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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In Regard To The Matter Of The Fact-Finding Between:

CUYAHOGA COUNTY BOARD OF)	
COMMISSIONERS DEPARTMENT OF)	97-MED-06-0709
HUMAN SERVICES, HEALTH AND)	
NUTRITION FRAUD)	
(INVESTIGATORS UNIT))	
)	
-AND-)	
)	
TEAMSTERS LOCAL 407)	
INTERNATIONAL BROTHERHOOD OF)	
TEAMSTERS, CHAUFFEURS &)	
WAREHOUSEMEN, AFL-CIO)	

Appearances

For The County

Dean E. Westman, Esq.,	Counsel
David Hill, Esq.,	Counsel
Robert Bonner	Associate Director - DEES
Cassandra Richardson	Manager, Management Services
Ernest Szorady	Manager, Labor & Employment Relations
Gene Markowski	Personnel Administrator
David J.C. Williams	Employee Relations Specialist Labor & Employment Relations

For The Union

Vic Collova	Business Agent
John Readinger	Investigator II
Linda A. Santosuosso	Senior Clerk
DeMella Y. Wooden	Investigator

BEFORE ALAN MILES RUBEN, FACT-FINDER

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FACT-FINDER'S REPORT

BACKGROUND

The Health and Nutrition Fraud Investigators Unit, Cuyahoga County Department of Human Services, administers a variety of Welfare Programs, including Food Stamps, Medicaid, and Disability Assistance covering approximately 71,000 children and 29,000 adults resident within Cuyahoga County, Ohio.

Approximately 90% of the Department's \$120 million dollar budget is supported by transfer payments from the Federal Government and the State of Ohio. The remaining 10% is contributed by the County.

Although the majority of the County's work force remains subject to its Civil Service Regulations, many employees of the Department of Human Services are organized into Bargaining Units represented by Unions affiliated with National Labor Organizations. The largest number of organized employees within the Department are represented by the American Federation of State, County, and Municipal Employees, Local 1746, AFL-CIO, under an Agreement entered into as of July 1, 1996 for an initial term expiring June 30, 1999.

The Health and Nutrition Fraud Investigators Unit's thirty-six classified Investigators and eight Clerks form a Bargaining Unit, certified by the State Employment Relations Board in February, 1997, which is exclusively represented by Local 407 of the International Brotherhood of Teamsters, Chauffeurs and Warehousemen.

The Investigators are responsible for detecting fraud by recipients of public assistance, and arranging for the return of benefits for which the recipients were ineligible. The Investigators cooperate with the County Prosecutor's Office in instituting appropriate proceedings against these recipients.

In addition, as part of their field investigations, the Investigators examine claims, accidents, and abuses of State property.

The Clerks support the efforts of the Investigators by producing complex technical forms and other documents, and maintaining appropriate filing systems.

Investigators and Clerks are assigned to one of three offices located respectively at 3121 Euclid Avenue and 1641 Payne Avenue, Cleveland, and 5398 Northfield, Maple Heights.

The parties convened on June 17th to negotiate an initial Collective Bargaining Agreement, and, thereafter, met for nine additional sessions. They reached tentative agreement upon the text of some twenty-five provisions to be included in their initial Contract, but declared impasse when they failed to resolve disputes over the terms of twenty-three additional Articles.

In consequence, the undersigned was appointed Fact-Finder by the State Employment Relations Board with effect from August 25, 1997.

At the direction of the parties the Fact-Finder convened mediation sessions on January 16, 1998 and February 18, 1998.

The Fact-Finder was successful in mediating tentative agreements on the content of twenty-one Articles, viz.:

1. Management Rights;
2. Seniority;
3. Sanitary Conditions;
4. Grievance and Arbitration;
5. Part-Time Employees;
6. Job Description;
7. Job Classification;
8. Union Leaves;
9. Union Visitation;
10. Temporary Transfers;
11. Union Representation;
12. Probationary Period;
13. Layoff And Recall;
14. Travel Expense;
15. Hours Of Work;
16. Sick Leave;
17. Mileage;
18. Parking;
19. Holidays;
20. Personal Days;
21. Appendices A & B.

The parties further tentatively agreed that the term of the Contract should be three years, and that wage adjustments should be retroactive to January 1, 1998.

However, the Fact-Finder was unsuccessful in persuading the parties to reconcile their disagreement over conflicting proposals relating to Health Insurance and Wages.

With respect to the two Articles remaining at issue, the Fact-Finder held a Fact-Finding hearing on February 19, 1998, at which the parties offered documentary materials in support of their positions.

