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**STATE EMPLOYMENT RELATIONS BOARD  
STATE OF OHIO**

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**In the Matter of Fact-Finding Between )  
OHIO PATROLMEN'S BENEVOLENT )  
ASSOCIATION (CORRECTIONS OFFICERS) )  
and )  
PORTAGE COUNTY SHERIFF )**

**FINDINGS AND RECOMMENDATIONS**

**CASE NO. 05-MED-10-1084**

**CHARLES Z. ADAMSON, FACT-FINDER**

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**For Ohio Patrolmen's Benevolent Association**

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**For Portage County Sheriff**

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The undersigned was appointed Fact-Finder in this dispute by the State Employment Relations Board (SERB) on December 20, 2005 pursuant to Section 4117.14(C)(3) of the Ohio Revised Code in respect to a unit of Corrections Officers employed by the Employer.

### HEARING

A hearing was held on February 13, 2007 as to an issue where the parties had reached an impasse. The issue before the undersigned is whether there should be a 9:1 cap on future health insurance premiums for the unit involved herein.

### CRITERIA

In compliance with Ohio Revised Code, Section 4117.14(C)(4)(3) and Ohio Administrative Code Rule 4117-9-05(J) and 4117-9-05(K), the Fact-Finder considered the following criteria in making the findings and recommendations contained in this report:

- I. Past collectively bargained agreements between the parties;
- II. Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- III. 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;
- IV. The lawful authority of the public employer;
- V. Any stipulations of the parties;
- VI. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to

mutually agreed upon dispute settlement procedures in the public service or in the private employment.

## **ISSUES AND RECOMMENDATIONS**

### **INSURANCE**

#### **The Employer's Position**

The Employer asserts that throughout negotiations with the Union it maintained that it wanted the same health care language in the applicable contract that the nine County collective bargaining units, including the deputies' unit, had in their respective contracts. The deputies' contract has contained this language for the past three (3) years. It points out that there is no way under the existing contract language for the Employer to cancel the health care insurance and that only the unit involved in this matter has ever questioned the uniform health care language. It believes that it is warranted in insisting that health care provisions in all bargaining contracts should have uniform terms and conditions.

According to the Employer, all County employees from the Commissioners to the newest employee have the same three (3) options for health insurance coverage. The PPO Plan A and the HMO Plan currently charged \$14.77 for single coverage and \$38.31 for family coverage each pay period. The third option, PPO Plan B, requires no payment for single and family coverage.

The Employer proposes no changes for the three (3) years of the contract, but cannot guarantee no increase in payments for the next three (3) years. It will sign the applicable contract containing the Section 25.01 uniform insurance language without the words "or covered person" proposed by the Union because this language deals with Health Department employees covered by the County Commissioners' health plan. The Health Department is a separate governmental

entity which is not under the jurisdiction of the County Commissioner; it has opted to join the County health plan, but also can exercise the option to withdraw from the plan.

The record reflects that in accordance with the policy of the County Commissioners there is uniformity in all bargaining contracts between the Commissioners and the respective unions as to language and insurance coverage, except for the contract between Teamster's Local 24 and the Portage County Solid Waste Management District, effective November 1, 2004 and expiring October 31, 2007. Lynn Leslie, the County Human Relations Director for the past 8 ½ years, who has negotiated all bargaining contracts, except for the County Engineers' contract, has been advised by the Commissioners that they wanted the uniform language in the new Solid Waste contract when it is negotiated to replace the agreement expiring at the end of October, 2007.

County employees have a choice of three different health plans - Qual Choice, HMO - MMO Plan A (HMO Health Ohio) and MMO Plan B. County employees pay \$14.77 per pay period for single coverage and \$38.31 for pay period for family coverage. While the Deputy Sheriffs and the other County employees have been paying these costs for the last three years, the Corrections Officers have paid nothing for single or family coverage.

Human Relations Director Leslie has been authorized and directed by the Commissioners to obtain the same health insurance in the Corrections Officers' contract that the County has in all of the other contracts. According to Leslie, uniform language would provide administrative savings because its easier to administer plans that have the same health insurance options for all employees.

The record reflects that all three County Commissioners have the same health plan as the other County employees. Any administrator employed by the County can choose any of the three

plans.

