

2019-2021  
Collective Bargaining Agreement



Between  
The Department of  
Administrative Services,  
on Behalf of the State of  
Oregon and the Oregon  
Home Care Commission



And  
Service Employees  
International Union  
Local 503, Oregon Public  
Employees Union

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## **CONTRACT FORMAT INDEXING SYSTEM**

The Collective Bargaining Agreement uses a reference number to identify the application of Articles, Sections and Letters of Agreement, Intent, etc., to the groups of workers specified in Article 2, Recognition. If one of the following numbers is added to an Article or Letter of Agreement, it signifies the group of workers to which the Article or Letter applies:

- .1 Homecare Workers (HCWs)
  
- .2 Personal Support Workers (PSWs)

If an Article or Letter of Agreement does not have a “.1” or “.2” added to it, the Article or Letter applies to both HCWs and PSWs. Examples of the formatting are:

Article X applies to both;  
Article X.1 applies to HCWs only; and,  
Article X.2 applies to PSWs only.

## **ARTICLE 1 – PARTIES TO THE AGREEMENT**

This Agreement is made and entered into at Salem, Oregon, pursuant to the provisions of the Oregon Revised Statutes, by and between the State of Oregon, through the Department of Administrative Services (DAS), and the Oregon Home Care Commission (OHCC), hereinafter referred to as the EMPLOYER, hereinafter collectively referred to as the STATE and the Service Employees International Union (SEIU) Local 503, OPEU, hereinafter referred to as the UNION and jointly hereinafter referred to as the PARTIES.

It is the purpose of this Agreement to achieve and maintain harmonious relations between the EMPLOYER and the UNION, to provide for equitable and peaceful adjustments of differences which may arise.

## **ARTICLE 2 – RECOGNITION**

### **Section 1.**

The Employer recognizes the Union as the exclusive bargaining representative for all Homecare Workers/Personal Support Workers represented by the Union as listed in Section 2 of this Article.

### **Section 2.**

The Employer and the Union have established a single bargaining unit that consists of:

- a) Homecare Workers (HCW). All full-time, part-time, and hourly, publicly funded Homecare Workers employed through the Employer, who are Consumer-Employed Providers (CEPs), Spousal Pay Providers, State Plan Personal Care Providers for older adults and people with disabilities, and providers in the Oregon Project Independence (OPI) Program, and for whom compensation is paid by Department of Human Services (DHS) or other public agency that receives money from DHS.

All other Homecare Workers, including those employed by other employers, and supervisors are excluded.

- b) Personal Support Workers (PSW). All full-time, part-time, or hourly publicly funded Personal Support Workers who (1) are hired by an Employer of Record, or who (2) are hired by a person with a mental illness; and (3) are providing personal support worker services through State Plan Personal Care for persons with developmental disabilities or mental illness, or services authorized through a Community Developmental Disabilities Program, Support Services Brokerage or Children's Intensive In Home Services; and (4) for whom compensation is paid by Department of Human Services (DHS), Oregon Health Authority (OHA), or other public agency or contracted Fiscal Intermediary who receives public funds for this purpose.
- c) Personal Support Worker. Independent Choices Program (PSW-ICP) Providers who are hired and paid directly by the consumer-employer funded through the

Medicaid State Plan J, Independent Choices Program. Providers are not required to complete a provider enrollment agreement and are not paid directly by the Department of Human Services. Rates, hours and expectations are set by the consumer-employer and not the Department.

**Section 3.**

When there has been a determination of the Employment Relations Board to modify the bargaining unit listed in Section 2 of this Article or when the Parties reach mutual agreement to modify, negotiations will be entered into as needed or as required by law.

*REV: 2019*

## **ARTICLE 3 – TERM OF AGREEMENT**

### **Section 1. Effective Date.**

This Agreement shall become effective on July 1, 2019 or such later date as it receives full acceptance by the Parties, and expires June 30, 2021, except where specifically stated otherwise in the Agreement.

### **Section 2. Notice to Negotiate.**

Either party may give written notice no less than one hundred and eighty (180) days preceding the expiration of the Agreement of its desire to negotiate a successor Agreement.

### **Section 3. Commencing Negotiations.**

Negotiations for a successor Agreement shall commence during the first (1<sup>st</sup>) full week of March 2021, or such other date as may be mutually agreed upon, in writing, by the Parties. The Parties shall present any proposed changes desired in a Successor Agreement by the end of the second (2<sup>nd</sup>) meeting.

### **Section 4. Scheduling Negotiations.**

During the first (1<sup>st</sup>) meeting, the Parties agree to schedule at least two (2) negotiating dates per month for April, May, June and July unless mutually agreed upon otherwise, in writing, at that meeting.

### **Section 5. Mediation and Binding Arbitration.**

Either Party may invoke mediation on or after June 30<sup>th</sup> of 2021 and any subsequent bargaining session shall include the Mediator on dates mutually agreed to by the Parties and the Mediator. Thereafter, the time lines and procedures set out in ORS 243.712 and 243.742 shall apply unless the Parties mutually agree, in writing, otherwise.

### **Section 6. Agreement Extension.**

If the Parties fail to reach agreement on a new successor Agreement on or before June 30, 2021, the Agreement shall be automatically extended until a new Agreement is reached or an opinion and order is promulgated pursuant to ORS 243.746(5).

**Section 7. Process to Open Agreement During Term.**

No opening of this Agreement may take place unless specifically authorized herein or by mutual Agreement, in writing, by the Parties or by operation of law.

*REV: 2019*

## **ARTICLE 4 – COMPLETE AGREEMENT**

### **Section 1.**

Pursuant to their statutory obligations to bargain in good faith, the Employer and the Union have met in full and free discussion concerning matters in “employment relations” as defined by [ORS 243.650\(7\)](#). This Agreement incorporates the sole and complete agreement between the Employer and the Union resulting from these negotiations. The Union agrees that the Employer has no further obligation during the term of this Agreement to bargain wages, hours, or working conditions except as specified below.

### **Section 2.**

The Parties recognize the full right of the Employer to issue rules, regulations and procedures and that these rights are diminished only by the law and this Agreement, including interpretative decisions which may evolve pursuant to the proper exercise of authority given by the law or this Agreement.

### **Section 3.**

The Employer agrees to bargain over any change(s) it proposes to make to mandatory subjects of bargaining not covered by the Agreement pursuant to the Public Employee Collective Bargaining Act (PECBA). Changes to any of the terms and conditions contained in the Agreement may be made by mutual agreement or as otherwise allowed by [ORS 243.702](#).

## **ARTICLE 5 – SEPARABILITY**

In the event that any provision of this Agreement is at any time declared invalid by any court of competent jurisdiction, declared invalid by final Employment Relations Board (ERB) order, made illegal through enactment of federal or state law or through government regulations having the full force and effect of law, such action shall not invalidate the entire Agreement, it being the express intent of the Parties hereto that all other provisions not invalidated shall remain in full force and effect. The invalidated provision shall be subject to re-negotiation by the Parties within a reasonable period of time from either party's request.



