

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF DETROIT (FIRE DEPARTMENT),  
Respondent-Public Employer,

Case No. C02 C-063

-and-

DETROIT FIRE FIGHTERS ASSOCIATION,  
Charging Party- Labor Organization.

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**APPEARANCES:**

City of Detroit Law Department, by Allen Lewis, for Respondent

Helveston & Helveston, P.C., by Michael L. O'Hearon, Esq., for Charging Party

**DECISION AND ORDER**

On June 30, 2003, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order in the above-entitled matter, finding that Respondent has engaged in and were engaging in certain unfair labor practices, and recommending that it cease and desist and take certain affirmative action as set forth in the attached Decision and Recommended Order of the Administrative Law Judge.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of Act 336 of the Public Acts of 1947, as amended.

The parties have had an opportunity to review this Decision and Recommended Order for a period of at least 20 days from the date the decision was served on the parties, and no exceptions have been filed by any of the parties to this proceeding.

**ORDER**

Pursuant to Section 16 of the Act, the Commission adopts as its order the order recommended by the Administrative Law Judge.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chair

Maris Stella Swift, Commission Member

Harry W. Bishop, Commission Member

Dated: \_\_\_\_\_

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**DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE**

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, this case was heard at Detroit, Michigan on May 28, 2002, before David M. Peltz, Administrative Law Judge for the Michigan Employment Relations Commission. Based upon the entire record, including the pleadings, transcript and post-hearing brief filed by Charging Party Detroit Fire Fighters Association on July 22, 2003, I make the following findings of fact, conclusions of law, and recommended order.<sup>1</sup>

**The Unfair Labor Practice Charge:**

In the charge filed on March 19, 2002, and amended on May 24, 2002, the Detroit Fire Fighters Association alleges that Respondent City of Detroit has “failed or refused to provide the Union with requested information relevant to the Union’s bargaining obligations.”

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<sup>1</sup> Respondent City of Detroit did not file a post-hearing brief in this matter.

Findings of Fact:

The facts in this matter are essentially undisputed. Charging Party is the exclusive bargaining representative for a unit of fire fighters employed by Respondent. The collective bargaining agreement between the City and the Union expired in 2001; however, the parties agreed to abide by the terms of that contract while a successor agreement is negotiated. Beginning in January or February of 2002, the Union president contacted Respondent's labor relations department by telephone on three occasions to request information concerning health insurance benefits available to City employees through Blue Cross and Blue Shield of Michigan (BCBSM). The City did not respond to any of these requests.

The Union formally requested information pertaining to health insurance benefits in a letter to the City's labor relations director dated March 5, 2002. Specifically, the Union requested that Respondent disclose the following information:

1. Any and all contracts or agreements between the City and Blue Cross/Blue Shield of Michigan.
2. Any and all supplemental or supporting documents which memorialize any agreement between the City and Blue Cross/Blue Shield of Michigan.
3. Any and all documents which reflect premiums paid to Blue Cross/Blue Shield of Michigan for the past five years, up to the present, including promissory notes, invoices, premium schedules or premium notices.

In the letter, the Union specified that it would file an unfair labor practice charge against the City if it failed to provide the requested information within five business days.

Charging Party did not receive any response from the Employer within the time period set forth in its March 5, 2002 letter. On March 19, 2002, the Union filed the unfair labor practice charge at issue in the instant case against the City alleging that the Employer had violated its duty to provide information under Section 10(1)(e) of PERA.

On or about March 23, 2002, the Union received a packet of information from the City. Included in the packet was a copy of an administrative services contract between BCBSM and the City of Detroit. The contract establishes the criteria for eligibility of individuals for health care, describes the coverage available to such individuals, and sets forth the general responsibilities of BCBSM and the City under the contract. The copy of the contract provided to Charging Party is unsigned.

Also included in the packet were basic certificates and riders summarizing the benefits available to various groups of City employees, including the "fire department," "fire fighters" and "firefighters lieutenants and sergeants" groups. The packet also contained a copy of a document from Blue Care Network entitled "Benefits-at-a-Glance" detailing the supplementary coverage provided to eligible members for services

covered by Medicaid. Finally, the packet contained two documents summarizing the benefits available to active and retired City of Detroit employees enrolled in health care coverage from OmniCare Health Plan. The City did not provide Charging Party with any information pertaining to premiums paid to BCBSM or offer any explanation as to why it failed to do so.

On March 26, 2002, the Union again wrote to the City's labor relations director requesting information concerning health insurance benefits available to City employees. This request was similar to the March 5, 2002, letter set forth above, except that this time the Union sought contracts, supplemental agreements, and premium information relating to five additional healthcare providers: Bankers Life and Casualty, Health Alliance Plan, Total Health Care, Omnicare and The Wellness Plan. Once again, the Union threatened to file an unfair labor practice charge if the City failed to provide the requested documents within five business days. The City did not respond to this information request within the specified time period and, on May 24, 2002, the Union amended its charge to allege a continuing PERA violation by the Employer.

