



State of New Hampshire
Public Employee Labor Relations Board

Manchester Health Department, AFSCME Local 298

v.

City of Manchester

Case No. G-0268-1 (Lead Case)
(Consolidated with Cases G-0008-30, G-0216-5,
G-0267-1, G-0070-7, and G-0203-3)

Decision No. 2018-068

Pre-Hearing Memorandum and Order

Date of Conference:

May 11, 2018

Appearances:

Richard E. Molan, Esq. for the Complainant

Matthew H. Upton, Esq. for the Respondent

Background:

On December 21, 2017, six Unions (Manchester Health Department, AFSCME Local 298; AFSCME Council 93, Local 298 (Public Works Department); AFSCME Council 93, Local 298, Manchester Central Fleet Management; AFSCME, Manchester Building Maintenance Department; Manchester Professional Fire Fighters Association, IAFF, Local 856; and Manchester Association of Fire Supervisors, IAFF, Local 3820) filed unfair labor practice complaints under the Public Employee Labor Relations Act asserting that the City of Manchester (City) has violated RSA 273-A:5, I (c) (to discriminate in the hiring or tenure, or the terms and conditions of employment of its employees for the purpose of encouraging or discouraging membership in any employee organization); (e) (to refuse to negotiate in good faith); and (h) (to

breach a collective bargaining agreement).¹ The Unions claim that the City unilaterally adopted certain changes to the employees' health insurance plan, including the Right Drug, Right Channel program, which changes the method of delivery of some prescription drugs, e.g. chemotherapy drugs, from in-hospital/clinic administration (medical benefit) to self-administration (pharmacy benefit). The Unions assert that these unilateral changes to health insurance negatively affected several bargaining unit employees and were in violation of RSA 273-A:5, I (c), (e), and (h) and the parties' CBA. The Unions request that the PELRB find that the City has committed an unfair labor practice and order the City (1) to cease and desist from applying these changes to bargaining unit employees; (2) to make whole any employee who has financially suffered from the changes; (3) to order the City to post the PELRB decision in the workplace of unit employees; and (4) to award the Unions' attorneys' fees.

The City denies the charges and asserts, among other things, that the changes to the health insurance plan were administrative in nature and did not impact the terms or conditions of employment. The City also asserts that it has routinely adopted similar administrative changes in the past. The City requests that the PELRB find that the City did not commit an unfair labor practice and deny the remedies requested by the Unions.

Issues for Determination by the Board.

Whether the City has made unilateral changes to the health insurance benefits and/or otherwise violated RSA 273-A:5, I (c), (e), or (h).

Witnesses and Exhibits

As outlined in the parties' Pre-Hearing Worksheets. Both parties reserve the right to amend their lists of witnesses and exhibits in conformity with Pub 203.01. It is understood that each party may rely on the representations of the other party that witnesses and exhibits

¹ On January 12, 2018, the PELRB granted the parties' joint motion to consolidate the six cases. See PELRB Decision No. 2018-005.

appearing on their respective lists will be available at the hearing.

Decision


1. "Parties" means the Unions, the City or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The parties shall exchange and file a joint statement of stipulated facts and their final witness and exhibit lists no later than **June 5, 2018**.
3. The requirement that the parties file copies of proposed exhibits prior to the date of hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. Joint Exhibits shall be marked Joint Ex. 1, etc.; Union Exhibits shall be marked Union Ex 1, etc.; and City Exhibits shall be marked City Ex. A, etc. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

Hearing

Unless otherwise ordered as a result of the filing of any subsequent motion, the hearing in this case will be held on **June 15, 2018 @ 8:30 a.m.**, at the offices of the PELRB in Concord. The time set aside for this hearing is 4 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least ten days prior to the date of hearing.

So ordered.

Date: 5/17/2018


Karina A. Lange, Esq.
Staff Counsel/Hearing Officer

Distribution: Richard E. Molan, Esq.
Matthew H. Upton, Esq.