## **ARTICLE 6 – NO STRIKE/NO LOCKOUT**

### **Section 1.**

During the term of this Agreement, the Union, its members and representatives agree not to engage in, authorize, sanction or support any strike, slowdown or other acts of curtailment or work stoppage.

### **Section 2.**

The Employer agrees that, during the term of this Agreement, it shall not cause or initiate any lockout of Employees.

### **Section 3.**

This Article does not apply to the consumers' sole and undisputed rights provided in the law, including the selection and termination of employment of the Employee.

## **ARTICLE 7 – UNION RIGHTS**

### **Section 1. Centralized State Payment System.**

The Centralized State Payment System will include PSWs who provide services through a Brokerage, CIIS, CDDP and or State Plan Personal Care DD programs. The Centralized Payment System does not include Independent Choices PSWs.

### **Section 2. Bulletin Boards.**

The Union shall have a right to bulletin board space in all Case Management Entities that HCWs/PSWs necessarily frequent due to work-related business, if permitted by the facilities management/owner. Such space shall not be denied for arbitrary or capricious reasons. If such space is denied by the facility manager/owner, the reason for such denial shall be provided in writing to the Union. The Union shall be solely responsible for the costs and maintenance of all bulletin boards. The Union will provide bulletin boards (no larger than two feet by three feet [2'x3'], unless a larger size or process for supplying a bulletin board is necessary to meet facility requirements. The bulletin boards will be clearly marked as Union bulletin boards and will be maintained by Union worker representatives and/or Union staff. Union communications may not be posted in any location or agency. The Parties agree that the Union and the State, or the Case Management Entity (whichever is appropriate) will discuss the location in the facility for the Union bulletin board, and if they are unable to agree on a location the State will attempt to remedy the situation, appropriate to their subcontracted agent. Within thirty (30) days of the effective date of this Agreement, the State shall notify all Case Management Entities of the rights of the Union to bulletin board space. The State shall provide the Union with a copy of this notice, as well as a list of the Case Management Entities that were notified.

### **Section 3. Union Presentations at OHCC Trainings.**

The Union shall be granted twenty (20) minutes before the start of the scheduled OHCC training or after the scheduled OHCC training for Union business. Union presentations held before the scheduled training shall not cause a delay in the scheduled start time of the training. The Union commits to making a good faith effort to make a presentation at trainings scheduled by the Employer.

#### **Section 4. New Homecare and Personal Support Worker Orientation.**

When an online orientation, in-person orientation, eXPRS orientation, APD onboarding session, or HCW/PSW recruitment event orientation is scheduled for representable HCWs/PSWs, the Union will be allowed to make a twenty (20) minute presentation at a mutually agreeable time about the organization, representational status, and Union benefits and to distribute and collect membership applications.

#### **Section 5. Union Rights Related to CareWell 503**

The Parties agree that the CareWell 503 shall provide the Union with reasonable access to its training classes and data, in order for the Union to make presentations on Union issues. The Union will be allowed to make a thirty (30) minute presentation on Union issues to all HCWs/PSWs during the required orientation/seminar. This shall include newly enrolled workers, as well as existing workers attending a refresher orientation/seminar.

HCWs/PSWs will be provided with information about the benefits available to eligible workers through participating Trusts during scheduled new employee orientations/seminars.

#### **Section 6. Union Representation – HCW/PSW Event Orientation.**

When the Oregon Home Care Commission holds an HCW/PSW Recruitment Event the Union will be allowed to make a twenty (20) minute presentation at a mutually agreeable time about the organization, representational status, and Union benefits and to distribute and collect membership applications.

#### **Section 7. Employer Indemnity.**

The Union shall indemnify and hold the Employer or designee harmless against claims, demands, suits, or other forms of liability which may arise out of action taken by the Employer or designee for the purpose of complying with the provisions of this Article.

#### **Section 8. Service Period and Deductions.**

Service period is defined as the calendar month in which services are authorized and provided. All Union dues, shall be based on a service period and taken from all checks

for the service period in question, provided sufficient funds are available. All other current Union deductions, including but not limited to Citizen Action for Political Education (CAPE) contributions shall be based on a service period and shall be deducted from the first check issued for the service period in question provided sufficient funds are available.

The service period deduction method shall not have any effect on tax deductions, which shall continue to be on a payment date basis (that is, date payment is issued).

**Section 9. List of Representatives.**

The Union shall provide the Employer with a list of the names of authorized Union staff representatives and elected officers and shall update those lists as necessary.

**Section 10. List and Information.**

By the fifteenth (15<sup>th</sup>) calendar day of each month, the Union shall receive a list of all current HCWs' and PSW's (except PSW ICPs as outlined in Section 14 of this Article).

The list shall contain the following data:

1. Name
2. Address
3. Telephone number
4. Email address (if available)
5. Program name and code
6. Provider specialty code (e.g. Enhanced HCW or Enhanced PSW)
7. Base hourly pay rate
8. Language preference (if available) language
9. Unique identification number
10. Date of Birth (DOB)
11. Provider number
12. Hours worked
13. Gross pay
14. Union dues and other deductions for the previous month's activity

15. Gender (if collected).

The list will be provided in an agreed-upon format and transmitted electronically.

**Section 11. New Provider List Information.**

DHS agrees to provide the Union a list of all new HCW and PSWs each business day, on the day the HCW/PSW provider number is activated. This list will contain HCWs' and PSW's name, address, telephone number, e-mail address (if available), date of birth, program name and code, Social Security Number or unique identification number and provider number.

This list shall be provided in an agreed-upon format and in an agreed-upon electronic transmission process.

**Section 12. Dues Deduction.**

- a) Upon written, electronic or recorded telephonic message authorization request from the HCW/PSW, monthly Union dues plus any additional voluntary Union deductions shall be deducted from the HCW's/PSW's salary and remitted to the Union. Additionally, upon written notice from the Union, authorized increases in dues in the form of special assessments shall be deducted from the HCW's/PSW's salary and remitted to the Union according to this Section. Such notice shall include the amount and duration of the authorized special assessment(s). All written applications for Union membership and authorizations for dues and/or other deductions, which the Employer receives, shall be promptly forwarded to the Union. The Union shall provide to the Employer an electronic file listing all HCW/PSWs who have authorized dues and/or other deductions. The Union will maintain the written, electronic or recorded telephonic message authorization records and will provide copies to the Employer upon request.
  
- b) Dues deduction authorizations submitted in writing, electronically or by recorded telephonic message that contain the following provision will cease only upon compliance by the HCW/PSW with the state conditions as follow:

This authorization is irrevocable for a period of one (1) year from the date of execution and from year to year thereafter unless not less than thirty (30) and not more than forty-five (45) days prior to the end of any annual period of the termination of the contract between my Employer and the Union, whichever occurs first, I notify the Union and my Employer in writing, with my valid signature of my desire to revoke this authorization.

