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PUBLIC EMPLOYMENT
RELATIONS COMMISSION

BEFORE THE INTEREST ARBITRATOR

In the matter of the interest arbitration under Chapter 41.56 RCW between CITY OF BELLEVUE and INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 1604	INTEREST ARBITRATION AWARD (PERC CASE 23780-I-11-0563)

Michael A. Duchemin, Attorney at Law, appeared on behalf of the union.

Summit Law Group, by *Otto G. Klein III*, Attorney at Law, appeared on behalf of the employer.

The City of Bellevue (employer) has a collective bargaining agreement with its firefighters who are represented by International Association of Firefighters, Local 1604 (union). The employer and the union are unable to agree on the terms of a successor agreement and submit the outstanding issues to interest arbitration pursuant to Chapter 41.56 RCW. The parties selected Frederick J. Rosenberry to serve as impartial arbitrator to hear the matter and issue an award resolving disputed terms.

An arbitration hearing was held on June 14, 2011, at Bellevue, Washington. The parties waived the appointment of partisan arbitrators. Witnesses testified under oath and exhibits were received in evidence. A court reporter was present and issued a transcript of the proceeding. Post-hearing briefs are submitted.

APPLICABLE STATUTORY PROVISIONS

The State of Washington has enacted legislation contained in Chapter 41.56 RCW, that addresses impasse in collective bargaining between public employers and certain categories of public safety employees, including firefighters. RCW 41.56.430 points out that public policy opposes strikes by uniformed employees, which includes firefighters, as a means of promoting interests and resolving

labor disputes. RCW 41.56.450 establishes interest arbitration as the statutory process to resolve such disputes. RCW 41.56.465 details the criteria to be used by decision makers in evaluating the merits of proposals and determine the outcome, thus resolving impediments to the completion of the parties' collective bargaining agreement. It states in pertinent part that the following factors shall be considered:

> RCW 41.56.465
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> (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, the panel shall consider:
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> (a) The constitutional and statutory authority of the employer;
> (b) Stipulations of the parties;
> (c) The average consumer prices for good and services, commonly known as the cost of living;
> (d) Changes in any of the circumstances under (a) through (c) of this subsection during the pendency of the proceedings; and
> (e) Such other factors, not confined to the factors under (a) through (d) of this subsection, that are normal or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. . . .
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> . . . .
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> (3) For employees listed in RCW 41.56.030(7) (e) through (h), the panel shall also consider a comparison of the wages, hours, and condition of employment of personnel involved in the proceedings with the wages, hour, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when a adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered.

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, specifies factors that decision makers are to take into consideration in evaluating the merits of union and employer proposals. The law does not establish a standard for determining priority or assign specific emphasis in applying the factors and criteria to the Arbitrator's decision making process.

BACKGROUND

The City of Bellevue is located in King County. As part of a package of municipal services, the city maintains a fire department that provides fire prevention and suppression and other emergency services for the city and adjacent communities. It serves a combined total population of 144,308. The bargaining unit is comprised of approximately 204 firefighters and paramedics.

The employer sponsors medical, dental and prescription drug health care insurance benefits for its employees and their dependents. There are two health care programs, Group Health, an health maintenance organization and the "City of Bellevue Health Plan". The city health plan is self-insured. It contracts with Premera Blue Cross[1] to serve as third party administrator of the program.[2] The city plan offers a core option and an alternative option.

There are approximately 2,650 employees and dependents, including firefighters and their dependents enrolled in the health care plans. They are funded by city and employee contributions. Employee and dependent co-premiums vary from department to department. The employer segregates employees into several categories for administrative purposes.

Firefighters are enrolled in the "City of Bellevue Health Plan - LEOFF 1 & 2 and LEOFF Dependents" program. The acronym LEOFF generally refers to police officers and firefighters. In

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[1] Premera (Premera Blue Cross) offers administrative services as well as several different health care programs in the states of Washington and Alaska. Its headquarters are in Mountlake Terrace, Washington. See: https://www. premera.com/stellent/ groups/public/documents/xcpproject/fast_facts.asp. (Last visited September 12, 2010).

[2] The state of Washington office of the Insurance Commissioner defines a third party administrator as " . . . a person or company hired by an employer to manage health care claims processing, pay providers, develop and coordinate self-insurance programs, and help locate stop-loss insurance. They also may analyze the effectiveness of the plan and its usage. . . . , the TPA is not the policyholder or the insurer." See: http://www. insurance.wa. gov/consumers/tips/glossary.shtml. (Last visited September 12, 2011).

this proceeding the term is interchangeable with the term firefighter.[3] The employer sponsors medical programs designed for LEOFF I active employees, LEOFF II active employees, and LEOFF I and II dependents. LEOFF I retirees are enrolled in a derivative of the plan but their benefits are regulated by Chapter 41.26 RCW which may call for a different application. In such case claims are routed to a city disability board for processing. The medical plan offers firefighter dependents access to the city core plan, the city alternative plan or Group Health. Firefighters are not eligible to enroll in the alternate plan.

City plan specifications favor the use of the Premera network of hospitals, physicians and other health care services and facilities that charge a negotiated rate for their services. Out of network health care services may be used but out-of-pocket expense will likely be greater.

The city and the union have been negotiating a collective bargaining agreement to succeed an agreement that expired at the end of 2009. They agree that the term shall be from January 1, 2010, to December 31, 2012. This proceeding is the result of the parties inability to resolve issues regarding health care and medical insurance in their negotiations. There are no issues regarding the constitutional or statutory authority of the employer.

Practical Application of the Statute - Burden of Persuasion

In 1987 the employer and the union had a difference of opinion regarding their bargaining obligation while negotiating a successor agreement and preparing for an interest arbitration. The matter ultimately ended up before the supreme court. *City of Bellevue*, Decision 3085-A, (PECB, 1989); City of Bellevue v. International Association of Fire Fighters, Local 1604, *aff'd* 119 Wn. 2d 373 (1992). In supporting the union's request for information, the court laid out the practical application

[3] In 1969 the Washington State legislature enacted Chapter 41.26 RCW. It was named the "Washington Law Enforcement Officers' and Firefighters' Retirement System Act". It's purpose is to provide unique medical, disability, retirement, and death benefits for qualified employees. LEOFF is the term used for identifying employees who are enrolled in the program. Those employed prior to October 1, 1977, are referred to as LEOFF I and those hired on or after October 1, 1977, are referred to as LEOFF II employees and have a different level of benefits.

of the interest arbitration statute. It noted the following:

- parties cannot rely on access to interest arbitration as an excuse for failing to exercise serious efforts to avoid bargaining to impasse;
- interest arbitration is not the primary forum for fashioning collective bargaining agreements;
- the legislature did not intend that access to interest arbitration displace the negotiations process;
- its purpose is to promote uninterrupted and dedicated service that displaces economic warfare.

According to the State of Washington Public Employment Relations Commission, there have been about 177 interest arbitrations conducted pursuant to Chapter 41.56 RCW since 1977[4]. Of those, approximately 63 awards have finalized firefighter collective bargaining agreements. A pattern emerges from this substantial body of awards that espouses the supreme court's guidance for evaluating the merits of the evidence and arguments in support of or opposition to proposed collective bargaining agreement changes.

