



# THE CLINE NEWSLETTER

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## DEADLINE LOOMS FOR FILING ULP ON CHANGES IN AWC MEDICAL PLAN

A number of labor organizations have challenged the unilateral change in medical benefits which occurred January 1, 2003, when the Association of Washington Cities implemented a change in medical benefits, including an increase in prescription copays. Almost all the public employers who contracted with AWC passed along the changes without any negotiations.

Such a unilateral change would appear to be an unfair labor practice. It is unlikely that the Public Employment Relations Commission will view the third party carrier change as a defense. It is our view that, absent an agreement with the union to accept the change, the employers are required to create a system for reimbursing employees for the increased out-of-pocket costs associated with the change. In the past, PERC has only allowed employer changes where the basic benefits remained "substantially similar."

***Because this change occurred January 1, the 6 month deadline for filing a ULP with PERC would be July 1. Organizations adversely affected by this change which have not yet consulted with their legal counsel should do so immediately.***

PERC may possibly consolidate all the pending ULP complaints because of the common legal issues. In some cases, the viability of the ULP may be affected by the precise contract language and whether it is interpreted to mean that the union must automatically accept mid-contract medical plan changes. Normally PERC would hold that the employer could make minor changes, but not substantial changes. The changes in the prescription plan here do not appear to be the type that PERC would view as minor.

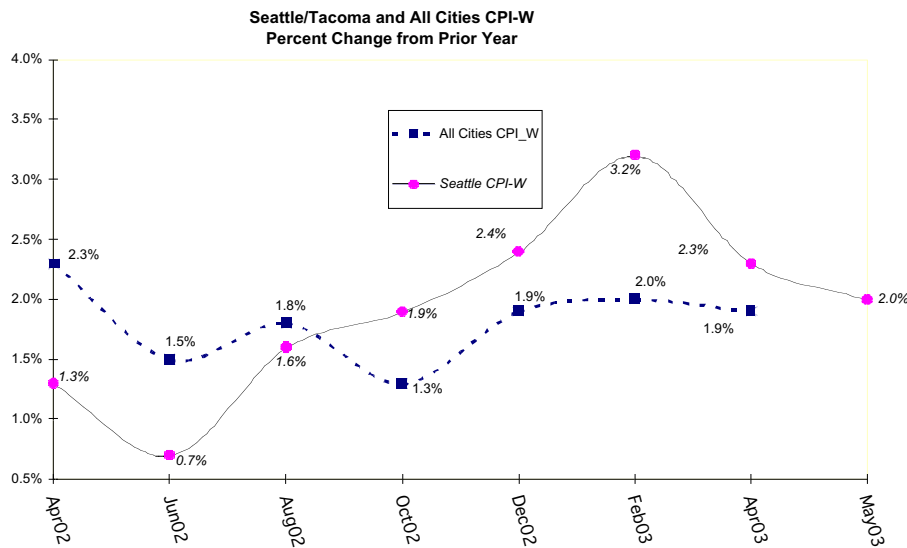
At least one labor organization was able to reach a satisfactory resolution of this issue through the collective bargaining process. The SNOCOM Dispatchers Association was able to convince the employer to increase deferred compensation by one half percent in exchange for accepting the revised medical benefits and for not filing their threatened ULP. This demonstrates that issues of

this type are resolvable provided employers fulfill their statutory duties to negotiate.

**Jim Cline**

## LATEST ALL-CITIES CPI REPORT SHOWS YET ANOTHER DROP

The latest report on the All-Cities CPI shows a continued drop in the reported rate of inflation. The May All-Cities CPI-W number dropped to 2.0%, down .3 from the 2.3% rate reported in April. But even more dramatic is the fact that the reported national rate of inflation has dropped 1.2 percentage points since it was reported at 3.2% in February. On the other hand, that number represented in large part a temporary spike in oil prices; we should not lose track of the fact that last June the All-Cities CPI was reported at 0.7%.



