



# *The Four Winds*

*National Weather Service Employees Organization*

March 2010

## **NWSEO wins Appeal - NWSEO to Bargain to Increase Staffing at Anchorage WFO by 10 Positions**

On Tuesday, March 16, 2010, the Federal Labor Relations Authority reversed its earlier decision and sustained NWSEO's negotiability appeal in the Anchorage WFO case. This directs the National Weather Service to bargain with NWSEO over a proposal that would increase staffing at the Anchorage WFO by ten positions.

In 2004, NWSEO proposed that the NWS increase staffing at WFO ANC by 5 forecasters, 4 HMTs, and an IT because the staff at that office was assigned responsibility for two domains under IFPS. Although staffing levels is usually a management prerogative over which it is not obligated to bargain, the union claimed that the proposal to increase staffing at WFO ANC was an "appropriate arrangement" for employees at the office who were adversely impacted by the increased workload attendant on assuming responsibility for issuing forecast products for two domains. Such "appropriate arrangements" are negotiable even if it interferes with management's rights, provided it does not "excessively interfere." NWSEO filed an appeal with the FLRA seeking an order requiring the NWS to bargain over the proposal.

In 2005, the FLRA held that NWSEO's proposal was not negotiable because it found, for erroneous reasons, that the proposal "excessively interfered" with NWS's management rights. We then filed an appeal of the FLRA's decision in the United States Court of Appeals which ruled, in 2006, that the FLRA used an incorrect legal standard for determining whether a union proposal "excessively interferes" with management's right. The Court of Appeals ruled that a Federal agency must demonstrate that a proposed appropriate arrangement "significantly hampers the ability of an agency to get its job done," otherwise the agency is required to negotiate over it, even if it interferes with management's rights. The Court of Appeals remanded the case to the FLRA for reconsideration under this new legal standard for determining whether a proposal "excessively interferes." We filed a supplemental submission to the FLRA explaining, in short, that an increase in staffing would assist, rather than hamper, the ability of the NWS to issue timely and reliable forecasts for the people of Alaska.

After a four year wait, the FLRA has now reconsidered its earlier decision and ruled in NWSEO's favor, it ruled as "the law of the case" that NWSEO's proposal did not "significantly hamper" the ability of the NWS to "get its work done," and therefore did not "excessively interfere" with management's rights, and was therefore negotiable. The FLRA has directed the NWS to negotiate over NWSEO's proposal.

## **NWSEO Supports Bill to Lower Prescription Drug Costs**

NWSEO is joining other federal unions in support of a bill designed to ensure that federal employees receive the best benefits at the most affordable prices. Representative Stephen Lynch (D-MA) recently introduced legislation (H.R. 4489) to enhance oversight of the FEHBP prescription drug contracting and pricing methods. Federal employees and the taxpayers are

absorbing increasing costs for the FEHBP in part because of rising prescription drug costs. Prescription drugs are the fastest-growing component of health-care spending nationally.

H.R. 4489, the “**FEHBP Prescription Drug Integrity, Transparency, and Cost Savings Act,**” draws on the strengths of other federal programs to push down drug prices while preserving the current structure of the FEHBP. Specifically, H.R. 4489 will:

- Prevent Pharmacy Benefit Managers (PBMs) from switching patients’ prescriptions unless the switch is approved by the patient’s doctor *and* results in a net cost reduction. It will also ban PBMs from charging FEHBP more for a prescription than they reimburse the pharmacy that dispenses it;
- Require PBMs to return to the FEHBP 99% of all rebates and other payments they receive from drug manufacturers for FEHBP business;
- Cap the prices federal employees and the federal government pay for prescription drugs;
- Require PBMs serving FEHBP health plans to give the Office of Personnel Management (OPM) full access to information and strong audit rights. Such transparency is a curb to potential fraud, waste, and abuse;
- Extend the FEHBP’s current prohibition on contracting with companies that both manufacture drugs and own a PBM to companies that own both retail drugstores and a PBM.

By increasing transparency, banning improper drug-switching, capturing drug-company rebates and addressing conflicts of interest, this legislation could save federal employees and taxpayers hundreds of millions of dollars.

The NWSEO encourages all of our members to contact their Congresspersons and Senators and ask them to be a co-sponsor of this bill. More information can be found on the bill at <http://thomas.loc.gov>. Please type in Bill Number **H.R. 4489** on the Search & Summary Status section of the page.

### **NWSEO is on Facebook**

Did you know that NWSEO is now on Facebook? NWSEO Facebook is one more communication tool the union is using to reach its members. The page is fast becoming a place where members can discuss upcoming events and issues that NWSEO is working on or find answers to questions they may have. We hope you’ll become a Facebook NWSEO member today!