

**In the Matter of an Adjudication Concerning Market Supplement Wage Rates
for the following classifications:**

- **Dental Therapist**
- **Occupational Therapist**
- **Physical Therapist**
 - **Orthotist**
 - **Prosthetist**
 - **Pharmacist**
 - **Paramedic**

Between:

Health Sciences Association of Saskatchewan

-and-

Saskatchewan Association of Health Organizations

Before: Beth Bilson, Q.C., Adjudicator

**Present: For HSAS: Kevin Glass
Mary Wilson
Joanne Walker**

**For SAHO: Kevin Zimmerman
Ian Billett
Gloria Wall**

Hearing Date: February 23, 2005

Decision of Adjudicator

This is a decision concerning market supplement wage rates for certain classifications of employees represented by the Health Sciences Association of Saskatchewan (HSAS). The employers of these employees are represented for the purposes of collective bargaining by the Saskatchewan Association of Health Organizations (SAHO).

The classifications which are the subject of this adjudication are the following:

- Dental Therapist
- Occupational Therapist
- Physical Therapist
- Orthotist
- Prosthetist
- Pharmacist
- Paramedic

In a collective agreement concluded in 2001, the parties agreed to a process for the award of market supplements to classifications covered by the agreement, and for periodic review of the market supplemented wage rates. Though the collective agreement has expired, and is now subject to amendment, the parties agreed that the Letters of Understanding reflecting the agreement on the market supplement process continue to govern their relationship, and provide my authority to conduct this adjudication.

Pursuant to the Letters of Understanding, the existing market supplemented wage rates for these classifications were submitted to the Market Supplement Review Committee (MSRC), which issued reports on October 15, 2004. In all cases, the reports recommended the continuation of existing market supplements, but did not recommend any additional market supplement.

Under the Letters of Understanding, it is open to either party to challenge the results of the review conducted by the MSRC. In this instance, HSAS has challenged the findings of the MSRC that no additional market supplement should be awarded to these classifications.

At the outset of the hearing before me, counsel for SAHO indicated that SAHO would be making submissions which would exclusively address the question of whether an additional market supplement would be warranted in the case of these classifications, and would not address the quantum of market supplement. He argued that making any argument concerning the quantum of market supplement which might be appropriate would undermine the effectiveness of SAHO's position that an additional market supplement is not warranted in any of these classifications.

I do not agree that being prepared to present a position on the amount of market supplement which might be appropriate would necessarily compromise the capacity of SAHO to make a forceful argument that no additional amount is warranted. It is common

for parties to adjudicative proceedings to argue in the alternative, and adjudicators do not infer from a readiness to put forward an alternative argument that they should not be prepared to accept the primary position a party wishes to advance.

On the other hand, I do agree that it is consistent with the Letters of Understanding to view the issues of whether a market supplement should be awarded and the amount of that market supplement as two separate issues. The Letters of Understanding make it clear that, in the event the MSRC finds that no market supplement should be awarded, or that an existing one should be discontinued, it is open to either party to challenge this finding. It is also open to either party to refer to adjudication the question of the appropriate quantum of a market supplement, an issue which is not addressed by the MSRC.

The hearing proceeded on the basis that the parties would present their positions on the question of whether an additional market supplement is warranted in respect of any of the classifications under consideration. In the event that I conclude that an additional market supplement should be awarded in the case of any classification, the parties will then have an opportunity to present their position on the appropriate amount. I indicated to HSAS that I would not hold them to the amount they had recommended in their written submissions at the hearing, but would permit them an opportunity to review those submissions once more.

General Observations about Market Supplement Adjudication

In a decision issued in September of 2004 concerning market supplements for classifications of health care provider employees whose union representatives have concluded similar Letters of Understanding with SAHO to the ones at issue here, I made the following comments:

The decision of the parties to put in place this process in place is part of a strategy to address recruitment and retention issues which have emerged in relation to a number of occupations in the health care system. Health care employers have had difficulty in some instances finding and keeping an adequate number of trained and experienced employees; this difficulty has been particularly noticeable for some classifications of professional and technical employment.

