

October 3, 2008

Alderman Michael Murphy, Chairman
City of Milwaukee Common Council Finance and Personnel Committee
200 East Wells Street, Room 205
Milwaukee, WI 53202

Dear Alderman Murphy:

RE: File # 080791, Management Employees Retire Health Benefits

The Department of Employee Relations (DER) is recommending that the City provide a \$0 premium plan to all management employees under 65 who have retired since January 1, 2004 and all management employees who retire on or before December 31, 2008.

Common Council File 020479, approved July 16, 2002 stated:

“The City of Milwaukee rate structure for health insurance for all management employees who retire on or after January 1, 2004 will be the same as it is for active management employees.”

Common Council File 080372, approved July 30, 2008, stated:

“The Department of Employee Relations is authorized to make the co-pay changes for Management employees effective January 1, 2009, the premium changes for Management employees effective January 1, 2009 and the premium changes related to health risk assessments for Management employees after the health risk assessments are offered.”

In a legal opinion from the City Attorney dated October 25, 2001 referring to Roth v City of Glendale and Schlosser V Allis Chalmers:

“These cases are consistent with Wisconsin case law holding that an employer may not alter the terms of contractual retirement benefits for employees who retire when an existing benefit is in effect ... in Schlosser, the court held that an employer could not unilaterally change the terms of a group life insurance plan for employees who had already retired, but made no ruling with respect to retirement benefit changes for employees who had not yet retired.”

A second legal opinion from the City Attorney dated October 3, 2003 states:

“Wisconsin law recognizes a vested right to retiree health insurance benefits is based on either estoppel or contract law principles and involves plaintiffs who had already retired before the benefit change was enacted.” (Roth v City of Glendale and Schlosser v Allis Chalmers Corp.)

Based on the above opinions, DER is recommending approval of a file to clarify File 080372. This would make clear that any management employee under 65 who has retired since January 1, 2004 and any management employee who retires before December 31, 2008 will have one \$0 premium health plan, the lowest cost plan either single or family, and pay the same as active management employees for any other plans that are offered until that management employee turns 65.

Management employees who retire on or after January 1, 2009 and are under 65 will not have a \$0 premium plan, either single or family, but will pay the same as active management employees. All current management employees regardless of age will be notified regarding this. All current management retirees under 65 who have retired since January 1, 2004 will be notified about this.

Please contact me if you have any questions or comments regarding this file. The file will be considered by the Finance and Personnel Committee on October 22, 2008 and by the full Common Council on October 28.

Sincerely,

Michael Brady
Employee Benefits

Attachments: Fiscal Note
Draft File