At the request of the Fact-Finder "final offer" proposals were exchanged between the parties. The Cuyahoga County Board of Commissioners rejected the Union's proposals for resolution

of the terms in dispute and the Union rejected the County's last offer.

On March 4, 1998, upon receiving notification of the rejection of the parties' respective proposals, the Fact-Finder declared the Fact-Finding proceeding closed. The parties extended the time for submission of his Report until March 31, 1998.

In making his recommendations on the unresolved issues the Fact-Finder has been guided by the factors set forth in O.R.C. section 4117.14(C)(4)(e), and Ohio Administrative Code, Section 4117-9-05(K) namely:

"(a) Past collectively bargained agreements, if any, between the parties;

"(b) Comparison of the unresolved issues relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

"(c) 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;

"(d) The lawful authority of the public employer;

"(e) The stipulations of the parties; and

"(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse

resolution procedures in the public service or in private employment."

Comparable Communities And Comparable Units

Cuyahoga County is the largest County in the State of Ohio both in terms of population (1.5 million) and area. Its Department of Human Services is commensurably the largest in the State.

The Franklin County Department of Human Services, based in Columbus, and the Hamilton County Department of Human Services, based in Cincinnati, offer the closest parallel, but their work force sizes, tax base values, labor market conditions and other relevant considerations differ significantly from those in Cuyahoga County.

The parties offered into evidence relevant excerpts from the present Contract between the Franklin County Department of Human Services and the Ohio Civil Service Employees Association AFSCME, Local 11, AFL-CIO, and the subsisting Agreement between the Hamilton County Department of Human Services and Local 1768, Ohio Council & AFSCME, AFL-CIO.

Ability To Pay

The Fact-Finder is also obliged to consider the financial resources of the County, and its ability to finance the benefits sought by the Union from available funds.

The County acknowledged that it is secure in its financial position, and has the ability to pay the Union's demands if meritorious.

Unresolved Issues

1. Wages

THE UNION'S POSITION

The Union initially proposed a \$500.00 signing bonus and a 4% additional County "pick-up" of the required Public Employees Retirement System (PERS) contributions in the first year of the Contract.

In the second year, it sought an additional 2 1/2% "pick-up" of the required PERS contributions, together with a 3% increase in wages.

In the third year of the Contract the Union demanded a further 2% PERS "pick-up," and a 4% increase in base wage rates.

The Union modified its proposal during the course of the mediation proceedings and sought, as a final demand, a \$750.00 signing bonus and a 3% increase in base wage rates in the first year.

In the second year the Union wanted the County to "pick-up" an additional 4.5% of the required annual PERS contributions.

In the third year the Union proposed a 3% increase in base wage rates.

THE COUNTY'S POSITION

Although the County does not claim "inability to pay" the compensation increases sought by the Union, it does argue that a prudent concern for the future, and the likelihood that granting the Union's demand would lead to competitive demands

from the rest of its work force, require the County to reject the Union's wage proposals.

Instead, the County offers a \$250.00 signing bonus and an "across-the-board" 3% wage rate increase in each of the three years of the Contract. It had also offered all other Bargaining Units whose Contracts are in to negotiation the identical wage rate increments. As of the date of the Fact-Finding evidentiary hearing, the ASFCME Unit in the Department of Human Services and three other Bargaining Units of County employees had accepted the County's offer.

FINDINGS AND RECOMMENDATIONS

While the County, as it concedes, does not argue "inability to pay" the Union's demands, it is concerned about commitments which, compounded, will continue into the indefinite future. Its resources are finite, but the demands upon them for expenditures to benefit the community are infinite. Realism requires recognition that every dollar spent on the Investigators Unit means one dollar less to spend for alternative services.

The Fact-Finder turns first to review the present compensation of the members of the Bargaining Unit.

The thirty-six Investigators in the Department have pay rates ranging from \$12.43 per hour to \$13.42 per hour. Seven of the Investigators receive \$13.13 while twelve receive the highest rate of \$13.42. The median lies between \$13.31 and \$13.35 dollars per hour.

The eight Senior Clerks in the Unit have hourly base wage rates ranging from \$9.85 per hour to \$11.77 per hour. The median lies between \$11.27 per hour and \$11.36 per hour.

The record does not permit comparison with the wage rates of Investigators and Clerks in either Hamilton or Franklin Counties.

Hamilton County's Department of Human Services Investigators are divided into two pay grade classifications. The Investigator II pay scale as of December 31, 1996 ranged from \$9.59 to \$12.66. The wage range enjoyed by the Investigator III classification was \$11.13 to \$14.69.

