

IN THE MATTER OF ARBITRATION BETWEEN:

VERMONT EMPLOYEE HEALTH CARE COMMISSIONERS

&

VERMONT EMPLOYER HEALTH CARE COMMISSIONERS

ARBITRATION PANEL DECISION

Introduction

Pursuant to 16 V.S.A., Section 2104, the Employer and Employee members of the Vermont Commission on Public School Employee Health Benefits engaged in negotiations for an agreement covering the items set forth in Section 2103 of Chapter 16. The parties engaged in negotiations and they reached agreement on a number of issues, but they were unable to reach agreement on a number of key issues, and proceeded to Fact Finding before Attorney John Cochran.

Five issues were presented to Mr. Cochran: 1) Premium Cost Sharing, 2) Out of Pocket Share, 3) Eligibility, 4) Cash In Lieu of Cap, and 5) Statewide Grievance Procedure for Health Care Issues. Mr. Cochran issued a forty-four page Fact Finding Report making recommendations on these remaining five issues that was introduced in this proceeding. Mr. Cochran set forth in great detail the history of employee health care coverage for school employees, as well as the history of the legislation by which this proceeding is now being conducted. Mr. Cochran's recitation of the legislative history was most instructive and helpful to the Arbitration Panel, and in the

record, therefore the Panel will not restate it in detail in this decision.

After the issuance of the Fact Finding Report, the parties engaged in further negotiations and mediation that led to agreement on three issues. Thus, only two issues remain in dispute for this Panel to resolve: 1) Out of Pocket Share ("OOP") and 2) Statewide Grievance Procedure for Health Care Issues.

Pursuant to Section 2104(a)(3)(B) the parties selected Gary D. Altman Esq., and Michael Stutz Esq., to serve as two of a three person Arbitration Panel, and they, in turn, had the responsibility to select a Chair, conditioned on one veto for each party. Arbitrators Stutz and Altman selected Will Evans Esq., both parties agreed upon his selection, and the three neutral arbitrators compose the Arbitration Panel.

The parties submitted their Last Best Offers ("LBO's) on October 21, 2021, which the Panel then distributed to the parties. Prior to proceeding with the arbitration, the Panel held a pre-hearing conference with the parties on October 25, 2021 to discuss procedural and evidentiary issues. The Last Best Offer Interest Arbitration hearing was held over five days, November 1, 2, 3, 4 and 5, 2021. Rebecca McBroom, Esq. represented the Employee Commissioners. The Employer Commissioners were represented by Joseph P. McNeil, Esq. The parties submitted voluminous documentary materials in support of their respective positions.

The Employees accepted the Fact Finder's recommendations on both remaining issues. The Employer acknowledged it bears the burden of persuading the Arbitrators that the Fact

Finder's recommendations on OOP and grievance procedure should not be accepted.

Both parties presented witness testimony.

For the Employer: Laura Soares, Mark Koenig, Steve May, Jeffrey Carr, Adam Greshin.

For the Employees: Paul Cillo, James "Jeff" Fannon, Steve Kappel, Robert Rashevitz, David Himmel, Brian Robertson, Adam Norton, Sean Leach, Nora Skolnick, Zachary Oliver "Ollie" H. Brown.

Summary of the Employer's Position

The Employer's arguments center on "rebalancing" the Employees' gains from their win in the first interest arbitration in 2019 by Arbitrator Allen McCausland, who accepted the Employees' LBO package. During the most recent negotiation, the Employer proposed to increase OOP to reduce cost and utilization by increasing "participation" by members. The Employer describes the employee health plans as a "Rolls Royce" from which the Employer's proposal will only remove some "shiny chrome."

The Employer seeks to persuade the Panel that the Fact Finder's recommendation of an increase in OOP in the first year is insufficient, and the absence of any increase in the second and third year is deficient. The Employer asserts that the Fact Finder erred when he failed to follow standard practice of doubling cost of a single plan to reach cost of plan covering more than one person. On the grievance procedure, the Employer's LBO language allows co-chairs to settle grievances, which it says is more efficient and reasonable, and it offers HSA's for the most popular gold plan.

Summary of the Employees' Position

The Employees agree to accept the Fact Finder's recommendations entirely because the Fact Finder weighed the evidence fairly and made reasonable recommendations without error. The Employees focus on the impact of OOP on the lowest wage earners, and on big users of health care, for whom higher OOP will be financially onerous, and "may push employees over the edge" should the Employer's LBO be accepted. The Employees say \$10 billion in federal stimulus aid to Vermont has left it with a large surplus, yet the Employer's LBO, "targets the sick, poor, families and women." The Employees emphasize that their acceptance of the OOP recommendation is a concession.

