

FINDINGS OF FACT

1. The City of Lebanon is a "public employer" of personnel in its Public Works Department as defined by RSA 273-A:1 X.
2. AFSCME, Local 1348, Council 93 is the duly certified bargaining agent of personnel employed by the City of Lebanon in its Public Works Department.
3. At all times pertinent to these proceedings, the parties were operating under an expired collective bargaining agreement (CBA) and were attempting to negotiate a successor CBA. Article 17 of the expired agreement provided that it "shall be continuous from year to year...unless written notice of desire to cancel or revise is received prior to July 1, 1991. If a new or revised agreement has not been reached prior to January 1, 1991, this agreement shall continue in effect until a new agreement goes into effect."
4. Article 12 of the expired CBA provided health insurance benefits. Pertinent parts of that contract article said that "the City shall furnish, at its expense, Blue Cross/Blue Shield Medical and Hospitalization coverage under the so-called 100% plan, including Major Medical coverage for each employee, provided, however, each employee shall constitute the following monthly sums according to the type policy held: One person \$3.56/month; two persons, \$10.92/month; Family, \$13.52/month. Any increases in premiums under the so-called 100% plan shall be paid by the City. The City shall also furnish at its expense the \$1,000,000 lifetime coverage group major medical benefits.
5. On May 28, 1992 Union Representative James Anderson wrote to City Manager Steven Smith inquiring about reports that the City intended to implement a Managed Care program and seeking to negotiate such a change prior to implementation.
6. On June 4, 1992 Smith wrote to Anderson telling him, "The Managed Care Plan that we have instituted for all City employees covers the identical areas that the 100% plan covers. We have added no premium costs to our employees nor have we reduced benefit coverage."
7. On July 2, 1992, Anderson wrote Smith, acknowledging the June 4, 1992 letter and advising him that the

Union's expert had rendered an opinion that the Managed Care program "is a modification with a cost impact to our members and endangers our members of being held accountable for bills if they do not follow the outline prescribed by Managed Care." Anderson reiterated the need for negotiations on this change.

8. On July 8, 1992, Smith wrote to Anderson confirming that the City had implemented a Managed Care program on July 1, 1992. this implementation was done unilaterally by the City.
9. The Union's insurance witness, Frank Marsellino, offered un rebutted testimony that the Managed Care program could expose covered employees to costs up to \$1,000 if they or a family member to whom medical services were provided failed to comply with Managed Care notification and approval procedures.
10. City Finance Director Len Jarvi testified that Managed Care was implemented as a cost containment strategy without any reduction in benefits. Article 10 of the expired CBA permits management "to introduce new or improved methods, machinery or personnel;" however, there was no evidence or testimony presented to suggest that such authority was intended to supersede other portions of the CBA.

DECISION AND ORDER

The City's implementation of the Managed Care plan was a unilateral and unnegotiated change in working conditions in violation of RSA 273-A:5 I (e), (h) and (i). This Board's response to such unilateral changes has been consistent. They have been enjoined by the issuance of a cease and desist order. State Employees Association v. State of New Hampshire (Decision No. 92-32, February 20, 1992 and Decision 92-50, March 12, 1992), East Kingston Teachers Association v. East Kingston School Board (Decision No. 92-159, October 21, 1992), and Keene Professional Firefighters (Decision No. 91-36, June 11, 1991). The Union took all the necessary steps available to it by making an inquiry of the City's intentions, by seeking to negotiate before implementation, and by objecting to the implementation. Notwithstanding these efforts, the City proceeded with the unilateral implementation on July 1, 1992. Under these circumstances, we direct that:

- 1) The City Cease and Desist from implementing the Managed Care program;

- 2) The City restore the status quo until such time as the parties have negotiated to the contrary; and
- 3) The parties continue to negotiate on the issue of changes to the health care program provided under the CBA.

So ordered.

Signed this 30th day of March, 1993.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.
Members Seymour Osman and E. Vincent Hall present and voting.