

P.E.R.C. No. 2009-62

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY AND  
CAMDEN COUNTY PROSECUTOR,  
Respondents,

-and-

Docket No. CO-2009-076

CAMDEN COUNTY ASSISTANT  
PROSECUTORS ASSOCIATION,  
Charging Party.

SYNOPSIS

A Commission designee denies the Camden County Assistant Prosecutors Association's request that the Commission seek compliance with and enforcement of P.E.R.C. No. 2009-27. In that decision, the Commission ordered Camden County and the Camden County Prosecutor to make available to Assistant Prosecutors represented by the Camden County Assistant Prosecutors Association, any improved dental plan available to other employees of the Prosecutor's Office. P.E.R.C. No. 2009-27, 34 NJPER 383 (¶124 2008). The designee finds that no employee of the Prosecutor's Office was enrolled in the improved dental plan when the Commission issued its decision. If an employee of the Prosecutor's Office becomes enrolled in an improved plan prior to a final Commission decision on the merits of the charge, the Association may re-file its motion.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY AND  
CAMDEN COUNTY PROSECUTOR,  
Respondents,

-and-

Docket No. CO-2009-76

CAMDEN COUNTY ASSISTANT  
PROSECUTORS ASSOCIATION,  
Charging Party.

Appearances:

For the Respondents, Brown & Connery, LLP, attorneys  
(William M. Tambussi, of counsel)

For the Charging Party, Loccke, Correia, Schlager,  
Limsky & Bukosky, attorneys (Michael A. Bukosky, of  
counsel)

COMPLIANCE DECISION

On November 25, 2008, the Public Employment Relations Commission granted the Camden County Assistant Prosecutors Association's motion for reconsideration of I.R. No. 2009-7, 34 NJPER 295 (¶105 2008). In that decision, the Commission ordered Camden County and the Camden County Prosecutor to make available to Assistant Prosecutors represented by the Camden County Assistant Prosecutors Association, any improved dental plan available to other employees of the Prosecutor's Office.

P.E.R.C. No. 2009-27, 34 NJPER 383 (¶124 2008). This Order

remains in effect pending a final Commission decision on the underlying charge.<sup>1/</sup>

On January 2, 2009, the Association filed a motion for compliance and enforcement of the Commission's Order in P.E.R.C. No. 2009-27. On January 5, I wrote to the County requesting that it notify me of what steps it had taken to comply. On January 14, the County responded that it was in compliance since no employee of the Prosecutor's Office was enrolled in any improved dental plan.<sup>2/</sup>

I requested further information from the parties and received a series of certifications and written submissions. There appearing to be a factual dispute as to whether any employee of the Prosecutor's Office was receiving the Delta II Dental Plan, the Commission Chairman issued to the County an Order To Show Cause why the Association's requested relief should not be granted. Specifically, the Chairman ordered the County to show cause why the Commission should not seek enforcement of its

---

1/ The unfair practice charge alleges that the respondents unilaterally changed terms and conditions of employment and repudiated the parties' collective negotiations agreement by: (1) charging employees represented by the Association for dental plans that had previously been provided to the employees free of charge; and (2) failing to implement a contractual agreement to offer employees, at a cost of \$10 per paycheck, an improved dental plan that was available to other County employees.

2/ The parties have stipulated that the enhanced plan in dispute and subject to the Commission's Order in P.E.R.C. No. 2009-27 is the Delta II Dental Plan.

Order in the Superior Court and assigned me to hear the matter as Commission designee.

On March 20, 2009, I held an investigatory hearing where the parties examined witnesses and introduced exhibits. At the close of the hearing, I requested that the County provide additional information which I received on March 31.

After a complete review of the record, I find that the County is in Compliance with the Commission's Order. The County has submitted the testimony and Certification of Lanny Nairn, former Director for Insurance for the County, which establishes that no employee of the Prosecutor's Office, except the Prosecutor himself, was enrolled in the Delta II Dental Plan on November 25, 2008 - the date of the Commission decision, or on March 20, 2009 - the date of the investigatory hearing. The Association has not provided any credible evidence to refute these facts.

If an employee of the Prosecutor's Office becomes enrolled in the Delta II Plan prior to a final Commission decision on the merits of the charge, the Association may re-file its motion. I note that this decision concerns only the Association's motion for compliance and enforcement of the Commission's interim order in P.E.R.C. No. 2009-27. It is not a comment on the merits of the underlying charge, which will continue to proceed through the normal unfair practice processing mechanism.

ORDER

The Camden County Assistant Prosecutors Association's request that the Commission seek compliance with and enforcement of P.E.R.C. No. 2009-27 is denied.

  
Mary E. Hennessy-Shotter  
Commission Designee

Dated: May 13, 2009