#### Discussion and Conclusions of Law:

It is well-established that in order to satisfy its bargaining obligation under Section 10(1)(e) of PERA, an employer must supply in a timely manner requested information which will permit the union to engage in collective bargaining and to police the administration of the contract. *Wayne County*, 1997 MERC Lab Op 679; *Ecorse Public Schools*, 1995 MERC Lab Op 384, 387. Where the information sought concerns the wages, hours or working conditions of bargaining unit employees, the information is presumptively relevant and will be ordered disclosed unless the employer rebuts the presumption. *City of Detroit, Department of Transportation*, 1998 MERC Lab Op 205; *Wayne County, supra*. See also *E.I. DuPont de Nemours & Co v NLRB*, 744 F2d 536, 538; 117 LRRM 2497 (CA 6, 1984). The standard applied is a liberal discovery-type standard. The employer has a duty to disclose the requested information as long as there exists a reasonable probability that the information will be of use to the union in carrying out its statutory duties. *Wayne County, supra*; *SMART*, 1993 MERC Lab Op 355, 357. See also *Pfizer, Inc.*, 268 NLRB 916; 115 LRRM 1105 (1984), enforced 763 F2d 887 (CA 7, 1985).

I find that Charging Party was entitled to information relating to health insurance available to members of its bargaining unit. This information is clearly relevant and necessary for purposes of administering the expired collective bargaining agreement and negotiating a successor contract. The written information requests which Charging Party sent to the City's labor relations director, however, are broadly worded and appear to encompass material pertaining to both unit and nonunit employees. When seeking information regarding employees outside the bargaining unit, the Union must show its relevance to bargaining issues in order to establish the right to such information. *SMART*, 1993 MERC Lab Op 355; *City of Pontiac*, 1981 MERC Lab Op 57. Neither in its correspondence with Respondent nor at the hearing in this matter has the Union demonstrated the relevance of information pertaining to health insurance for City employees outside the bargaining unit to contract administration or the preparation and formulation of bargaining proposals. Thus, I find that City had no duty to provide Charging Party with information pertaining to nonunit employees.

With respect to the Union's requests for information pertaining to unit members, I find that the Employer partially satisfied its obligation under Section 10(1)(e) of PERA when it forwarded a packet of documents to the Union on March 23, 2002. In its first written information request, Charging Party requested contracts and supplemental agreements between the City of Detroit and BCBSM, and among the documents which Respondent provided to the Union was a copy of a BCBSM administrative services contract, along with various documents summarizing the specific benefits available to eligible members. Although the copy of the contract which Respondent provided to Charging Party was unsigned, there is nothing in the record to suggest that the document does not accurately reflect the agreement between Respondent and BCBSM, nor is there any indication that additional contracts exist which have not been provided to the Union. Accordingly, I find that the documents which Respondent provided to Charging Party constitute an adequate and timely response to items 1 and 2 of the March 5, 2002 information request.

There is no dispute that Respondent has failed to provide Charging Party with information regarding premiums relating to its contract with BCBSM or explain why it could not do so. It is also undisputed that the City failed to respond in any manner to the Union's March 26, 2002, letter requesting information pertaining to contracts and supplemental agreements between the City and five additional health care providers, as well documents which reflect premiums paid to those providers under such agreements. Respondent did not present any evidence in its defense in this matter or offer any justification for its failure to provide the requested information beyond its representative's assertion that "we felt we were being responsive." By its failure to supply to Charging Party in a complete and timely manner all of the requested information concerning health insurance for members of the fire fighters bargaining unit, I find that Respondent has violated its bargaining obligation under Section 10(1)(e) of PERA. Therefore, it is recommended that the Commission issue the order set forth below.

**RECOMMENDED ORDER**

Respondent City of Detroit (Fire Department), its officers, agents, and representatives are hereby ordered to:

1. Cease and desist from:
  - a. Failing or refusing to bargain in good faith with the Detroit Fire Fighters Association as the exclusive bargaining representative of its employees by failing to furnish the Union with information relevant and necessary to negotiation or administrative of the collective bargaining agreement.
  - b. Interfering with, restraining, or coercing employees in the exercise of their rights under PERA by the actions described above or in any like or related manner.
  
2. Take the following affirmative action to effectuate the policies of the Act:
  - a. Provide to the Detroit Fire Fighters Association the information which it requested on March 5, 2002, and March 26, 2002.
  - b. Post copies of the attached Notice to Employees in conspicuous places at its place of business, including all locations where notices to employees are customarily posted, for a period of thirty (30) consecutive days.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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David M. Peltz  
Administrative Law Judge

Dated: \_\_\_\_\_

## **NOTICE TO EMPLOYEES**

After a public hearing before the Michigan Employment Relations Commission, CITY OF DETROIT (FIRE DEPARTMENT), a public employer under the MICHIGAN EMPLOYMENT RELATIONS ACT, has been found to have committed an unfair labor practice in violation of this Act. Pursuant to the terms of the Commission's order, we hereby notify our employees that:

**WE WILL NOT** fail or refuse to bargain in good faith with the Detroit Fire Fighters Association as the exclusive bargaining representative of our employees by failing to furnish the Union with information relevant and necessary to negotiation or administrative of the collective bargaining agreement.

**WE WILL NOT** interfere with, restrain, or coerce employees in the exercise of their rights under PERA by the actions described above or in any like or related manner.

**WE WILL** provide to the Detroit Fire Fighters Association the information which it requested on March 5, 2002, and March 26, 2002.

**ALL** of our employees are free to engage in lawful activity for the purpose of collective bargaining or other mutual aid and protection as provided in Section 9 of the Public Employment Relations Act.

### **CITY OF DETROIT (FIRE DEPARTMENT)**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

This notice must be posted for a period of 30 consecutive days and must not be altered, defaced or covered by any material. Any questions concerning this notice or compliance with its provisions may be directed to the office of the Michigan Employment Relations Commission, Cadillac Place Building, 3026 W. Grand Blvd, Suite 2-750, P.O. Box 02988, Detroit, MI 48202-2988. Telephone: (313) 456-3510.