The reasons for problems with recruitment and retention are not easy to identify. An environmental scan concerning medical laboratory technologists and medical radiation technologists issued by Health Canada in 2001 speculated about some of these reasons in the following terms:

The attractiveness of the health care professions in general has diminished because of negative publicity due to budgetary reductions and associated working conditions. This reduces the number of applicants in medical radiation technology programs. It is debatable whether the best candidates are

still being attracted. It is felt that the information technology field is draining the pool of talented students who are attracted to its prestige and higher wages...

This report also identifies wage differentials between provinces and competition from the private sector as sources of recruitment and retention problems.

This description hints at a complex network of factors which may influence whether people enter or remain in a health care profession, and whether they move from one place or job to another. There seems to be widespread agreement that competitiveness in wages is one piece of this puzzle, and the agreement on this systematic process for considering market supplements suggests that the instinct of these parties is that responsiveness to wage inequities is an important element for employees or potential employees making this decision.

There may be other things which influence recruitment and retention - from availability of training programs to unreasonable workloads to the relocation of a spouse to preference for a particular geographic site.

In their submissions to me, the parties acknowledged their difficulties in isolating the impact of market supplemented wage rates which have been put in place from other factors which may have an influence on recruitment and retention, and in estimating the potential impact of particular market supplement rates – difficulties which are shared by the MSRCs and the adjudicator who are asked to contribute their views. At the same time, both parties expressed confidence that the market supplement program is a useful strategy. Indeed, they infer that it has already had a beneficial effect on the adequacy and stability of the complement in the classifications covered by the collective agreement.

Under the Letters of Understanding describing the market supplement program, the MSRC and the adjudicator are asked to base their assessment of the need for a market supplement – and, in the case of the adjudicator, the size of the supplement – on four criteria: service delivery impacts, turnover rates, vacancy rate analysis and recruitment issue analysis. The Letters of Understanding also reflect an agreement that the question of the market supplement in any classification can be raised on annual basis; this feature seems to be a recognition of the volatility of wage rates and demand in relation to these kinds of specialized and highly skilled employees.

In addition, of course, the wage rates for these classifications can be addressed through the collective bargaining process when the collective agreement is open for negotiation. Counsel for SAHO pointed out in his submission that the agreement is currently open, and that the parties have an opportunity to consider recruitment and retention issues at the bargaining table.

Thus, the system agreed to by the parties contemplates that there will be frequent and regular chances to address recruitment and retention issues in relation to specific classifications through the award of market supplements, and that a set of common criteria will be used to examine market supplement issues.

With respect to all of the classifications considered in this decision, reviews were conducted by the MSRC in 2003 and 2004, and resulted in all cases in a recommendation that the existing market supplement rates added in 2002 be continued. Naturally, the parties see the significance of this somewhat differently. SAHO argues that these recommendations signify that the market supplements have had the desired effect and that there is no need for further adjustment in the wage rates, while HSAS sees the recommendations made in 2004 as failing to respond adequately to continued competitive pressures in these classifications, and, in particular, as taking insufficient account of upward movement in wage rates in both Alberta and Manitoba.

While acknowledging that vacancy rates in many of the classifications under consideration are not high, and most of them are lower than when the market supplement rate was first instituted, HSAS argued that the existing vacancy rates may be a function of decisions by employers to eliminate positions that prove impossible to fill. SAHO argued that a distinction must be made between the question of wage competitiveness, which is what is meant to be addressed by market supplements, and the decisions of employers related to other budgetary or administrative concerns.

The decisions an employer makes about the size of the complement of employees required to carry out a particular set of duties clearly has a relationship with recruitment and retention issues in the sense that they may impact on workload or other job characteristics which affect the attractiveness of the job. On the other hand, I agree that I do not have sufficient evidence to conclude that the decisions employers have made about how many employees are required in these classifications have been necessitated by an inability to recruit at current wage levels, and that in general such decisions must be seen as separate from the issue of wage rates as such.