In 1997 these employees were eligible for 3.5% "merit" increases, and 2% "supplement" increases. In 1998 and 1999 they are to be eligible for "merit" and "supplement" percentage increases as may be distributed to the non-Bargaining Unit employees of the Department.

Clerks in the Department are similarly divided into two classifications. The "Clerk II" employees' base rates as of December 31, 1996 ranged between \$7.99 and \$10.22 an hour. "Clerical Specialists" were paid between \$8.77 and \$11.22.

The similarity in job titles aside, the Fact-Finder has no way of either matching these classifications with the classifications in Cuyahoga County's Department, or of equating the Hamilton County pay scales and discretionary increments with the base rates earned by the employees in the present Investigators Bargaining Unit.

The Franklin County Department of Human Services maintains three categories of Investigators whose 1996 starting hourly rates were respectively \$9.34, \$9.85 and \$11.11. However, none of the pay ranges for these classifications were supplied.

The starting rate for the Clerk II classification was \$8.34 prior to the inception of the Contract.

In the first year of the Contract all employees were entitled to a lump sum payment of \$250.00, and, in the second year, to an added \$225.00 bonus. They were also scheduled to receive 3% increases in April of 1996 and on the corresponding date in each of the next two succeeding years.

Once again, the Fact-Finder is unable to compare the compensation of the Investigator and Clerk positions in Cuyahoga County with the multiple classification counterparts in Franklin County.

In making "internal comparisons," the Fact-Finder notes that all Cuyahoga County non-Bargaining Unit employees received a 3% rate increase as of January 1, 1998. They were also eligible for "pay equity" adjustments pursuant to the recommendations of an independent wage review study.

The so-called "Griffith Report," which was completed at the end of 1997, evaluated the adequacy of the pay rates for all non-bargaining unit positions, and recommended adjustments where appropriate. The increases for non-bargaining unit employees in the Department of Human Services were said to

have averaged 1%, although not all employees were found entitled to an equity adjustment.

Because the members of the Investigators Unit had become organized during the period of the study, they were not considered for the adjustments.

In consequence, the 3% increase proposed for 1998 by the County, considered alone, is insufficient to even maintain parity with the enhancement offered to non-bargaining unit employees.

It is not possible, of course, to determine how many of the Investigators and Clerks would have received an adjustment, or the amount, if found to be eligible. However, the \$250.00 signing bonus offered by the County in lieu of an equity adjustment does not remove the inequality for two reasons.

In the first place Investigators who might have been eligible for an adjustment had they not been members of a Bargaining Unit could have received an additional \$276.00 in 1998 based upon the current median hourly rate of \$13.31 and the average 1% adjustment level.

Further, this amount would have been incorporated into their base rate and compounded by subsequent wage increases. To make up for the potential equity adjustment and to offset the loss of this compounding effect, the Fact-Finder finds appropriate and recommends that Bargaining Unit members receive a signing bonus of \$500.00.

The County is certainly entitled to negotiate on the basis of across-the-board 3% increases for all employees in all Bargaining Units. Its proposal has the virtue of simplicity and impartiality. But, not all employees are situated equally, and the Unions do not engage in coalition bargaining. Each Unit is free to reject the County's offer.

Nevertheless, the County's proposal for 3% increases in the first and third year of the pending Contract has been accepted by the Union. Consequently the Fact-Finder finds these wage adjustments appropriate and recommends their adoption.

However, while the County proposes a similar 3% increase in the second year of the Contract, the Union prefers to have the County "pick-up" an additional 4.5% of the mandated total contribution to PERS.

At present, 21.5% of an employee's annual compensation must be contributed to the Fund. The County currently picks-up 13.95%, and the remaining 7.55% is deducted from the employee's pay check.

The assumption of the employees' obligation to contribute to the Pension Fund has a significant additional value to the employees because the change in accounting treatment effectively reduces their taxable income.

The Union's proposal would cost the County \$27,453.00 more over the last two years of the Contract than its proposed 3% wage increase.

However, if instead, the County were to pick-up only an additional 4.05% of the total required contribution in the second year of the Contract, raising its share from 13.9% to 18%, the additional cost to the County in 1999 would be only \$7,897.00. In the third year of the Contract, where the additional pick-up would be based upon a 3% base wage rate increase, the additional cost to the County would be \$8,133.00. While this alternative would increase aggregate Unit compensation over the three years of the Contract by \$16,030.00 more than proposed by the County,¹ that amount should have no significant adverse fiscal impact .

