



## Subcommittee on Employee Relations

### Legislative Coordinating Commission

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Date: May 11, 2017

To: Members of the Subcommittee

From: Greg Hubinger

Re: SEIU Labor Contract summary

Minnesota Management and Budget (MMB) and the Department of Human Services (DHS) have reached an agreement with SEIU Healthcare Minnesota ("SEIU") regarding the collective bargaining agreement for Direct Support Workers (sometimes also referred to as Individual Providers or Personal Care Assistants). This contract is for FY 18-19.

#### Background

The 2013 Legislature provided the right of individual providers of direct support services in covered programs to organize and bargain regarding the terms and conditions of their employment (Session Laws Chapter 128, Article 2). For purposes of collective bargaining, MMB is considered the employer. The individual provider is employed by the program participant, i.e. the individual with a disability or senior who is receiving the services. The program participant retains the right to hire, fire, and direct the employment of the individual provider.

The first contract with SEIU was reached in January 2015, and ratified during the 2015 session as part of the Health and Human Services appropriations bill. That legislation also included funding to pay for the negotiated economic provisions.

**Covered individual providers.** Only individual providers providing services under the following programs are in the bargaining unit and covered by this contract:

- Personal Care Assistance (PCA) Choice: PCA is a state plan Medical Assistance service. PCA Choice is a model of PCA services that allows service participants to direct their own care, including hiring, supervision and training of their individual providers.
- Consumer Support Grant (CSG): This program is a state-funded alternative to Medical Assistance that allows people to use a cash grant to purchase services and supports as an alternative to personal care assistance or home care nursing services.
- Consumer Directed Community Support (CDCS): This is a service option under the Medical Assistance disability waivers, Elderly Waiver, and Alternative care programs that allows people to direct their own services.
- Extended Personal Care Assistance paid through the waivers and Alternative Care: People

using a disability waiver or Elderly Waiver may purchase additional PCA services beyond what is paid for through state plan Medical Assistance through the waiver.

DHS estimates there are approximately 27,000 individual providers of services in the covered programs.

### **Contract**

A copy of the proposed collective bargaining agreement in legislative format is available at: <http://www.ser.leg.mn/contracts/18-19/SEIU-18-19-tentative-agreement-2-2-17.pdf>

### **Financial provisions**

1. Effective July 1, 2017, increase the minimum hourly wage for all individual providers from current level of \$11 per hour to \$13 per hour.
2. Increase paid time off accrual rate from current rate of 1 hour per 52 hours worked to 1 hour per every 43 hours worked. A Provider must work at least 600 hours to be eligible to use Paid Time Off. A Provider continues to be able to carry over 80 hours from one year to the next, and may cash out up to 80 hours on termination.
3. Providers are eligible for pay for work on a holiday at 1.5 times their hourly wage for work on the 4<sup>th</sup> of July. For Thanksgiving, 2018 only, Providers also earn holiday pay.
4. Add \$400,000 in FY 18 and 19 only to the current funding of \$250,000 per year for Provider orientation and training. In FY 19, provide one-time funding of \$2.5 million for stipends of \$500 for up to 5,000 Providers who complete designated voluntary training made available through or recommended by the Training and Orientation Committee.

### **Other negotiated contract terms**

5. The parties recognize the need for career development for individual providers to align compensation with skills and experience, focusing initially on individual providers who support program participants with complex needs, whose plans include at least twelve hours of services each day. In the second year, outside of the specific terms of the agreement, the parties agreed to include funding for a 10% increase in the rate for services provided to program participants with complex needs whose plans include twelve hours of services a day, which will be used for increased wages for individual providers.
6. The parties agreed to continue to work to establish and implement a Registry, which would function as an online matching service for clients and Providers. Outside of the specific terms of the agreement, the parties agreed to include funding of \$750,000 for operation and administration of the Registry.
7. Requires the State to provide information about access to vaccinations through public health clinics to Providers.

