

# Bargaining Health Insurance

*A Legal and Practical Guide for Employers*

Rodney B. Younker

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SUMMIT LAW GROUP

ENERGY PASSION COMMITMENT SHIRTSLEEVES

# Rod's Road Map

- The duty to bargain insurance
- Rod's tips for bargaining insurance in successor agreements
- What to do with mid-term changes in insurance benefits
- What happens after the agreement expires?
- Miscellaneous process issues
- Sample contract language

# The Duty to Bargain

- Health insurance is considered part of “wages” and is therefore a mandatory subject of bargaining
- Elements of health insurance that must be bargained:
  - Premiums
  - Co-pays and deductibles
  - Material changes to benefits

# The Duty to Bargain

- Elements of health insurance that need not be bargained
  - Changes in providers that do not materially affect benefits
  - Issues subject to a valid waiver

# Insurance In Successor Contracts

- Prepare thoroughly
- Allow adequate time
- Keep an open mind
- Do the math
- Make the proposals
- Introduce change incrementally
- Keep it simple
- Think strategically
- Pay attention to the words

# Mid-Term Changes to Insurance

- Absent a waiver, employers must bargain mid-term changes to benefits
  - Contract waivers
  - Waiver by inaction
  - Business necessity not available
- Put the union on notice
  - Notice must permit reasonable time to respond and bargain
- Bargain to resolution or impasse

# Post-Contract Insurance Issues

- Contract language will control impact of premium increases after expiration
  - *City of Anacortes*, Decision 9012 (PECB, 2005)
  - *City of Mukilteo*, Decision 9452 (PECB, 2006)

“The present case is distinguished from those situations where an employer agrees to pay a specific percentage of health insurance premiums, rather than a percentage of the increase of those premiums.”

# Process Issues

- Beware of the insurance committee
  - *Yakima County*, Decision 9338 (PECB, 2006)
- Don't forget the non-represented employees . . .

# Contract Language Ideas

- Mid-Term Changes
  - “Any changes required by the provider of insurance coverage shall be automatically implemented. These include, but are not limited to, changes in required co-pays, deductibles and plan administration procedures.”

# Contract Language Ideas

- “In the event that there are changes to the benefits included in the health insurance plans specified in this Article during the term of this Agreement, the Employer will notify the Association of those changes. If, in response to such a notification, the Association identifies an alternative plan that is available to the Employer, that meets all legal obligations of the Employer, that provides substantially similar or greater benefits at an equal or lesser cost, and that will provide coverage to eligible non-represented employees of the Employer, the Employer will switch coverage to the alternative plan. In the absence of such an alternative, changes to the benefits included in health insurance plans will be incorporated into this Agreement.”

# Contract Language Ideas

- Post-Contract Premium Increases
  - “If the Union and Employer fail to reach agreement on a successor collective bargaining agreement and the provisions of RCW 41.56.123 become effective, the Employer shall continue its contribution at the 2008 amount described above. The employee shall be responsible for any premium amount not covered by the Employer’s contribution.”

# Contract Language Ideas

- Cost Containment

- “In the event that the monthly premium costs associated with the Plan B medical insurance increase by more than thirty percent (30%) in any one year, the parties will reopen negotiations for the purpose of changing benefit levels provided by Plan B to reduce premium costs, or choosing a lower cost alternative plan. In addition, any party may request to reopen negotiations beginning October 1 of any year for the purpose of proposing a change in one or more of the insurance plans described above, or a change in the benefits provided by those plans, if the effect of that change is to reduce the cost of such insurance plan.”

# Contract Language Ideas

- “In the event that the premiums of the Base H&W Plan increase by more than twelve percent (12%) in a plan year, the Committee will recommend changes to the Base H&W Plan to keep rate increases at or below 12%. The committee will include an equal number of represented and non-represented positions, with at least three represented and three non-represented positions.”