With the thought that interest arbitration is an extension of the collective bargaining process, many arbitrators, including this Arbitrator, consider what takes place at the bargaining table and attempt to craft an award that would be a realistically predictable outcome of good faith bargaining to complete agreement. Frequently, in a mature relationship, the greater the impact or significance of a proposal, the more vigorous the resistance by the opposing party. Where there is a significant difference between a current practice or level of compensation and the ascertainable practice or level of compensation of comparable departments, the difference provides bargaining leverage for the proponent and a rationale for change.

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[4] See: Interest Arbitration Awards; http://www.perc.wa.gov/intarbawards.asp. (Last visited September 12, 2011).

Proposals for change must be compelling in order to be successful, otherwise, absent a gross inequity, the status quo will not be casually disrupted. Obviously, the more practical a proposal, the greater the likelihood of acceptance. It is generally accepted that the burden of persuasion is borne by the moving party.

Interest arbitration is a disciplined procedure designed to bring the parties bargaining to an orderly conclusion. It promotes public safety by interposing the concept of due process to collective bargaining rather than employing bargaining leverage that may be gained by a strike or lockout.

The parties have a long standing, mature collective bargaining relationship and are not strangers to interest arbitration to finalize their collective bargaining agreements. They first used the process in 1980, and again in 1982, 1987, and 1999.

ISSUES BEFORE THE ARBITRATOR

The issues submitted to arbitration are:[5]

Article 27.1	Medical Coverage
Appendix E	IAFF Health Insurance Premium
Appendix F	Health Care Cost Containment

APPLICATION OF COMPARABLE DEPARTMENTS

Comparability is an integral part of the legislated standards for evaluating the merits of proposals. The statute directs the arbitrator to look to "like personnel of public fire departments of similar size". For the purposes of this proceeding the parties agree that the 11 comparables adopted by Arbitrator Michael Beck in his award issued on September 17, 1999, shall be used wherever comparability is a factor. The roster of departments to be used are City of Everett, Kent Regional Fire Authority

[5] Five issues were initially certified by the Public Employment Relations Commission for submission to interest arbitration. Subsequently, an unfair labor practice was filed with the state agency. It was found to state a cause of action. Pursuant to WAC 391-55-265 the certification of two issues was suspended and they will not be acted upon until the conclusion of unfair labor practice proceedings.

(formerly Kent), King County Fire District 4, South King Fire and Rescue (formerly King County Fire District 39) Eastside Fire and Rescue (formerly King County Fire District 10), City of Kirkland, West Pierce Fire and Rescue (formerly Pierce County Fire District 2), City of Redmond, City of Renton, Snohomish County Fire District 1, and City of Tacoma. All are located in the Everett-Seattle-Tacoma metropolitan area.

Because this case involves health care the comparability assessment looks to how the comparable departments sponsor, design and fund health care benefits for their firefighters and their dependents. A comparability assessment has qualitative and quantitative components. It includes similarities, differences and contrasts. The assessment looks at how the comparators line up with each other; the assessment may show generally similar, uniform approaches to sponsoring and crafting plan specifications and funding health care or it may show entirely different approaches that make them different.

Differences are relevant because they demonstrate that the outcome of the comparables assessment may be that there is no uniform personnel practice among the comparators that provides a fair basis for comparison. The statue contemplates such circumstance by including in the decision making process a broad assessment of factors that are normally or traditionally taken into consideration in bargaining thus allowing a decision maker a more independent and broader approach to evaluating the merits of a proposal, crafting and finalizing the terms of the agreement.

In analyzing health care insurance programs, there are two primary linked components, plan specifications and cost. Generally, the greater the funding the more generous the plan specifications. The two pieces are harmonized. In the context of this dispute, plan design is linked to the cost of funding and funding is broken down into the portion paid by the employer and the portion paid by the employee.

Medical plan specifications determine their cost and there are innumerable ways in which medical

plans can be funded. Funding can be by way of premium sharing or a plan can be written in a manner that appears to be more economical with no premium sharing. Costs are passed on to the subscriber by imbedding co-pays, co-insurance and deductibles in the plan specifications. Industry actuaries determine what the imbedded amounts need to be to fund the plan specifications.

The parties raise a threshold issue regarding the application of the Beck awarded roster of comparable fire departments. The employer expresses concern regarding the validity and weight that should be given to four of them because they subscribe to high deductible medical plans that may be offset by employer funded health saving accounts. It maintains that the union's technical data is flawed, pointing out for example that the health reimbursement account contributions create a medical expense fund that both employees and dependents draw from, thus distorting the statistical data that the union uses in support of its proposal.

The employer further maintains that the funding and plan specifications are so different from the traditional plan design it sponsors and the other seven more traditional design plans that they cannot be realistically included in a comparability assessment because they present an apples to oranges comparison. The departments the employer desires to exclude are 1) Eastside Fire and Rescue, 2) Snohomish Fire District 1, 3) South King County Fire and Rescue District 39, and 4) West Pierce Fire and Rescue.

The union acknowledges that some of the departments on the comparables list have departed from the more traditional form of medical insurance and have negotiated a health savings account approach to pay for health care. The union disagrees with the employer's claim that they should be excluded from consideration and maintains that they are relevant and need to be taken into consideration. The union contends that there currently is a trend toward adopting health savings accounts and acknowledges that they have high deductibles, there may be a network of preferred providers and the employer may be paying the premium plus contributing toward an health care reimbursement account. The record provides little benefit structure and funding information regarding the four departments

that sponsor a health care savings and reimbursement account approach. An assessment of the qualitative data shows general health care similarities, they all offer medical insurance to their employees and their dependents; they all pay toward the cost of the benefits. However, there is insufficient evidence to intelligently assess the quantitative data, such as the schedule of benefits.

The record provides basic information to evaluate and compare the details of the funding and benefit structure of the other seven department's traditional design health care programs. It shows that they are not purchasing off-the-shelf generic health care programs, they all offer different benefit schedules and funding formulas. There is no clearly distinguishable uniform standard. Because quantitative and qualitative differences are a common feature among the departments, lack of uniformity could be characterized as the comparability standard.

Notwithstanding the union's objection, the employer's argument that an attempt to integrate the funding and plan specifications of the four departments with health savings accounts with the other seven departments is an apples to oranges comparison is well founded. The Arbitrator finds that the four health care programs are unsuitable for quality comparison because the record lacks the information essential for intelligent evaluation, comparison and assessment. Additionally, it would appear that if a quality comparison could be made, they would be found to provide a significantly different level of benefits and funding.

EMPLOYER PROPOSALS

The employer proposes a package of modifications to the medical insurance program. It includes a supplemental memorandum of understanding. The proposed changes are:

> **27.1.6 - -** Plan Design: For Plan Year 2010, the existing Plans shall remain in effect. **For Plan years 2011 and 2012, the bargaining unit accepts the same Plan design as outlined through the 2010-2012 contract negotiations as set forth in the attached Memorandum of Understanding (MOU) and made a part of this Agreement. With the exception of the agreed upon changes for the 2011 plan year, the plan design shall not change in 2012 plan year without specific agreement from the union.**

MEMORANDUM OF UNDERSTANDING
MEDICAL INSURANCE CHANGES

M.1 Effective first day of the month following the date of the Arbitration Award, the plan design changes proposed by the City shall be implemented for the bargaining unit.