- c) Upon return from any break in service, reinstatement of the dues deduction shall occur for those workers who were having dues deducted immediately prior to said break in service.
- d) Dues deduction shall only occur after all mandatory and priority deductions are made in any pay period.

### **Section 13. Associated Costs.**

The Union agrees to pay reasonable costs associated with dues deduction administration and/or system changes to accommodate dues deductions.

### **Section 14. Other Deductions.**

Voluntary payroll deductions made to the Union for HCW/PSW benefits shall be submitted at the same time as regular dues deductions.

No later than the tenth (10<sup>th</sup>) calendar day of each month, the Union shall receive a benefit register for each benefit listing each HCW/PSW, the amount deducted, and the purpose of the deduction.

### **Section 15. Service Period and Deductions.**

HCWs/PSWs who authorized Citizen Action for Political Education (CAPE) contributions prior to February 6, 2010, shall continue to have these deductions based on the hourly deduction system in effect when their authorizations for the deductions were signed.

**Section 16. Personal Support Workers in the Independent Choices Program (ICP).**

In January and July of each year, the State shall provide the name, address, and any other available contact information such as telephone number or e-mail address for PSWs in the Independent Choices Program.

Participants in the Independent Choices Program shall not be subject to this Article 7, Section 6 through 13.

By the fifteenth (15<sup>th</sup>) calendar day of each month, the State shall provide the information for PSWs in the Independent Choices Program who are enrolled in the State sponsored ICP fiscal intermediary. The State shall provide the information the month after the consumer enrolls through the State sponsored ICP fiscal intermediary. The State shall provide the following:

1. Name
2. Address
3. Telephone Number
4. Email address
5. Base hourly pay rate
6. Language preference
7. Unique identification number
8. Date of Birth (DOB)
9. Hours worked
10. Gross Pay

**Section 17. Paycheck Remittance Advice.**

DHS/OHA agrees to ensure the Union is provided the opportunity to relay written information at least four (4) times per year statewide on the remittance advice. So long as the Union provides notice to DHS/OHA at least twenty-one (21) days prior to the pay period, the Union message will appear on the Remittance Advice.

## **Section 18. Quarterly Provider number Termination Report**

On a quarterly basis, DHS/OHA shall send the Union a report detailing the following:

1. The number of provider number terminations;
2. The cause/reason for each termination;
3. The provider type of each worker terminated; and
4. The county of each worker termination

DHS will start providing this report to the Union beginning with data from the fourth Quarter of 2019. These reports will be provided to the Union by the fifteenth (15<sup>th</sup>) of the month, following the quarter to be reported.

*REV: 2019*



## **ARTICLE 8 – PAYROLL/VOUCHER SYSTEMS**

This Article shall apply to all Homecare Workers (HCWs) and Personal Support Workers (PSWs) paid by voucher, paper timesheets or Provider Time Capture System (PTCS).

### **Section 1. Properly Completed Voucher or Timesheet.**

- a) A properly completed timesheet or properly authorized and completed voucher must be submitted for payment. The timesheet or voucher must be submitted electronically through the designated PTCS except as specified in Section 3 below, or if a PTCS is not available by secure fax and faxing process, secure email and email process, mail, or in-person at the appropriate office. For the purposes of this Article, a secure fax and faxing process is when the HCW/PSW directly sends the fax without handing the timesheet/voucher to another person. AT the end of each pay cycle, the State will require Case Management Entities to send out a secure email to all HCWs/PSWs with an email address on file to which Workers can respond. A properly completed payable claim is one that:
1. Has been completed in ink and paper on the approved form or through the PTCS to DHS/OHA, through secure fax and faxing process, secure email and emailing process, mail or in person;
  2. Has been signed by the Employer or Employer Representative and the HCW/PSW. The Employer or Employer Representative may sign through Adobe or other similar technology, so long as the system requires an original Employer signature each time.
  3. Has accurate hours and does not exceed the authorized hours;
  4. Accurately and legibly documents the number of hours worked including time in and time out and service type (if required), and progress notes if required in Oregon Administrative Rules;

5. Has been submitted for payment on a date that occurs on or after the signature dates of the HCW/PSW and Employer and all work hours for the pay period are completed; and
  6. Includes other documents as required by DHS or OHA to meet Medicaid requirements and conform to applicable OARs. HCW/PSWs shall be given at least sixty (60) days notice of any newly required documentations. If information is needed for audits, hearing or other administrative requirement on an ad hoc basis, shorter time periods may apply. This Section will not limit the Union's statutory ability under ORS 243.698 to bargain over the impact of any newly required documentation.
- b) Any required progress notes shall be completed during authorized hours on work time according to DHS/OHA policy. If a Worker has not completed progress notes according to DHS/OHA policy, technical assistance shall be offered by the Case Management Entity before the next timesheet submission.
- c) No payment will be paid for hours without prior authorization. Prior authorization is defined in [Article 14 – Service Payments](#).
1. In the case of an emergency or urgent situation that occurs after local office hours, that endangers the safety or health of the Consumer, the HCW/PSW must notify the Employer (if the worker is a PSW paid by FI), Case Manager/Personal Agent/Service Coordinator within two (2) business days to receive authorization of the work and compensation. A HCW/PSW who works urgent/emergency hours at the end of a pay period, and provides timely notice to the Case Manager/Personal Agent/Service Coordinator, shall have their prior authorized worked hours paid per the pay schedule and additional hours as soon as possible, but no later than the next pay period.
- d) In the event a HCW/PSW cannot obtain the Employer or Employer Representative's signature on a completed timesheet/voucher due to allegations of a threatening or unsafe situation by the Consumer/Employer, or someone in the Consumer's household, the HCW/PSW shall notate the reason for lack of signature on their timesheet/voucher

and then submit it for review by the Case Management Entity for processing under the timelines outlined in Article 8, Section 4. The HCW/PSW must also submit their resignation for working with the Consumer if they are unable to have their timesheet/voucher signed due to an unsafe situation.

This Section shall not prevent Case Management Entities from granting an individual exception to submitting a signed timesheet/vouchers on a case-by-case basis.

- e) There shall not be a delay in processing a HCW's voucher due to the issuance of a substitute worker's voucher for the same Consumer as long as there are hours available to the Consumer.
- f) If a HCW/PSW's pay is delayed due to another HCW/PSW or Agency incorrectly billing overlapping hours for the same Consumer, the HCW/PSW's pay shall be processed as soon as the error is corrected and paid in the next out-of-cycle payment. At that time, the overpayment process in Article 19 shall be initiated for the other provider as a result of the overlapping billing.

### **Section 2. Voucher Submission Timelines.**

The HCW/PSW paid via paper vouchers may properly submit their voucher at any point after service for that pay period has been completed. Whenever possible, properly completed vouchers should be submitted for payment no later than fourteen (14) days after the last service date for the period in which the voucher covers. The HCW/PSW will be paid for hours prior authorized and worked as long as the voucher is submitted within one year from the first (1<sup>st</sup>) date of service on the voucher.