Analysis and Recommendations

This is a somewhat unusual interest arbitration proceeding. By its terms, Vermont Law Section 2105 (b) (2) has limited the Arbitration Panel's authority with respect to its final Decision: "the Arbitrators shall select one of the last best offers without amendment". In other words, the Arbitration Panel cannot make changes to the parties' respective proposals, or render an independent decision as to what it believes would be the best resolution for the continuing impasse. The Arbitration Panel must select either the Employees' LBO proposal, in full, or the Employer's Last Best Offer, in full.

16 V.S.A., Section 2105((b) (3) (B), has set forth the factors that the Arbitration Panel should consider when making its decision, which are as follows:

- (i) The interests and welfare of the public.
- (ii) The financial ability of the Education Fund and school districts across the State to pay for the cost of health care benefits and coverage.
- (iii) Comparisons of the health care benefits of school employees with the health care benefits of similar employees in the public and private sectors in Vermont.
- (iv) The average consumer price for goods and services commonly known as the cost of living, and,
- (v) Prior and existing health care benefits and coverage for school employees

Section 16 V.S.A., Section 2105((b)(4) further provides that the Arbitration Panel shall issue a written decision "providing a full explanation of the basis for the decision." What follows is the Arbitration Panel's explanation as to why it reached its final decision.

Current Provisions for Out of Pocket Expenses

For employees and their dependents enrolled in the VEHI Gold CDHP, the employer will pay medical and pharmacy out-of-pocket (OOP) costs with the first dollar contribution through an HRA in the following amounts: for licensed administrators and teachers: \$2100 for single tier coverage and \$4200 for all other tiers of coverage; for support staff \$2200 for single tier coverage and \$4400 for all other tiers of coverage. This amount of money can be credited at the employee's discretion toward the OOP of any other VEHI plan. For employees enrolled in the VEHI Silver CDHP, employers will pay medical and pharmacy OOP costs with first dollar contributions through an HRA or HSA, at the individual employee's discretion, in the following amounts: for licensed teachers and administrators: \$2100

for a single tier and \$4200 for all other tiers; for support staff: \$2200 for a single tier and \$4400 for all other tiers.

Employer's Last Best Offer

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.

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 Employees 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 within thirty (30) calendar days from the referral by the Co-Chairs. If a majority 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.

Employees' Last Best Offer¹

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

For employees and their dependents enrolled in the VEHI Gold CDHP, employers will pay medical and pharmacy out-of-pocket (OOP) costs with first dollar contributions through an HRA in the following amounts: for licensed administrators and teachers as defined in section 2.1a and 2.1b, \$1900 for single-tier coverage and \$4000 for all other tiers of coverage; for support staff as defined in section 2.1c, \$2200 for single-tier coverage and \$4400 for all other tiers of coverage. This amount of money can be credited at the employee's discretion toward the OOP for any other VEHI plan. For employees enrolled in the VEHI Silver CDHP, employers will pay medical and pharmacy OOP costs with first dollar contributions through an HRA or HSA, at the individual employee's discretion, in the following amounts: For licensed teachers and administrators, \$1900 for a single tier and \$4000 for all other tiers; for support staff, \$2200 for a single tier and \$4400 for all other tiers.

Grievance Procedure

Either a local public school district or a union representing public school employees may file a grievance with the Commission concerning the interpretation or application of the statewide agreement concerning health care benefits for Vermont public school employees. The grievance must be filed with the Commission within thirty (30) days after the grievant knows or should have known of the events giving rise to the grievance. If a majority of the Commission is unable to resolve the issue within thirty (30) days, the matter shall be referred to final and binding arbitration. 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.

¹ The Employees' Last Best Offer Proposal is the same as the Fact Finder's recommendations.

I. The Interests and Welfare of the Public.

This is a rather vague standard. In Last Best Offer Interest Arbitrations in the public sector, at times, a parties' proposals can be so outlandish, and out of the norm, that the arbitrator can conclude that such a proposal would not be in the interest and welfare of the public. Such a conclusion is certainly not the case in this proceeding. Both of the parties' last best offers are rational proposals; the Employer seeks employees to shoulder a larger portion of the out of pocket expenses, while the Union, on behalf of its members, seeks more moderate increases in out of pocket expenses. The parties presented thoughtful and legitimate arguments for their respective proposals and their representatives forcefully presented the merits of their respective positions.