Illustration of changes are provided in separate document titled "Proposed Plan Design Changes - LEOFF".

M.2 Effective the first day of the month following the date of the Arbitration Award the Premera Alternative Plan shall be consolidated with the Premera Core Plan.

M.3 Effective the first day of the month following the date of the Arbitration Award, the Waiver Rebate (to not participate in healthcare plans offered) shall be reduced.

M.4 As settlement of the pending premium sharing grievance dated November 2, 2010, the City agrees that Premium rates will be reset on a one-time basis. The City further agrees to pay 100% of medical premium increases on a one-time basis (for the remainder of the 2011 Plan Year).

M.5 Union represented Battalion Chiefs shall continue to be included in the same medical claims pool as Firefighters.

M.6 The following provisions in the 2010-12 Agreement are also considered resolved:

- **Article 27** — **Medical, Dental, Life and Malpractice Insurance**
- **Appendix "E"** — **IAFF Health Insurance Premiums**
- **Appendix "F"** — **Health Care Cost Containment**

APPENDIX "E" - IAFF Health Insurance Premiums

. . .

In the years 2011 and 2012, the City will pay 100% of the premium required to cover employees and 90% of the premium required to cover dependents enrolled in Options 2 and 3.

The substance of the foregoing changes call for:

- Implementing plan design changes, including increased dependent co-pays;
- Incorporating certain alternate medical plan features in the core plan and discontinuing it;
- Reducing the rebate paid to employees who elect to waive medical, dental and vision insurance in whole or in part;
- temporarily reducing the 2011 dependent co-premium (index to 2010 premiums).

Medical Plan Design Changes

Background - The employer is concerned about its ability to continue to fund an increasing cost of city-wide employee and dependent health care insurance as it is currently designed. After a period of assessment and employee input, the employer implemented a number of plan design changes and cost containment measures that became effective January 1, 2011. Included among the changes was the addition of certain features of the alternative plan to the core plan and termination of the alternative plan. The changes have been applied to the city's non-represented employees. They also have been implemented as an outcome of negotiations with five labor organizations that represent many of the city's represented employees.[6] About 64% of the employer's total employment is enrolled in the redesigned plan. Most of the remaining 36% are police officers and firefighters.[7]

Employer Proposal - The employer's health care funding concerns extend to the firefighters and their dependents. Its strategy to address these economic concerns has three components, cost containment, streamlining plan choices and administration, and modernizing plan specifications to bring them more into alignment with contemporary medical market standards. It desires to change

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6 The organizations and affected employees are: International Association of Fire Fighters - Fire Prevention Officers; Police Support Employees Guild; International Brotherhood of Teamsters - Development Services; International Brotherhood of Electrical Workers - Signals and Electronics; International Brotherhood of Teamsters - Parks, Utilities and Civic Services.

7 The employer and the police officers are currently negotiating a successor agreement. The employer proposes health care plan changes similar to those proposed to the firefighters. The issue is not resolved.

the firefighters medical plan, re-aligning it to somewhat replicate the city's revised core plan. Although an employer goal is to reduce the rate of increasing premium costs, mainly driven by health care inflation, it offers to continue to fully fund the firefighters plan with no co-pays or deductibles and continue to pay 90% of the tiered cost of dependent medical insurance.[8] The substantive plan design changes are applicable to in-network and out-of-network health care services. They can be summarized as:

- Additional Benefits - Several medical services are added, including foot orthotics, massage therapy, hearing aids, acupuncture, nutritionist, diabetes/health education and naturopaths. Some of them were available in the alternative plan. Other changes include discontinuing lifetime caps on benefits, reducing pre-existing condition waiting periods, extending adult children eligibility, and eliminating a dollar amount cap on substance abuse treatment. Some of the additional benefits are the result in changes in applicable laws.

- MRI/CT Scans - The employer's proposal calls for pre-certification for diagnostic testing. The third party administrator recommends this as a cost-containment measure. Its proposal is to review the proposed procedure to verify that it is an advisable expenditure rather than an over-treatment or under-treatment medical service.

- Prescription Drug Program - The employer's proposal modifies the prescription medication program to favor use of generic or preferred medications rather than name brands as a cost-containment measure. The employer maintains that the modification is consistent with current market medical plans.
- Chiropractic/Physical Therapy - The employer's proposal would limit such treatments to 30 combined annually. Currently there are no limits. The employer maintains that the modifications are consistent with the medical plan market. Moreover, the unlimited visits

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8 By tiering, the co-premium varies with the category of enrolled dependent, a rate is established for insuring a spouse or children, the co-premium increases if both categories are enrolled.

benefit is difficult to administer because it is so variable no cost can be assigned to it.

- Skilled Nursing Visits - The employer's proposal would limit the number to 90 per year. Presently they are unlimited. The employer maintains that the modification aligns the benefit with the marketplace, that 90 days is common.

- Emergency Room Treatment Co-pay - Firefighters have no co-pays, this proposal is applicable to dependents. It calls for increasing emergency room co-pays from $50 to $100. It bases the proposal on industry standards which call for a $150 to $200 co-pay.

- Office Visit Co-pay - Firefighters have no co-pays, this proposal also is applicable only to their dependents. The proposal is to increase office visit co-pay from $10 to $15. It bases the proposal on industry standards which call for a $20 to $30 co-pay.

- Travel Immunizations - The employer's proposal calls for discontinuing insuring their cost. In support of its proposal it points out that they are not a normally funded benefit in the marketplace, are difficult to obtain within the Premera network and few enrollees use it.

- Alternative Plan - This proposal is not applicable to the firefighters, but rather is limited to dependents. The employer proposes integrating features of the alternate plan into the core plan and discontinuing it. The employer desires to simplify health care administration and remove an impediment to obtaining bids from potential third party administrators.

- Plan Selection - Currently firefighters and dependents can enroll in different medical plans. The employer desires to discontinue this because it creates an administration problem that discourages potential third party administrators from bidding for an administration contract with the employer. The employer also maintains that the contemporary medical plan market generally does not allow multiple plan enrollments.

- Insurance Waiver - The employer proposes reducing the amount of rebate that it pays to firefighters who decline medical, dental or vision insurance enrollment. The stipend for those who waive medical insurance would be reduced from $151 to $100. For dental insurance the stipend would be reduced from $25 to $15 and a $2 stipend in lieu of vision care insurance would be discontinued. In support of its proposal the employer states that it is asking all employees to share in the cost-containment measure that it seeks, including those who are remunerated for not enrolling.

Union Response - The union is opposed to the proposed plan redesign and cost-containment measures because they shift medical care costs to the subscriber and it views the revised plan design as lessor quality than is currently provided. Moreover, the union is concerned that if it is enrolled in the city plan it loses the opportunity to bargain for changes that are unique to firefighters. In negotiations it proposed some changes favorable to its interests in exchange for moderating its opposition. The counter-proposals were not acceptable the employer.