A subsidiary issue also exists as a result of disagreement between the parties over the wording of Section 25.01 of the contract. The Employer argues that the language set forth below, except for the italicized words, "or covered person" should be included in Section 25.01 to avoid potential problems arising out of the fact that, while employees of the County Health Department are covered by the County Commissioners health plan, the Health Department employees are not employees of the County Commissioners. Contrary to the Employer, the Union wants "or covered person" included in Section 25.01 relying on a June 22, 2006 e-mail from its attorney to the Employer's attorney stating they had agreed to the Section 25.01 language which included the words "or covered person".

25.01 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 *or covered person* of the Portage County Commissioners medical coverage plan.

The Employer maintains that the Health Department could change the health insurance carrier for its employees. As a result, the language "or covered person" referring to Health Department employees is not appropriate for a labor contract covering Corrections Officers who are County employees. A situation could arise where the Health Department changed to an insurance carrier which provided a plan which substantially differed from the plan the County offered its employees.

The record reflects that the Health Department (the Portage County Combined General Health District) is a separate political subdivision under Ohio law run by a separate board (The

Portage County Board of Health). Although Health Department employees are not employees of the Portage County Commissioners, they currently participate in the Portage County Health Plan. The County Commissioners exercise control over County employees while the Health Commissioner is the overall administrator of the County Health Department which determines the terms and conditions of employment for Health Department employees. Because of the latitude the Board of Health has in determining the level of benefits afforded its employees, it could decide if it wished, to leave the Portage County Health Plan and select a completely different health plan for its employees.

On November 9, 2006, SERB dismissed an Unfair Labor Practice charge filed by the Union against the Portage County Sheriff and Sheriff Kaley (Case Number: 06-44209-0448) where the Union alleged that the Employer violated Ohio Revised Code Section 4117.11(A)(5) by refusing to execute collective bargaining agreements for six (6) units of the Sheriff's Department, including the unit involved herein. In its Discussion, SERB concluded that, as of August 28, 2006, "...both parties still had not agreed on the unresolved issue of health care language."

#### **The Union's Position**

The Union asserts that it has consistently taken the position, during bargaining with the Employer for the unit involved herein, that it wanted health care language that was equal to or better than the language in the current contract between the parties. The Corrections Officers' contract has not contained a premium co-pay. During negotiations the Union agreed to pay health care premiums for the first time, but insisted that the new contract contain a cap on health care premiums. It maintains that a health care cap was in the April 4, 2006 tentative agreement between the parties, a 9:1 ratio as the cap for the duration of the contract. In addition, the Union,

contrary to the Employer, argues that the language in Article 25 - Insurance, 25.01, should contain the words "or covered person".

Corrections Officer Sunny Jones stated that once contract negotiations started there was no talk about changing the language in the contract's insurance provision. The Employer and Union discussed how much the various other bargaining units paid for their insurance and the Employer wanted the unit involved herein to pay the same amount. Jones stated that throughout the negotiations he continued to insist that there should be a cap on the health care premiums for the Corrections Officers and wanted a ceiling imposed on health care costs.

Jones also stated that, during negotiations, it was determined that the Employer pays approximately 90% of the cost of the employees' health insurance. This was where the 9:1 ratio originated.

Jones indicated that he was covered by MMO Plan A and believed that none of the Corrections Officers had chosen MMO Plan B which required no employee contribution. He agreed that MMO Plan A and HMO Health Ohio are the same or equal to any coverage the Corrections Officers currently receive.

Jones also agreed that the Employer's attorney repeatedly stated in negotiations he couldn't guarantee how much the members of the bargaining unit would pay for health care, but he could guarantee that they would pay no more than any other County employee would pay. He further agreed that the Employer's attorney stated in negotiations that he didn't have the authority to put a cap on the insurance premiums and stated that there was no County contract in existence that had an insurance cap. Jones admitted that he agreed to pay whatever the Deputy Sheriffs were currently paying. The deputies pay \$14.77 single rate and \$38.31 family rate.

According to Jones, the parties had three joint negotiating meetings. He asserted that they never talked about the premiums at these meetings. At the last joint meeting on April 4, 2006 a tentative agreement was reached. At that meeting, according to Jones, the Employer's attorney said he would take the 9:1 cap issue back to the Commissioners for their consideration. However, the Employer's attorney did not agree to the 9:1 cap. The Employer's attorney asked Jones that if both parties agreed to the 9:1 cap would the parties have an agreement on the contract. Jones replied in the affirmative.

