

P.E.R.C. NO. 97-104

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HAMILTON TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-96-118

HAMILTON TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Hamilton Township Board of Education for a restraint of binding arbitration of a grievance filed by the Hamilton Township Education Association. The grievance alleges that the Board violated a contractual obligation to form a joint committee and discuss alternative insurance plans. The Commission finds that a joint committee to review and discuss alternative insurance plans does not restrict the Board's ultimate power to select a carrier.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Petitioner, Hill Wallack, attorneys
(Joan Kane Josephson, of counsel)

For the Respondent, Bergman & Barrett, attorneys
(Michael T. Barrett, of counsel)

DECISION AND ORDER

On April 26, 1996, the Hamilton Township Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a grievance filed by the Hamilton Township Education Association. The grievance alleges that the Board violated a contractual obligation to form a joint committee and discuss alternative insurance plans.

The parties have filed a certification, exhibits and briefs. These facts appear.

The Association represents the Board's teachers, social workers and nurses. The parties entered into a collective negotiations agreement which expires on June 30, 1997.

Article 12:1.1 provides:

The parties shall set up a joint committee to seriously discuss and review alternative insurance plans prior to the commencement of negotiations for a successor agreement.

The contract's grievance procedure ends in binding arbitration.

On March 21, 1996, the Association filed a grievance. The grievance asserted that the Board violated Article 12:1.1 when, the night before, it announced that it was dropping out of the State Health Benefits Plan. According to the grievance, the Board had not set up the joint committee called for by Article 12:1-1. The grievance asked that the Board stop considering a successor carrier until it complied with the contract.

On March 27, 1996, the Board denied the grievance. It asserted that it had set up a joint committee including the Association president, the president of all other unions representing district employees, an NJEA representative, and an NJEA health benefits specialist; but the Association declined to engage in any serious discussions since its members did not want a change. The response further asserted that the Board had selected U.S. Healthcare and that carrier would provide the same level of benefits as before. According to the Board, it saved \$820,000 and reduced the tax rate by changing carriers.

On April 16, 1996, the Association demanded arbitration. The demand asserted that the Board had not formed a committee and had simply called meetings to advise Association members of a choice already made.

The grievance was denied and the Association demanded arbitration. This petition ensued.

Our jurisdiction is narrow. Ridgefield Park Ed. Ass'n. v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 154 (1978), states:

The Commission is addressing the abstract issue: is the subject matter in dispute within the scope of collective negotiations. Whether that subject is within the arbitration clause of the agreement, whether the facts are as alleged by the grievant, whether the contract provides a defense for the employer's alleged action, or even whether there is a valid arbitration clause in the agreement or any other question which might be raised is not to be determined by the Commission in a scope proceeding. Those are questions appropriate for determination by an arbitrator and/or the courts.

Thus, we do not consider the contractual merits of the Association's claims or any contractual defenses the employer may have.

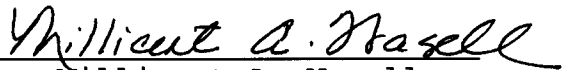
An employer need not negotiate over the selection of an insurance carrier unless a change in carrier would affect the level of benefits or administration of the plan. See Hunterdon Central H.S. Bd. of Ed., P.E.R.C. No. 87-83, 13 NJPER 78 (¶18036 1986); Borough of Paramus, P.E.R.C. No. 86-17, 11 NJPER 502 (¶16178 1985); Borough 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). But an employer may legally agree to discuss the selection of a health insurance carrier with its employees' majority representative. See Passaic Bd. of Ed., P.E.R.C. No.

90-3, 15 NJPER 490 (¶20200 1989); see also Local 195, IFPTE v. State, 88 N.J. 393 (1982) (clause requiring discussion of economic subcontracting decision is mandatorily negotiable and legally enforceable). Article 12:1-1 does not restrict the Board's ultimate power to select a carrier and only requires it to set up a joint committee to review and discuss alternative insurance plans. We therefore decline to restrain arbitration.

ORDER

The request of the Hamilton Township Board of Education for a restraint of binding arbitration is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Finn, Ricci and Wenzler voted in favor of this decision. Commissioner Klagholz voted against this decision. Commissioner Boose abstained from consideration.

DATED: February 27, 1997
Trenton, New Jersey
ISSUED: February 28, 1997