A final general observation I would make is that both parties acknowledge – as did the MSRC reports in 2004 – that there are significant and continuing competitive pressures in all of these classifications, and that there is a need for ongoing vigilance for signs that problems with recruitment and retention are escalating in a manner that will impair the delivery of services. Their provision for regular review of the status of each classification is a symbol of their consciousness of this concern.

It should be noted that some of the arguments made by the parties were relevant to more than one – in some instances all – of the classifications under consideration in this decision. I have addressed those arguments where they first arose, and have not repeated them in the discussion of following classifications.

Dental Therapists

There are currently eight full-time and one part-time budgeted positions in this classification. The majority of these employees work in two northern health regions in connection with a program of dental health for children which at one time was available throughout the province. There is one position located in Saskatoon.

At the time of the 2004 review, two of the full-time positions were vacant (a vacancy rate of 25%); according to the evidence of SAHO, one of these positions was subsequently filled. There was, in the year leading up to the review, no turnover of the staff in these positions.

Two of the health regions employing Dental Therapists reported some service delivery issues. They attributed these in part to budgetary restraints; one region alluded to the impact of the vacant position there on service delivery.

As part of the information gathered by the MSRC for their review, regions were asked to describe strategies adopted to address recruitment and retention issues. In the case of the Dental Therapists, one of the strategies listed is that of recruiting at higher initial rates of pay. HSAS argued that this strategy, mentioned in relation to other classifications as well, represents a “hidden market supplement” and is indicative of a need to revisit the current market supplement level.

I agree that this strategy, along with that of “promoting” employees to the Senior level of the pay grid, could fairly be seen as a market supplement in disguise in some situations. On the other hand, in neither the MSRC report nor the material put before me was there evidence of whether or how this strategy had been used as a recruitment tool for Dental Therapists in the past couple of years. It is therefore difficult for me to draw the conclusion that recruitment problems have necessitated the use of this proxy for additional market supplements. It may be noted that the MSRC apparently did not draw this conclusion.

HSAS put forward some evidence concerning relative wage rates for this classification from the federal jurisdiction and the territories. They also alluded to the fact that the northern health regions are making efforts to offer training assistance to local people; they pointed out that tribal councils and other agencies in the northern part of the province are also competing for people from the same pool, and suggested that those agencies would be paying higher rates.

Though the limited information provided indicates that there may be a difference in wage rates available in the health regions and with other employers, my understanding of my role is that I should consider such differentials in relation to the other relevant criteria in an attempt to estimate whether a market supplement is necessary to ameliorate current problems of recruitment and retention.

I have concluded that there is no indication that turnover or recruitment problems are of sufficient significance at this time to support a change from the existing market supplemented wage rate.

Occupational Therapists

This is a larger classification, with a total of 101 full-time and 37 part-time positions, working in eight health regions.

The information contained in the MSRC report indicates that there has been a steady improvement in the vacancy rates in this classification, so that in 2004 these rates were very low. There was not a high turnover rate.

In this classification, HSAS pointed out that there are a significant number of employees designated at the Senior level, which may, as mentioned earlier, be seen as an indirect way of creating a *de facto* market supplement. There was no evidence to indicate, however, whether the employees designated this way perform the kind of duties or possess the kind of characteristics for which this category of pay was created, and thus there is no way of drawing the conclusion that the use of this category was used in the way suggested by HSAS. HSAS alluded to a new Letter of Understanding which places new restrictions on the ability of employers to designate employees to the Senior level, and suggested that this may remove a safety valve which will need to be addressed by a higher market supplement rate. I have indicated earlier that I accept the argument that employers may have used this designation as a clandestine means of creating a market supplemented rate, but I do not have the information in the case of this particular group of employees to draw the conclusion that employers have done that here.

