

BULLETIN

## Health authority spends a lot to deny a little

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On May 17, 2016, Fraser Health Authority demonstrated a shocking disregard for the public spending of precious health care dollars.

Brenda Daudlin is a dietitian employed by Fraser Health at Burnaby Hospital. Dietitians like her are responsible for a broad range of nutritional practices, some which, if not done properly, can be dangerous and even life-threatening to patients.

That's why in early October 2014, Daudlin gave up a weekend day off work to attend a one-day course on parenteral nutrition – also known as intravenous feeding – to begin to learn the skills of one of the most dangerous of dietetic procedures. She enrolled in the course well in advance to get the early bird rate of \$135 for course fees. Daudlin then applied to the employer for reimbursement for the cost of the course and half a day paid leave under the education leave provisions of the collective agreement, which specifies that education leave time should be shared between employer paid leave and employee contributed time. The employer denied her application and refused to pay anything towards the course.

Daudlin was shocked.

"I couldn't believe that my employer was being so unsupportive," she said. "I'd given up my own time and money to take a course on a subject that could only increase my skills which would, in turn, be valuable to the hospital in looking after very sick patients. I completely lost my momentum and enthusiasm for upgrading my skill set. If they don't care, I don't see how they can expect me to be excited about upgrading my skills."

HSA filed a grievance on her behalf. After several meetings involving senior health authority staff, the employer remained adamant in refusing to pay her the amount claimed – just \$261.12 in total.

HSA advanced the grievance to expedited arbitration, which is completely without prejudice and without precedent. That means that neither side can use or refer to the decision of the arbitrator in any future case and that any determination the arbitrator makes on the interpretation of the collective agreement does not bind the parties in any future case. In short, it was a one-off decision. Future or previous cases would not be affected. All that was at stake was the \$261.12.

Consider how much the employer spent in order to avoid paying this small sum.

They fought the case right through arbitration. They sent two senior staff to the arbitration to defend its position, each of whom are paid more than \$50 per hour. The hearing day lasted eight hours. The employer also used the services of a Health Employers Association of BC lawyer, again at a rate of more than \$50 per hour. They also were required to pay one half of the arbitrator's fee, about a \$1500 expense to the employer. As well, of course, there was the time spent by the HEABC lawyer and the senior staff in preparing for the case. Assuming that only one day was taken to prepare (which is likely on the low side), the employer spent

over \$4,000 to ensure that it would not have to reimburse this employee only \$261.12 - more than 15 times the value of the claim. All to try to win a case that would, if they were successful, demoralize their employee and send out a clear message that they just don't care about education upgrading. At the arbitration, one of the senior staff admitted in cross-examination that they do not budget anything whatsoever to pay for education leave for their health science professional staff. Again, that is in spite of language in the collective agreement giving members the right to education leave and reimbursement for expenses.

HSA President Val Avery was asked why the union was prepared to go to such lengths to obtain a relatively small amount of money for its member.

"This is a very big issue for us," she said. "Continuing education for our members is absolutely crucial for several reasons. For patient care and safety, it is vital that health care professionals be up to date. For hospitals to be accredited, they must have staff who maintain high levels of continuing education. Our members are required to be members of professional colleges and those colleges all require members to participate in continuing education. In light of that, we negotiated a provision in the collective agreement which essentially splits the cost of attendance at educational courses between the employer and the employee. Now we are finding that the health authorities are just not budgeting to pay their share and are trying to find more creative ways all the time to avoid paying our members.

"In this particular case, our member did everything right. She tried to better her knowledge for the benefit of the employer as well as herself, and the employer just refused to do its share. Until the health authorities start budgeting for education leave as bargained in the collective agreement and paying their share for education leave, we will go to bat for each and every member who is denied no matter the amount.

On June 9, 2016, Arbitrator Korbin issued her decision. She determined that the money the employer spent to avoid paying their employee was for naught. The arbitrator ruled they had violated the collective agreement and that the employee's costs be paid.

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