Arbitrators Assessment - Plan Design Changes - The union raises no specific objection to the addition of new benefits to the core plan. The employer points out that they are carried over from the alternate program and some are employee requests. There is no indication that they are inconsistent with those offered by the comparable departments.

There is no indication that the proposal for pre-authorization prior to obtaining a MRI/CT scan has an economic impact or compromises the quality of health care for firefighters and their dependents. The employer points out that a claim is not subject to denial if there is no pre-authorization. There is no indication that the provision is inconsistent or significantly less favorable than those offered by the comparable departments.

The union is opposed to the modification to the prescription drug program. The proposal does not

apply to prescription medications currently being taken. It contains a review procedure to determine if a non-preferred medication is warranted. The record contains no evidence that the proposed change has a significant economic impact or with proper management, compromises the quality of health care for firefighters and their dependents. There is no indication that the changes are inconsistent or significantly less favorable than those offered by the comparable departments.

The union is opposed to the 30 visit limitation placed on chiropractic and physical therapy treatment. It raised a specific concern linked to the physical requirements of their job, pointing out that it is essential that they have access to the benefits to help maintain physical fitness. The employer responds that work caused impairments are not included, but rather are a workers compensation matter. The employer maintains that the proposal does not affect 97% of the enrollees and that it has minimal impact. It believes that if a medical condition cannot be adequately treated within the proposed time frames, the treatment plan needs to be reassessed. The Arbitrator notes that the employer’s proposal also discontinues an in-network $250 deductible applicable to dependents who use the chiropractic benefit. While several of the comparable departments offer a more generous benefit, two place an annual dollar limit on chiropractic visits rather than limiting the number.

The union is opposed to the limitation placed on the skilled nursing visit benefit. There is the potential for adverse impact anytime a limitation is placed on a health care benefit, however, the record contains no evidence demonstrating that this proposal has a significant economic impact or compromises the quality of health care for firefighters and their dependents. There is no indication that the change is inconsistent or significantly less favorable than those offered by most of the comparable departments.

The union is opposed to the co-pay increases proposed for emergency room treatment and office visits. The proposal shifts cost from the insurer to the employee. The employer would prefer that enrollees use a different source such as an urgent care facility where practical rather than an emergency room because the cost is less. The employer’s comparable data reports that there is no

uniform funding formula for emergency room treatment, some have both deductibles and co-pays, and are less generous and some are more generous. In every case, Bellevue firefighters would have an equal or superior emergency room treatment benefit even if the changes were adopted. The same can be said for office visits. The record contains no evidence demonstrating that the proposed increase in co-pays would have a significant economic impact or compromise the quality of health care for firefighters and their dependents.

The union is opposed to discontinuing the travel immunization benefit. The record reflects that this benefits does not have high use, it may have been used a couple of time in the recent past. There is no comparability data regarding the benefit making it difficult to evaluate the merits of the proposal and the union's objection. Immunization cost is variable because it is based on the travel itinerary. It is the Arbitrator's understanding, consistent with the employer's assertion, that personal foreign travel immunizations are not normally included in medical care plans. The record contains no evidence demonstrating that discontinuing the benefit would have a significant economic impact or compromise the quality of health care for firefighters and their dependents.

Notwithstanding the union's opposition to discontinuing the alternative plan, the employer reports that the plan has one subscriber. Some of its unique features would be integrated into the core plan and there is no evidence that its discontinuance would have a significant economic impact or compromise the quality of health care for dependents. The employer's claim that discontinuing it reduces administrative costs is reasonable and minimal enrollment are valid reasons to discontinue it. There is no indication that terminating the alternate plan option results in measurably less favorable health care than those offered by the comparable departments.

Although the union opposes the employer's proposal that would require that dependents enroll in the same medical plan that the firefighter is enrolled in, there is no information regarding how many subscribers would be impacted by this change. The record reflects that there is one dependent subscriber enrolled in the alternate plan. The only other circumstance that occurs to the Arbitrator

would be a firefighter enrolled in the core plan and dependents enrolled in Group Health, however there is no evidence of this. There is no articulation why or how the proposal reduces the quality of the employer's health care program sufficiently to warrant the employer's on-going expense in continuing to allow it. The employer's interest is cost control, cost of administration is relevant. The employer desires to discontinue this practice because it creates an administration problem that discourages potential third party administrators is valid.

Although limitations would be placed on the number of insured chiropractic, physical therapy and skilled nursing visits, they, along with the proposed dependent office visits and emergency treatment co-pay increases do not appear to make the medical plan less comprehensive than those offered by the comparable departments.

Benefit structures vary widely and are difficult to compare because there are so many components, however, nothing stands out among the proposed changes as being particularly onerous, but rather, they appear to be generally consistent with the medical care programs offered by the seven comparable departments that sponsor a traditional health care insurance approach. There are several provisions in the proposed design changes that are more favorable and some are less favorable than those contained in the other departments, but the same can be said for each of the other comparable departments.

The union is opposed to the proposed reductions of the insurance waiver stipend. The record provides no information regarding how many employees are affected or the prevalence or amount of such stipends paid by the comparable departments. This component of the proposed changes is not a part of the medical plan but rather is a separate matter. The record does not reflect its history. It is a fixed dollar amount that does not index to the cost of the medical programs and over a period of time its value as a percent of the medical programs is reduced. The employer has not presented a compelling argument for further reducing it.

The employer has crafted a work sheet, Exhibit 19, that compares employees and dependents out-of-pocket costs for three medical situations. The worksheet uses the seven departments that have a traditional health care insurance funding and plan specification approach more similar to that offered at Bellevue. They are Everett, Kent, Kirkland, Renton, Redmond, Shoreline and Tacoma. The exhibit includes Seattle for illustrative purposes, however, the Arbitrator has excluded Seattle in crafting the following assessment. Comparison is difficult because every plan has a different combination of co-premiums, co-pays, deductibles and co-insurance.

In the first example, considered a low expense claim, the exhibit details an office visit with a diagnostic examination and laboratory testing that totals $300. The Bellevue firefighter has no out-of-pocket cost, the firefighters' dependent would have a $15 co-pay. One department, Everett is less, with a $5 co-pay. The cost at the other six department ranges from $15 to $258. The average is $82. Taking the same snapshot, but assuming that all of the relevant deductibles are previously satisfied at the time of the office call, the average office visit cost appears to be approximately $27 for firefighters and their dependents.[9] In either event there is no cost for a Bellevue firefighter and the cost for a dependent increases $5 to $15, which is considerably less than the average of the six other departments. The following expresses the foregoing in matrix form.