## **Continuing contract terms**

These contract terms continue:

8. The State (MMB) is recognized as the employer for purposes of bargaining only. Individual providers are not state employees with respect to payroll or eligibility for benefits.
9. The parties may agree to amend the contract. (Similar provision to other state labor contracts.)
10. Affirms program participant's right to select and terminate employment of individual providers.
11. Requires that the State require Fiscal Intermediaries to implement all the terms of the dues-checkoff authorizations submitted by the Union and agreed to by the individual provider.
12. Requires that the State require Fiscal Intermediaries to provide the Union with a list with information on individual providers, including name and address, hours paid and wage rate, paid time off account balance, and amount of union dues deducted. Includes new item of the individual provider's phone number.
13. Establishes a grievance and dispute resolution mechanism, including binding arbitration. (Similar provision to other state labor contracts.) There is new language providing that DHS shall be included in on all communication between the fiscal intermediary and the union regarding resolving a grievance. There is new language clarifying the process for appealing grievances to the arbitration process.
14. The State and the Union continue to operate two joint labor management committees: the State Provider Cooperation Committee and the Training and Orientation Committee.
15. Provides that individual providers may not be required to pay for the costs of background checks. Adds new language providing that the prohibition includes the cost of fingerprinting.
16. The new contract is effective July 1, 2017. The contract continues in effect during subsequent negotiations, and unless either party provides not less than ten calendar days' notice of termination.
17. The economic provisions of the contract are subject to the legislative appropriations process.

## **Estimated Costs**

MMB and DHS estimate that approximately 62% of individual providers in the bargaining unit will receive an increase in pay to reach the new minimum wage requirement. The cost impact for the wage floor benefits on the FY 18-19 biennium is estimated at \$37.36 million, which would have an impact on the Medicaid reimbursement rate of 2.767% for FY 18-19. The total cost for all new economic provisions is \$48.34 million for FY 18-19.

The rates negotiated in this contract apply to all Direct Support workers, whether or not they are included in the bargaining unit. The costs in the table reflect all costs, not just for those who belong to the bargaining unit.

MMB and DHS provide these estimates for costs to the State:

	FY 18-19	FY 20-21
\$13/hr minimum wage	\$37,360,000	\$42,480,000
Paid time off - 1 hour for every 43 (40 to 48 hours per year for full time worker)	\$3,120,000	\$3,550,000
Training and Orientation Fund increase of \$400k each year of biennium	\$800,000	\$ -
Complex Needs – 10% rate increase for 12+ hours/day including systems and administration cost	\$3,770,000	\$8,100,000
Pay for work on a holiday – 4 <sup>th</sup> of July both years and Thanksgiving in 2018 only	\$ 1,960,000	\$1,470,000
Training Stipend - \$500 per person up to 5,000 people in FY 19 only	\$2,750,000	\$ -
Interactive effects/ cash effects/ Admin FFP	\$(2,170,000)	\$ 360,000
<b>Total state costs</b>	<b>\$48,340,000</b>	<b>\$56,710,000</b>

Note: These estimates are based on the February 2017 forecast.

For comparison purposes, below is the table of costs for the FY 16-17 contract:

	FY 16	FY 17	FY 18	FY 19
Minimum wage	\$2,334,904	\$3,529,840	\$3,680,734	\$3,886,586
Paid time off (40 hours/year)	\$6,165,258	\$6,313,860	\$6,583,765	\$6,951,973
Interactive effects	\$25,894	\$39,146	\$40,819	\$43,102
Training		\$250,000	\$250,000	\$250,000
Adjustments	(\$2,249,661)	(\$182,388)	(\$87,500)	(\$87,500)
<b>Total state costs</b>	<b>\$6,276,395</b>	<b>\$9,950,458</b>	<b>\$10,467,818</b>	<b>\$11,044,161</b>
<b>Biennial costs</b>		<b>\$16,226,852</b>		<b>\$21,511,980</b>

Please contact me if you have any questions.