



STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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December 12, 2007

**MEMORANDUM**

**TO:** Commissioners

**FROM:** Robert E. Anderson  
General Counsel

**SUBJECT:** Monthly Report on Developments in the Counsel's Office Since November 20, 2007

**Commission Cases**

An appeal has been filed in Tp. of Rockaway and Fraternal Order of Police, Lodge No. 31, P.E.R.C. No. 2008-21, \_\_\_ NJPER \_\_\_ (¶ \_\_\_ 2007). The Commission declined to restrain arbitration of a grievance asserting that the employer violated the parties' collective negotiation agreement when it increased the co-pays required of employees who visited doctors' offices. The Commission noted that the State Health Benefits Commission had before it an appeal concerning the employer's ability to reimburse employees for the increased co-pays and stated that the employer could re-file its scope-of-negotiations petition if an arbitrator found a contractual violation and issued a remedy the believed to be illegal.

**Other Cases**

The New Jersey Supreme Court in Middletown Tp. PBA Local 124 v. Middletown Tp., 189 N.J. 648 (2007), upheld a grievance arbitration award requiring the Township to pay health benefits for its retired police officers who had 25 years of government service credits. The Court rejected the Township's argument that under N.J.S.A. 40A:10-23, retirees who did not have 25 years of actual service with the Township could not receive health benefits unless the Township

adopted an ordinance or resolution specifying a shorter period of service. The Court concluded instead that N.J.S.A. 40A:10-23 expanded the class of qualified retirees to any employees with a combination of credits and service totaling 25 years unless an employee adopted an ordinance or resolution requiring a certain number of years of service. The Court also rejected an argument that the collective agreement must be interpreted to require 25 years of actual service with the employer since N.J.S.A. 40A:10-23 mandated that length of service at the time the agreement was first negotiated. The Court stressed that the agreements were re-negotiated after N.J.S.A. 40A:10-23 was amended to allow broader coverage and that the agreements should be interpreted in light of that amendment. Finally, the Court held that the arbitrator's interpretation of the agreement was reasonably debatable and that he properly considered the Township's longstanding practice of providing health benefits to all retirees, both before and after N.J.S.A. 40A:10-23 was amended, and the contrast between these agreements and other agreements covering non-uniformed Township employees and requiring 25 years of service.

REA:aat