### **Section 3. For PSWs Paid Through a Fiscal Intermediary**

PSWs must enter their time directly into the PTCS or the eXPRS Mobile-EVV Solution unless the PSW has an approved exception.

**Exceptions to the use of the eXPRS Mobile-EVV Solution shall be granted for PSW who:**

- a) Do not have a smart phone or tablet with Internet access, until the State provides an alternative method, or

- b) Provide services in an area of the State without reception, until the State provides an alternative method, or
  
- c) English is not the primary language of the worker and this presents a barrier to their utilizing EVV

Exceptions to use of the desktop version of eXPRS PSWs:

The Case Management Entity shall grant exceptions to the use of the desktop version of eXPRS under the following circumstances or until the State provides an alternative method:

- 1) The HCW/PSW can demonstrate an on-going hardship in accessing internet service.
- 2) The PTCS experiences technical issues during the submission period that prevents entry into eXPRS during the three (3) days allowed for entry.
- 3) If a newly hired PSW has completed and submitted an eXPRS log in enrollment form and has not received their log in and password information by the first (1<sup>st</sup>) payroll time period, they may submit a paper timesheet.
- 4) English is not the primary language of the worker and/or Employer and this presents a barrier to their utilizing the PTCS.
- 5) Exceptions to the use of the eXPRS Mobile-EVV solution must be processed by the Case Management Entity or the Department no later than March 31, 2020. Renewal exceptions will be due at the time of the Worker's Provider Enrollment Application and Agreement (PEAA) renewal and submitted by the Worker directly to ODDS with the renewal PEAA. Renewal reminders will be see on the eXPRS log-in page of eXPRS Mobile-EVV and eXPRS desktop.

HCWs/PSWs may request an exception up to four (4) times each calendar year due to temporary limited access to the internet. The HCW/PSW shall include the reason for the needed request when contacting the Case Management Entity.

#### **Section 4. Voucher Payment Processing Timelines.**

Vouchers and timesheets for HCWs/PSWs shall be processed and paid based on the payment timeframes below.

- a) For PSWs paid via a Fiscal Intermediary: If a Submission Deadline falls on an Oregon or Federal Holiday the date will be moved to the next business day. If a Pay Processing Date falls on an Oregon or Federal Holiday, or on a collectively bargained office closure, the date will be moved to the next business day: Pay Periods are from the first (1<sup>st</sup>) through the fifteenth (15<sup>th</sup>) and from the sixteenth (16<sup>th</sup>) through the last day of the month. PSWs will have three (3) business days to submit their completed timesheets to the Local Service Delivery Office.

If a PTCS is available, and the worker submits a paper timesheet, the worker will have two (2) business days to submit their timesheet. PSWs may submit a timesheet prior to the end of the pay period, so long as they have completed all work shifts for the applicable Consumer. The Pay Processing Date shall be eight (8) business days after the PSW Submission deadline. Paper paychecks will be issued and mailed no later than eight (8) business days after the PSW submission deadline. Direct deposits will be sent to the PSWs bank on the Pay Processing Date.

- b) For HCWs/PSWs paid via the State CEP Payment System: Timesheets/vouchers shall be processed and paid based on a fourteen (14) day pay period. Completed timesheets/vouchers must be received by the local offices no later than close of the third (3<sup>rd</sup>) business day following the end of the two (2) week cycle, which is also known as the HCW/PSW submission deadline. Workers may submit a timesheet prior to the end of the pay period, so long as they have completed all work shifts for the applicable Consumer. The Pay Processing Date shall be eight (8) business days after the HCW Submission Deadline. Paper paychecks will be issued and mailed no later than eight (8) business days after the HCW submission deadline. Direct deposit will be sent to the HCWs financial institution on the Pay Processing Date. However, the financial institution's policies on availability of funds will apply and are outside the

scope of this Agreement. If a Pay Processing Date falls on an Oregon or Federal Holiday, or on a collectively bargained office closure, the date will be moved to the next business day.

- c) If a Case Management Entity is unexpectedly closed during any of these three (3) business days, the submission deadline for Workers shall be extended proportionally. Pay processing dates may have to be extended proportionally as well. The State shall immediately notify the Union, and post on the OHCC Facebook page, if the Pay Processing Date will be delayed.

DHS/OHA and OHCC will post a submission and payment schedule on public websites.

If a worker misses a Submission Deadline, they will be paid on the next available Pay Date.

- d) The Case Management Entity will immediately notify a Worker, via the contact information available, within twenty-four (24) hours of processing a timesheet/voucher if there is a problem with how the Worker is reporting their hours. The Worker shall be given an opportunity to correct the error prior to the payroll file being sent for processing. Based on the Worker's response to the notification, DHS/OHA will make every effort to ensure that payment for corrected vouchers/timesheets are paid on the current pay processing date. For Workers that submit a corrected timesheet/voucher to their Case Management Entity, DHS/OHA will send a courtesy email if DHS/OHA was unable to process the submitted correction for the current pay processing date.

Case Management Entity staff shall directly fix any issues with a Worker's timesheet that they are able to per DHS policy. Within thirty (30) days of ratification of this Agreement, the State shall provide the Union with a copy of the applicable DHS policies.

## **Section 5. Timely and Accurate Pay.**

- a) Workers shall be entitled to receive timely and correct payment for services authorized and rendered. The State shall be responsible for any demonstrable costs incurred by a Worker for any late or incorrect payments where the Worker properly and timely submitted their voucher/timesheet. The Union reserves the right to file grievances regarding late or incorrect payment where the Worker properly and timely submitted their voucher/timesheet. The Union reserves the right to file grievances regarding late payment situations regardless of the State's compliance with the process outlined in Subsection 5(a) below.
  
- b) An out-of-cycle payment shall be issued within twenty-four (24) hours of a late or incorrect payment being identified and verified, where the Homecare Worker properly and timely submitted their voucher/timesheet. For PSWs paid through a FI, DHS will submit a request for out-of-cycle payment to PPL within twenty-four (24) hours of verifying the error. Within twenty-four hours of the request for payment, PPL will process and issue an out-of-cycle payment to the Provider. Upon notification of a potential late or incorrect payment by the Union or the HCW/PSW, ODDS/APD/OHA shall immediately begin the verification process.
  
- c) The release of a new EVV complaint, Provider Time Capture System and process for APD/HSD is planned for two (2) phases. The EVV component will be implemented first, tentatively anticipated by December 31, 2020. The second phase is intended to incorporate new payment mechanisms with an anticipated implementation date of December 31, 2021. The Department agrees to include Union members on its steering committees to monitor progress and advocate for solutions that work for all Parties. The system changes and Oregon Administrative Rules changes regarding EVV compliance for DD and PSWs is planned by April 1, 2020.

## **Section 6. Late Payment Fees**

- a) For the purposes of this Section, a late payment is defined as a payment that is issued more than one (1) business day after the scheduled payment issue date.