Accordingly, the Fact-Finder finds appropriate and recommends a 3% increase in base wages in both the first and third years of the pending Contract, and further finds appropriate and recommends that the County increase its contribution to the Public Employees Retirement System from 13.95% to 18% commencing with the second year of the Contract. An appropriate Contract provision is attached as Appendix "A."

2. Health Insurance

In 1997 the County paid more than 93% of the health insurance premiums for the three most popular plan options - Kaiser Permanente, Personal Physician Care and Qualchoice - HMO - and 55% for the more expensive Qualchoice - PPO. The

1. The additional cost has been calculated without consideration of any potential savings in "roll-ups," such as unemployment compensation, which are associated with base pay rate increases but not with pension fund contributions.

monthly cost to Investigators and Clerks for base and supplemental² individual coverage ranged from \$7.80 for the Kaiser Permanente plan, through \$9.73 for the Personal Physician Care policy, continued upward to \$10.26 for Qualchoice - HMO, (the most popular), and, finally, reached \$118.58 for Qualchoice - PPO.

For base and supplemental family protection, the monthly premiums paid by employees were \$20.14 for Kaiser Permanente \$25.13 for Personal Physician Care, \$26.98 for Qualchoice - HMO and \$305.93 for Qualchoice - PPO.

For calendar year 1998, the premium charges increased and the additional cost was passed onto the employees. Presently, for single coverage the members of the Investigators Unit pay \$7.88 a month for Kaiser Permanente, \$12.84 for Personal Physician Care, \$23.77 for Qualchoice - HMO and \$118.66 for Qualchoice - PPO. Family coverage costs the members \$20.33 a month for Kaiser Permanente, \$46.03 for Personal Physician Care, \$61.86 for Qualchoice - HMO and \$306.62 for Qualchoice - PPO.

Thus, the additional premium contributions being paid by employees in 1998, as compared to 1997, for the most popular plan, Qualchoice - HMO amounts to \$17.36 per month or \$208.32 a year for single coverage, and \$34.88 a month or \$418.56 a year for family protection.

2. Supplemental coverage, chosen by most members of the Unit, is offered through Medical Mutual.

The amount paid by the County, however, did not change. Consequently, while the percentage of premium contributed by the County varied from plan-to-plan, on average, the County's share declined to 86%.

As a result of Contract negotiations with the American Federation of State, County and Municipal Employees representing the largest Unit in the Department of Human Services, the County increased its share of the premium charges for all except to the Qualchoice - PPO Plan to 95% for 1998. However, the County's share is reduced for the succeeding Contract years to 92.5%.

The County agreed to pay 80% of the premium for Qualchoice - PPO coverages in all Contract years.

The County's Position

The County proposes to maintain its current level of subvention throughout 1998. Beginning with January of 1999, it offers to increase its insurance premium contributions to 92.5% for all plans except the high cost Qualchoice - PPO Plan for which the County is willing to pay only 80% of the premium.

The Union's Position

The Union would accept the County's proposal to increase its share of premium charges to 80% for the Qualchoice - PPO Policy and to 92.5% for all other plans during the last two years of the Contract. However, it seeks a lump sum payment of \$250.00 in lieu of any increase in the County's 1998 contributions to the cost of health insurance.

Findings And Recommendations

The County's current Agreement with AFSCME covering other employees of the Department of Human Services provides for the County to pay 80% in 1998 for the Qualchoice - PPO plan and 95% for all other plans. In succeeding years the subvention for the other plans is reduced to 92.5%.

Because premium rates are based upon the experience of the work force as a whole, the Fact-Finder finds uniformity of employee premium payments for health insurance desirable in order to avoid potential over-utilization by groups who pay less, and who are correspondingly subsidized by those who pay more.

He recognizes, however, that since the Investigators and Clerks have already paid for their coverages through the first quarter of 1998, and the implementation of an increase in the County's share of premium payments will require additional time, an appropriate deviation from the ASFCME Contract is necessary.

The Fact-Finder finds appropriate and recommends that the present health insurance premium payments being made by the County and members of the Bargaining Unit respectively continue through and until June 30, 1998, and that on and after July 1, 1998 the County pay 95% of the premium cost of health insurance coverages for all plans except Qualchoice - PPO, and that on and after January 1, 1999 the County pay 92.5% of the cost of health insurance coverages for all plans except Qualchoice - PPO. For the Qualchoice - PPO program the

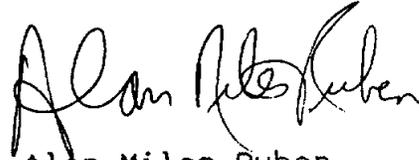
Fact-Finder finds appropriate and recommends that the County contribute 80% of the premium charges on and after July 1, 1998.

