MARC A. WINTERS
ARBITRATOR

In The Matter of Arbitration

Between

Ringgold School District,

Employer

And

Ringgold Education Association,

Union

OPINION & AWARD

Arbitrator Case No.:	BOM Case No. 2015-0118
Employer Advocate:	Carl P. Beard, Esquire
Association Advocate:	Leslie D. Kitsko, Esquire
Subject:	Spousal Exclusion
Grievant:	Group Grievance
Grievance No.	2-2014/2015
Date of Hearing(s):	August 26, 2015
Location of Hearing:	New Eagle, Pennsylvania
Record Closed:	November 10, 2015
Opinion and Award Issued:	January 4, 2016

APPEARANCES

For the Association:
Leslie Kitsko, Staff Attorney

Also Present:
Krista M. Bradley, Associate Staff Attorney
Stephanie Cramer, UniServ Representative
Alisa Compeau, UniServ Representative
Diana Kristobek, Former Local President and Chief Negotiator
Patti Nelis, Grievance Chair.
Maria Baker, Local President

For the Employer:
Carl P. Beard, Labor Counsel

Also Present:
Karen Polkabla, Superintendent
Randall Skrinjorica, Director of Operations and Financial Services

PRELIMINARY STATEMENT

The parties, Ringgold School District, ("Employer") and Ringgold Education Association, ("Union"), having failed to resolve a dispute involving spousal exclusion, proceeded to final and binding arbitration pursuant to the terms of their collective bargaining agreement, ("Agreement"). Marc A. Winters was appointed to serve as impartial arbitrator from a panel supplied by the Pennsylvania Bureau of Mediation. The Arbitrator assigned Case Number to the Grievance is BOM # 2015-0118. The Grievance was filed on October 7, 2014. An oral hearing was held on August 26, 2015. Both parties were given full opportunity to present evidence, to cross-examine the witnesses and to argue their respective positions. A stenographic record of the hearing was made. The Arbitrator has full authority to resolve any arbitral challenges or procedural issues and to decide the case on its merits. Post-hearing briefs were filed by the parties and exchanged on November 10, 2015.

SUMMARY OF BACKGROUND AND POSITIONS OF THE EACH PARTY

The Ringgold School District is a public school district operating under the Public School Code of 1949, 24 P.S. § 1-101 *et seq.*, as amended. The Ringgold Education Association, PSEA/NEA is the exclusive representative of a group of the District's employees, including its teachers. The District and the Association are parties to a collective bargaining agreement effective through and including June 30, 2017. The Collective Bargaining Agreement, which was signed by the parties on September 2, 2014, is retroactive to September 1, 2013. Article XIX, Section G(5) of the Collective Bargaining Agreement contains language implementing spousal exclusion within the agreed upon health care coverage such that employees' spouses are excluded from coverage if they are employed by certain categories of employers, including other school districts. As this language was new to the Association, the Association relied on the assurances of District representatives to

determine how and when such language would be implemented.

The Association characterizes the issue in dispute is the spousal exclusion language pertaining to health care that is located in Article XIX of the parties' collective bargaining agreement. The spousal exclusion language is in Section G5 on page 69. In a nutshell, the Association believes that this language would not go into effect until the first regular open enrollment period following ratification of the collective bargaining agreement. The Association argues spouses of employees have already made their elections with their respective employers for health care and they should be able to remain under the District's coverage until an open enrollment period under their collective bargaining agreement.

The Association claims that in September 2014, the District for the first time told the Association that it intended to implement the language immediately because it served as a qualifying event. The Association claims this was never discussed with the Association prior to ratification.

The District subsequently implemented spousal exclusion language in November 2014. The Association claims that it affected two groups of employees.

The two groups of employees are comprised of the following: one that had their level of coverage change and the second group had their healthcare buy out reduced as a result of implementation of the spousal exclusion language.

The Association claims that the Grievance is very limited and focused on the 2014-2015 contract year. The Association maintains that they had a specific understanding that the implementation should not occur until the open enrollment period leading to July 1 of 2015.
The District's position is that there was never any discussion or agreement that the spousal language would come into play in the first new enrollment period on or after July 1, 2015.

The District's position is that the contract language is clear and unambiguous. The collective bargaining agreement is retroactive. There is nothing within the language that is found in Article XIX, Section G.5.on page 69 of the collective bargaining agreement that indicates there is a specific implementation date from what is provided for in Article XX.

In addition, the District believes that parole evidence cannot be used to explain away the clear and unambiguous language of the agreement.

The Advocates, in their respective briefs, and in defense of their respective cases, cited numerous arbitration and court decisions along with various cites of arbitral authority, to aid this Arbitrator as guidance in rendering a decision.

The following documents were entered into the Record:

Jt. Ex. 1 Group Grievance #2-2014/2015 filed on October 14, 2014.

