D.U.P. NO. 97-39

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF UNFAIR PRACTICES

In the Matter of

LAKELAND REGIONAL BOARD OF EDUCATION,

Respondent,

-and- Docket No. CO-97-292

LAKELAND REGIONAL HIGH SCHOOL
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an allegation raised by the Association concerning the Board's unilateral change of health insurance carriers. The selection of an insurance carrier is a managerial prerogative.

The Director issues a complaint and notice of hearing on the remaining allegations in the charge. The Association alleges that the Board refused to provide information to the Association regarding the new health insurance plan. Additionally, the Association alleges that the new health insurance plan unilaterally selected by the Board provides reduced benefits to Association unit members.

Deferral of the change in the level of benefits allegation is not appropriate because the contractual grievance procedure does not end in final and binding arbitration. Rather, it provides for advisory arbitration. The Board would not consent to binding arbitration for a grievance about this issue.

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Appearances:

For the Respondent,
Sills, Cummis, Zuckerman, Radin, Tischman, Epstein & Gross, attorneys
(Cherie L. Maxwell, of counsel)

For the Charging Party,
Klausner & Hunter, attorneys
(Stephen B. Hunter, of counsel)

DECISION

On March 3, 1997, the Lakeland Regional High School Education Association filed an unfair labor practice charge alleging that the Lakeland Regional District Board of Education violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1) and (5)[1/] by actions it

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1/ These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

has taken concerning health insurance coverage for Association-represented employees of the Board. First, on September 4, 1996, the Board announced that effective October 1, 1996, it was unilaterally changing health insurance carriers from the CIGNA Health Plan to a Health Insurance Fund ("HIF") administered by Insurance Design Associates ("IDA"). The Association further alleges that by changing carriers, the Board reduced the level of health benefits provided to unit members, and unilaterally did so without negotiations with the Association. Finally, the Association alleges that, despite their demand that the Board provide specific, detailed, written information regarding all aspects of the coverages to be provided through the HIF, the Board has refused to supply the Association with the details and documents describing the new health insurance plan.

The Board denies violating the Act, asserting that it has a managerial prerogative to change carriers, that the level of benefits provided by the HIF is equal to or better than those provided by the CIGNA plan, and that it has provided information received from the HIF to the Association.

An employer has the right to select which carrier will provide the agreed upon level of health insurance benefits. However, the level of benefits may not be altered without good faith negotiations. Bor. of Metuchen, P.E.R.C. No. 84-91, 10 NJPER 127 (¶15065 1984); City of Newark, P.E.R.C. No. 82-5, 7 NJPER 439 (¶12195 1981); Bor. of Paramus, P.E.R.C. No. 86-17, 11 NJPER 502

(¶16178 1985). Accordingly, an allegation in a charge asserting that an employer changed insurance carriers without negotiating with a majority representative will be dismissed. Tp. of Irvington, D.U.P. No. 94-31, 20 NJPER 144 (¶25069 1994).

Here, the parties' collective bargaining agreement for the term of July 1, 1995 through June 30, 1998 does include health insurance benefits language, but provides for advisory arbitration as the last step of the grievance procedure. The Board will not agree to binding arbitration of this matter. Accordingly, deferral is not appropriate in this instance and the issue must be addressed at a hearing.

An employer is obligated to provide specific documents and information about any change in a health insurance plan. An employer's refusal to provide this information could violate the Act, so these allegations must also be addressed at a hearing. See Lakewood Bd. of Ed., P.E.R.C. No. 97-44, 22 NJPER 397 (¶27215 1996).2/

Accordingly, based on the above discussion, I dismiss the allegation that the Board changed health insurance carriers without

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2/ The failure to supply information is normally not appropriate for deferral. See generally, NLRB v. Acme Industrial Co., 385 U.S. 432, 64 LRRM 2069 (1967)

negotiating with the Association. However, I will issue a complaint and notice of hearing on the allegations concerning the alteration of the level of benefits and the refusal to provide information about the new plan. N.J.A.C. 19:14-2.1(a)-2.3.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES

Edmund G. Gerber, Director

DATED: June 30, 1997
Trenton, New Jersey