



Subcommittee on Employee Relations

600 State Office Building | St. Paul, MN 55155 | Phone: 651-296-9002 | www.ser.leg.mn

Memorandum

Date: March 6, 2023

To: Members of the Human Services Policy Committee

From: Michelle Weber, Executive Director, Legislative Coordinating Commission

RE: SEIU Labor Contract Summary

Minnesota Management and Budget (MMB) and the Department of Human Services (DHS) have reached an agreement with the Service Employees International Union Healthcare Minnesota (SEIU) regarding the collective bargaining agreement for Direct Support Workers (also referred to as Individual Providers). This contract is for FY 24-25.

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. Successor contracts have been negotiated and ratified by the Legislature in the bienniums since.

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 waivers and Alternative Care. People using a disability waiver or Elderly Waiver may access additional PCA services through the waiver beyond what is available through state plan Medical Assistance.
- Community First Services and Supports (CFSS) when provided through the budget model: The Minnesota Department of Human Services is preparing to transition from personal care assistance (PCA) to community first services and supports (CFSS). Consumer Support Grant (CSG) will also transition to CFSS. People can receive CFSS through an agency model in which an agency provider employs staff who provide their services or through a budget model in which the person employs their own staff. In CFSS, only direct support workers employed by a person using the budget model are individual providers in the bargaining unit.

MMB and DHS estimate that there are around 29,000 individual providers of services in the covered programs.

Contract

A copy of the proposed collective bargaining agreement in the legislative format is available at:

<https://www.ser.mn.gov/contracts/24-25/SEIU-2023-2025-TA-Redline.pdf>

Financial Provisions

1. Effective January 1, 2024, or within 30 calendar days of federal approval of a state plan and waiver amendment, whichever is later, increases the minimum hourly wage for providers from the current level of \$15.25 to \$19.00.
2. Effective January 1, 2025, or within 30 calendar days of federal approval of a state plan and waiver amendment, whichever is later, increases the minimum hourly wage for providers to \$20.00.
3. Effective January 1, 2025, or within 90 days of federal approval, whichever is later, adopts a tiered wage structure for individual providers in PCA Choice or CFSS:

| Cumulative hours worked since July 1, 2017, according to claims data | Wage floor |
|--|------------|
| 0-1,000 | \$20.00 |
| 1,001-2,000 | \$20.50 |
| 2,001-6,000 | \$21.00 |
| 6,001-10,000 | \$21.70 |
| 10,001+ | \$22.50 |

4. Adds two holidays (Independence Day and Veterans Day) to the existing five paid holidays and eliminates two floating holidays. Requires that holidays be paid at 1.5 times the normal rate, effective July 1, 2023.
5. Adds Juneteenth as a holiday effective January 1, 2024.
6. Eliminates the requirement that providers have worked a minimum of 600 hours before being eligible for PTO.

7. Establishes an orientation committee to determine needs of orientation programming and designs the orientation program. The State will provide \$500,000 per year for this programming.
8. Provides \$3 million from the State for stipends to individual providers completing orientation sessions.
9. Upon authorization in state law, the parties agree to sponsor and create a joint labor management (Taft-Hartley) Orientation trust fund. Effective July 1, 2023, the State agrees to provide one-time funding of \$1 million for future orientation programs administered by the Home Care Orientation Trust.
10. Effective July 1, 2023, increases from current level of \$1 million to \$2 million in one-time funding for \$500 stipends to providers who have completed designated trainings.
11. Adds a Letter of Agreement that the parties agree to a one-time \$1,000 stipend to individual providers who have at least six months of service. Individual providers must request the stipend by May 31, 2025. The State agrees to provide funding of \$50 million for these stipends.

Other Negotiated Terms

1. Clarifies that Paid Time Off (PTO) is paid at the rate which the provider would have been paid had they worked for the participant who approved the PTO.
2. Adds Iowa to name of union.
3. Adds “gender identity” and “familial status” to list of protected classes for non-discrimination provisions.
4. Adds a provision related to Arbitrator fees in the event either party cancels or requests postponement of a hearing.
5. Adds a Letter of Agreement regarding implementation of Electronic Visit Verification, includes an ad hoc meet and confer committee.
6. Adds a Letter of Agreement regarding developing criteria for the tiered wage structure.
7. Adds a Letter of Agreement regarding the use of single issue facilitation on the topic of retirement.

Continuing Contract Terms

1. 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.
2. The parties may agree to amend the contract. (Similar to other state labor contracts.)
3. Affirms program participant’s right to select and terminate employment of individual providers.
4. Establishes standards of confidentiality in compliance with state and federal law.
5. Establishes a grievance and dispute resolution mechanism including binding arbitration. (Similar to other state labor contracts.)
6. Continues the State Provider Cooperation Committee.
7. Provides that individual providers may not be required to pay for the costs of background checks or the cost of fingerprinting for employment.
8. 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.
9. Requires that the State require Fiscal intermediaries to provide the Union with a list that includes information on individual providers.
10. The new contract is effective July 1, 2023, through June 30, 2025, subject to acceptance by the legislature or the LCC SER. The contract is automatically renewed unless either party provides notice by September 1 of even years.
11. The economic provisions of the contract are subject to the legislative appropriations process.

Estimated Costs

MMB and DHS estimate the state cost of implementing the contract if ratified is \$302.7 million in fiscal years 2024-2025 and \$490.6 million in fiscal years 2026-2027. The table below provides a breakdown of costs. These costs are based on the November 2022 forecast and will be modified with the February forecast.

| Provision | FY2024 | FY2025 | FY2026 | FY2027 |
|--|--------------------|--------------------|--------------------|--------------------|
| \$19.00 minimum wage beginning 1/1/24 (or upon federal approval) | 55,112,603 | 122,091,338 | 113,775,636 | 115,766,009 |
| \$20.00 minimum wage beginning 1/1/24 (or upon federal approval) for CDCS | - | 14,592,426 | 38,719,850 | 39,255,939 |
| Tiered wage structure beginning 1/1/25 (or upon federal approval) for PCA/CFSS, with a minimum wage of \$20.00 | - | 32,795,887 | 81,335,583 | 82,758,455 |
| 3 additional holidays, elimination of floating holidays, and removal of the minimum hours worked threshold | 2,869,733 | 7,132,792 | 7,918,673 | 8,047,741 |
| Orientation, Orientation Stipends, and Trust | 3,192,341 | 2,224,278 | - | - |
| Retention Bonuses | 50,102,000 | - | - | - |
| Training Admin and stipends | 2,068,000 | 68,000 | - | - |
| Electronic Visit Verification and Temporary Rate Increase Stipends | 8,050,000 | - | - | - |
| Administrative and Systems Costs | 927,109 | 1,491,075 | 1,506,920 | 1,506,920 |
| Total | 122,321,786 | 180,395,797 | 243,256,662 | 247,335,064 |