Jt. Ex. 2	Collective Bargaining Agreement dated September 1, 2013 through June 30, 2017.
Assn. Ex. 1	August 12, 2014, email from Diana Kristobek to Alisa Compeau.
Assn. Ex. 2	September 12, 2014, Teacher Healthcare packet.
Assn. Ex. 3	September 12, 2014, through September 15, 2014, email discussions between the Association and the District.
Assn. Ex. 4	School District Health Care coverage information on affected bargaining unit members.
Assn. Ex. 5	October 22, 2014, spousal exclusion letter from Superintendent to affected bargaining unit members.
Assn. Ex. 6	October 20, 2014, letter from East Allegheny School District Superintendent to Ringgold School District Superintendent.
Assn. Ex. 7	October 24, 2014, letter from Superintendent to affected bargaining unit members concerning the 2014-2015 Waiver Buy Out Option.
Assn. Ex. 8	Association Grievance Chair notes over coverage issue meeting with Superintendent.
SD Ex. 1	Association proposals to District after fact-finding report was rejected, June 30, 2014.
SD Ex. 2	1st Draft of Agreement after rejected fact-finding report.
SD. Ex. 3	August 21, 2014 email discussions between PSEA and District.
SD. Ex. 4	Final draft of Agreement prior to vote.
SD. Ex. 5	Association proposals/questions on healthcare for Fact-Finding.
SD. Ex. 6	Association proposals on healthcare from Fact-Finding proposal book.
SD. Ex. 7	School District proposals for Fact-Finding.
SD. Ex. 8	May 20, 2014, Fact-Finding Report issued by Michelle Miller-Kotula.
SD. Ex. 9	Draft Agreement revisions, August 15, 2014, District to Association.
SD. Ex. 10	Draft Agreement revisions, August 18, 2014, Association to District.

SD. Ex. 11 Business Manager's notes from August 12, 2014, bargaining meeting.

SD. Ex. 12 Tuesday, September 2, 2014, School Board minutes referencing Board ratification of Collective Bargaining Agreement.

PERTINENT PROVISIONS OF THE AGREEMENT

Article XIX, Salary Schedule and Fringe Benefits

G. Health Care

3. (v) In the event that a bargaining unit member changes his/her coverage during the school year (e.g. from "Individual" to "Spouse/Spouse"), the increase or decrease in that individual's contribution towards health insurance premiums through June 30th shall be calculated, and that dollar amount shall be prorated (increase or reduction) over the remaining months through April 30th and the appropriate change shall be made to that individuals withdrawals from his/her paychecks.

5. The spouse of an employee who has healthcare coverage available to them through an employer listed below will not be eligible for District provided health care coverage while the spouse is also eligible for coverage through any of the following employers:

a. Commonwealth of Pennsylvania;
b. Federal Government, to include Federal Court System or any branch of the U.S. Military;
c. Any public school, intermediate unit, cyber or charter school;
d. State System of Higher Education Universities or state owned Universities funded by the State of Pennsylvania.

This exclusion will not apply to any Ringgold employee who is providing spousal coverage as a result of a court order or directive by any other duly recognized judicial body.

If an employee's spouse loses his/her employer-provided coverage as stated herein, he/she shall immediately become eligible to enroll under his/her spouse covered by the District's plan.

Employees shall annually confirm coverage/non-coverage on the appropriate District provided form.

Appendix K, Working Spouse Verification Form
(Found on page 93 of CBA; not recreated here for this discussion.)

ISSUE

Whether the District violated the parties' Collective Bargaining Agreement when, in November of 2014, it implemented the newly negotiated healthcare spousal exclusion provisions contained in the parties Collective Bargaining Agreement. If so, what is the appropriate remedy?

DISCUSSION AND FINDINGS

The facts in this case are really not in dispute. What is in dispute is the effective date of the changes made to the parties' health care plan with respect to the new spousal exclusion language.

To decide this dispute this Arbitrator has been asked to interpret language of the parties Collective Bargaining Agreement, more specifically, Article XIX, Section G (5) and Article XX, Section A, as those Sections applies to the effective date of changes made to spousal coverage.

There were many issues discussed during the Hearing and in the Advocates respective briefs. However, to arrive at a decision, it is not necessary to discuss each and every issue raised. For example, the testimony and discussion that took place over the IRS qualifying event does not need to be further discussed here as is that issue is not relevant to the issue being adjudicated. The qualifying event legally enables spouses to be able to go back to their employer's health care plan and has no effect on what the effective date of the spousal exclusion language should be under the terms of this Collective Bargaining Agreement.

The issue, here, is a straightforward matter of contract interpretation. The normal rule to be observed in the construction of contract language is that the interpreter, or arbitrator for this matter, must, if possible, ascertain and give effect to the mutual intent of the parties while interpreting such language as would a reasonable person in reading such language.

On one hand you have the Association arguing that the effective date of the new spousal exclusion language changes should be during the open enrollment period after year one for employees with spouses working for specific employers where the spouse already had been required to make their health care elections for the year. The Association's reasoning for their position is based on a meeting held between the parties on August 12, 2014.

