many other issues, both economic and non-economic. Those tentative agreements are part of the context in which this recommendation is made. They are incorporated by reference into my recommendation as though set forth in full.

The Fact Finder evaluated each party's proposal as part of the larger agreements to which the Employer and employees are bound, *i.e.*, that the ability of either side to pay for its proposal, or the necessity of passing increasing health care costs onto the other party, must be considered in light of cost implications of the entire collective bargaining agreement. Such consideration is a double-edged sword: The Employer argues it can only absorb a certain amount of health care costs, and that it must achieve deeper provider discounts, because it has limited financial resources, including the ability to tax, and is faced with health care benefit cost increases that are substantial. At the same time, employees argue they can little afford to absorb increased costs because their wages will not be increased if their health care costs are increased, resulting in a wash or a loss as far as take-home pay. Health care is the most serious issue facing the parties. It is fundamental, divisive, and can be controlled in the short term, but may not be controllable by these parties in the long term. In effect, Lucas County and its employees are a 'mere flea on the national health care dog, and the dog is sick.'

The prior arbitration award is a fact. While the employer blames the arbitrator,

the blame is in the prior contract. The union simply insisted on getting the benefit of its duly negotiated bargain. This was its right.

Moreover, the prior arbitration award was not appealed from, and is by the terms of the collective bargaining agreement “final and binding.” Thus, I have no jurisdiction to overturn that decision and award.

That brings us to this case. This is a fact finding, and the employer has sought to reopen the contract on health care. This is its right. The fact finder has reviewed the respective positions of both parties. Suffice to say that some of each of their demands are too much. They either are too costly, or failed to recognize the need for ‘give and take’ in negotiations. The fact is that the Union has a medical insurance benefit, which the employer seeks to change. Such a change can be made, but there must be a price to be paid. Quid pro quo.

I gave great weight to the need for internal comparability. The employer needs to administer *one* health care system, not two or more. This is an overriding goal. On the other hand, as the proponent of change, the employer has the laboring oar.

I have not adopted either party’s proposals in their entirety. Rather, I have crafted a series of proposals, which are part of an integrated whole. Moving or renegotiating one piece will spoil the symmetry of the whole. This is in accord with the record, and the normal practices of collective bargaining.

This recommendation is changing the very principles upon which health care is being provided. We are initiating much greater cost sharing. Historically, the employer carried a proportionately greater portion of the increased costs of health care.

The changes the fact finder is recommending are in line with the response of comparable communities and bargaining units in the area. It is also closer to the private sector model, as health care premiums and costs have spiraled out of control.

I note that any settlement with the OPBA may have a corresponding effect on the

other bargaining units in the County. This is because the County has tried to maintain in a rough fashion the historical parity between its employees. In any event, the first orbit of comparison must be with the other employees of this employer. Further, the need for an employer to maintain a unitary system of health care benefits is virtually overwhelming

On the one hand, the employer's revenues are down, and its health care costs are up, too.

The economy is suffering from a general malaise; federal revenue sharing has gone down, and state revenue sharing has followed. Tax revenues are in doubt. The post 9/11 economy, and the continuing war on Iraq has retarded economic growth. Further, increased federal mandates for homeland security have hardly materialized into monetary contributions to municipalities. In short, the employer is being expected to do more with less resources.

On the other hand, the employees have to work in this environment. They have their own economic challenges, which are serious. Employee morale here is good, but realistic and fair wages and benefits are absolutely necessary.

In light of the hard economic reality facing both parties, the fact finder makes the following recommendations.

I carefully considered and analyzed *all* of the record, even though I found it inappropriate to mention each item specifically. I gave weight to the total fabric of the presentation in light of the entire record. I am dealing with what *is*, not what one party might wish it to be.

Additionally, I weighed all of the statutory criteria as they might apply to each of the issues and the record before me, even if I did not specifically refer to them. My recommendations are meant to fix the problem, not fix the blame. It is time for the parties to move on and work together for their common interests, and the good of the public.

## IX. RECOMMENDATION.

Therefore, for all the foregoing reasons, I make the following recommendations:

### ARTICLE XXI INSURANCE

Section 1. The Bargaining Unit is covered by the same health care program(s) offered to all County employees through the Board of County Commissioners. The provider(s) of health care and the schedule of health benefits provided shall be the same as offered through the Board of County Commissioners. The health care program(s) offered shall include "in-network" access to providers in both the Mercy system and ProMedica systems, either under one program or separate program offerings. None of the programs offered by the Board of County Commissioners to all County employees shall require employees to pay more than a twenty percent (20%) co-insurance cost for in-network services. None of the health care programs offered by the Board of County Commissioners shall include a deductible for participants. The out-of-pocket maximum per employee shall not exceed \$2000.00 per individual and \$4000.00 per family per year for Plan year 2004 and \$2,500.00 per individual and \$5,000.00 per family per year for Plan year 2005.

Section 2. For employees who have dependents who live beyond the geographical service area boundaries of these plan(s), "Out-of-Network" health care coverage will be made available. Employees must have specific court order to justify "out-of-network" coverage. Employees may be required to have their health care provided through one of the plan(s) network provider(s). The coverage provided to dependents covered by these court orders may be different than that provided to employees.

