

# The Professionals Guild of Ohio



## PGO UNION NEWS

**January/February 2011**

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### **Judge Concludes that Montgomery County Children Services Violated the Law**

PGO recently received a favorable decision issued by the State Employment Relations Board (SERB) concerning employees of Montgomery County Children Services (PGO Council 12). SERB is the organization that protects the rights of unionized public employees. In the decision an administrative law judge concluded that the employer, Montgomery County Children Services, is violating the law by withholding step increases from eligible employees while contract negotiations are ongoing.

PGO has been in negotiations with the employer for several months on a new collective bargaining agreement. The current collective bargaining agreement expired earlier in negotiations. State law requires that employers maintain the provisions in an expired collective bargaining agreement while negotiations are ongoing. During negotiations the employer had proposed to suspend step increases for one year, in addition to proposing other concessions. When PGO rejected these concessions, the employer decided to suspend step increases anyway.

PGO filed an unfair labor practice charge with SERB. SERB found probable cause to believe that the employer was bargaining in bad faith and violating state law by withholding step increases from eligible employees. Consequently, SERB issued a complaint against the employer and then conducted an administrative trial. Several PGO Council 12 members drove to Columbus from Dayton to testify during the trial.

After carefully considering all the testimony and other evidence, the administrative law judge recently concluded that PGO was correct in filing the unfair labor practice charge—that the employer is violating the law by withholding step increases during negotiations. The administrative law judge ordered the employer to grant step increases to all employees who should have received them.

PGO firmly believes that the administrative law judge reached the correct conclusion, and that the employer is gaining an unfair and illegal advantage in negotiations by withholding the step increases. However, dissatisfied with the decision reached by the administrative law judge, the employer has exercised its right to appeal the decision. PGO has filed objections to the appeal, explaining

why the administrative law judge reached the correct conclusion and why that conclusion should be sustained on appeal. PGO expects a final decision on the appeal within the next few weeks.

**Unions Protect Our Rights**

*By Amelia Woodward, Esq., PGO Field Representative*

A common complaint heard from anti-union folks is that unions just protect bad employees and that good employees don't need unions. This is a dangerous myth that we must dispel.

The fact is that unions protect all employees' rights. One of the rights that unions work hard to protect is the right to challenge discipline or discharge decisions made by employers. We would not be protecting these rights if we did not challenge employers when they make decisions that are arbitrary, capricious or discriminatory given the specific facts in each case. If a grievance is filed, the union will investigate the charges against an employee. Unions do not pursue grievances to arbitration when an employer has just cause for discipline or discharge.

Our representation philosophy is that an injury to one is an injury to all. It is so important to the strength of the union and to the rights of our members that we provide everyone with good representation. Keep in mind that any one of us could be on the other end of a bad management decision.



"For health insurance, we sell you a hardhat for \$30 -- and then, you're on your own!"

**Healthcare Update: 2011 Changes**

*By Amelia Woodward, Esq., PGO Field Representative*

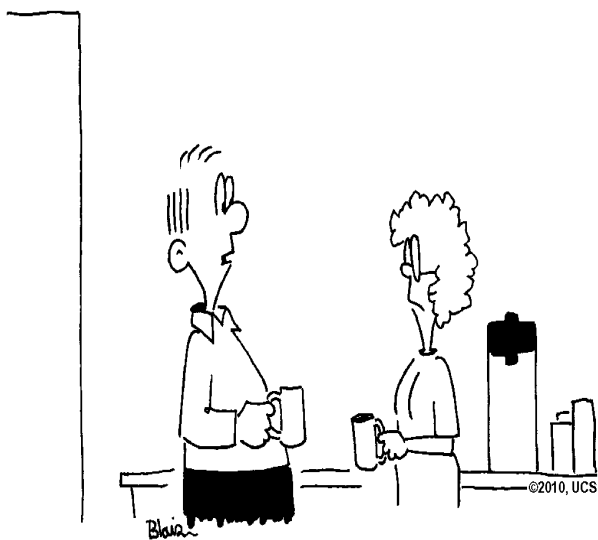
You may have heard that the current Congress is considering voting to repeal the Healthcare Reform Act passed last year and signed into law by President Obama. The House voted to repeal the law on January 19, 2011, but the measure is not expected to be brought to the Senate floor for a vote. However, the current changes to healthcare that became effective last year will remain in effect, as will the changes that just took place January 2011. Those changes include, among other things, the following:

- Children and Young Adults and other dependents will be able to stay on their parents' insurance until they are 26 years old.
- Insurance companies will no longer be able to enforce lifetime caps on insurance coverage.
- Insurance companies will no longer be able to drop someone from coverage if the individual becomes seriously ill.
- Children under 19 will not be denied care because of a pre-existing condition.

Regardless of what happens with the law, the changes that have become effective will remain in place.

**2011 IRS Mileage Rate**

The 2011 IRS mileage rate for business miles is 51 cents, up one cent from the 2010 rate. The new rate went into effect January 1, 2011.



"We should have a better medical and dental plan than an eye for an eye and a tooth for a tooth."

**Voice of a PGO Union Leader**

*By Amelia Woodward, Esq., PGO Field Representative*

Kelly Ray, the president of PGO Council 7, is our featured leader this month. Kelly is a Habilitation Support Specialist with the Butler County Board of Developmental Disabilities. In this capacity, Kelly conducts daily programs for individuals with developmental disabilities, such as putting together a dragon float for a parade to celebrate the Chinese New Year. Kelly has worked at the Butler BDD for ten years and has been president of Council 7 for almost two years. Kelly has also served the council as a steward and treasurer.

**What other jobs have you had before you started with Butler BDD?**

*I worked at Fairfield Center which is a private long term care facility as a resident specialist in the home of the individual with a developmental disability, and then worked as a recreation aide, accompanying individuals out into the community. I became interested in working in this field because my mom had done this work for many years and I saw how my compassion for people was a good fit with this type of work.*

**What does the Butler BDD do and what is your favorite part about being an employee at Butler BDD?**

*The Butler BDD provides a variety of services for individuals in the local community who have a developmental disability. My favorite part about being an employee of the Butler BDD is the opportunities I have to touch the lives of each individual in my care on a daily basis. Nothing gives me greater joy than to see the consumers' smile. Unfortunately, many of the individuals we serve do not have family, so I take on that role for them and I consider myself to be their family.*

**As council president, what struggles are you faced with on a day to day basis?**

*One of the challenges I am facing is getting all the members involved in their union. I believe a union will be as strong as members make it, but that message is difficult to convey. It is so important to the strength of our union that we continue to communicate with each other and remain open to change. I want to meet the expectations of our members, but in exchange, I would like to see all our members involved in their union.*



**Kelly Ray, PGO Council 7 President**

**What would you tell someone who is not a member about why they should join the Union?**

*I would say that the person needs to make a stand for themselves and speak up to gain the benefits of the sisterhood and brotherhood that comes with being in a union. If we didn't have a union, we wouldn't be able to speak our minds, or we may be intimidated and retaliated against if we did speak up. I don't think I would have the job security I do without a union.*

**What are the biggest advantages to union membership in your opinion?**

*I am a strong advocate for my peers. I have a voice and both members and management do listen because I won't let things slide and I do address the important issues.*

**How can the PGO improve in helping you in your role as council president?**

*I think I need to be more knowledgeable about my role as a president and leading the members in the coming year. I would like for the union to help me be more knowledgeable about all the different aspects of my role.*

**What activities are you involved in outside of the Union and your job?**

*I just started my Masters of Business Administration with a concentration in health care management and I am also a part of my daughter's Parent/Teacher Association.*

**EAPs: Friend or Foe?**

*By John Campbell-Orde, Esq., PGO General Counsel*

Most employers have an Employee Assistance Program, commonly known as an “EAP.” Such programs are designed primarily to assist employees who are having mental health issues, issues that may hurt their workplace performance or interactions with coworkers. While EAPs were designed to be helpful and can be helpful in some circumstances, employees should exercise caution in deciding whether to use an EAP or whether to address mental health issues through traditional medical care.