The Provider must notify the Case Management Entity of a missing voucher by the last business day of the first week of the pay period, in order to be eligible for a late payment fee. A late payment may not be alleged in instances where:

- 1) A prior authorization was not issued in accordance with Article 14, Section 1.
  - 2) The timesheet/voucher is illegible.
  - 3) The timesheet/voucher is not properly completed.
  - 4) The timesheet/voucher is not signed by the Home Care Worker/Personal Support Worker.
  - 5) The timesheet/voucher is not signed by the Consumer or Employer.
  - 6) A valid and current Provider number does not exist.
  - 7) The State's computer systems are impacted by a large-scale IT event and the following criteria are met:
    - i. DHS will immediately notify SEIU of the delayed payment.
    - ii. Payment is correctly issued within one (1) business day of the IT issue being resolved.
  - 8) As the result of an instance of uncontrollable natural forces that impact CME and/or State operations.
  - 9) A HCW incorrectly submits overlapping hours across two (2) or more Consumers.
  - 10) Overlapping hours (HCWs/PSWs) occur as defined in Section 1(f) of this Article.
- b) In instances where the State has issued a late payment, the Department may compensate the affected HomeCare Worker/Personal Support Worker a penalty equal to twenty dollars (\$20) per calendar day as determined through the payment complaint process. The number of days shall be calculated as follows:
- Actual Date Processing Occurred – Scheduled Processing Date = Number of Late Days.

Illustrative Example:

Actual Pay Processing Date:	August 2, 2019
Schedule Pay Processing Date:	July 25, 2019
Equals:	Eight Days Late
Multiplied by:	Twenty dollars (\$20) per day
Equals:	Late Payment Penalty of one-hundred sixty dollars (\$160)

Late fees can only match, not exceed the overall gross payment that is delayed. This cap on late fees will not apply when a HCW/PSW experiences an additional late payment occurrence within one (1) calendar year.

All Workers will be eligible for late payment fees of twenty dollars (\$20) day for three (3) days, no matter their overall gross payment. After the third (3<sup>rd</sup>) day if their gross pay is sixty dollars (\$60) or less, they won't be eligible for additional late payment fees. Additional late payment fees will not exceed their overall gross payment after three (3) days.

Late payment fees are fee payments and not wage or salary.

- c) The HCW/PSW shall initiate any claims regarding penalty pay through the payment complaint investigation process and timelines outlined in Article 11 – Grievance Procedure, Section 4. The Union shall initiate the payment complaint with the OHCC within one (1) business day after the Union talks to the impacted Worker. The complaint shall include the required information outlined in Article 11, Section 4 of the Grievance Procedure. Upon notification by the Union of a potential late or incorrect payment. OHCC/DHS/OHA shall immediately begin the verification process. If additional documentation is needed to process the complaint, the OHCC shall notify the Union. The Union shall then follow-up with the impacted Worker regarding the needed documentation within two (2) business days of the Union being contacted by the OHCC. Providers must fully cooperate with the State in its attempts to determine the cause of the late payment. Failure to cooperate in this investigation will negate any obligation to

pay said late payment fees. This late payment fee shall be in addition to any monies owed to the Worker outlined in subsection a) above.

### **Section 7. Payroll Transition for HCWs/PSWs**

Prior to any new payroll or time capture system being implemented that impacts worker pay, DHS/OHA shall:

- a) Notify all affected HCWs/PSWs at least ninety (90) days in advance of any new time entry requirements. The notification shall be available in at least English, Russian, Spanish, Vietnamese, Chinese, Arabic and Somali;
- b) DHS/OHA shall issue a written notice to Workers if they are no longer authorized to work for a particular Consumer due to any missing paperwork on the Consumer or Employer side;
- c) Provide online and in-person training for affected HCWs/PSWs at least ninety (90) days in advance of implementation. Training will be available in at least the following languages: English, Russian, Spanish, Vietnamese and Chinese. Translated training modules will also be available in Arabic and Somali. DHS/OHA will continue to consult with SEIU on the development of a payroll transition plan;
- d) Shall authorize daily out-of-cycle payments during the first (1<sup>st</sup>) two (2) pay periods of any payroll transition for all affected HCWs/PSWs. Biweekly out-of-cycle payments shall be issued for the next two (2) pay periods;
- e) Share any notifications related to the system change with the Union prior to sending to any affected HCWs/PSWs and,

- f) Allow Local Service Delivery Offices to print and distribute copies of the paperwork Workers are required to complete.

**Section 8. Voucher Issuance Timelines.**

- a) Vouchers for HCWs/PSWs shall be issued at least three (3) business days prior to the start of the pay period. Newly-hired HCW/PSW shall also be entitled to receive written confirmation of the date they are authorized to begin providing services and receive their vouchers within seven (7) days from the date services began. Case Management Entities may provide hours authorization to a worker via secure email when a Consumer needs a Worker to provide services that cannot wait for the prior authorization processes outlined in Article 14, Section 1.
- b) Failure to timely issue a voucher that results in late pay for the HCW/PSW shall be subject to the language in Article 8, Section 5. The Provider must notify the Case Management Entity of a missing voucher by the last business day of the first week of the pay period, in order to be eligible for a late payment fee.

Workers paid through a Fiscal Intermediary may not work for a new Consumer/Employer until all required FI paperwork is completed by both the Worker and the Consumer/Employer and an authorization granted by the Case Management Entity.

**Section 9. Direct Deposit Options.**

HCWs/PSWs will have the option of direct deposit to a bank or credit union account of their voucher or timesheet payment. The payment system does not include direct deposit of HCWs/PSWs training stipends if any. HCWs/PSWs requests to begin or stop direct deposit must be submitted on the designated form to the DHS/OHA designated person. HCWs/PSWs are encouraged to use direct deposit or any debit card option if offered.

**Section 10. Termination of Employment.**

HCWs/PSWs shall submit to the Case Management Entity, in writing, a notification stating the last day they will be providing, or provided, services for all Consumers and that they do not intend to work with additional Consumers in the future. On the last day that services were provided or upon receipt of the written notice, whichever is later,

DHS/OHA shall process the last payment owed to the Worker on the next regularly scheduled payment after the submission of a valid timesheet and/or voucher and terminate the HCWs Provider Enrollment Agreement (PEA) or the PSWs Provider Enrollment Agreement Application (PEAA).

**Section 11. Voucher Date Stamp Process.**

Vouchers/Timesheets submitted to the Case Management Entity office during regular business hours shall be date stamped when they are received by the OHA/DHS/APD/AAA local office in offices where self-stamping is not available. The Case Management Entity shall provide the HCW/PSW a copy of the date stamped voucher/timesheet when the timesheet/voucher is submitted directly to CME Staff. However, vouchers placed in a drop box after business hours will be date stamped on the next regular business day.

This Article does not apply to PSW-ICPs.