Low Expense - Office Visit - $300 Claim

	Bellevue	Everett	Range Six Depts.	Average with Deductibles	Average with No Deductibles
employee pays	0	$5	$15 - $268	$82	$27
dependent pays	$15	$5	$15 - $268	$82	$27

In the second example, considered a moderate expense, the exhibit details an emergency room treatment for an ankle injury that totals $3,500. The Bellevue firefighter has no out-of-pocket cost, the firefighters' dependent would have a $100 co-pay. One department, Kent, is less, with a $50 co-

9 The Arbitrator has obtained the information from exhibit 19, there are some ambiguities, but there is no reason to doubt its accuracy. The comparisons do not appear to be applicable if a one time annual deductible has been previously satisfied.

pay. The cost at the other six departments range from $100 to $801. The average is $455. Once again, every plan has a different combination of co-pays, co-insurance and deductibles. Taking the same snapshot, but assuming that all of the relevant deductibles are previously satisfied prior to the emergency room treatment, the average visit cost appears to be approximately $400 for firefighters and their dependents. In either event there is no cost for a Bellevue firefighter, the cost for a dependent would increase $50 to $100, but it still remains considerably less than the average of the six other departments. The following expresses the foregoing in matrix form.

Moderate Expense - Emergency Room Treatment - $3,500 Claim

	Bellevue	Kent	Range Six Depts.	Average with Deductibles	Average with No Deductibles
Employee pays	0	$50	$100 - $801	$455	$400
Dependent pays	$100	$50	$100 - $801	$455	$400

In the third example, considered a high expense surgery, the exhibit details a knee replacement requiring hospitalization and surgery that totals $45,000. The Bellevue firefighter has no out-of-pocket cost, the firefighters' dependent would have a $250 co-pay. The cost at Kent and Renton appear to be fully paid. The cost at the other five departments range from $475 to $2,200. The average is $732. Again, every plan has a different combination of co-pays, co-insurance and deductibles. Taking the same snapshot, but assuming that all of the relevant deductibles are previously satisfied prior to the hospitalization and surgery, the average cost appears to be approximately $668 for firefighters and their dependents. In either event there is no cost for a Bellevue firefighter, the cost for a dependent is not changed and is considerably less than that of five of the other departments. In this example, the proposed changes do not increase the dependent costs. The following expresses the foregoing in matrix form.

High Expense - Hospitalized and Surgery - $45,000 Claim

	Bellevue	Kent-Renton	Range Five Depts.	Average with Deductibles	Average No Deductibles
Employee Pays	0	0	$475 - $2,200	$732	$668
Dependent Pays	$250	0	$475 - $2,200	$732	$668

The foregoing three examples demonstrate that the employer's proposal has minimal impact on co-pays only and does not result in the firefighters and dependents incurring disproportionate or inferior benefits in relation to the comparable departments.

Arbitrators Assessment - Economic - The employer offers economic support for its proposal, pointing out that over the past five years, from 2005 to 2010, firefighters and their dependants medical claims have increased from $1,699.52 per year to $3,927.74 per year, a 131% increase per enrollee. It does not consider increases of this magnitude to be sustainable and points out that the Puget Sound area Consumer Price Index, CPI-W increased 13.2% during this period of time.

The parties have been confronted with significant premium increases to maintain the medical plan. During the term of the 2007-09 collective bargaining agreement, premiums increased 17.7%. The employer's cost to fund health care premiums for fire fighters increased from $516.68 to $607.98. The employer's 90% contribution to fund medical care for a firefighters spouse and children increased during the same period from $597.34 to $820.65. The employer's combined cost for a firefighter, spouse and children over the three year period increased $214.58 per month. For 2010, the premiums increased 10.4% and for 2011, they increased an additional 6.9%. Currently, the cost of firefighter and their dependents (spouse and children) medical insurance is $1,793.58. The employer contributes $1,685.97 and the firefighter contributes $107.61. Expressed another way, the employer is funding 94% of the cost of full family (employee and dependents) medical coverage.

According to the employer, adding benefits to the redesigned core plan increases its funding cost but they are offset by the cost-containment measures incorporated in the plan redesign. Legislatively mandated changes will add costs and it predicts that the net result for the first year would be a small reduction in overall costs. It expects that on-going medical inflation and market demand increases in medical care costs and federally mandated health care laws will quickly absorb the savings. It appears to the Arbitrator that the net projected savings that would result from its proposal to the

firefighters is about $31,500 the first year.[10]

The employer's funding concerns are well placed. There is no evidence that its desired changes jeopardize the quality of the health care programs or that they are inconsistent with those offered by the comparable departments. The employer's cost containment and control arguments are persuasive.

UNION PROPOSALS

The union proposes modifications to Section 27.1 "Medical Coverage" and to Appendices, "F" "IAFF Health Insurance Premiums" and "G" "Health Care Cost Containment".[11] The union proposals are:

- Reduce the current 10% dependent co-premium to 5% and continue the three medical insurance options; core plan, alternate plan and Group Health;

- Require the employer to sponsor an annual meeting with the third party administrator to review all data used to determine premium revisions prior to their finalization;

- Restructure the firefighter claims pool so that it is composed of the firefighters bargaining unit exclusively and use the revised pool for determining claims experience and premium data;

- Add reference to "self funded claims" for calculating medical and prescription claims percentage of change from one year to the next;

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10 Costs are difficult to predict because of claim volatility. The Arbitrator's calculation is based on data contained in Exhibit 6 and 7. The Arbitrator assumes a 2% cost for mandated plan changes and makes the final calculation based on the percentage of firefighters to the city-wide employment. ($279,646 - $90,500 = $189,146 X 98% = $185,363 X 17% = $31,512.)

11 The sequence of the agreements appendices is changed as a result of the negotiations. In the union's proposal current contract Appendix "F" is re-letter as Appendix "E" and Appendix "G" is re-lettered as Appendix "F".

- Add a provision that calls for collective bargaining in the event that the roster of participating physicians is reduced by 10% or more;

- Reduce the annual maximum out-of-pocket expense from $1,500 to $1,000 for individuals and from $3,000 to $2,000 per family; discontinue the limitation on the scope of the out-of-pocket expenses;

- Acquire the option of terminating the employer as the sponsor of its health care program and collectively bargain compensation in lieu of health care benefits.

Dependent Co-premium

Background - For the period from 1982 to 2000 the parties' collective bargaining agreement called for the employer to pay 80% of the cost of dependent medical insurance. As a result of bargaining, it increased its contribution to 90% in 2001.

Union Proposal - The union maintains that regardless of the employer's fiscal concerns, its funding level for dependent medical insurance is less than the average of the comparables, which supports its proposal that the employer increase its share of the cost of dependent medical coverage to 95%. According to the union, six departments fully fund dependent coverage and employees are paying an average of 3.7% of the cost of dependent coverage which amounts to $40.69. If the employer increased its rate of contribution to 95% of the cost for dependent coverage (spouse and children) the co-premium paid by a Bellevue firefighter would be reduced from $107.61 to $53.81 per month.

Employer Response - The employer is opposed to increasing its contribution toward the cost of dependent medical care maintaining that it is not warranted by the comparables and proposes retention of the 90% funding formula. In support of the status quo the employer argues that in this era of rapidly escalating health care costs the focus is on quality care and cost control, which in

addition to closer scrutiny and management of medical services cost, calls for more user participation in managing and funding the cost of medical insurance. The employer also points out that it offers a unique medical care package to the extent that it fully funds the firefighters medical insurance with no co-premiums, co-pays, deductibles or co-insurance and that dependents are faced with comparatively minimal co-premiums and co-pays but no deductibles or co-insurances.