Often there are some financial advantages to using an EAP. However, for full-time employees those advantages usually are minimal. Services received through an EAP typically are free, while services rendered through health insurance usually cost something (e.g., co-pay, co-insurance, etc.).

Health insurance plans sometimes place restrictions on how many times an employee can visit a counselor or psychologist each year; however, virtually all health insurance plans cover some visits to mental health professionals. Virtually all plans also cover appointments with a psychiatrist or other medical doctor who can prescribe medication (e.g. anti-anxiety medication). And virtually all health insurance plans provide coverage for any drugs that are prescribed. Thus, while full-time employees may incur some additional cost in seeking treatment for mental health or substance abuse issues through private insurance, these additional costs are likely to be fairly low.

There are two primary concerns when using services through an EAP as opposed to accessing services through your health insurance. The first concern is the care you receive; the second concern is your privacy, and possible workplace consequences.

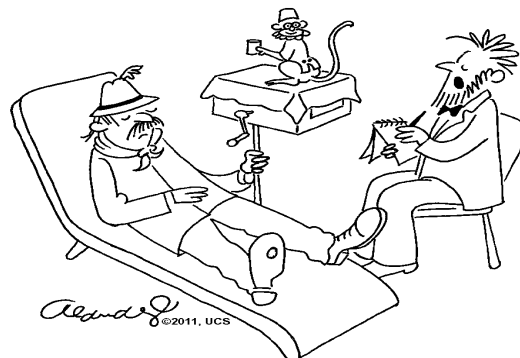
With regard to the care you receive, EAPs sometimes limit individual counseling or therapy sessions to a smaller number than would be available through your health insurance. Thus, if you need individual therapy on a regular basis and you begin seeing an EAP counselor, you may have to interrupt your treatment midstream in order to find a counselor through your health insurance who can see you more frequently. In short, many EAPs are not designed to provide the extended treatment necessary to resolve significant mental health issues. The second practical issue is that you may have more therapists or counselors to choose from through private health insurance than you would through an EAP. Consequently, you may be more likely to find someone who can best help you. It is important to contact your insurance company

with any questions about coverage for mental health services.

Secondly, before entering an EAP it is important to consider not only whether such a program likely will resolve the issues you are having, but also whether you might be adversely impacted in your work life by entering the program rather than seeking treatment through your health insurance. While EAPs generally have some privacy protections, it is important to understand how extensive any such protections are and whether your employer can use any conclusions gained through the EAP to question your fitness for continued employment.

There was one instance recently where an employer asked that an employee participate in an EAP, and then demanded that the employee undergo a psychological evaluation to determine whether the employee was fit for duty. The employer also portrayed the employee as non-compliant with the EAP when the employee wanted to discontinue it to pursue other alternatives. While this is unusual, it is important to know what, if anything, the EAP can disclose to your employer. The answer will depend in large part on any documents that you sign when entering the EAP. PGO is happy to review any such documents before you sign them and submit them, or even afterwards. Your personal information will be kept in strict confidence by our staff.

It is important for employees to address mental health issues, including substance abuse issues, before they impact work, which they almost always do. Such issues can ultimately result in behavior that can lead an employee to being disciplined or even separated from employment. For instance, an employee might receive a DUI or might take too much prescription medication while on the job. Such things can and do happen to very good employees. Addressing mental health issues before they place your job in jeopardy is crucial. However, it also is important to consider the safest and best manner to deal with any mental health or substance abuse issues that you are facing.



"I think the daily grind is getting to be too much for you."