**Section 12. HCW/PSW Credentials**

No payment will be paid if the HCWs/PSWs provider number credentials have expired, except as outlined below. Credentials are maintained by timely and accurately submitting all paperwork, and completing any additional steps necessary for processing the renewal paperwork required to be a Medicaid provider, including but not limited to the PEAA, criminal background check, and fingerprints, if required. Providers that are both a HCW and PSW are required to maintain separate credentials for each provider type and program (APD/DD/OHA).

HCWs/PSWs are responsible to maintain current credentials and to renew their credentials prior to expiration. HCWs/PSWs can find their Credential Expiration Date(s) in the following places:

- 1) HCWs/PSWs paid via the State CEP system will be able to view their Credential Expiration Dates on each payment remittance advice.

- 2) PSWs paid via a Fiscal Intermediary will have their Credential Expiration Date displayed each time at the point they log in to the eXPRS desktop version and upon implementation of the eXPRS mobile-EVV version.
- 3) HCWs/PSWs who are not paid via a Fiscal Intermediary, shall be provided a reminder of credential expiration at approximately one hundred twenty (120) and at approximately ninety (90) days prior to the expiration of their credentials. For the purposes of this Section approximately is defined as within five (5) business days.
- 4) Credential Expiration Dates will also be accessible to HCWs/PSWs on the OHCC Registry.

In any action in which a HCW/PSW seeks to recover pay for work the State alleges is unauthorized due to expired credentials, there shall be a rebuttable presumption that a Worker received notice of their Credential Expiration Dates.

HCWs/PSWs are responsible to keep their physical address, mailing address, phone number and email address (if available) up-to-date with appropriate DHS or OHA provider enrollment units, and for HCWs the Local Case Management Entity office and the OHCC Registry. HCWs/PSWs must submit all required credential paperwork at least seventy (70) days prior to their Credential Expiration Date. All paperwork must be submitted to the Local Service Delivery Office. In order to ensure timely processing, Workers must comply with all requests for additional information in accordance with the timeline sent in the notice. For HCWs and OHA PSWs, DHS/OHA shall send Workers a courtesy notice once all of their credential paperwork has been successfully processed and their Credential Expiration Date has been adjusted accordingly. HCWs/PSWs can log in to the OHCC Registry, review their RA statement or review the eXPRS system to check if their Credential Expiration Date has been successfully renewed.

A Worker who submits their credentials at least seventy (70) days in advance may continue to be paid for all hours worked beyond their Credential Expiration Date, if approved by Central Office.

Failure to submit all credential renewal paperwork at least seventy (70) days prior to the credential end date may result in the inactivation of the worker's provider number if the paperwork is not processed by the Credential Expiration Date.

A HCW/PSW with an inactivated/terminated provider number must not work and will not be paid, except as outlined above. HCWs/PSWs that work with an inactive provider number may face disciplinary action, up to and including termination of their provider number.

### **Section 13. New HCW/PSW Credentials**

As part of the credentialing process new HCWs/PSWs must pass their background check and receive their Provider number, before they are considered eligible to be hired.

PSWs are eligible to work for a Consumer only after the following items have been completed:

1. The PSW has passed a background check and received their Provider number,
2. The employee packet from the Fiscal Intermediary,
3. The Employer has also completed and submitted the FI Employer packet,
4. The Consumer has an Individual Support Plan in place,
5. A signed service agreement by both the PSW and Employer and
6. There is authorization for services in eXPRS Plan of Care.

REV: 2017,2019



## **ARTICLE 9 – NO DISCRIMINATION**

### **Section 1. No Discrimination.**

The Union and the Employer agree not to engage in unlawful discrimination against any Employee because of religion, sex, race, creed, color, national origin, sexual orientation, age, physical or mental disability or Union activities. Written claims of discrimination against the Employer may be submitted to the Executive Director of the Oregon Home Care Commission or designee within thirty (30) days of the date of the alleged claim to respond, with final resolution of a claim through the Bureau of Labor and Industries (BOLI) or Equal Employment Opportunity Commission (EEOC), as appropriate.

### **Section 2. Consumer Rights.**

This Article does not apply to the consumers' sole and undisputed rights provided in the law, including the selection and termination of employment of the HCWs/PSWs.

## **ARTICLE 10 – OREGON HOME CARE COMMISSION REGISTRY (Registry)**

### **Section 1. Inclusion in the Registry**

All providers referenced in Article 2, Section 2(a) and (b) will be included in the Registry.

### **Section 2. Definitions.**

- a) **Active/Approved to Work** – Homecare Workers (HCWs) and Personal Support Workers (PSWs) with this status may be referred on the Registry.
  
- b) **Provider Number** – The number assigned to an individual HCW/PSW through one of the State Provider Database Systems when the Department of Human Services (DHS)/Oregon Health Authority (OHA)/Aging and People with Disabilities (APD)/Area Agency on Aging (AAA) or Children’s Intensive In-Home Services (CIIS)/Brokerage/Community Developmental Disabilities Program (CDDP) or Community Mental Health Program (CMHP) office approves a HCW/PSW to work.
  
- c) **Oregon Home Care Commission Registry** - The Registry is an online matching Registry for Consumer/Employers who need home and community-based services provided by HCWs/PSWs who are able and willing to meet those needs. The Registry is not intended for use by private sector homecare agencies seeking employees. If the OHCC becomes aware of such use by an agency, the OHCC will contact the entity by phone and/or email. The OHCC shall report any such occurrences at the monthly Joint Issues Committee meeting.

All HCWs/PSWs included in one of the State Provider Database Systems are accessible electronically to the Registry through live data feeds.

- d) **Restricted** – A HCW/PSW level of provider in one of the State Provider Database Systems. A HCW/PSW with this level is restricted to working for a specific Consumer/Employer(s). The meaning of this designation for PSWs is to be defined by ODDS.

- e) **Provider Enrollment Application Agreement (PEAA)** – To become a qualified approved PSW an applicant must complete the PEAA.
- f) **HCW / PSW Worker Summary** – HCWs/PSWs who complete their personal information, preferences, services, availability, and schedule and who are available for referral, may have their worker summary appear on a Consumer’s match list.

### **Section 3. Available for Referral.**

To be referred in the Registry, a HCW/PSW must:

- a) Provide electronic authorization by checking “Yes” in the Online Referral section on the Availability page in the Registry.
- b) Have an Active Provider number in one of the State Provider Database Systems.
- c) Have verification of the date of Orientation.
- d) Be seeking employment.

### **Section 4. Online Referral Authorization**

- a) HCWs/PSWs who electronically authorize the release of their contact information on the Registry must check “Yes” in the Online Referral section on the availability page.
- b) HCWs/PSWs who electronically authorize the release of their contact information on the Registry to Private Pay consumers must check “Yes” in the Private Pay Referral section on the Availability Page.
- c) To revoke an electronic authorization the HCW/PSW must change their response in the Online Referral and Private Pay Referral section on the Availability page to “No”.

