



Subcommittee on Employee Relations Legislative Coordinating Commission

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DATE: March 11, 2015

TO: Members of the Subcommittee

FROM: Greg Hubinger

RE: Minnesota Management and Budget and SEIU Healthcare Minnesota contract summary

Minnesota Management and Budget (MMB) and the Department of Human Services (DHS) have reached an agreement with SEIU Healthcare Minnesota regarding the new collective bargaining agreement for Home Care Workers (sometimes also referred to as Individual Providers or Personal Care Assistants).

Background

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

On August 26, 2014, the Bureau of Mediation Services certified union election results recognizing SEIU Healthcare as the exclusive representative of the individual providers. A bargaining team of MMB and DHS staff commenced bargaining with SEIU Healthcare in September 2014 and the parties reached a tentative agreement on January 9, 2015.

The proposed contract is effective July 1, 2015 and is valid until June 30, 2017. Under Minnesota Statutes 2014, section 3.855, Subdivision 2, a collective bargaining agreement submitted to the Legislature during a legislative session does not become effective until a bill ratifying it is passed by the House and Senate. Generally, a proposed contract is first reviewed by the LCC Subcommittee on Employee Relations under section 3.855 before being heard in the House and Senate standing committees.

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):** This is a state plan Medical Assistance program that provides personal care assistance services. PCA Choice is a subset of the PCA Program that allows service participants to direct their own care, including hiring, supervision and training of their 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 home health aide, personal care, private duty nursing services, and other supports.
- **Consumer Directed Community Support (CDCS):** This service is provided under the Medical Assistance disability waivers, Elderly Waiver, and Alternative care programs that allow people to direct their own services. In the disability waivers, CDCS accounts for 6.9% of spending. In the Elderly waiver, CDCS is 1.34% and in Alternative care it is 6.16% of program spending.
- **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 PCA through the waiver.

Provider demographic data. DHS estimates there may be as many as 100,000 home care worker providers serving 28,000 clients. However, the bargaining unit formed by the 2013 law consists of approximately 27,000 individual providers of services in the covered programs.

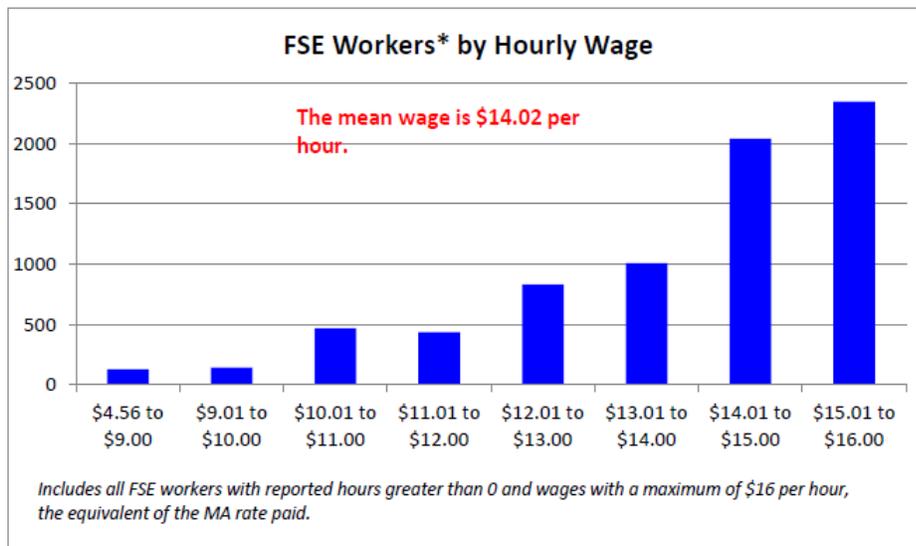
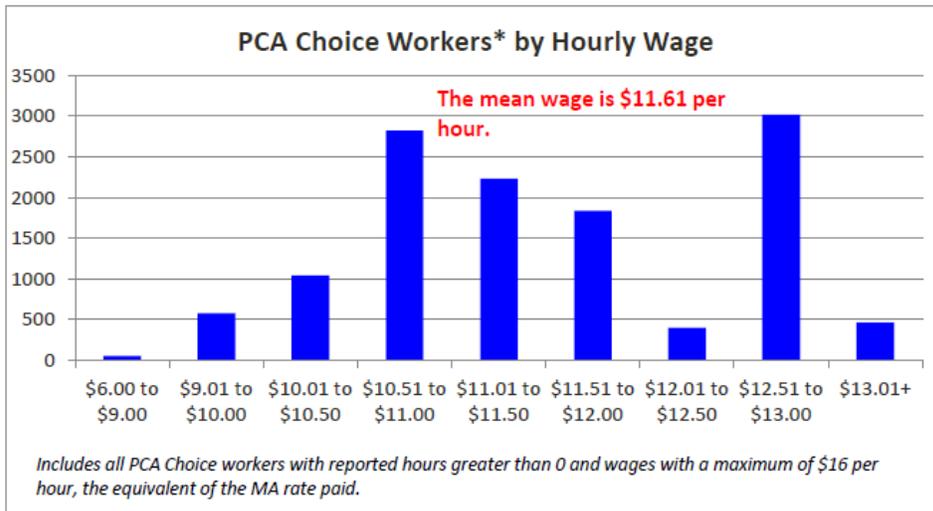
Last summer, DHS surveyed 20,000 providers and found:

