

IN THE MATTER OF AN ARBITRATION

BETWEEN:

HEALTH EMPLOYERS ASSOCIATION OF BRITISH COLUMBIA

(the "Employer")

AND:

FACILITIES BARGAINING ASSOCIATION

(the "Unions")

ARBITRATOR:

Vincent L. Ready

COUNSEL:

Trevor Hughes for  
the Employer

Bonnie Pearson for  
the Unions

HEARING:

September 13 & 14, 2008  
Richmond, BC

PUBLISHED:

September 15, 2008

The parties agreed I was properly constituted as an arbitrator under the terms of the Settlement Agreement (the Agreement) reached on January 25, 2008 between the Government of the Province of British Columbia and the Health Employers Association of British Columbia (HEABC) and the Facilities Bargaining Association (FBA). The Agreement was reached following a decision of the Supreme Court of Canada striking down certain sections of the *Health and Social Services Delivery Improvement Act* (Bill 29).

On March 31, 2008, I issued a decision setting out the criteria and categories of impact per Section 7.4b of the Agreement. Section D of the criteria and categories provides as follows:

#### SECTION D

##### LOSS OF HEALTH AND WELFARE BENEFITS:

Do you have 100% Employer-paid health and welfare benefits in your current employment?	Yes:	<input type="checkbox"/>
	No:	<input type="checkbox"/>
Do you have a Dental Plan in your current employment?	Yes:	<input type="checkbox"/>
	No:	<input type="checkbox"/>
Do you have access to a Long-Term Disability Insurance Plan in your current employment?	Yes:	<input type="checkbox"/>
	No:	<input type="checkbox"/>

In the course of the appeal process established by the Joint Governance Committee it has come to light that a number of Bill 29 claimants, after being displaced from their regular positions, at some point obtained a position in the health sector with an HEABC health sector employer (Health Sector Employer). The Committee has determined that claimants have interpreted the questions in Section D differently, leading to claimants who are in the same circumstances providing different answers to the same questions.

All casuals employed with a Health Sector Employer can access 100% Employer-paid health and welfare benefits, a dental plan, and a long term disability insurance plan, upon obtaining regular status, as per the various health sector collective agreements.

At issue is the appropriate response of claimants currently employed by Health Sector Employers to the questions set out in Section D of the Claim Form.

Section D was intended to recognize employees currently working in sectors that do not provide 100% Employer-paid health and welfare benefits, dental coverage, or long term disability coverage. Claimants employed by a Health Sector Employer, upon obtaining a regular position, are entitled to 100% Employer-paid health and welfare benefits, dental coverage, and LTD. Therefore, I find that all claimants who are currently employed by a Health Sector Employer must answer Section D as follows:

#### SECTION D

##### LOSS OF HEALTH AND WELFARE BENEFITS:

Do you have 100% Employer-paid health and welfare benefits in your current employment?	Yes:	<input checked="" type="checkbox"/>
	No:	<input type="checkbox"/>
Do you have a Dental Plan in your current employment?	Yes:	<input checked="" type="checkbox"/>
	No:	<input type="checkbox"/>
Do you have access to a Long-Term Disability Insurance Plan in your current employment?	Yes:	<input checked="" type="checkbox"/>
	No:	<input type="checkbox"/>

I direct the Unions to correct all relevant Claim Forms accordingly and I further direct HEABC to facilitate that process.

It is so awarded.

Dated at the City of Vancouver in the Province of British Columbia this  
15<sup>th</sup> day of September, 2008.

A handwritten signature in blue ink, consisting of a stylized, cursive 'V' followed by a horizontal line and a small flourish.

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Vincent L. Ready  
Chair, Joint Governance Committee