

MOE BILLER, President

ROY BRAUNSTEIN, Editor

# NEWS SERVICE

AMERICAN POSTAL WORKERS UNION, AFL-CIO Headquarters: 1300 L Street, NW, Washington, DC 20005



## Arbitrator Goldberg Announces Interest Arbitration to Begin On August 27, 2001

Interest arbitration hearings to decide the terms of a new collective bargaining agreement between the APWU and the USPS will begin on August 27, 2001. In a letter dated July 2, 2001, neutral arbitrator Stephen B. Goldberg notified the parties that he would be unable to grant APWU's request to begin the hearings in July. (A copy of the letter accompanies this bulletin.)

The APWU had requested that the hearings begin as soon as possible and continue in the evenings and on weekends in order to complete the process as quickly as possible. However, Arbitrator Goldberg informed the parties that his first available date for beginning the hearings is August 27. In order to begin on that date, the first three days of hearings will have to be held in Chicago. Subsequent hearings will be held in Washington, DC.

"As we discussed in our telephone conference with the party-appointed arbitrators," Arbitrator

Goldberg wrote, "we will work hard at completing these hearings efficiently, including working long days and scheduling some Saturday hearings. Once hearings have begun, the request of the APWU that hearings also be held after dinner and on Sundays will be considered by the panel if a specific need should make it necessary to do so."

Briefs outlining the positions of the parties will be presented to the arbitration panel seven working days before the hearings begin.

### House Is Next; Bush Threatens Veto

## Senate Passes Patients' Bill of Rights

On June 29, 2001, the US Senate approved a landmark Patients' Bill of Rights bill by a 59-36 vote, despite a veto threat by President George W. Bush. The bill, S 1052, was introduced by Sens. John McCain (R-AZ), John Edwards (D-NC) and Ted Kennedy (D-MA).

The legislation was approved with all 50 Democrats voting "yes," along with the following nine Republicans: Sens. Lincoln Chafee (RI), Susan Collins (ME), Mike DeWine (OH), Peter Fitzgerald (IL), John McCain (AZ), Gordon Smith (OR), Olympia Snowe (ME), Arlen Specter (PA), and John Warner (VA).

Primary aspects of the Patients' Bill of Rights include:

- Direct access to obstetricians, gynecologists, pediatricians and other specialists.
- Emergency room treatment at the nearest hospital.
- Overnight hospital stay for breast cancer surgery if doctors advise it.
- Right to appeal a health plan's decision to an independent review board.
- Right to sue in federal courts over benefits, and in state courts over coverage denials based on medical judgements.
- Coverage of costs associated with clinical trials for life-threatening conditions.
- Patients entitled to know all treatment options.

#### Republican House Bill vs. Senate Bill

Following are differences between provisions on appeals and lawsuits in the bill passed by the

Senate and in a Republican House bill.

#### Senate-Passed Bill, S 1052

- Patients would have to direct their appeals to independent review boards.
- They could skip this process and go directly to court if they could show irreparable harm.
- In federal court, they could seek unlimited pain and suffering damages, and punitive awards up to \$5 million.
- Patients could sue in state courts over medically reviewable decisions with state-set damages limits.

#### House Bill, HR 2315

- Patients would have to exhaust all appeals to review boards before going to court.
- If a review board decided in favor of a patient who had been harmed, the patient could sue in federal court for unlimited economic damages. All other damages would be limited to \$500,000.
- The patient could sue in state court only if the HMO did not comply with the review board's decision and the patient was harmed.

#### APWU Action Needed

The House is expected to begin voting on this bill in mid-July. All APWU and Auxiliary members should contact their US representative and urge him or her to oppose the House GOP bill and to support the language in the Senate-passed Patients' Bill of Rights. The Capitol switchboard number is **202-224-3121**.

### APWU Endorses HR 2125 and S 1022

## Health Care Proposals Could Help Postal Retirees

Two bills have recently been introduced to allow federal and military retirees to pay their health insurance premiums with pre-tax earnings.

If enacted, HR 2125, introduced by Rep. Tom Davis (R-VA), and S 1022, introduced by Sen. John Warner (R-VA), would result in a yearly tax savings of as much as one-third of retirees' premium costs, depending on state tax laws.

Federal Employees Health Benefits Program (FEHBP) costs have been rising for the past several years. Civilian postal/federal retirees in FEHBP have seen their annual health insurance premiums increase by more than 10 percent due to recent

jumps in prescription drug costs.

Passage of this legislation is essential to attempt to hold down health-care costs for retirees who live on a fixed income. HR 2125 and S 1022 would allow participants to pay their health care premiums from pre-tax dollars. It is anticipated that the average retiree could save between \$400 and \$600 annually.

#### APWU Action Needed

All APWU and Auxiliary members are urged to ask their US representative to cosponsor HR 2125, and to ask their US senators to cosponsor S 1022. The Capitol switchboard number is **202-224-3121**.

## ***USPS Drops Five-Day Mail Service Proposal***

The Postal Board of Governors has dropped the ill-advised plan for reducing mail-delivery service to the public from six days a week to five days. APWU was one of the few organizations that mobilized its membership in support of congressional resolutions calling for the preservation of six-day mail delivery.

Robert F. Rider, Chairman of the Postal Board of Governors, released the following statement yesterday (July 10) announcing the board's decision:

"The Postal Service will continue with existing six-day delivery service, the [board] announced after hearing preliminary findings of a study examining five-day delivery yesterday.

"On April 3, 2001, the [board] directed management to study cost-savings associated with reducing delivery service to five days, and to study the savings associated with consolidating postal facilities.

"The facility consolidation study is expected to be completed this fall."