There is one matter that will be discussed at this time that bears on public interest. In particular, the Employer contends that Mr. Cochran made a mistake with respect to his recommendation for the first year of the OOPs for family coverage. Mr. Cochran recommended that for the first year of the Agreement the Employer's HRO contribution for the single OOP should be reduced from \$2,100 to \$1,900 and for family coverage the Employer's HRO share should be reduced from \$4,200 to \$4,000.

The Employer, in this Arbitration proceeding, maintains that historically, the family OOP has been twice the single OOP amount, and that not doubling the rate essentially discriminates against those taking single coverage. It must be stated, however, that there is no contention that not doubling the Employer's family contribution to \$3,800 is in

any way unlawful, as this is a subject that the parties have the right to negotiate. Moreover, the Employer never requested that the Fact Finder clarify his recommendation on the issue of the Employer's HRO contribution.

The Panel does not believe that it has any legal authority to change Fact Finder Cochran's Recommendation, or make a ruling on this one issue. Therefore, the only way that the Panel can adopt the Employer's contention that the Employer's HRO contribution should be \$3,800 for family coverage for the first year would be to adopt the Employer's total LBO proposal package, which will be discussed later in this Decision.

Grievance Procedure

Similarly, with respect to the parties' proposals on the grievance procedure, both of the parties' proposals are in the interests and welfare of the public. Even though Mr. Leach testified that under the prior period there were no such grievances, it is reasonable that the parties should adopt a grievance process to resolve potential disputes. This would be the case no matter whether the Employer's proposal or the Employees' proposal was awarded.

It also must be stated that, as the current Arbitration process is for Last Best Offer Total Package, the Arbitration Panel cannot pick and choose which of the parties' proposals on the grievance procedure would be more preferable, or make changes to the two proposals that the Panel believes would best serve the public interest. Specifically, the Panel's obligation is to select either the Employees' total package or the Employer's total package. As both parties' proposal on grievance procedure are reasonable and would improve the

status quo, a non-cost item such as the grievance procedure will not be determinative in selecting which total package of the parties should be awarded.

II. The financial ability of the Education Fund and School Districts across the State to pay for the cost of health care benefits and coverage.

The most compelling evidence of the Education Fund and School Districts' ability to pay is a comparison of the 2021 Education Fund, versus the projections for the 2022 Education Fund. In his fact finding report, Mr. Cochran found:

The Legislature's Joint Fiscal Office reports that the Education Fund for fiscal year 2021 was \$31 million or 5% above its target and is projected to have annual increases through fiscal year 2026. Second, school districts have received approximately \$400 million in Federal funds as a direct result of the Covid-19 stimulus funds legislation. Although Jeffrey Carr and Ethan Latour have cautioned that these increases are a one-time infusion of money that is unlikely to continue, projections through 2025 suggest that school districts will be able to at least continue funding current OOP obligations.

Since Mr. Cochran's Fact Finding Report, a more recent outlook of the Education Fund has been issued. (Employees Exhibit 13 B.) Whereas at the time of Mr. Cochran's fact finding report the estimated surplus for FY 22 was \$66.7 million, it increased to \$78.4 million in September 2021. (Employees Exhibit 13a & 13b). Jeffrey Fannon, Executive Director of the Vermont NEA, testified that as of the date of the Arbitration Hearing, the surplus is now estimated to have grown by another ten million dollars.

Moreover, a review of the balance sheet for the Education funds shows a property tax decrease for Vermont

residents, an increase in the Statewide Education Grand List from the prior year (2.7% to 3%), and also a decrease in Statewide Education Spending Growth from the prior year (3.9% to 1.3%); all positive events. The difference in estimated costs between the Employees' and Employer's proposal are that in the first year the Employees' proposal would cost an additional \$560,068, \$1,237,364 in the second year, and \$2,431,521 in the third year (Employees Exhibit 20b), and this is for a health program that presently costs \$244 million. The fact that there have been projected increases in the Education Fund surplus support Mr. Cochran's Recommendation on the OOPs. It must also be remembered that he actually recommended that the Employer's HRA contribution decrease for the licensed staff for first year; which is an Employees concession.

