



Subcommittee on Employee Relations Legislative Coordinating Commission

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Date: March 3, 2021
To: Members of the Subcommittee on Employee Relations
From: Michelle Weber, Executive Director
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 22-23.

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.

In 2017, Session Laws Chapter 6, Articles 1 and 18, included language authorizing MMB and SEIU to negotiate and enter into a collective bargaining agreement. The commissioner of the Department of Human Services was further authorized to implement the agreement. A petition for Decertification of an Exclusive Representation was filed with and dismissed by the Bureau of Mediation Services.

In 2019, First Special Session, Chapter 9, Article 5, Section 83 ratified the contract that was submitted to the LCC on March 11, 2019. Section 84 included rate increases for service providers.

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 support (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 approximately 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.leg.mn/contracts/22-23/SEIU-2021-2023-Tentative-Agreement-redline.pdf>

Financial Provisions

1. Sets the minimum wage for providers to \$14.40 on October 1, 2021, or upon approval of a state plan and waiver amendment, whichever is later.
2. Sets the minimum wage for providers to \$15.25 on July 1, 2022.
3. Increases paid time off (PTO) from 1 hour for every forty (40) hours worked to 1 hour for every thirty (30) hours worked, effective October 1, 2021, or upon federal approval of a state plan and waiver amendment, whichever is later.
4. Eliminates the ability to waive PTO accruals or use PTO after 6 months but prior to six hundred (600) hours.
5. Permits participants, or their representatives, to waive PTO and upon implementation of the new fiscal management structure, individual providers will be allowed to cash out accrued PTO if approved by the participant.
6. Upon implementation of CFSS, permits up to eighty (80) hours of accrued PTO to be paid to a provider upon termination of membership in the bargaining unit.
7. Effective October 1, 2021, or upon federal approval of a state plan and waiver amendment, provides two floating holidays on which individual providers are paid 1.5 times the normal rate when working on a floating holiday.
8. Eliminates the cap of 1,500 providers who may receive \$500 stipends for participating in training.
9. Eliminates the restrictions on providers only being eligible to receive one \$500 stipend in any two-year period.

10. Continues to provide \$250,000 per year to the State Provider Cooperation Committee for training and orientation of providers. Does not continue the \$125,000 in one-time funding provided for FY2020 and FY2021.
11. Provides \$1 million in one-time funding for stipends to providers who have completed designated trainings.

Other Negotiated Terms

1. Defines Direct Support Connect which is an online (and telephone) service to match participants and providers.
2. Acknowledges the right of a program participants' representative to act on behalf of the program participant.
3. Acknowledges the right of a program participant or their representative to select a service model without interference or manipulation and with access to accurate information.
4. Acknowledges agreement by the parties that delays in taking matters to arbitration make it difficult to effectively address alleged contract violations.
5. Assigns responsibility to the Union to contact and seek dates for arbitration that are mutually agreed to by both parties.
6. Requires the State Provider Cooperation Committee to make recommendations to DHS to develop and improve Direct Support Connect and to meet and confer regarding Union concerns.
7. Recognizes the importance and intention of orientation and training to include a realistic job preview, expectations and understanding of roles and limitations in meeting participant needs in the orientation process for providers.
8. Requires the Union to provide the Fiscal Intermediary an electronic listing of providers submitting proper authorization for and the rate of dues deductions at least ten (10) days prior to the effective pay period.
9. Outlines information to be provided to the Union upon implementation of the new fiscal management structure.
10. Requires the state to provide Fiscal Intermediaries with a sortable, electronic file in a specific format.
11. Outlines materials to be provided in the event a Fiscal Intermediary is conducting an orientation session.
12. Adds email to the list of items the Union shall provide to DHS related to advocates or representatives of the Union.
13. Requires DHS to provide notices, direction, or other official communication on terms and conditions covered by the collective bargaining agreement to the Union prior to distribution to Fiscal Intermediaries.

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 including 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 with information on individual providers.
10. The new contract is effective July 1, 2021, through June 30, 2023, 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 estimates the cost of implementing the contract if ratified is \$19.6 million in FY22, \$47.9 million in FY23, \$50.7 million in FY24, and \$53.1 million in FY25. The table below provides a breakdown of costs. These costs are based on the February 2021 forecast.

Dollars in thousands

Provision	FY2022	FY2023	FY2024	FY2025
\$14.40 minimum wage beginning 10/1/21 (or upon federal approval) and \$15.25 minimum wage beginning on 7/1/22	\$21,789	\$41,338	\$43,956	\$46,001
PTO to 1 hour for every 30 hours worked	\$ 4,223	\$ 4,473	\$ 4,646	\$ 4,883
2 floating holidays	\$ 1,665	\$ 1,764	\$ 1,832	\$ 1,925
Stipends	\$ 1,000			
Administrative costs	\$ 68	\$ 51		
Interactive effects between wage, PTO, and holiday changes	\$ 159	\$ 308	\$ 315	\$ 330
Implementation and payment effects (due to implementation and timing of claims paid)	(\$9,279)			
Total	\$19,625	\$47,934	\$50,749	\$53,139