

IN THE MATTER OF INTEREST ARBITRATION BETWEEN

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County of Goodhue  
“Employer”

BMS Case No. 11-PN-0612

Decision and Award

and

Law Enforcement Labor Services  
Inc. Local 92 Licensed Sergeants  
“Union”

John W. Johnson, Arbitrator  
August 31, 2011

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Date of Hearing:

July, 21, 2011

Date of submission of Post Hearing Briefs:

August 5, 2011

APPEARANCES

For the Union:

Dennis Kiesow, Business Agent

For the Employer:

Susan K. Hanson, Madden Galanter and Hanson, LLP  
Scott Arneson, Goodhue County Administrator

Statement of Jurisdiction:

The hearing was held in the above matter on July 21, 2011 in the Goodhue County Government Center in Red Wing, Minnesota. The Arbitrator, John W. Johnson, was selected by the parties pursuant to the Minnesota Public Employment Labor Relations Act of 1971, as amended (PELRA).

At the hearing each party was given the opportunity to present evidence and arguments. The parties then submitted post hearing briefs, which were mailed on August 5, 2011. Statement of the Issue:

The Minnesota Bureau of Mediation Services Certified for arbitration one issue at impasse, as follows:

Insurance – What should Be the Insurance Plan and Contribution Amounts?  
Article 17.1.

Current Contract Language:

Article 17.1 – Insurance

17.1 Health Savings Account (HSA) medical insurance will be available to all eligible employees. The employer's contribution to and employee's HSA account will be in an amount equal to 50% of the deductible in 2009 and 2010. The employer shall make an annual contribution to an employee's HSA account in the amount of \$550.00 effective the first business day following January 1, 2009, and January 1, 2010.

Health Insurance will be re-opened for negotiation for the 2011 contract year.

Proposals of the Parties:

The employer's final position was to propose a memorandum of agreement as follows:

1. Article 17 Insurance in the parties; collective bargaining agreement shall read as follows for 2011.

Health Savings Account (HSA) medical insurance will be available to all eligible employees. The EMPLOYER'S annual contribution to an employee's HSA account will be in the amount equal to 50% of the deductible in 2011 and shall be made quarterly.

The EMPLOYER will pay the monthly premium for full time employees for individual group medical and life insurance coverage, and pay 60% of the cost of the employee's monthly dependent Employer group medical insurance premium.

2. The Union acknowledges the new HSA with co-insurance plan which is in place for 2011 constitutes a reduction in the aggregate value of health insurance benefits from that of 2010. The Union reserves its right to negotiate over future reductions in the aggregate value of benefits pursuant to Minn. Stat. 471.6161, subd. 5.
3. The County will not pursue mandatory furloughs in 2011
4. This memorandum of agreement represents the complete and total agreement of the parties regarding this matter.

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The Union's final position was as follows:

#### Article 17.1

The union proposes "No change" in the aggregate value of the plan or the employer contribution amount as provided by the current contract language for 2010 except changing the date as follows:

#### ARTICLE 17.1 INSURANCE

17.1 Health Savings Account (HSA) medical insurance will be available to all eligible employees. The employer's contribution to and employee's HSA account will be in an amount equal to 50% of the deductible in 2011 ~~2009 and 2010~~. The employer shall make an annual contribution to an employee's HSA account in the amount of \$550.00 effective the first business day following January 1, 2011 ~~2009, and January 1, 2010~~.

~~Health Insurance will be re-opened for negotiation for the 2011 contract year.~~

#### Discussion

The parties' impasse over the Health insurance re-opener for 2011 is about two aspects of the insurance provisions. These are a change in the plan itself, regarding coinsurance and out of pocket maximum provisions, and a \$550 contribution to the employee's HSA, that was in place for 2009 and 2010.

The employer proposes a change in the insurance plan. The specifics of this change are shown by comparing Employer Exhibit 55, showing the plan as it existed in 2010, and Employer Exhibit 56, showing the 2011 plan. According to these exhibits, the 2011 plan provides, for in network services, 90% co-insurance after the deductible is met, and until the out of pocket maximum is reached, and for out of network services, 70% coinsurance

after the deductible is met and until the out of pocket maximum is reached. This compares to 100% co-insurance for 2010, for both in and out of network services. In addition, the out of pocket maximum is raised from \$2400 single/\$4800 family to \$3000 single/\$6000 family. The Union does not agree to this.

The Union proposes to include in the Health Insurance provisions for 2011 the same \$550 contribution to an employee's HSA that was in place for 2009 and 2010. The employer does not agree to this.

The employer's presentation and supporting exhibits provide ample evidence to show that Goodhue County faces serious financial constraints, requiring the County to seek ways to control its costs. The County has addressed these constraints in various ways, as summarized in Employer Exhibit 28, including reducing its overall workforce. The County's workforce has gone from 417 employees in 2005 to 335 in 2010 (Employer Exhibit 29). Reductions occurred each year.