The Employer in this Arbitration proceeding clearly described its displeasure with the prior Arbitration proceeding (Joint Exhibit 8) that set the current OOP expenses, and contends that the Employer's share toward the HRA was too high, and must be rebalanced in the present proceeding. Employer Commissioner, Laura Soares, President and CEO of VSBIT from 2010 until she retired in 2020, explained that the higher the Employer share of the HRA, and the lower amount of the OOP exposure for employees, results in lowering "the incentive for engagement by employees in the cost of care. Without engagement, the volume of claims does not decline, and higher premiums are required." (Soares' Fact Finding Presentation Employer Exhibit 5H). Introduced in the Fact Finding was a chart that reflected premium increases for

the past four years, and percentages and dollar amounts attributed to employee utilization (Employer Exhibit 5H):

The Employer Commissioners requested BCBSVT breakdown the cost drivers for the FY 19-FY 22 rate increases and attribute a dollar value of collected premium for each component.

FY 19 3.4% of the 10.2% increase valued at \$5.7 million
FY 20 5.3% of the 10.9% increase valued at \$9.8 million
FY 21 6.4% of the 12.9% increase valued at \$13.6 million
FY 22 6.6% of the 9.3% increase valued at 9.3 million

At the time of this Arbitration, proposed premium rates for FY 2023 have been announced by the Vermont Education Health Initiative (VEHI) that suggest double digit premium increases have abated, at least for the next year (Joint Exhibit 14).² Specifically, VEHI informed employees and school officials that:

The proposed overall rate increase for active school employees in FY 23 is 5 percent, with rate increases ranging from 2.8 percent to 5.2 percent, depending on the VEHI health plan.

VEHI further reported:

As in past rating cycles, we analyzed medical and pharmaceutical price inflation, plan enrollment and cost-sharing trends, utilization of medical and Rx services, mandates and fees, and administrative costs. This year, medical inflation, particularly higher hospital budgets and Rx price increases, accounted for approximately three-quarters of what BCBSVT estimated would be needed to cover FY23 expenses.

Fortunately, VEHI is benefiting from stable reserves,

² Even though the rates are preliminary, Ms. Soares testified that the State regulatory agency is expected to approve the rates.

favorable investment performance, cost-saving measures in the pharmaceutical arena, continued low utilization of primary and specialty care, and a claims trend projection of zero percent for the third year in a row for hospital services.

Unquestionably, lowering the employer's HRA share, and increasing the employee's exposure would result in further cost savings for the Employer. It must also be stated that with projected premium increases in the range of 2.8% to 5.2% for FY 2023, this is a very positive trend that diminishes the need to rebalance the HRA beyond what was recommended by Mr. Cochran. Obviously, this Panel cannot predict what will happen with premium increases in future years, and if utilization rates increase, which then cause increases in premiums, the parties can address it in future years when they renegotiate premium rates and OOP expenses. With respect to this proceeding, the Panel must select either the Employer's LBO proposal package or the Employees'. The Panel cannot recommend the Employer's proposal which would increase the family OOP exposure from the current amount of \$4,200 to \$3,400 in the final year of the Agreement.

It must also be remembered that Mr. Cochran considered not only the OOP expenses, but also premium co-shares in his recommendations. In other words, he viewed the total picture of health insurance costs when he made his recommendation, and his recommendations were for licensed employees to pay more for OOP expenses for the first year of the new contract period, but not for the second and third year of the contract period, and that there be no increase for the unlicensed employees, whose income is considerably lower

than that of teachers.

There is ample justification for Mr. Cochran to have concluded that there are sufficient funds available to support his recommendations, and not require further employee concessions for OOPs in the second and third years. It must also be stated that this Arbitration is focused on one cost item. Although OOPs is an important component for setting premium rates, School Districts and Local Associations still have the opportunity to negotiate their own labor agreements, and can consider the health insurance rates when they negotiate the overall compensation package for employees.

III. Comparisons of the health care benefits of school employees with the health care benefits of similar employees in the public and private sectors in Vermont.

Introduced into evidence were the health insurance plans provided for other large public sector employers. This included the State of Vermont and its various bargaining units, the State Colleges of Vermont, and the University of Vermont. Most of these plans are point of service plans, as opposed to the high deductible plan that is in place for Vermont Public Schools. The State of Vermont, like the VEHI plan, requires its employees to pay 20% toward premiums. Other plans call for sliding premium co-shares with higher paid employees paying higher percentages of the health insurance premiums. (e.g. University of Vermont, Vermont State Colleges).

