

## **LAST BEST OFFER SUBMISSION**

**FROM:** Employer Commissioners

**TO:** Last Best Offer Arbitration Panel

**DATE:** 10-21-21

Dear LBO Arbitration Panel:

This is to communicate the last best offer (LBO) position of the Employer Commissioners concerning the issues in dispute for the ensuing three-year agreement between the parties.

We first advise that the Employer Commissioners have agreed to accept Fact-Finder John Cochran's report and recommendations with respect to the issues of premium share, cash in lieu payments, grievance procedure, and eligibility standards. The Employer Commissioners and Employee Commissioners also accept Mr. Cochran's recommendation with respect to adopting a state-wide grievance procedure, however there is a difference of opinion regarding how best to implement his recommendation; the Employer Commissioners have submitted their proposal in this LBO. The only issue presented at Fact-Finding about which the Employer Commissioners depart from the Fact-Finder's recommendations and forward for LBO consideration and determination is the amount of the employer first-dollar contribution toward out-of-pocket (OOP) funding support in either an employee's health reimbursement arrangement (HRA) or health savings account (HSA).

Out-of-Pocket

Our LBO position on this issue is as follows:

For those "School Employees" who are Licensed Professional Employees (Teachers or Administrators) as defined by Act 7 of 2021, the Employer Commissioners propose that school employers will make a first-dollar contribution to an employee's HRA of \$1900/\$3800<sup>1</sup> as recommended by Fact-Finder Cochran for the first year of the 3-year agreement; an \$1800/\$3600 contribution for the second year, and a \$1700/\$3400 contribution for the third year.

For all other "School Employees" defined by Act 7 of 2021, the employer will make a first-dollar contribution to an employee's HRA of \$2200/\$4400 as recommended by Fact-Finder Cochran for the first two years of the agreement, and a \$2100/\$4200 contribution for the third year.

For all "School Employees" who elect an HSA in connection with either a Gold CDHP or Silver CDHP plan, the employer contribution shall be \$1300/\$2600 each year for the three-year duration of the agreement.

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<sup>1</sup> The Employer Commissioners believe that Mr. Cochran mistakenly recommended \$4000 rather than \$3800 for those choosing two-person, parent-child or family coverage, not remembering that a two-person, parent-child or family contribution is universally double the single person contribution and administered on this basis.

The precise contract language for our LBO position is as follows:

Article 7. Out-of-Pocket Cost Sharing: Employers and Employees

For employees and their dependents enrolled in the VEHI Gold CDHP or Silver CDHP plans, employers will pay medical and pharmacy out-of-pocket (OOP) costs with first dollar contributions through an HRA in the following amounts: for licensed professional teachers and administrators \$1900 for single-tier coverage and \$3800 for all other tiers of coverage for the 2023 calendar year, \$1800/\$3600 for the 2024 calendar year, and \$1700/\$3400 for the 2025 calendar year. For all other school employees, the first dollar payment shall be \$2200/\$4400 for the first two calendar years, and \$2100/\$4200 for the third calendar year. This amount of money can be credited at the employee's discretion toward the OOP of any other VEHI plan. For employees selecting an HSA, the employer contribution shall be \$1300/\$2600 in each year for the three-year duration of the agreement for the selected VEHI plan.

Grievance Procedure

The Employer Commissioners believe and submit the following contract language as consistent with the Fact-Finder's recommendation as its LBO position.

Article 10 – Grievance Procedure

10(a) Initial Step

In the event an interpretation or compliance dispute arises regarding healthcare coverage and benefits, a local public school district or a local union representing public school employees (or both jointly) may submit a written inquiry to the Co-Chairs of the Vermont Commission on Public School Employee Health Benefits ("Commission") within thirty (30) days after the initiating entity knows or should have known of the events giving rise to the matter, to seek a determination on any issue related to the implementation or application of the terms of statewide health care bargaining. If necessary, the Co-Chairs shall provide a copy of the inquiry to the other local party (either the local union president or the school superintendent) within five (5) workdays following the Co-Chairs' receipt of the inquiry. The Co-Chairs of the Commission may together ask questions or seek additional information from relevant parties or knowledgeable individuals prior to rendering their decision. If the Co-Chairs are in agreement, they shall respond with a written decision to both local parties within twenty (20) workdays of receiving an inquiry, and such decision shall be final and binding.

10(b) Full Commission Step

If the Commission Co-Chairs are unable to resolve the matter, they shall refer it to the full Commission which shall consider the matter and, if possible, resolve it by majority vote<sup>2</sup> within thirty (30) calendar days from the referral by the Co-Chairs. If a majority

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<sup>2</sup> Pursuant to 16 VSA 2102(e), majority vote shall mean support for the decision by a majority of both the employer-representing and the employee-representing Commissioners.

decision is reached, the Commission will provide a written statement to both local parties explaining its determination of the disputed issue(s) as well as its rationale; such determination shall resolve the inquiry and be final and binding.

#### 10(c) Arbitration

If the Commission is unable to resolve the issue, the matter shall be referred to final and binding arbitration. The Commissioners shall first seek to appoint by majority agreement an arbitrator who was previously involved in the most recent arbitration decision concerning negotiations for statewide health care benefits. In the event such an arbitrator is not available or declines to hear the case, the Commission shall seek to appoint the fact finder who issued the most recent fact-finding decision concerning statewide health insurance benefits. In the event the fact finder is also unavailable or unwilling to arbitrate, the Commission shall seek to appoint an arbitrator by mutual agreement. If the Commission is unable to agree on an arbitrator, the matter shall proceed to arbitration pursuant to the rules of the American Arbitration Association.