HSAS also pointed to the decrease in the overall number of positions, and the use of an increased number of Occupational Therapist Assistants, as possible indicators of difficulties in recruiting Occupational Therapists. Again, the definition of the appropriate complement in the classification, and other budget-driven decisions are distinct from the issues related to salary competitiveness which are relevant to a consideration of market supplements, though they may both have an impact on recruitment and retention. Counsel for SAHO suggested that the use of more Therapist Assistants has been a conscious strategy to address workload issues for Occupational Therapists which have arisen because of budgetary decisions requiring a transition to a smaller complement.

There is reference in the MSRC report to the use of “higher initial rates of pay” as a strategy for recruitment of Occupational Therapists in four regions, but, again, this information was not linked in the evidence before me to any particular problems which had been encountered.

The MSRC report of 2004 identifies some service delivery issues reported by employers, but these are attributed to budgetary issues, not to any difficulties in filling existing positions.

HSAS urged me to consider the traditional link between the wage level for the Occupational Therapist classification and that of Physical Therapists. Though there may be similarities between these professions, and there may be historic parallels which HSAS wishes to foster, I was not given any information which would allow me to draw conclusions about the desirability of maintaining these linkages as they relate to the recruitment and retention issues I have been asked to consider. HSAS suggested that there is an analogy to the conclusions drawn by the MSRC which considered the wage rates of Infection Control Practitioners; in the report of December 2004 for that classification, the MSRC recognized the importance of linking wages to the rates for Registered Nurses under the collective agreement with the Saskatchewan Union of Nurses. I am not persuaded that the situations are the same. The MSRC report indicates that as a rule Infection Control Practitioners in Saskatchewan actually have the same qualifications as Registered Nurses. Though Occupational Therapists and Physical Therapists may have some similarities, they are distinct professions based on distinct sets of credentials.

Perhaps the most difficult question raised by the respective submissions made by the parties is that of the extent to which the market supplement program should be “proactive.” In this connection, HSAS argued that market supplements should be used fairly aggressively to anticipate the potential effect of competitive pressures, and placed at a level which will signal to these professional employees that the employers are making a strong effort to ensure that a fair and market-sensitive level of wage rates is a priority. In relation to this classification, for example, HSAS talked about the increase in the wage rates in both Alberta and Manitoba, and argued that it is important to make a move on market supplements which will prevent a renewal of recruitment and turnover problems.

By agreeing to put this program in place, the parties have indicated that they are in agreement that it is necessary to respond to the volatility in the wage levels and patterns of demand for the range of professional classifications represented by HSAS. It is clearly important for the success of the program that decisions concerning market supplements be made on the basis of current information, and that some effort be made to anticipate trends which may affect recruitment and retention of these employees.

At the same time, there are features of the program as set out in the Letters of Understanding which suggest that the parties intended this to be a measured exercise. By providing frequent opportunities for review, and by requiring that the decisions be founded on criteria of which wage comparisons are just one factor, they appeared to have in mind a system which would make prudent rather than aggressive use of market supplements as a strategy for attracting and keeping employees. Given that change in the external environment is constantly taking place, attempting to keep “ahead of the wave” is in any case not possible.

In the case of this group of employees, the incremental change which has occurred in their wage levels through the addition of market supplements seems to have had some

influence on the stability of the workforce. I agree with the MSRC recommendation that any change in the existing level of market supplement is unwarranted at this time.

Physical Therapist

There are 145 budgeted full-time positions and 78 part-time positions in this classification, in ten different health regions.

The information contained in the MSRC report in 2004 presents a somewhat more equivocal picture of the effect of existing market supplement rates than was the case in the classifications I have addressed to this point. Turnover rates and vacancy rates have generally declined over the period since the implementation of the initial market supplement. The vacancy rate in full-time positions has fallen from 24% in 2002 to 7.5% in 2004 (though this figure does not include two vacancies which were anticipated in one health region), and this suggests that recruitment and retention problems are being addressed to some extent.

On the other hand, after an initial decline, the vacancy rate for part-time positions has increased again. Employers acknowledge that they have used the reclassification of employees to a Senior designation explicitly as a tool for recruitment and retention. In addition, though it is always difficult to link service delivery issues precisely to recruitment and retention, the majority of the health regions providing data to the MSRC reported waiting list issues.