Arbitrator Assessment - An equitable co-premium funding assessment has to include plan design. The is no evidence to conclude that the Bellevue health care plan specifications are inferior to those offered by the other departments. In focusing on calculating the average dependent co-premium the union data includes three departments that sponsor health savings accounts that the employer believes improperly skew the results. However, expressing the same concern as the employer regarding the propriety of including certain departments, the union excludes two departments in calculating its data due to what it sees as comparability defects; Tacoma because of its unique co-premium formula and South King County Fire District 39 because it lacks data due to a recent structural move to a health savings account plan.

The data the Arbitrator has access to for evaluating the merits of the union's proposal to increase the employer's cost to 95% does not provide sufficient information for intelligent evaluation and comparison of firefighter paid health care costs, when plan specification, co-pays and other out-of-pocket costs are also considered. Evaluation is not a static process because plan specifications and out-pocket-expenses are not uniform.

The data shows that Bellevue firefighters pay a higher co-premium per month for dependent medical insurance. However, the employer's argument that the additional expense is offset because it fully funds fighter medical insurance, lower co-pays and the absence of deductibles and co-insurance costs is compelling. The Arbitrator does not find the union's evidence and arguments to be sufficiently persuasive to increase the employer's dependent contribution from 90% to 95% of its cost.

Review of Experience Data With Third Party Administrator

Background - Claim cost data is provided to the employer by the third party administrator for a 12 month period that concludes on June 30th. The employer then meets with a medical insurance broker and an analysis is conducted to determine what it will cost to fund the plan design the following calendar year. Rates of contribution are then determined and become effective on January 1st of each year.

Union Proposal - The union maintains that on several occasions it has found errors in the employer's calculations regarding experience and premiums. In one incident involving a former third party administrator it was determined that funding calculations were incorrectly based on a more expensive for-profit medical program model. In another incident it was determined that a former prescription drug program provider failed to pass through discounts that its contract with the city called for, thus inflating the cost of the program.

The union maintains that a lack of accuracy frustrates the bargaining relationship. It believes that it's proposal to meet with the employer and it's third party administrators would alleviate this problem and provide it with the opportunity to more intelligently evaluate data used to determine medical program costs and provide input where it may be warranted. It would also serve as an assurance to the union that the programs are being administered in accordance with the terms of the parties' collective bargaining agreement.

Employer Response - The employer expresses a willingness to meet with the union and provide the data that is used to calculated premium rates. However, it is opposed to sponsoring a meeting between the third party administrator and the union. It's objection is based on the fact that the third party administrator is not involved in the negotiation and administration of the parties' collective bargaining agreement.

Arbitrator's Assessment - The union is entitled to information necessary to intelligently evaluate compliance with the parties' collective bargaining agreement and the employer expresses a willingness

to cooperate in providing data. It appears to the Arbitrator that the substantive piece of the union's proposal is to acquire direct access to the third party administrator. The collective bargaining agreement is between the employer and the union and it has no collective bargaining relationship with the third party administrator. Accordingly, such access is the prerogative of the employer. It also appears to the arbitrator that adding a provision to the collective bargaining agreement regarding the acquisition of information is somewhat redundant to rights the union already has pursuant to the Public Employees' Collective Bargaining Act. However, the union desires to affirmative acquire by way of the collective bargaining agreement access to data used to determine medical insurance rates. This is reasonable. The union justifiably has an interest in medical plan funding and plan specifications. The Arbitrator awards a modification of the union's proposal as follows:

> Appendix "E"
> E.3 Annually, prior to setting the final health care rates, the city shall meet with the union to review all data used to calculate the new rates.

Composition of the Claims Experience Pool

Background - The employer has the ability to separate firefighter claims and determine their experience separately from the other groups. The firefighter experience group is made up of all active LEOFF firefighters, this includes some classifications of higher ranking firefighters who are in a different LEOFF bargaining unit.

Union Proposal - The union proposes that the pool for determining experience and rate structure be composed of the members of the bargaining unit exclusively. It bases its proposal on a sense of proprietary interest in the medical plan and is of the opinion that exclusivity gives it more influence in promoting its health care interests. The proposal states:

> the percentage difference between the total self-funded claims from June 30th ~~2006~~ **2009** to June 30th ~~2007~~ **2010** for active firefighters **governed by this contract** as reported on the City of Bellevue Medical/Rx Experience Report, ...

LEOFF I retirees and their claims experience **<u>are to be</u>** removed from the Medical /RX benefits experience report.

<u>Employer Response</u> - The employer maintains that the existing language and practice is efficient and should not be changed. Specifically, the employer finds that the union's proposal would increase its administrative costs of tracking utilization. It is also concerned about possible adverse effects of changing the composition and the risk factors used to determine pool funding.

<u>Arbitrator's Assessment</u> - The firefighters have a favorably unique provision in their agreement with the employer that calls for two claims cost calculations, one city wide that includes all participants and a second calculation for a pool composed of all active firefighters. The firefighters premium indexes to the lower of the two experience calculations. If the city wide group has a more favorable experience rating, that lessor percent of increase is extended to the firefighters. If the firefighters group has a more favorable experience, then the firefighters and their dependents premium indexes to that lower figure.

The record does not provide the history of the composition of the firefighters insurance pool.[12] The union offers no technical or comparables data to support its proposal. The employer's concerns are will founded. It appears that the union's proposal would affect about five firefighters who serve in positions such as battalion chief and their dependents. Modifying the make-up of a LEOFF insurance pool can change risks factors causing a change in funding formulas. The Arbitrator sees no compelling reason to order a change in the make-up of the pool. The union's proposal is not persuasive and is rejected. Current practice and contract language is retained.

Regarding the exclusion of LEOFF 1 retirees, as the Arbitrator understands the matter, they are not included in the pool. According to the union the proposal is not a substantive change, but rather falls

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[12] The record reflects that the union also represents a second bargaining unit of firefighters, composed of higher ranking supervisors. Changing the composition of the active firefighter pool would also affect that group of firefighters.

more into what could be characterized as housekeeping making the outline in the cost-containment appendix more specific and the phrase flow better. Neither party presented comment one way or the other on this matter. The record contains no evidence regarding insurance pool composition in the comparable departments. Because of the possibility of inadvertently causing uncontemplated consequences the Arbitrator leaves the sentence as is.

Cost Containment Reference to Self-funded Claims

Background - Appendix "F" - "IAFF Health Insurance Premiums" of the 2007-09 agreement contains a two part provision that details how premiums were calculated for 2008 and 2009. The formula for 2008 includes the phrase "total self-funded claims". The phrase was not included in the sentence describing the formula for calculating the 2009 rates.

Union Proposal - The union proposes that the phrase be included in calculating both the 2011 and the 2012 premium structure as indicated.

1. The percentage difference between total self-funded claims from June 30th, ~~2006~~ **2009** to June 30th ~~2007~~ **2010** for active firefighters ...

2. The percentage difference between **total self-funded claims** June 30th, ~~2007~~ 2010 to June 30th ~~2008~~ **2011** for active firefighters ...