### **Section 5. Seeking Employment.**

HCWs/PSWs who are seeking work are responsible for updating their availability for referral every thirty (30) days in the Registry. HCWs/PSWs no longer seeking employment can change their availability to work status in the Registry at any time.

### **Section 6. Registry Referrals and Consumer Choice.**

Referrals are generated based on search criteria entered by the consumer or the consumer's representative and the profile information entered by the HCWs/PSWs. A random customized list of matching referrals including Individual Worker Summaries will then be provided upon request to the consumer for the Consumer/Employer to choose a worker. DHS/OHA will ensure Consumer/Employers are made aware of their option to request a list off the Registry. Professional Development Certification and Enhanced/Exceptional Workers will be identified on the referral match list.

The Consumer/Employer maintains the right to select and terminate employment of the HCW/PSW.

### **Section 7. Personal Information – Credential Information Quarterly Review.**

Homecare and Personal Support Workers are encouraged to quarterly enter the Registry to review their Credential End and Credential Recheck Due dates in the Credential Information on the Worker's Personal Information page. HCWs/PSWs shall be provided a reminder of credential expiration at approximately one-hundred and twenty (120) and ninety (90) days prior to the expiration of any of their credentials. For HCWs and PSWs paid through state systems, notices will begin ninety (90) days after ratification of this Agreement. For PSWs paid through fiscal intermediaries, notices will begin no later than three-hundred sixty-five (365) days after ratification of this Agreement. Until the notices specified above, are sent for PSWs paid through fiscal intermediaries, the OHCC shall send out a quarterly notice to providers who have any credentials expiring in the next three (3) months. HCWs/PSWs are responsible to keep their mailing address and email address (if available) up-to-date with their local Case Management Entity. Homecare and Personal Support Workers must take action to renew their credentials at least seventy (70) days before their Credential Recheck Due date. Failure to submit any credential renewal paperwork at least seventy (70) days

prior to expiration may result in the inactivation of the worker's provider number if the paperwork is not processed by the renewal date. A HCW/PSW with a inactivated/terminated provider number is not eligible to receive Medicaid service payments.

**Section 8. Unavailability for Referral in the Registry due to DHS/OHA Oregon Administrative Rule (OARs). Employment Status in one of the State Provider Database Systems.**

HCWs/PSWs who have any of the following conditions in one of the State Provider Database Systems will be unavailable for referral in the Registry:

- a) HCWs/PSWs who have not provided any paid services to any Consumer/Employer in the last twelve (12) months and whose provider number is inactivated;
- b) HCWs/PCWs who have voluntarily terminated their provider number in one of the State Provider Database Systems by submitting a written letter to the DHS/OHA/APD/AAA or Case Management Entity office stating s/he will no longer be providing Homecare/Personal Support Worker services in Oregon;
- c) HCWs/PSWs with a restricted provider number who are limited to working for specific Consumer/Employers;
- d) HCWs/PSWs who have lost their provider number through termination by DHS/OHA/APD/AAA;
- e) HCWs/PSWs who have failed to complete a criminal history check authorization or provide fingerprints as requested by DHS/OHA/APD/AAA or Case Management Entity office and as a result, their provider number has been inactivated;
- f) HCWs who have not attended orientation within ninety (90) days, in which case their provider number will be inactivated; and,

- g) PSWs who have not attended an orientation within ninety (90) days from the issuance of a provider number; and,
- h) HCWs/PSWs who have any other type of status in one of the State Provider Database Systems that will not allow the HCW/PSW to be available for referral according to DHS/OHA (OARs).

**Section 9. Unavailability for Referral in the Registry due to a Violation of OHCC OAR.**

A HCW/PSW will not be referred in the Registry and the Employer will change his/her Registry Process Status to "Removed by OHCC" when the facts support the Employer's claim of misconduct, poor performance or other violations of OHCC OARs.

An investigation shall be conducted prior to ending the HCW's/PSW's ability to be available for referral in the Registry; the HCW/PSW, the Union and APD will be notified in writing within fifteen (15) days of the decision. The HCW/PSW will have the right to Union representation during an investigatory interview. The HCW/PSW may request and be given any Registry information pertaining to that individual HCW/PSW within three (3) business days. The HCW/PSW will be informed of projected costs, if any, for gathering and providing the requested information for the purposes of making the required advance payment, as appropriate. Actual charges shall be based on actual costs incurred.

**Section 10. Grievances Due to Unavailability for Referral in the Registry.**

HCW/PSW's no longer available for referral in the Registry due to reasons other than described in Section 11-Provider Number Terminations by DHS/OHA of this Article are subject to the grievance procedure. The Employment Relations Board's (ERB) decision will be based on whether the facts support the Employer's written claim that the HCW/PSW should no longer be referred in the Registry is a reasonable penalty. If the Employer's decision is reversed, the HCW/PSW will be available for referral in the Registry, provided the HCW/PSW completes and signs a new Homecare Worker Application/Provider Enrollment Application Agreement (PEAA) and authorizes the release of his/her contact information in the Registry.

### **Section 11. Provider Number Terminations by DHS/OHA.**

In the event of the termination of a HCWs/PSWs provider number, the HCW/PSW will be notified pursuant to DHS/OHA OARs. The HCW/PSW will be unavailable for referral in the Registry and is not subject to the grievance procedure. Should an appeal result in the restoration of the provider number, the Employer will be notified of the reactivation through one of the State Provider Database Systems. The HCW/PSW will be available for referral in the Registry when the provider number is restored in one of the State Provider Database Systems and the HCW/PSW completes and signs a new Homecare Worker Application/PEAA and authorizes the release of his/her contact information in the Registry.

*REV: 2019*

## **ARTICLE 11 – GRIEVANCE PROCEDURE**

### **Section 1. Grievance Definitions.**

Grievances are defined as acts, omissions, applications, or interpretations alleged to be violations of the terms or conditions of this Collective Bargaining Agreement. Group grievances are those in which a condition or group of conditions result from the same acts, omissions, applications, or interpretations alleged to be violations of the terms or conditions of this Collective Bargaining Agreement that affect two (2) or more members of the bargaining unit. Grievances may only be expanded in scope with the agreement of both Parties.

### **Section 2. Informal Resolution Approach.**

The Parties encourage, whenever possible, an informal resolution approach over the application of the terms and conditions of the Collective Bargaining Agreement that are within their authority to administer.

### **Section 3. Information Requests.**

Information requests concerning potential grievances or grievances shall be relevant to the grievance investigation. The Agency or Union will provide the information, to which the requesting party is lawfully entitled, in a timely manner. Reasonable costs shall be borne by the requesting party. The requesting party shall be notified of any costs before the information is compiled.

### **Section 4. Grievance Steps.**

The Union shall initiate an information request to the OHCC Executive Director or Designee within thirty (30) calendar days of when they knew or should have known of a potential grievance. Pay related issues shall be sent to the OHCC Customer Relations email address: [OHCC.CustomerRelations@dhsosha.state.or.us](mailto:OHCC.CustomerRelations@dhsosha.state.or.us). The information request shall include the following information for pay-related issues. For non-pay related issues, only the information relevant to that case will be required.

