

Lock Talk



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ASMPP causing concerns

The past twelve months have been tumultuous to say the least. Your dedication to your chosen profession has been tested and challenged in many ways, yet you have still maintained the highest standards that could be expected of anyone.

In our conversations with Correctional Officers and Youth Services Officers, you have told both of your MERC Chairs that one of the most significant stresses you are facing is the employer's introduction of the Attendance Support Management Pilot Program (ASMPP). We once again emphasize that this was **an employer program** that was imposed upon the Corrections Division. We refer you back to the COR13 letter from David Logan (March 12, 2009) identifying that the parties agreed to explore programs to improve health, wellness and productivity to improve attendance and address accommodation matters. OPSEU did not at any time agree to this imposed employer program. In fact, once it came into existence, the union filed a policy grievance to challenge the employer's actions.

On September 8, 2009, MERC team representatives as well as OPSEU staff were involved in a thorough Stage Two meeting with senior staff, at which the union detailed your concerns. These concerns were dismissed by the Ministry and dates were set for formal arbitration. At that point, the first date set for arbitration was February 22, 2010.

Those of you who have been involved with the regular arbitration process know that nothing moves quickly in arbitration. For example, members who have been involved with the second-hand smoke grievance process are aware

that the employer raised thirteen preliminary objections. Two years into the litigation process we appear to be half-way through the employer's preliminary issues and have not started on the merits of the case. That said, there was a potential that the ASMPP program may have concluded at the end of the current Collective Agreement without a final Award from the Board. As well, many of our members would have the potential stress of being in a Level 4 placement or worse, removed from employment through no fault of their own, and then having to file their own subsequent grievance and begin the arbitration process.

Towards the end of January, your MERC chairs had discussions with senior management to have another look at the ASMPP issues. This was in recognition of the stress, the problems with the program, and the need for either agreed-to changes or adjudication of the program. An agreement was struck to utilize Vice-Chair Brian Keller (an adjudicator with more than forty years of mediation-arbitration experience) to assist the parties. If no consensus was achieved, he was charged with issuing a "bottom-line" decision.

The union's primary thrust involved five concerns:

- Absences related to a disability and/or a workplace injury
- Artificially and unreasonably low thresholds
- Lack of individual consideration for thresholds
- Absences related to public health outbreaks
- Health and safety impacts on individual bargaining unit members

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This resulted in a session with the employer that went into the early hours of the morning with numerous attempts to achieve an agreement. Ultimately, the matter was referred to Vice-Chair Keller to issue a binding award. Download the Decision at: http://www.opseu.org/ops/ministry/locktalk/100205_ASMPPdecision.pdf.

What did the union achieve?

In the decision, the employer:

- shall exercise reasonable discretion with non-culpable absenteeism (innocent, or absenteeism that is not within the workers' control) on an individual basis as an employee p through the various levels of the ASMPP.
- shall preclude the consideration of absences that flow from a disability as defined by the Ontario Human Rights Code.
- shall not consider WSIB absences in making any determination at Level 4 of the ASMPP.
- shall consider whether to suspend the ASMPP in the event the World Health Organization or the Ontario Chief Medical Officer of Health declares a pandemic.

ASMPP and Absenteeism Target Incentives clarified

There is some confusion over the different aspects of the Attendance Support Management Pilot Program (ASMPP) (COR13, Page 478, blue book) and the Absenteeism Target Incentives (COR7, Page 469, blue book). These are two separate and distinct issues.

The employer imposed the ASMPP (replacing the Attendance Support Program). This applies to all staff within the Correctional Bargaining Unit, working in the Ministry of Children and Youth Services and the Ministry of Community Safety and Correctional Services.

The Absenteeism Target Incentives were specific to Regular (classified) Correctional Officers and Youth Services Officers (COR15). The incentives are payable only to Regular (classified) COs and YSOs. If the targets had not

- shall negotiate a dispute resolution process to deal with grievances arising out of the ASMPP.

What didn't the union achieve?

The union was unable to move the ASMPP's thresholds higher. We were unsuccessful in arguing that the thresholds utilized under the ASMPP are inadequate to address the conditions our Correctional Officers and Youth Services Officers are required to work in.

Where do we go from here?

In accordance with COR13, the employer and the union are continuing to have discussions in regards to the Joint Attendance Strategy and Implementation Committee. The next meeting is scheduled for February 23, 2010.

been met, no percentages would have been paid and further there would have been an impact to how overtime is paid (COR 8.2.3A and COR 16.1.1A). This was a negotiated item specific to Correctional Officers and Youth Services Officers under the Collective Agreement. This type of classification payment difference or enhancement is not new to the collective agreement; many classifications have seen specific language attached to their classification.

Absences involving Fixed-Term Employees (unclassified) or any other employee who works in the institutions were not included in the calculation. These staff are not covered by the lump sum payment.

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The calculation will be based on two per cent of the employee's straight-time hourly rate as of December 2009, for the period from March 12, 2009 through to December 31, 2009. Overtime hours worked between March 12 and December 31, 2009 will be included in the incentive payment calculation as straight time. According to the employer, the target date for pay-out will be May 13, 2010.

It is the employer's position that the incentive monies will NOT be paid out on paid leaves of absences. OPSEU will challenge this decision.

OPSEU and the employer are currently in discussions in regards to the numerous questions that have been raised. A Q&A will be issued shortly.

OPT introduces a new member buy-back option

Effective February 1, 2010, OPSEU and the Government sponsor have agreed that the OPT will permit plan members who have missed the normal 24 month buyback application window to purchase past credit at the actuarial cost. Up to now, if a plan member did not apply within 24 months of joining the OPT or returning from a leave, they were not permitted to buy back service outside the 24 month window.

The amendment will allow eligible OPSEU members (and PSPP members) to buy back pension credit outside of the 24 month buyback window, but the cost to the members who apply outside their 24 month window will be determined on an actuarial basis. This means that the member will pay for the full cost of the buyback based on an actuarial calculation. Online estimates will be available on the OPT website on February 1, 2010 so that members may make informed decisions.

While this amendment will help members who have missed the 24 month deadline for whatever reason, members should still apply within the 24 months if possible. For some buybacks (prior service with an employer who contributes to the OPT, and unpaid LOAs for pregnancy, parental, illness, for example) the employer matches the member's contributions.

One issue still being sorted out is whether the actuarial cost will have to be paid by lump sum or whether periodic payments will be permitted. You can download the OPT Fact Sheet at http://www.opseu.org/ops/ministry/locktalk/OpenOptionBuyback_February_2010.pdf.

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