The Seattle CPI number is reported on a bimonthly basis so no May report on that index was available. The April Seattle index came in at 1.9%. When the June CPI numbers are reported in mid-July we may find that the Seattle number has returned to its historic position of being higher than the All-Cities index but we also might find that the Seattle index has likewise dropped again. **Whatever happens in the short term, we have been advising, and it continues to be our advice, that over the long run, it is better to tie your contract to the Seattle index.**

The June and August CPI reports are considered the most important because a large number of bargaining units use the summer CPI reports for their

CPI index to be used either in negotiations or as the CPI factor in their contracts. The following chart not only shows the latest Seattle and All-Cities numbers but other frequently used indices as well, including the sometimes used “U” numbers:

| CPI INDEX*                         | CPI-W | CPI-U |
|------------------------------------|-------|-------|
| All-Cities (May 2003)              | 2.0%  | 2.1%  |
| Seattle (April 2003)               | 1.9%  | 1.9%  |
| West Coast (May 2003)              | 2.1%  | 2.0%  |
| West Coast-Class B/C (May 2003)    | 1.9%  | 2.0%  |
| Portland -Salem (Second Half 2002) | 0.4%  | 0.2%  |

\*The change in the Consumer Price Index reported for the previous 12 months.

As we reported in the last CPI article in May, the relative low level in the rate of inflation is affecting and is expected to continue affecting current settlement trends. The “typical” 3% settlements of the past years would, for most bargaining units, look exceptional under current circumstances. Not only are the lower reports on CPI suppressing settlements, so is the continued softness in the regional economy. Expect more reports on these factors in upcoming issues.

**Jim Cline**

## **TAKE HOME CAR PROGRAMS INCLUDE TAX IMPLICATIONS**

A number of Washington police or fire department employees are permitted to take home their patrol cars for purposes of commuting and minimal personal uses. It has long been established by the Public Employment Relations Commission (PERC) that a change in a take-home car policy is a mandatory subject of bargaining. Although the local government cannot unilaterally change a take-home car policy, depending on how that policy is defined, it could potentially create a taxable benefit to the individual officer. But through proper drafting of the take home car policy these tax problems should be avoidable.

The use of an employer vehicle for business related purposes is considered to be a “working condition fringe benefit” under the tax code while the use of such vehicles for commuting purposes is generally considered a taxable benefit. Nonetheless, the income tax regulations provide an exemption from the latter part of this rule for marked police and fire vehicles and unmarked vehicles that are to be used for law enforcement functions. These vehicles are called “qualified nonpersonal use vehicles.” To achieve this exemption, the vehicle must be one that “is not likely to be used for more than a de minimus amount for personal purposes.” Thus, using one of these vehicles for personal purposes will

remain a nontaxable fringe benefit so long as that personal use is minimal.

It is important to note that for marked police vehicles to maintain their status as “qualified nonpersonal use vehicles” *there must be a policy in place by the local governmental unit that prohibits personal use of the vehicle outside the limit of the police officer’s “arrest powers.”* In Washington State, where officers have statewide arrest powers, the tax law would seem to allow some incidental use inside or outside the jurisdiction’s boundaries provided that out of state personal use was prohibited. For firefighters and other public safety personnel, the policy likely would have to prohibit any personal use outside the boundaries of the jurisdiction.

Without these restrictions, the vehicle could lose its status as a “qualified nonpersonal use vehicle” and subsequently become a taxable benefit to the individual officer. Irrespective of this requirement, it would be prudent for all relevant parties to have a policy in effect that places reasonable limits on the amount of personal use that can be made of the vehicles.

**Chris Casillas**

## **COLLECTIVE BARGAINING SEMINAR SCHEDULED FOR LATER THIS WEEK**

The Cline and Associates Seminar on contract negotiations and collective bargaining rights is still on schedule for this Friday, June 27, 2003. The seminar had been sold out with a number of individuals on the wait list, but we have managed to reconfigure the seminar room to add additional seating. With the additional available seats, as of the time this newsletter is being sent out, we now have space for a few more individuals. Those interested should immediately contact Paulette Pettis of our office to hold a place. The seminar fee is \$60 dollars and includes a continental breakfast and lunch. Seminar attendees will also receive the soon to be released book “THE RIGHTS OF WASHINGTON PUBLIC SAFETY EMPLOYEES: REPRESENTATIVE’S MANUAL.”

The Employee Rights Seminar schedule for September 5 continues on schedule and a number of seats remain, although at last report it was also beginning to fill up. Additional seminars are likely to be scheduled in the near future to meet the apparent demand for representatives training.

**Jim Cline**

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