It is difficult to read these somewhat contradictory signals. On balance, however, I have concluded that, given the picture for this classification, consideration should be given to the enhancement of the market supplemented wage rate.

Orthotist

This classification consists of three budgeted full-time positions in the Regina Qu'Appelle Health Region. In other health regions, other agencies, such as the Saskatchewan Abilities Council, provide orthotic services. At the time of the 2004 MSRC report, there was one vacancy in Regina-Qu'Appelle. HSAS indicated that they had heard that one position had subsequently been eliminated and there was one further vacancy, but this was not consistent with the information available to SAHO.

Both parties are in agreement that there is a strong demand across North America for persons trained in this profession, and that there is competition for applicants. One strategy used by the Regina Qu'Appelle Health Region to address this has been to create internships; two interns are currently in that program.

Some service delivery problems were indicated in the reports to the MSRC, but that committee concluded that these were tied to the reduction in positions rather than to recruitment and retention issues as such.

It is difficult to know what to make of the circumstances in a classification with such a small number of incumbents. Though a vacancy rate of 33% seems high, this only represents one person. On the other hand, a vacancy has existed for at least two reporting periods.

My assessment is that any link between the level of salary and this particular vacancy is not clear enough to permit me to reach a conclusion which would differ from that of the MSRC.

Prosthetist

This is another small classification, with three full-time budgeted positions located in the Regina Qu'Appelle Health Region. There are currently no vacancies in these positions; one vacant position was filled between the 2003 and 2004 MSRC reports.

The parties agree that there is a highly competitive environment for recruitment into these positions, given the small number of persons available with the required qualifications. In this classification, like the Orthotists, the health region is trying a strategy based on the use of internship to grow locally qualified candidates.

There seems to be no clear basis in the material put before me for a departure from the recommendation of the MSRC that there be no change in the existing market supplement rate at this time.

Pharmacist

There are 78 full-time budgeted positions and 31 part-time positions in this classification, as reported by ten health regions. At the time of the 2004 MSRC report, there were four full-time vacancies and one part-time vacancy in this group. The vacancy rates in both full-time and part-time positions improved between 2002 and 2004. The employers reporting for the 2004 MSRC report indicated that the lower number of vacancies had had a beneficial effect on service delivery issues.

The parties are in agreement that one of the major factors influencing recruitment and retention in this classification in recent years has been competition from pharmacies in big-box store such as Wal-Mart and Superstore, which often offer higher wage rates than those in the health care sector. Counsel for SAHO suggested that competition from this quarter has cooled recently, but no evidence was produced on this point. Counsel also indicated that the effect of the wage differential between health care Pharmacist positions and those in the commercial sector is offset somewhat by the fact that the positions in hospitals are considered more attractive because of their working conditions.

Though the parties agree that there is a need for ongoing vigilance with respect to this classification, there does not seem to be a basis for disagreeing with the recommendation of the MSRC that there be no addition to the market supplement rate at this time.

Paramedic

There are 34 full-time Paramedic positions, mostly in the Regina Qu'Appelle Health Region. In many centres, like Saskatoon, this function is carried out by employees of private companies. HSAS argued that these private companies, as well as protective services, compete for paramedics in Saskatchewan, and that higher wage rates in Alberta are also a draw.

There are currently seven vacancies, all of them in Regina Qu'Appelle. Prior to the MSRC report in October, 2004, there had been a turnover in five positions, and there had been a turnover in four positions in 2003, seven in 2002 and four in 2001.

The representatives of SAHO argued that the turnover rates reflect a number of factors, and that they cannot be solely tied to wage rates.

This is possibly true, but the recruitment and retention picture in this classification seems overall to be more unstable than in any other classification which was examined in this adjudication. The current market supplemented wage rate does not seem to have had the same kind of effect as the wage rate in other classifications, and I have concluded that an additional market supplement should be awarded.

DATED at Saskatoon, the 17th day of March, 2005.

Beth Bilson, Q.C.
Adjudicator