Section 3. The Bargaining Unit will be provided the same Mental Health Coverage and Substance Abuse Coverage as offered for all county employees through the Lucas County Sheriff's Office. The provider(s) and schedule of benefits shall not be changed without 30 days advance written notice to the Union.

Section 4. If two employees are married and both work for the County, they are entitled to one (1) family health plan or two (2) single health plans per the Lucas County Employee Benefits Eligibility Rules revised September 26, 2003. A Lucas County employee who is married and whose spouse is not a Lucas County employee, is entitled to benefits for the spouse per the terms of the Lucas County Employee Benefits Eligibility Rules revised September 26, 2003. If a spouse is eligible for a health plan through his/her employer, he/she must enroll in a single plan through that employer at the earliest possible opportunity. If a spouse of a Lucas County employee is covered as primary for Lucas County medical coverage, the employee is required to pay a monthly premium share of \$30.00 during benefit year 2004 and a monthly premium share of \$50.00 during benefit year 2005 to obtain coverage for the spouse. If a spouse of a Lucas County employee is covered as secondary for Lucas County medical coverage, the employee is not required to pay a premium share.

Section 5. The specific County budget line item designated for health insurance shall be maintained exclusively for purposes of health insurance. The County shall continue to provide life insurance coverage for employees at the level existing at the time of this Agreement's execution.

Section 6. The Bargaining Unit will be covered by the prescription drug plan offered to all County employees through the Board of County Commissioners. The provider of the prescription drug program and the schedule of benefits shall be the same as offered through the Board of County Commissioners. Human organ transplant drugs and insulin shall be considered generic for the purposes of the Prescription Drug Plan. The Prescription Drug Plan is subject to the coordination of benefits rules described in the Lucas County Plan Document as originally approved by resolution #91-326 as revised from time to time. The prescription drug plan offered through the Board of County Commissioners shall include up to a thirty (30) day supply for non-mail order prescriptions, a mail-order option that will provide up to a ninety (90) day supply, and be a three tier plan limited to a maximum employee cost at each of the first two tiers of twenty percent (20%) up to: \$8 for generic, \$25 for preferred, and a flat fee of \$40.00 for non-preferred. "Non-preferred" medications are those for which a generic is manufactured and also new brand name prescription medications for a period of not less than three (3) years. Infertility medications shall be excluded from coverage under both the retail and the mail order prescription drug plans. Certain generic medications available as over the counter medications shall be made available by March 1, 2004 at the generic co-payment schedule.

Section 7. The Bargaining Unit will be covered by the same dental program(s) offered to all County employees through the Board of County Commissioners, *i.e.* a traditional indemnity dental plan and a dental PPO. For 2004, the dental PPO shall offer a \$1,500 per covered person benefit and a lifetime orthodontia increase from \$750 per covered person to \$1,000 per person. The provider of the dental program(s) and the schedule of benefits shall be the same as offered for all County employees through the Board of County Commissioners.

Section 8. The health care benefits described in this article shall be provided through a minimum of one (1) program that is offered at no monthly payroll or other premium contribution by the employees for insurance coverage of the employees. In the event the Lucas County Board of County Commissioners offers more than one (1) program under which the employees may elect coverage, the maximum payroll premium contribution per month per employee for a policy under any program shall be \$20, not to include the spousal premium share set forth in Section 4. The monthly premium contributions for Bargaining Unit members shall be the same as those paid by all employees of Lucas County, up to but not exceeding the \$20 per month maximum.

Section 9. These benefits shall be implemented subject to any contractual limitations included in any third party contract Lucas County may enter into in order to provide these benefits.

Section 10. The parties agree that the Employee Group Insurance Programs provided through,

approved, and periodically amended by the Board of Lucas County Commissioners, said Commissioners having first reviewed the recommendations of the Lucas County Health Care Cost Containment Board, will likewise be provided on the same terms to the members of this bargaining unit throughout the term of this Agreement, except the cost to the Bargaining Unit members for such programs shall not exceed the costs set forth in this Agreement under this Article, regardless of the cost to any other County employees.

Section 11. In the event the County Commissioners expand the insurance coverage to include optical coverage, other than that provided through the health care plans for other employees directly under the control of the Lucas County Commissioners, then the Commissioners shall immediately grant the increased coverage to the employees of the Bargaining Unit herein.

Section 12. In consideration for the above terms being agreed upon by the Bargaining Unit during negotiations that commenced in late Fall 2003, during the life of the existing Agreement and at a time when no other issues are subject to negotiation, the Employer agrees to execute an Addendum to the collective bargaining agreement with the OPBA, by February 15, 2004, that provides the following for the life of the Agreement: "an increase at Article 12, Section 2 of the sick leave payout, from 50% to 65% commencing February 1, 2004."

Section 13. The parties acknowledge that the Commissioners are negotiating health care benefits through reopener contract provisions with other unions throughout the county. The parties agree that to the extent such health care benefits reopener negotiations for the health care plan service years 2004 and 2005 result in an agreement or agreements which include terms or conditions which are more favorable to such other union or unions than the terms or conditions negotiated between the employer and the union during the 2003 health care benefit reopener for plan service years 2004 and 2005, this Agreement shall be deemed to include such more favorable terms and conditions as if incorporated herein, and such more favorable terms and conditions shall supercede any less favorable terms and conditions which appear in this Agreement.