Arbitrator's Assessment - Neither the employer nor the union addresses this issue or presented any evidence in its regard. It appears that this union proposal is not a substantive change in how the premiums are calculated, but rather falls more into what could be characterized as housekeeping, making the method of calculation specific for both years even though there is no evidence that the employer used a different method of calculation.. Absent a clear purpose for making the change and the possibility of inadvertently causing uncontemplated consequences the Arbitrator leaves the sentence as is.

Change in Network Physician Composition

Background - Appendix "G" is re-lettered in the 2010-2012 draft agreement as Appendix "F". It

outlines strategies designed to control health care costs. Among several points is a provision applicable to a change of health care providers. It calls for a maximum of a 10% change in the roster of preferred providers.

Union Proposal - the union proposes to change how it is drafted and proposes to rewrite the provision as follows:

> ~~A change in network providers to a more cost effective provider with a maximum 10% physician mismatch.~~ **Any reduction in the list of covered physicians which equals a 10% or greater reduction in the total number of covered physicians shall act as a contract opener, and require bargaining between the City and the Union.**

Its proposal is based on concern that in the event that there a significant change in the number of preferred provider organizations, firefighters and their dependents could be required to change their personal medical service providers or accept out-of-network level of benefits. In support of its interest it cites an occurrence in the past when a group of surgeons withdrew from the Premera network but continued to perform medical treatment in network health care facilities. As a result of this, a patient, through no personal fault was treated by a non-PPO medical service provider in a network health care treatment facility and was faced with uninsured costs. It desires to avoid this occurring as a result of network withdrawal or a change in a third party administrator with a significantly different network of preferred provider organizations.

Employer Response - The employer proposes no change. The Premera network contracts with 21,000 providers and 121 hospitals in Washington state. It is the second largest network in the state. Only Regence is larger. The city solicits third party administrator bids every four years. It is a city interest that the preferred providers remain the same as much as possible as the city does not desire to require employees to change health care providers if a third party administrator is changed. The current standard is 10% change, if there is greater mismatch, a third party administrator will be disqualified. The city has been told by Premera that normally there is less than a 2% annual change

of preferred providers. The city is not involved in the negotiations between Premera and its network of preferred providers.

Arbitrator's Assessment - The firefighters raise an issue that is a national concern. Kaiser Health News published an informative article dated July 20, 2010, regarding out-of-network physicians providing medical treatment at in-network health care facilities.[13] According to the article, this situation will be addressed, at least in part, by pending federal legislation. One solution is for network hospitals to revoke the out-of-network physicians privileges, however that is a matter that goes beyond collective bargaining. The city medical plan (Exhibit 27) Schedule of Benefits contains a provision that states:

> Under the following circumstances, the higher in-Network payment will be made for certain non-Network services: If a Covered Person receives Physician, Anesthesiologist, Assistant Surgeon, Radiologist, or Pathologist services by a non-Network Provider at an in-Network facility.

The Arbitrator is of the opinion that the union's rewrite changes the context of the existing phrase because it eliminates the reference to a change of network providers. The record contains no information regarding how the comparable departments address this type of situation. The union has not made a convincing case for a change. The Arbitrator is not persuaded that the proposed change would correct the problem.

Annual Out-of-pocket Maximum Expense

Background - This union proposal also would modify out-of-pocket expenses addressed in the Health Care Cost Containment Appendix and in the medical plan schedule of benefits. The city plan document states at page 18:

> . . .
> Deductibles do not accrue toward the 100% maximum out-of-pocket payment. A copayment is an amount of money that is paid each time a particular service is used.

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[13] See: http://www.kaiserhealthnews.org/Features/Insuring-Your-Health/Emergency-Room-Costs.aspx (last visited September 10, 2011)

> Typically, there may be copayments on some services and other services will not have any copayments. The maximum out of pocket copayment for drugs, emergency room visits, in-hospital/surgery visits and physician visits per calendar year is $1,500 per individual and $3,000 per family. ...

Union Proposal - The union proposes reducing the maximum out-of-pocket expenses for individuals from $1,500 to $1,000 and for families from $3,000 to $2,000. Its proposal also would broaden the categories of medical expenses subject to the stop-loss provision to include all medical expenses. The union argues that the change is warranted because it would tend to offset the economic impact that would result from the employer's proposed plan specification changes. Its proposal states:

> Maximum out-of-pocket ~~co-payment~~ **medical expenses (e.g. prescription costs, co-payments, medical bills, etc.)** will be ~~$1500~~ **$1000** per individual and ~~$3000~~ **$2000** per family

Employer Response - The employer is opposed to the change and maintains that the annual out-of-pocket amounts and application should remain unchanged. In support of maintaining the status quo the employer points out that plan specifications call for minimal co-pays for medical services. The employer also points out that discontinuing the current bounds and scope of the maximum out-of-pocket expense benefit would expose it to undefined and unacceptable risk and medical expense exposure. It further contends that the union has failed to offer substantive comparability evidence to support its proposal.

Arbitrator Assessment - The record does not provide information sufficient to intelligently evaluate how the phrase in the cost containment appendix of the collective bargaining agreement interacts or harmonizes with the medical plan's schedule of benefits. There is no data regarding how comparable departments address this. There is no clearly identifiable uniform standard to look to. The out-of-pocket maximum expense limit is a fixed dollar amount that is not indexed to rising health care costs which is a feature favorable to the insured. According to the employer, the union's proposal would affect three families and the range of cost is from $45 to $370. The union's arguments for change are not persuasive. The employer's concern about broadening the plan's exposure is a legitimate concern.

Absent a clear purpose for making the change and the possibility of inadvertently causing uncontemplat-ed consequences the Arbitrator leaves the sentence as is. The employer fairly defends its proposal to retain the status quo.

Employer Sponsored Health Care Program

Background - The employer has a long-standing history of sponsoring and funding health care benefits for its employees including firefighters.

Union Proposal - The union proposes that a provision be placed in the collective bargaining agreement that would allow it to terminate the employer as the sponsor of all or part of its health care insurance package and negotiate a compensation amount controlled and managed by the union rather than the employer sponsoring the benefit. According to the union there are several reasons for the proposal, including an ability to leave the city plan if they don't like it, and an interest in possibly taking an entirely different approach to health care insurance such as funding medical costs by way of a health saving account or other form of health reimbursement account. The proposal states:

> **The Union reserves the right to opt out of Medical, Dental, and Vision insurance coverage and enter into collective bargaining to determine a compensation amount in lieu of given insurances(s). The Union understands the planning required to manage such benefits, and agrees to notify the City (in writing) prior to or during the "Open Enrollment" process, one year prior to opting out.**
>
> **For example, if the Union wanted to withdraw starting in January 2012, the notification would take place prior to "Open Enrollment" in the fall of 2010. With proper notification, the Union may exercise its right to opt out of any single aspect of insurance, combination thereof, or all three areas of insurance if so indicated.**
>
> **At the point which the Union has exercised its right to opt out of City provided coverage, the City and the Union will enter into bargaining to determine compensation levels in lieu of the stated insurance. In the event an agreement cannot be reached, both sides agree to enter into the collective bargaining process for this issue only.**
>
> **The City and the Union will terminate the use of existing Health, Dental, and**

Vision benefits at the conclusion of the collective bargaining process listed above to determine the new compensation rate.