During the August 12, 2014, meeting, which included, then Association President, Diana Kristobek, Association Grievance Chair Patti Nelis, District Business Manager Randall Skrinjorich and Superintendent Karen Polkabla, the Association leaders expressed concern regarding employees affected by the spousal exclusion provision whose spouses already had made their elections with their own employers, particularly those working at other school districts at which the open enrollment period would have ended because the healthcare year runs from July to June. In response to the Association's concerns, Dr. Polkabla assured them that no one would go without coverage.

President Kristobek then relayed that information to PSEA UniServ Representative Alisa Compeau via email, stating that the District agreed to cover spouses in year one if the spouse was already forced to make the decision in his/her district.

On the other hand you have the District arguing that the effective date of the spousal exclusion changes should be September 13, 2013, which is the effective date of the parties new Collective Bargaining Agreement just settled and signed on September 2, 2014. The District further argues

that the clear and unambiguous language of Article XX, Section A should stand as when the spousal exclusion changes become effective. Additionally, the District claims that the Association misinterpreted and miscommunicated the District intent when the District stated that no one would go without coverage.

District witnesses testified that the Superintendent's statement "no one would go without coverage" meant that if a spouse could not enroll in the Health Care Plan of their District and this was supported by the spouse's District, the spouse could then remain on the Ringgold plan. That decision was based on the discussion on August 12th where the Association, for example, was using East Allegheny School District where selections for coverage was already made and the Association was concerned if their members spouse could not now get coverage at their District.

When two parties to a collective bargaining agreement set the terms of a new agreement, sometimes disputes, like the one in this case, arise over when certain terms and conditions of employment, in that new agreement, become effective.

The normal interpretation and rule to be followed, by most arbitrators, in deciding when any changes to the terms and conditions of employment, whether newly added, deleted or modified, become effective, if unclear, always falls to the effective date of the whole agreement which was agreed upon and negotiated by the parties. An exception to that rationale would be if those terms and conditions of employment list alternative effective dates or if clear and convincing evidence existed which proved the parties had mutually agreed to a different effective date for a particular item.

Here, the language contained in Article XX, Section A, is very clear and unambiguous. Normally such clear and unambiguous language cannot be altered. Absent any of the exceptions mentioned above, the District's position, in this case, will prevail.

The above rationale is even supported by the parties own Collective Bargaining Agreement as there are approximately seven (7) provisions in the collective bargaining agreement that provide for specific effective dates other than what appears in Article XX.

A close examination of the testimony and evidence provided at the Hearing shows first, that the spousal exclusion language was a new concept to both the District and the Association. Second, the overwhelming testimony by witnesses from both parties was that an effective date, only, for when the spousal exclusion language would take affect was never discussed during the negotiations. Third, other than the August 12, 2014, meeting between the District and the Association, the parties had no other discussions regarding the implementation of the spousal exclusion language prior to ratification of the Collective Bargaining Agreement. And finally, the testimony by then Association President, Diana Kristobek, Association Grievance Chair Patti Nelis, District Business Manager Randall Skrinjorich and Superintendent Karen Polkabla, was that the only statement made by Superintendent Polkabla was that "no one would go without coverage".

The testimony and evidence provided supports the District's position. The District did exactly what the Superintendent said. "No one would go without coverage."

Examples include where a spouse was on leave without benefits from the Baldwin-Whitehall School District and therefore remained on the Ringgold Health Care Plan. Additionally, the District checking to make sure no one would go without coverage had correspondence with the East Allegheny School District which identified spouses permitted to return back to the East Allegheny health care plan.

Nowhere in the record could it be found that the Superintendent or anyone else from the District stated or confirmed that the District's position was that the District agreed to cover spouses in year one if the spouse was already forced to make the decision in his/her district as relayed by then Association President Kristobek. Likewise, nowhere in the record could it be found that any spouse of a Ringgold School District teacher went without coverage.

Had the parties, in this case, intended for the effective date of the new spousal exclusion language to be anything other than September 1, 2013, it was incumbent upon these parties to state that effective date in the Agreement.

In this case, the evidence does not support the Association's claim that the District agreed to cover employee spouses, for year one until the next open enrollment, for those spouses working for specific employers where that spouse already had been required to make their health care elections for the year.

As such, there is not any evidence to suggest or support that the parties mutually agreed to a different effective date, for the new spousal exclusion language, than what is stated in Article XX, Section A, Duration Of Agreement, of the parties Collective Bargaining Agreement.

AWARD

After weighing the evidence presented by the parties, including assessing witness testimony, this Arbitrator has concluded that the evidence provided does not support the Associations claim.

This grievance is denied.

It is hereby so Ordered, this 4th day of January, 2016.

Marc A. Winters
Arbitrator
Seven Fields, Pennsylvania