



UAW Local 4121

4500 9th Ave. NE, Suite 300 • Seattle, WA 98105 • 206.633.6080

April 5, 2010

HAND DELIVERED

Lou Pisano, Assistant Vice President
Human Resources Labor Relations
University of Washington

Dear Lou:

We are writing to advise you that the Union believes the University has engaged in serious unfair labor practices with respect to our health insurance plan, the Graduate Appointee Insurance Program (GAIP). These unfair labor practices include unlawfully making a unilateral change in the insurance carrier for the GAIP without providing timely notice to the Union and an opportunity to bargain; making a unilateral change in the insurance broker for the GAIP without providing timely notice to the Union and an opportunity to bargain; failing to provide information regarding overpayment of premiums for the GAIP; failing and refusing to bargain over the partial refund of premiums negotiated by the University's new broker Parker, Smith and Feek (PSF) in or about December 2009; and failing and refusing to bargain over the recovery of funds from the University's insurance carrier, United Health Care (UHC) and its former broker, Mercer, due to premium overcharging.

1. Unilateral change of insurance carrier from United Health Care (UHC) to Lifewise

The Union and University have had frequent communications regarding the GAIP since the summer of 2009. UAW made a detailed information request on July 6, 2009, which included a request for "Any information pertaining to UW's current or most recent bidding or renewal process for an insurance carrier." The parties subsequently discussed the GAIP on October 20 and November 20, 2009 at meetings of the Joint Health Care Committee which was specifically established to "discuss quality, administrative, and service matters pertaining to GAIP," and in numerous email exchanges. During these meetings we asked if the University was considering a change in carrier for the following plan year, and requested to bargain any possible changes. At no time did the University disclose to the Union that it was considering a change in the insurance carrier for the GAIP. To the contrary, the University indicated there would be no change in carrier. At a bargaining session on March 8, 2010, the Union made a proposal regarding the process for changing the insurance carrier. Again, the University failed to disclose that a change of carriers was being considered. Nine days later, on March 17, 2010, the University informed the Union that it had selected Lifewise as its new carrier. A change in insurance carrier has a substantial and material impact on the bargaining unit. The University's unilateral change in insurance carrier for the GAIP without providing timely notice to the Union and an opportunity to bargain constitutes an unfair labor practice.

2. Unilateral Change of Broker from Mercer to Parker, Smith and Feek

The University's insurance broker has a substantial impact on the cost of the GAIP given the broker's role in negotiating premiums with the insurance carrier. Moreover, the broker is paid exclusively from premium dollars, not separate University funds. In July 2009 the Union requested information regarding the University's contract with Mercer, its insurance broker for the GAIP. On August 10, 2009, the University informed us that the UW Board of Regents had extended Mercer's contract until December 1, 2011. The University failed to disclose to the Union

that it was considering changing insurance brokers. On October 20, 2009, the University verbally informed the Union that it had changed brokers from Mercer to Parker, Smith and Feek (PSF). The Union subsequently learned that the Board of Regents had approved the change of brokers a month earlier, on September 17, 2009. This change was made without any notice to the Union and while the University was telling the Union just the opposite, that the broker would remain in place until December 1, 2011. The University's unilateral change in the insurance broker for the GAIP without providing timely notice to the Union and an opportunity to bargain constitutes an unfair labor practice

3. Overpayment of premiums

On November 20, 2009, the University informed the Union that the University believed it had overpaid premiums to the insurance carrier for several years. We asked for more information and to be part of any negotiations about the refund, to which the University responded that they would follow up with a written response. In a communication to us dated December 3, 2009, the University states that:

PSF has ...determined that the difference between the actual trends and the assumed trends, as well as the additional premium resulted in profits to UHC that exceeded the UHC risk charge in the underwriting renewal model. The low trends the plan experienced are potentially attributable to the effectiveness of Hall Health Primary Care and Rubenstein Memorial Pharmacy acting as the primary providers and gatekeepers for the plan. Under the current contract, UHC is not required to refund any money back to the University, however, PSF has successfully negotiated with UHC that the University will receive a partial refund.

UW explained that the "assumed trends" used to determine premiums were based on national average utilization standards, rather than utilization experience of the kind of workers represented in this bargaining unit (which are on average significantly less expensive to insure). The decision to use national standards was apparently first made in 2001, when the attack on the Twin Towers destroyed the carrier's records of ASE utilization. However, the UW never switched back to a costing model that was based on ASE experience, even after such data had been compiled. This resulted in a substantial overpayment of premiums.

The extent of the overpayment is evident in the documentation the University provided regarding the negotiated premium with Lifewise for the 2010-11 plan year, which is 3% less than the premium for the current plan year. In recent years, the cost of the plan has increased by an average of 8% per year. We believe this drop is consistent with a costing model that assumes ASE utilization standards rather than national costing standards.

During bargaining, the Union again requested – verbally (3/17/10) and in writing (3/24/10) – information concerning the amount of the overpayment and what the University plans to do with the recovered funds. Not only has the University failed to provide the requested information, it at various times has provided contradictory information concerning the refund. In December 2009 the University informed the Union, in writing, that PSF had "successfully negotiated with UHC that the University will receive a partial refund." However, the University has failed to provide the Union with documentation of the partial refund agreement, and verbally the University has stated that they do not expect to recover any funds from the carrier. This directly contradicts the University's representation in December. The failure to provide information regarding the overpayment of premiums, the amount of the overpayment, the partial refund agreement, and efforts to recover the overpayments constitutes an unfair labor practice.

Since the University has refused to provide information regarding the overpayments, the Union has completed its own estimate. The Union estimates that the University has overpaid approximately \$10.6 million in premiums since 2002. This is based on a calculation of the

difference between the medical loss ratio negotiated by the University's broker which was 71% compared to a reasonable medical loss ratio of 85% that presumably could have been negotiated had the broker negotiated based on the more favorable ASE utilization records.

The refund of the premium overpayment is a mandatory subject of bargaining. The fact that the University substantially overpaid premiums for an extended period represents a significant loss of revenue to our bargaining unit. To the extent that the University compromised its ability to recover the overpayment by unilaterally dropping UHC as its carrier, the University has further caused economic loss to our bargaining unit. The GAIP exists within the context of a collective bargaining relationship between the University and the Union and the cost of the health insurance benefit is a portion of the overall compensation paid to employees under the collective bargaining agreement. A portion of premiums were also paid by employees. Under these circumstances the University has a duty to bargain both with respect to the partial refund of premiums negotiated by PSF on or about December 2009 and the recovery of funds from UHC and Mercer due to premium overcharging, irrespective of whether the premiums were paid by the University or employees covered by the plan. The University's refusal to bargain constitutes an unfair labor practice.

This overpayment is especially significant in light of the University's claim in bargaining that it is unable to meet the Union's economic demands. The Union intends to pursue all available legal remedies regarding these matters.

Please contact us immediately to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read "David Parsons", with a long horizontal flourish extending to the right.

David Parsons
President