

## **Rail Workers' Right to Choose Medical Network Upheld**

WASHINGTON, D.C., October 22 — An arbitrator has rejected the railroad industry's attempt to utilize a never-before-used contract clause imposed by Congress 30 years ago to reduce the healthcare networks available to over 250,000 railroad workers and family members on the National Healthcare Plan for Railroad Employees. The decision is a major victory for railroad workers covered by national agreement health care plans, as their bargained-for right to choose their own medical network remains intact.

In early July of 2020, just over eight months after the current round of national bargaining had begun, the carriers' representative — the National Railway Labor Conference (NRLC) — proposed reconfiguring the National Plan's network structure in a way that would force many railroad worker into the cheapest area medical network immediately and then on a continual 3- to 5-year schedule without formal bargaining.

The Cooperating Railway Labor Organizations (CRLO), which is the Rail Labor umbrella group that oversees plan administration in concert with the NRLC, rejected the proposal, stating that this was an issue for negotiations and pointing out that the carriers had made an identical proposal at the bargaining table. In late July, the NRLC demanded that the Unions agree to the proposal, and threatened to use the binding deadlock neutral process found in the 1991 National Agreement settlement to resolve the dispute.

This threat led the 12 Unions to file suit against the nation's Class I railroad carriers in the United States District Court for the District of Columbia, asking the court to force the carriers to bargain in good faith with the unions over mandatory subjects of bargaining, such as their network structure proposal. The carriers' defense was that this was a "minor" dispute under the Railway Labor Act, as it involved an administrative matter under the National Plan and, therefore, could be resolved by the "deadlock neutral" process that was included in national agreements for all unions that were imposed by Congress — and signed into law by President George H. W. Bush — in order to stop a national strike in 1991.

At an August 31, 2021 hearing before a Special Board of Adjustment chaired by Arbitrator Joshua M. Javits, the Unions documented the history of health care network development in the railroad industry, showing that the carriers' proposal was anything but administrative in nature. They also showed the adverse impact the proposal would have on over a quarter million plan participants. The carriers countered that no "right to choose" existed in any national agreement, and that the deadlock neutral had the authority to decide the matter if the parties couldn't agree.

In upholding the Unions' position on the key question of network choice, Chairman Javits' October 20 Award found

“that the Carriers' proposal – in as far as it relates to the selection of network vendors – is an administrative matter. However, those elements of the Carriers' proposal that reduce choice for Plan participants and result in only a single network vendor being available to Plan participants, constitutes a change in Plan design and, thus, is outside the deadlock neutral's jurisdiction.”

The leaders of the prevailing Unions issued the following statement concerning this decision:

“This is a significant victory for the men and women covered by the national plans, and for their families. The carriers have been dragging their feet at the bargaining table while this dispute wound its way through the system. All the while, our members — essential employees, one and all — have continued to keep the country moving despite the Pandemic.

To the carriers, whose profits continued to flow in unabated, we say ‘The time for delay is over. Your workers have earned and deserve a new national agreement, one that reflects their true contribution to your bottom line.’ We remain ready to negotiate that agreement, and urge you to devote as much energy to that task as you invested in your failed effort to deprive your workers of their choice of medical networks.”

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The unions involved in the dispute are: the American Train Dispatchers Association; the Brotherhood of Locomotive Engineers and Trainmen; the Brotherhood of Maintenance of Way Employes; the Brotherhood of Railroad Signalmen; the International Association of Machinists and Aerospace Workers; the International Association of Sheet Metal, Air, Rail and Transportation Workers, Mechanical Division; the International Association of Sheet Metal, Air, Rail and Transportation Workers, Transportation Division; the International Brotherhood of Boilermakers; the International Brotherhood of Electrical Workers; the National Conference of Fireman & Oilers District, Local 32BJ, SEIU; the Transportation Communications Union/IAM; and the Transport Workers Union.