As part of its effort to contain costs, the County responded to an insurance renewal proposal from the carrier that would have increased premiums by 17%, by requesting proposals from other insurance providers, and by considering plan design changes that would reduce the projected premium increase. These actions were done through an insurance review committee that included represented employees. This committee recommended action to the County Board. No other carriers submitted proposals. The Committee decided to recommend the plan design changes as described in Employer Exhibit 56.

The changes have been agreed to by all bargaining units representing Goodhue County employees, effective for 2011, with the exception of the Licensed Sergeants. There are 5 licensed sergeants, out of a total of 170 represented employees, in a total of 6 bargaining units, including three other essential units. The changes have also been applied to the 173 unrepresented employees.

In addition, the other bargaining units, and unrepresented employees, will not receive a \$550 contribution to the employee's HSA account for 2011.

The employer argues that its position on changing the insurance plan is both necessary and reasonable given the ongoing financial constraints on the County, and the escalating costs of health insurance. The employer further argues that a guarantee of no layoffs or furloughs is a sufficient "quid pro quo" for the insurance changes, given the continuing reduction in the County's workforce since 2005, and the continuing need to control costs. This has been accepted as an appropriate "quid pro quo" by all the other bargaining units.

In addition, the employer points out that there has been consistency across all bargaining units and unrepresented employees with respect to health insurance since at least 2006, (Employer Exhibit 63A), and argues that this consistency should continue, citing concerns about morale problems, whipsaw bargaining, and encouraging LELS to proceed to interest arbitration in the future.

The employer also defends its opposition to another year of the \$550 contribution to employee HSAs on consistency grounds. In addition, the employer explains that the \$550 annual contribution, which has been applied in 2008, 2009, and 2010, had as its purpose building up the employees' HSA accounts. Money not used stays in the account. The employer's position is that the purpose of the \$550 contribution for three years has been fulfilled, so no continuation of this provision is needed.

The Union asserts that the employer's proposal would be economically devastating for the 5 employees in the bargaining unit. On page 26 of its documentation, the Union provides possible additional cost to employees from adopting the Employer's plan.

The Union also relies on Arbitrator Miller's award in BMS Case # 10-PN-1306, between Isanti County and LELS Local 217, representing police officers. In this case Arbitrator Miller awarded to the Union a continuation of its existing insurance plan, even though the plan had been modified for other employees of Isanti County. The Union asserts that the circumstances of Isanti County and its police unit at the time of Arbitrator Miller's decision are comparable to the present circumstances of Goodhue County and the licensed sergeants unit.

The Union also described the employer's approach to bargaining as trying to force a change with no "quid pro quo." The union indicates that the employer put forth the idea that there would be layoffs or furloughs if the change in insurance was not agreed to, and that this was coercive.

Award

The Employer's position is awarded

Rationale

1. Internal Consistency

Arbitrators commonly apply a standard of internal consistency to health insurance proposals. To deviate from this standard, as Arbitrator Miller did in the Isanti County Case relied on by the union, there must be some compelling reason. In the Isanti County Case, Arbitrator Miller noted that the bargaining unit was being asked to give up its right to bargain over benefit levels for the indefinite future, and that this was a radical change "in stark contrast with the principles of PELRA." Accordingly he found that such a change should be negotiated by the parties, rather than imposed by an arbitrator. In the current case, no such radical change is proposed. The Union will continue to be able to bargain over benefit levels in the future.

Also, in the Isanti County Case, there was only one other bargaining unit of 4 employees, which had agreed to the change, in contrast to Goodhue County where all 5 other bargaining units, representing 165 employees, have agreed to the change.

Goodhue County has maintained a consistent health insurance plan for all its employees since at least 2006. There is not a compelling reason to deviate from that consistency.

2. “Quid pro quo”

The guarantee of no layoffs or furloughs in 2011 is viewed by the union as inadequate “quid pro quo” for the change in the Health insurance provisions. However, in an environment where the Employer is under severe financial constraints, and has been steadily reducing the size of the workforce, this guarantee is significant. It is therefore a sufficient trade-off for the change in the insurance plan.

3. Cost to employees

The union asserted that the change would be economically devastating to the 5 members of the bargaining unit. It is true that employees with dependent coverage will pay more for that coverage. However, if the 17% premium increase proposed initially by the insurance carrier had been adopted, that increase in premium costs would have been greater. Employees with single coverage will continue to have 100% of the premium paid by the employer. As for the effect of the change in coinsurance, figures supplied by the employer state that in 2009, 76.57% of members in the insurance plan had claims of less than \$2500. If that experience continues, the great majority of employees will experience little or no increase in their co-insurance costs. And any increase will be somewhat mitigated by the 3% wage increase received by the bargaining unit.

August 31, 2011

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John W. Johnson