- 12,500 providers were covered by PCA Choice (clients hire, train and schedule the providers, but a PCA Choice agency provides payroll and other administrative and program services).
- 7,400 providers were in programs that used a Fiscal Support Entity (FSE) to administer payroll and other administrative functions.
- Assuming a two week pay period:
 - Average hours worked per two week pay period: 48.8
 - 65% of providers worked less than 30 hours per week
 - 21.9% worked 30-40 hours per week
 - 13.1% worked over 40 hours per week
- The survey found that 99% of providers did not receive paid sick time.
- The DHS survey reflected different hourly wages for providers under PCA Choice and FSE Workers.

PCA Choice and FSE Worker Wage Results

Includes workers who were paid during the September 1, 2014 pay period

The average PCA Choice worker is paid about \$11.61 per hour, compared to an average wage of about \$14.62 for workers paid through FSEs. About 10% of workers paid through an FSE are paid \$11.00 or less, compared to 36% of PCA Choice workers.



Agreement. A copy of the proposed collective bargaining agreement is available at: http://www.ser.leg.mn/contracts/16-17/MN_HealthcareMN_SEIU.pdf

Contract Terms

Because this is the first collective bargaining agreement for these providers, all of terms of the contract are new. Major provisions include:

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 provision to other state labor contracts.)
3. Affirms program participant's right to select and terminate employment of Providers.
4. Requires Fiscal Intermediaries to pay dues when authorized by the Provider.
5. 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 dues deducted.
6. Establishes a grievance and dispute resolution mechanism, including binding arbitration. (Similar provision to other state labor contracts.)
7. Effective July 1, 2015, establishes a minimum hourly rate of \$10.75.
8. Effective July 1, 2016, establishes a minimum hourly rate of \$11.00.
9. Provides for paid time off, accrued at the rate of one hour for every 52 hours worked, which equals approximately 5 days off a year for a provider who works full time. An Individual Provider must have worked at least 600 hours, and obtain the consent of their client. Up to 80 hours can be carried over from one year to the next, and up to 80 accrued hours must be cashed out upon termination.
10. The State and the Union agree on the value and importance of training, and establish a Training and Orientation Committee. All new Individual Providers are required to complete orientation training.
Effective July 1, 2016, the State agrees to provide \$250,000 to the Training and Orientation Committee for these purposes.
11. Stipulates that Individual Providers may not be required to pay for the costs of background checks.
12. The parties support a cooperative relationship, and agree to establish a State-Provider Cooperation Committee.
13. The parties agreed to establish a Registry, which would function as an online matching service for clients and Providers.
14. The contract is effective July 1, 2015 to June 30, 2017. The contract continues in effect during subsequent negotiations, and unless either party provides not less than ten calendar days' notice of termination (which must not be before June 30, 2017.)
15. The economic provisions of the contract are subject to the legislative appropriations process.

Estimated Costs

MMB and DHS estimate that approximately 15% of the Providers will receive an increase in pay to reach the minimum wage requirements. The cost impact on the FY 16-17 biennium is estimated at \$16.2 million, which would have an impact on the Medicaid reimbursement rate of approximately 1.73% for FY 17. The cost impact includes costs associated with the paid time off provisions.

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

	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)
Total state costs	\$6,276,395	\$9,950,458	\$10,467,818	\$11,044,161
Biennial costs		\$16,226,852		\$21,511,980

Note: These estimates are based on the February, 2015 forecast.

Please contact me if you have any questions.