The two plans that now provide high deductibles with HRAs that are similar to VEHI, are the Vermont State Housing

Authority and the Vermont State Colleges, for some of its units. The OOPs breakdown is as follows:

Vermont State Housing Authority OOPs

OOP maximums:

\$2,550 (single coverage)/\$5,100 (family coverage)

Employer pays OOP first dollar up to \$2,375 single & \$4,750 dependency.

Employee maximum obligation is \$175 (single) and \$350 (dependents)

If carrier increases OOP maximum, parties split increase 50/50. However, a "breaker circuit" provision was recently bargained that limits the OOP liability for employees in this context to no more than \$400 (single coverage) and \$800 (dependency coverage).

Vermont State Colleges - Staff Federation and VSEA

Beginning January 1, 2017, all newly hired employees receive coverage through a high-deductible health plan with an HRA. Employees hired prior to January 1, 2017, may voluntarily elect this coverage.

Maximum out-of-pocket costs: \$3,000 (single coverage) and \$6,000 (family coverage).

Employer funds the first portion of the annual deductible through an HRA. The employee's portion of the deductible will not exceed, after HRA contributions, \$500 per year for an individual or \$1,000 per year for family coverage.

The OOPs for the VEHI plans are certainly comparable with these other employee groups that have high deductible plans.

Steve May, Consultant with Hickman and Boardman, testified that the Affordable Care Act set up a process to measure the value of the group plans which is known as the Actuarial Value. Mr. May testified that at the present time the VEHI program is rated at 97, whereas the Vermont State employees plan, is rated at 95, and that these values show that the VEHI high deductible plans are more beneficial for

employees. No doubt this is the case, but there is nothing in the law that requires the VEHI group program to have the same AV value as the State of Vermont Health Plan. They are both excellent health plans, and based on the AV values their rating, although not equal, is certainly comparable.

It also must be noted that the Point of Service Program for the State Employees is a plan with considerably higher premium costs. In other words, both the employer and employees pay higher premium costs for a plan that has a lower AV value. (Employer Exhibit 3G). There can be no question that moving to the High Deductible Plans has saved both Vermont School Districts and its employees considerable premium costs since its inception.

Finally, of the public group plans discussed above, it is significant that in none of the other Labor Agreements were there employee concessions on health insurance. (Employees Exhibit 24) In other words, the current prevailing practice is that during the most recent round of bargaining, employees and employers did not agree to increase premium rates or increase out of pocket expenses for employees. The fact that the status quo for premium rates and health coverage remained the same for these contracts, is certainly relevant as to whether this Panel should require further concessions than those set forth in Mr. Cochran's Recommendations.

IV. The average consumer price for goods and services commonly known as the cost of living.

The Cost of Living is often cited in interest arbitration statutes as a relevant criterion to consider.

The cost of living is often used where the issues pertain to setting future wage increases. The issue of wage increases and other benefits such as insurance buy-outs, *inter alia*, are issues that will be negotiated at the local levels. Of course, this Arbitration Panel is not establishing employee wage increases, and is only considering cost impacts as it pertains to OOPs. It is public knowledge that the current inflation rate is higher than it has been for many years; what is not known is the impact that cost of living will have on future health insurance costs.

One would assume that inflation will have an impact on future health insurance costs. With respect to the most recent projected rate increase, however, there was only a modest rate increase; as stated above the projected increases were in the range of 2.8% to 5.2 for FY 2023. That is a very modest increase considering that for the past four years there were double digit premium increases. Moreover, employees and employers co-share any premium increases, thus, if there are increases in premiums due to inflation of medical costs, the parties will share those premium increases based on the existing co-share percentages (Employer 80% Employees 20%), which is the co-share rate for Vermont State employees. In sum, the current cost of living is not sufficient justification to increase the OOPs amounts above what was recommended by the Fact Finder.

V. Prior and existing health care benefits and coverage for school employees.

For the last thirty years health insurance costs have been an issue in negotiations for teachers and school

districts as costs for health insurance have escalated. Health insurance is an economic benefit that is a significant part of the teachers' overall compensation. Health insurance costs real dollars, and, therefore, must be considered not as one of principle but as an economic matter. The employer wants employees to contribute more toward their health insurance so that there will be additional revenue available for school programs. Employees are concerned that paying more for health insurance, with increased percentages and increased deductibles, will take real dollars out of their pockets.