Employer Response - The employer is opposed to relinquishing sponsorship of health care insurance for its firefighters for several reasons. Included among these are a desire that the amount of money it contributes continues to be used to fund health care and that the benefit affects recruiting and retaining employees. The employer points out that experience pools are volatile, risks are spread among the participants and whenever the number of participants changes, the risk factors are changed. The firefighters comprise about 17% of the city pool, such a reduction could significantly affect overall plan costs. Moreover, the employer does not desire to grant this concession as a single issue because it erodes bargaining flexibility. It points out that health care is a form of compensation and is linked to other compensation matters when negotiating collective bargaining agreements and it desires to maintain the flexibility. Lastly, the employer believes that as custodian and manager of public funds it has an obligation to oversee how they are expended and that it be in the public interest.

Arbitrator's Assessment - This proposal is dramatic. It has innumerable consequences that are not at issue in this proceeding. There is no clearly identifiable comparability standard to look to. It appears that all of the comparable departments sponsor the health care plans that their employees are enrolled in. Exhibit 25 shows that all of the comparable employers contribute toward the cost of medical insurance. There is no evidence of an agreement among any of the comparable departments that calls for compensation in lieu of the employer sponsoring health care. There is an indication that the City of Seattle may have relinquished health care sponsorship but it is not included in the roster of comparable departments to look to. The employer's concerns are valid. The Arbitrator can't help but question how far the firefighters desire to proceed in disconnecting their relationship with the employer. Is it health care now, salary administration next, and then a contractor relationship? This is up to the parties, they will be convening for bargaining next year and have the opportunity to revisit this issue. The union's arguments for such an award coming out of this interest arbitration are not persuasive and it has not made a convincing case for a change. The employer fairly defends its proposal to retain the status quo.

OVERVIEW

The interest arbitration statute grants an arbitrator the latitude to take into consideration factors that are normally or traditionally taken into consideration in collective bargaining. The comparables data shows that health care programs and funding are varied and there is no uniform standard for comparison. The employer and the union submitted graphs and matrices to show data for comparison. The Arbitrator also crafts matrices to help evaluate the merits of the parties' respective assertions. They all look at data from a different perspective and cause some values and impressions to shift. Data can be crafted to express and support a multitude of purposes. However, it indicates that the Bellevue medical program and funding are generally consistent with the comparables and nothing stands out before the Arbitrator that demonstrates an identifiable deficiency.

The Arbitrator also takes notice of internal equity.. The city's employees pay a significantly greater co-premium to purchase medical insurance. Although the amounts vary from department to department, employees are paying between $45 and $50 per month as a co-premium for their personal medical coverage and a co-premium of between $279 and $291 per month to purchase family medical coverage. Many arbitrator's, including this one, find the disparity troublesome and do not desire to see the interest arbitration process become a divisive wedge between employees. Arbitrator Howard S. Block shared this concern and commented in his June 30, 1982, Bellevue decision, stating:

> Deviations from a uniform benefit pattern can be disruptive to employee morale. In short, comparison among employee groups of the same employer are no less important than comparisons with other employers.

Quality health care insurance is expensive. At the national level it's consuming 17% of our countries' gross national product.[14] This is a percentage that some look upon with concern and how we provide, administer and pay for health care has become a national priority. Federal legislation addresses the

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[14] The public sector is included in calculating this national index figure.

matter. The recently enacted Patient Protection and Affordable Care Act (PPACA)[15], commonly referred to as the health care act became effective on March 23, 2010. It calls for many changes and is extremely controversial. We are faced with uncertainty regarding its future, there are contradictory lower level federal court decisions about the constitutionality of various provisions. The City of Bellevue and its firefighters are a small but real part of this national issue and concern.

The employer's fiscal concerns about its ability to sustain the LEOFF medical plans as now designed are well founded. Cost-containment measures in health care are a fact-of-life and the parties' collective bargaining agreement acknowledges this and details strategies in dealing with the matter.[16]

Fortunately, the employer does not raise an inability to pay issue. That would not be in anybody's interest. However we have to acknowledge that the city, the state and the nation are undergoing major financial difficulties. The Washington State Economic and Revenue Forecast Office just issued an updated report announcing that the economic forecast for the 2011-13 biennium is predicted to be $1.4 billion less than previously projected because of a worsening economic outlook.[17] It also reports that the state's general fund revenue for the last biennium was $25 million dollars less than forecast. Although these economic predictions are at the state level, they affect all of the municipal subdivisions of the state. Public employee compensation and benefits are coming under scrutiny both in the state and nationally. Public employee labor cost has triggered legislation in a number of states, particular in the mid-west, curtailing public employee collective bargaining rights. Although there are a number of challenges to such laws the outcome is less than certain and public attitudes are varied. Cost containment is a mutual interest matter.

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[15] Patient Protection and Affordable Care Act (PPACA); Pub. L. No 111 - 148, 124 Stat.119 (2010).

[16] The firefighters acknowledged this with their pocketbooks by temporarily reducing the number of Kelly days in the parties' collective bargaining agreement.

[17] See: http://www.erfc.wa.gov/forecast/documents/rev20110915color.pdf (Last visited September 16, 2001)

AWARD SUMMARY

Based on the foregoing and the record as a whole, the Arbitrator issues the following award.

1. The union's proposal to increase the employer's contribution to the cost of dependent medical insurance to 95% is rejected. The status quo is to be retained.

2. The union's proposal to re-write the current Cost Containment Appendix provision regarding a 10% change of network providers is rejected. The status quo is to be retained.

3. The union's proposal to reduce the current $1,500 - $3,000 out-of-pocket maximum is rejected. The status quo is to be retained.

4. The union's proposal to acquire the option to terminate the employer as health care sponsor is rejected. The status quo is to be retained.

5. The union's proposal to restrict the composition of the firefighters medical claims experience pool to members of the bargaining exclusively is rejected. The status quo is to be retained.

6. The union's proposal calling for a meeting with the employer and the third party administrator is rejected. A provision, as detailed in the discussion section, is added to the collective bargaining agreement calling for a meeting with the employer to review claims data.

7. The union's proposal to add the phrase "total self-funded claims" to Appendix "F" is rejected. The status quo is to be retained.

8. The employer's proposal to implement plan design changes detailed in the draft "Memorandum of Understanding - Medical Insurance Changes" is awarded effective January 1, 2012. This includes discontinuing the alternate plan and travel immunizations, increased co-pay schedule,

additional benefits, changes in the prescription drug program, limitations on chiropractic, physical therapy and skilled nursing visits and pre-authorizations. The proposed Memorandum of Understanding is to be modified to reflect the terms of the award.

9. The employer's one-time proposal to pay 2011 premium increases and not pass them on to the subscriber is rejected.

10. The employer's proposal to reduce and eliminate portions of the medical plan waiver stipend is rejected. The status quo is to be retained.

Dated this 18th day of September, 2011.

/s/ Frederick J. Rosenberry
Frederick J. Rosenberry, Arbitrator