The Fact-Finder finds appropriate and recommends that with the pay check for the first pay period ending after July 1, 1998, the County refund to each Bargaining Unit member the amount, if any, of premium payments deducted during the period commencing on January 1, 1998 and ending on June 30, 1998 which exceeds 5% of the aggregate premium charged by the insurer with respect to this period for the plan, other than Qualchoice - PPO, and coverage elected by the member. For members electing coverage under the Qualchoice - PPO Plan the County shall refund the amount, if any, of premium payments deducted during the period commencing on January 1, 1998 and ending on June 30, 1998 which exceeds 20% of the aggregate premium charged by the insurer with respect to this period.

An appropriate Contract provision is attached as Appendix "B."

All other proposals and demands of the parties previously made or submitted have either been withdrawn, or are to be deemed as having been found to be inappropriate and not recommended by the Fact-Finder.

Findings and Recommendations issued at Cleveland, Ohio
this 13th day of March, 1998.

A handwritten signature in black ink, appearing to read "Alan Miles Ruben". The signature is written in a cursive style with a large initial "A".

Alan Miles Ruben
Fact-Finder

AMR:ljs

Appendix "A"

Article Wages

Section 1. Effective as of January 1, 1998 the pay rate of all employees as reflected in the following Schedule shall be increased by 3%.

Section 2. An amount equal to the difference between the wages paid to each employee in 1998 and the wages to which the employee is entitled pursuant to Section 1 hereof shall be paid to the employee, subject to all appropriate deductions, with the pay check for the first pay period ending after ratification of this Contract.

Section 3. With the pay check for the first pay period ending after ratification of this Contract each employee shall receive, subject to all appropriate deductions, a signing bonus of five hundred (\$500.00) dollars.

Section 4. Commencing on January 1, 1999 the County will pick-up and contribute 18% of the total of 21.5% of each employee's compensation which is required to be contributed to the Public Employees Retirement System.

Section 5. Commencing on January 1, 2000 the 1999 pay rates of all employees shall be increased by 3%.

Appendix "B"

Article Insurance

Section 1. An eligible employee is defined as a full-time employee covered by this Agreement. The FlexCount Plan (the "Plan") is defined as the Section 125 or Cafeteria Plan which is provided by the Employer for health insurance benefits for County employees. The Employer shall be responsible for enrolling all eligible employees in the Plan once during each Plan year at its annual enrollment period. The Plan year commences on January 1 and ends on December 31 of the calendar year but is subject to change.

Section 2. Effective July 1, 1998, the County will contribute 80% of the premium costs for its most expensive medical benefit plan option (currently the Qualchoice - PPO Plan) and employees electing to participate in that plan will contribute 20%. For all other medical benefit plan options offered by the County (currently the Qualchoice - HMO, Kaiser and Personal Physicians Care plans), the County will contribute 95% of the premium costs for each plan and employees electing to participate in a plan will contribute 5% of the premium costs for that plan.

Section 3. Effective January 1, 1999, the County will contribute 80% of the premium costs for its most expensive medical benefit plan option (currently the Qualchoice - PPO Plan) and employees electing to participate in that plan will contribute 20%. For all other medical plan options offered by the County (currently the Qualchoice - HMO, Kaiser and Personal Physicians Care plans), the County will contribute 92.5% of the premium costs for each plan and employees electing to participate in a plan will contribute 7.5% of the premium costs for that plan.

Section 4. Effective January 1, 1998, an employee not needing health coverage under the FlexCount Plan offered by the Employer may elect to drop health care coverage and receive in his gross pay an Opt-Out Allowance of thirty-five (\$35.00) dollars bi-weekly.

Section 5. The Employer shall be entitled to increase the cost containment features of the FlexCount Plan provided cost containment shall not result in a reduction of benefit levels.

Section 6. Effective with the pay check for the first pay period ending after July 1, 1998, the County will refund to each eligible employee the amount, if any, of the medical benefit plan premium cost paid by the employee with respect to coverage for the period commencing on January 1, 1998 and

ending on June 30, 1998, which exceeds 5% of the aggregate premium charged by the insurer with respect to such period for the plan, other than Qualchoice - PPO, and coverage elected by the employee. For employees electing coverage under the Qualchoice - PPO Plan the County shall refund the amount, if any, of the premium cost paid by the employee with respect to coverage for the period commencing on January 1, 1998 and ending on June 30, 1998 which exceeds 20% of the aggregate premium charged by the insurer for the coverage for this period.