### **Billers Thanks Membership**

APWU President Moe Biller thanks all APWU members, Auxiliary members and retirees who responded to the union's call to action in support of S. RES. 71, introduced by Sen. **Tom Harkin** (D-IA), and H. RES. 154, introduced by Rep. **Danny Davis** (D-IL), expressing Congress' disapproval of the USPS five-day delivery plan.

"I congratulate APWU members for a job well done," Biller said. "You can be proud that APWU stood alone by standing up and fighting back against this proposed reduction in our service to the American people. I thank Senator Harkin, Congressman Davis and all the other congressional friends of the Postal Service for saying 'NO!' to this harebrained scheme proposed by the Board of Governors and postal management in the context of their bogus budget numbers. We view the facility-consolidation study with equal scepticism and will demand that it not be used as yet another excuse to diminish service and threaten our jobs."

## ***APWU Wins Personnel Work***

APWU Clerk Division Director **Cliff Guffey** announced yesterday, "The tide is turning on the long-standing battle against management's efforts to move clerk work to EAS non-supervisory employees."

Guffey had previously filed an NLRB Unit Clarification (to determine whether positions should be in the bargaining unit). The Unit Clarification was settled as follows:

- 1) Returning many secretarial jobs to the craft.
- 2) Expeditiously scheduling the remaining EAS issues before Arbitrator Snow. In each case the issues would be whether the position and/or work should be in the bargaining unit.
- 3) The parties shall apply the national-level arbitration awards which are issued as a result of this settlement agreement as broadly as possible in an effort to resolve other pending EAS grievances raising the same or similar issues or arguments.

The Postal Service chose the personnel work to be the first issue, because they believed the language on personnel work to be their strongest position (Article 1, Section 2).

The question to be decided by Arbitrator Snow was which work is purely clerical and which work can be out of the craft. Arbitrator Snow stated: "Consequently, it is reasonable to conclude that management viewed duties performed by Personnel Assistants and Personnel Clerks in the Union after 1962 to be clerical in nature. Otherwise, the positions would have been removed at that time." He further stated: "The 'confidential employee' exclusion was intended to apply to individuals involved in labor relations and dealings with labor relations material . . . the statutory category of 'confidential employees' is a narrow one. Merely handling personnel records does not necessarily qualify an employee for the 'confidential' exclusion. Nor, for example, does opening mail for an individual who

effectuates labor policy mean that an employee should be described as 'confidential.'"

### **'Lion's Share . . . Bargaining Unit'**

Arbitrator Snow also held: "It is reasonable to conclude that work being done in the Personnel Department in the Wichita Division is nonconfidential and purely clerical. Absent persuasive evidence to the contrary, it is reasonable to conclude that the disputed duties assigned to EAS employees which are nonconfidential and purely clerical belong within the bargaining unit. Evidence submitted to the arbitrator established that the lion's share of duties assigned to the four posted 'Personnel Assistant' positions in the Wichita, Kansas Division must be assigned to bargaining unit members because duties of the position are nonconfidential and appear to be purely clerical."

The next case that will be "expeditiously scheduled" will concern Address Information Specialists and the work they perform. "Our goal is to regain our work and capture evolving work for our craft and other APWU crafts," Guffey said. "Our sincere thanks to President Dave Darrough and Vice President Daryl Tate of the Wichita Local. Great job!"

### **New 'Saved-Grade' Coverage Expanded**

Guffey also reports that agreement was recently reached with the USPS providing: "that Section C of that [April 2, 2001] MOU [on Clerk Craft reassignment procedures for AFSM 100, TACS & FSM 1000] will include all unencumbered employees, regardless of how they became unencumbered. All full-time flexible employees and unassigned regular employees are considered unencumbered employees. Employees who become unencumbered through the maximization process will be afforded saved grade when bidding to a lower level in accordance with the April 2 MOU."

## ***Windfall Benefits Offset Bill Gains Steam***

Two bills have been introduced to correct the Windfall Benefits offset. One of the many Social Security laws that affect Civil Service Retirement System (CSRS) employees, the Windfall Benefits Provision affects the way Social Security retirement benefits are figured.

### **APWU Endorses Both Bills**

HR 1073, introduced by Rep. **Barney Frank** (D-MA), would amend the law to restrict the application of the Windfall Benefits Plan to those whose combined monthly income exceeds \$2,000. The bill would gradually implement the Windfall Benefits offset on amounts over \$2,000. There are currently 179 cosponsors of HR 1073.

HR 848, introduced by Rep. **Max Sandlin** (D-TX), calls for the Social Security law to be amended to completely eliminate the Windfall Benefits offset for employees receiving a pension from non-covered employment. HR 848 has 95 cosponsors.

### **Background of Windfall Benefits Provision**

The Social Security Amendment of 1983 (P.L.98-21) provides for the elimination of so-called "Windfall" Social Security benefits for retired and

disabled workers who are eligible for Social Security benefits and, at the same time, for pensions from employment not covered by Social Security (such as government employment).

The law calls for a modified formula to be used to figure the benefit amount for people affected by the Windfall Benefits Provision. Specifically, the 90-percent factor applied to a worker's average earnings in the first band of the benefit formula is replaced by a factor of 40 percent for workers who also receive a pension based on non-covered employment. The modified formula gives a lower Social Security benefit, but does not affect the government pension.

The modified formula applies to workers who reach age 62 or become disabled after 1985 and first become eligible after 1985 for both a non-Social Security pension and Social Security benefits.

### **APWU Action Needed**

It's about time to correct this inequity in the law! All APWU and Auxiliary members are asked to contact their US representative and urge him or her to cosponsor both HR 1073 and HR 848. The Capitol switchboard number is **202-224-3121**.