Over the years there have been a number of changes to health insurance coverage for Vermont school employees. At one time the BC/BS JY plan, an indemnity plan, was the prevailing medical coverage for Vermont School employees, but as rates increased, VSBIT adopted different plans to save on premium costs and still provide excellent health insurance. During this time period of escalating health insurance costs, the parties negotiated and teachers agreed to different health plans, and ended up paying higher percentages toward their premium coverage, with rates that varied from school district to school district. Today the vast majority of licensed staff are now paying 20% toward their premium costs whereas, in the past, it would not be unusual for Vermont School Districts to be paying in the range of 85% to 90%.

In 2018, VEHI introduced plans with high deductibles for School District employees, and traditional indemnity and managed care plans were phased out. In addition, Legislation was passed that strongly encouraged that employer premium contributions be no more than 80%.

When VEHI moved to the High Deductible Plans, it resulted in considerably lower premium costs for both the Employer and Employees. One only has to compare the premium costs for State Employees and the premium costs under the VEHI plan to recognize that the movement to the High Deductible plans cost the School Districts considerably less money when compared to what they were paying in the past, and when compared to the amount paid by the State of Vermont for its employees. In terms of lowering costs of health insurance, the movement to High Deducible Plans with the HRA, has been successful.

There can be no question that the amounts of premium co-shares remain a controversial issue between employees and employers, and was again an issue that was addressed and resolved in this round of negotiations. The economic issue of OOPs is also an important issue, as premium rates are, in part, based on employee utilization of medical services, and OOPs can have significant financial impact on employees. Based on the totality of testimony and evidence presented in this proceeding, the Panel is convinced that the Fact Finder's Recommendation on the OOPs for this succeeding Agreement will not alter the historical balance between the Employer and Employees with respect to health insurance coverage and the costs of this crucial benefit.

Conclusion and Award

The Arbitration Panel has considered the statutory factors and reviewed the evidence and testimony in making its final decision. As stated at the outset, this Panel's statutory authority is to award either the Employer's LBO proposal package or the Employees' LBO proposal package; it

cannot accept portions of the Employer's or Employees' packages. Perhaps this Arbitration Panel would have reached slightly different conclusions than Mr. Cochran, as there are no clearly right or wrong answers to these weighty and complicated issues.

Nonetheless, based on the totality of evidence and the arguments of the parties, the Arbitration Panel unanimously concludes that there is no compelling reason to reject the Recommendations set forth in Mr. Cochran's well-reasoned Fact Finding Report. As the Employees have adopted, in total, the Fact Finder's Recommendations as its Last Best Offer, the Arbitration Panel hereby AWARDS the Employees' Last Best Offer.

The language to be included in the "Terms and Conditions as Required by the Arbitration Award and Resolution of Negotiations Between the Commission of Public School Employee Health Benefits Pursuant to the Provisions of 16 V.S.A. Chapter 61 for the period of January 1, 2023 through December 31, 2025", shall be as follows:

8.1 For employees and their dependents enrolled in the VEHI Gold CDHP, employers will pay medical and pharmacy out-of-pocket (OOP) costs with first dollar contributions through an HRA in the following amounts: for licensed administrators and teachers as defined in section 2.1a and 2.1b, \$1900 for single-tier coverage and \$4000 for all other tiers of coverage; for support staff as defined in section 2.1c, \$2200 for single-tier coverage and \$4400 for all other tiers of coverage. This amount of money can be credited at the employee's discretion toward the OOP for any other VEHI plan. For employees enrolled in the VEHI Silver CDHP, employers will pay medical and pharmacy OOP costs with first dollar contributions through an HRA or HSA, at the individual employee's discretion, in the following

amounts: For licensed teachers and administrators, \$1900 for a single tier and \$4000 for all other tiers; for support staff, \$2200 for a single tier and \$4400 for all other tiers.

* * *

11.1 Either a local public school district or a union representing public school employees may file a grievance with the Commission concerning the interpretation or application of the statewide agreement concerning health care benefits for Vermont public school employees. The grievance must be filed with the Commission within thirty (30) days after the grievant knows or should have known of the events giving rise to the grievance. If a majority of the Commission is unable to resolve the issue within thirty (30) days, the matter shall be referred to final and binding arbitration. 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.

Date: December 1, 2021



Arbitrator Will Evans, Esq., Chair



Arbitrator Michael Stutz, Esq.



Arbitrator Gary D. Altman, Esq.