It was stipulated by the parties that the two other Union Directors, Robert Symsek and Francis Puck, who attended the joint bargaining sessions along with Jones, would have testified the same as Jones testified in this matter.

#### **Findings and Recommendations**

The record reflects that the parties are at impasse in respect to the wording of Section 25.01 of the collective bargaining agreement involved herein. The Employer has taken a firm position that Section 25.01 should contain the same health care language that the nine County collective bargaining units, including the Deputy Sheriff's unit, have in their respective contracts. In addition, it opposes the insertion of the language "or covered person" which was proposed by the Union for inclusion in the second sentence of Section 25.01. The Union also maintains that the health care language in Section 25.01 should contain a 9:1 cap on future health insurance premiums for the unit involved herein, i.e., the Employer paying 90% of the health care premium while the employee pays 10% of the premium. The 9:1 health care cost cap language is opposed by the Employer.

There is no question that the cost of health care for employees has continued to rise over

the years. It is a problem that faces all employers in this country, whether public or private, since the United States is the only industrialized nation that does not have a national health care plan. The undersigned is cognizant of the fact that Corrections Officers, who make a significant contribution to the criminal justice system and are not highly paid, would like the reassurance that a cap on health care premiums would give them for the term of the contract. On the other hand, the evidence of the health care provisions in the collective bargaining agreements of employees covered by the County Commissioners' health plan cannot be overlooked.

The record reflects that there are nine county collective bargaining units, including the Deputies' unit, that have the Section 25.01 language proposed by the Employer for the Corrections Officers in their respective contracts. There is only one collective bargaining agreement which does not contain this standard language as to health insurance, the contract between Teamster's Local 24 and the Portage County Solid Waste Management District, effective November 1, 2004 and expiring October 31, 2007. Lynn Leslie, the County Human Relations Director, has been instructed by the Commissioners that they want the uniform Section 25.01 language in the new Solid Waste contract after said contract expires at the end of October, 2007. These instructions as to uniform health care language and coverage were also given by the County Commissioners to Leslie prior to the start of contract negotiations in the instant matter.

Public sector employers have pursued the policy of seeking uniformity in health plan coverage among all bargaining units for a number of years. It is a reasonable goal since cost savings can be achieved in the administration of one uniform plan as compared to the cost of administration of different health care plans for various bargaining units.

If Section 25.01 would contain a provision as to a 9:1 health care premium ratio cap for

the collective bargaining unit involved herein, the health care language would be different than the health care provisions in nine other collective bargaining contracts covered by the County Commissioners health plan. In view of the above, and the record as a whole, it not warranted that the Section 25.01 language should contain a 9:1 cap on future health insurance premiums. The argument for uniformity for all of the health care provisions of an employer's bargaining units outweighs any arguments in support of the health care cap. In the event that health premium costs should rise during the term of the collective bargaining agreement involved herein, the language of Section 25.01 provides protection to the bargaining unit members so that they "...will not pay a higher premium for health care insurance than any employee of the Portage County Commissioners medical coverage plan".

In addition, the Union's position that the language "or covered person" should be included the Section 25.01 contract language is not supported by the record evidence. As indicated above, this disputed language involves employees of the Portage County Health Department who are covered by the County Commissioners' health plan, but are not employees of the County Commissioners. The County Commissioners have authority over the wages, hours and working conditions of Portage County employees, but have no authority in this respect over Portage County Health Department employees. As a result, the Board of Health which, at present has decided to participate in the Portage County Health Plan, could, in the future, select a different health plan for its employees. If the Health Department changed to a different insurance carrier than the insurance carrier for the Portage County Commissioners health plan, a situation could arise where Health Department employees had health insurance coverage and premiums which differed substantially from employees covered by the Portage County Health Plan. This could

result in a large number of problems in the administration and operation of the County Commissioners health plan servicing the employees of the County Commissioners. Consequently, the Union's proposal to include the language "or covered person" in Section 25.01 of the proposed contract is not recommended by the undersigned.

In conclusion, in view of the above and the record as a whole, it is recommended that the following language be included in Section 25.01 of the applicable agreement as to the health insurance for the unit involved herein:

25.01 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.

Cleveland, Ohio  
Cuyahoga County  
March 30, 2007

  
Charles Z. Adamson, Fact-Finder