1. Provider's legal name and provider number



2. Initials of applicable Consumer-Employer and if a PSW, the name of the Employer of record (if known)
3. Whether the Grievant is a HCW or PSW. If a PSW, whether they work through AMH or ODDS
4. For PSW timesheet submission: a copy of the signed job description or service agreement showing start date and maximum number of hours authorized (if available).
5. Name of Consumer Employer's Case Manager/Personal Agent/Service Coordinator (if known)
6. Local Service Delivery Office.
7. For pay related issues:
  - a. The applicable pay period
  - b. Date the HCW/PSW submitted the voucher or timesheet
  - c. How the voucher or timesheet was submitted (in-person, fax, email, US mail)
  - d. Whether the worker receives direct deposit or a paper check (if relevant)
  - e. Copy of voucher or timesheet (if available)
  - f. Number of hours billed for
  - g. The applicable payment rate and the service(s) provided
  - h. If paid through eXPRS, date PSW contacted Technical Triage (if known or if they did).
  - i. Any other supporting documents and correspondence, including who the worker has attempted to talk to about the issue (if available)

Failure of the Union to provide any of the above information that is available to the Employer, shall not invalidate or delay the grievance process.

No later than November 1, 2019, the Union, its Member Resource Center and the OHCC shall meet to create an information request form. The Union shall submit the created information request form to initiate the payment complaint investigation process. The OHCC shall provide the Union with an email confirming an information request has been received.

For issues related to missing or incorrect pay, the Parties will have up to three (3) calendar days from the date of the Union's information request to mutually provide and exchange information related to the potential grievance. If at the end of this three (3) day period, the missing or incorrect pay issue is not resolved the Union will have nine (9) calendar days to submit a formal grievance under Step 1, below. For the purposes of this Section, a resolved payment means the pay issue has been identified and verified and an out-of-cycle payment initiated.

For all other pay related issues, such as late fees owed a worker, the Parties will have twenty-one (21) calendar days from the date of the Union's information request to mutually provide and exchange information related to the potential grievance. If at the end of this twenty-one (21) day period, the issue is not resolved, the Union will have nine (9) calendar days to submit a formal grievance under Step 1, below.

For all non-pay related issues, the Parties will have twenty-one (21) calendar days from the date of the Union's information request to mutually provide and exchange information related to the potential grievance. If at the end of this twenty-one (21) day period, the potential grievance is not resolved the Union will have nine (9) calendar days to submit a formal grievance under Step 1, below.

### **Step 1 - Grievance**

- a. Grievances shall be filed in writing with the Home Care Commission's Executive Director or designee by submission to the grievance email box/grievance email address designated by the Home Care Commission. Grievances shall state the names of the grievant or grievants; the specific Article(s) alleged to have been violated; a clear explanation of the alleged violation; the requested remedy; and if available, the HCWs/PSWs first

and last name, Provider Number (if available), Branch/Office name and the Case Manager/Personal Agent/Service Coordinator name.

- b. A Union representative, who may be accompanied by the grievant, shall meet with the Home Care Commission Executive Director or designee within fourteen (14) calendar days following receipt of the grievance at this level. The meeting may be in person or via teleconference. Failure to meet shall not impact the merits of the grievance or its further processing. The Executive Director or designee shall respond to the grievance by e-mail no later than fourteen (14) calendar days following the Step 1 meeting or twenty-eight (28) calendar days after the grievance was filed, whichever is sooner. Such response shall state specifically the basis for the Director's granting or denial of the grievance. In the event the Executive Director or designee fails to respond, the non-response shall be treated as a denial of the grievance.

### **Step 2.**

If the grievance is not resolved at Step 1 b) above, the Union shall submit the grievance to the DHS Labor Relations Representative (LRR), within seven (7) calendar days, for further review. The Step 2 bump shall include the grievance and the 1<sup>st</sup> step denial (if any). The LRR shall respond to the grievance by e-mail no later than seven (7) calendar days of receipt of the grievance. Such response shall state specifically the basis for the LRR's granting or denial of the grievance. In the event the LRR fails to respond, the non-response shall be treated as a denial of the grievance.

### **Step 3.**

If the grievance is not resolved at Step 2, the Union may appeal the grievance to arbitration by written or email notice to the Executive Director or designee and LRR, within forty-five calendar days of denial of the grievance by the LRR. Failure by the LRR to issue a written disposition of the grievance at Step 2 will permit the Union to invoke arbitration within forty-five (45) calendar days after the LRR response was due under the terms of this Article.

## **Section 5. Arbitration.**

Within seven (7) calendar days of the Union's appeal of a grievance to arbitration, designated representatives of the Parties shall confer to designate an Arbitrator to hear the grievance. Arbitrators will be selected from the following list on a rotating basis:

1. Sylvia Skratek
2. Kathryn Whalen
3. Howell Lankford
4. James Lundberg
5. Timothy Williams

Arbitrator List Modifications. The Parties may elect, during periods when the Agreement is open, to modify the list of arbitrators through elimination, addition or replacement. Any such change shall be by mutual agreement, in writing.

Arbitration Scheduling. The Parties shall mutually select dates, provided by the Arbitrator for arbitration, in a prompt fashion.

Opinion and Award Timelines. Arbitrators will endeavor to issue a written opinion and award in the grievance within thirty (30) calendar days of the submission of briefs in the case or upon closing of the record if no briefs are filed.

Authority of the Arbitrator. The Arbitrator shall have no authority to rule contrary to, to amend, add to, subtract from, change or eliminate any of the Terms of this Agreement. The findings of the Arbitrator shall be final and binding on the Parties. Arbitrations will be handled in accordance with the rules of the American Arbitration Association.

Arbitration Costs. The Costs of arbitration shall be borne equally by the Parties. Each party shall bear the cost of its own presentation including preparation and post-hearing briefs, if any. Arbitrator/Arbitration cancellation fees shall be borne equally by the Parties.

Other Complaints, Charges or Claims. Nothing in this Article or Agreement restricts the right of either Party to file complaints, charges, claims or the like with the Employment Relations Board or any other State or Federal entity.

Optional Mediation. At any point after a grievance is filed, either Party may request that the matter be submitted to mediation under the rules and procedures of the Employment Relations Board and the Public Employees Collective Bargaining Act (PECBA). Any such submission must be by mutual agreement, in writing. Costs of any agreed to mediation shall be equally shared by the Parties. The conduct of mediation shall not affect the timelines and steps of the grievance process and any change in the timelines and procedures during mediation shall occur only upon mutual agreement, in writing.

#### **Section 6. Time Limits.**

Time Limits. The time limits specified in this Article shall be strictly observed, unless either Party requests a specific extension of time, which, if agreed to, must be stipulated in writing and shall become part of the grievance record. "Filed" for purposes of all steps shall mean date of receipt by mail, hand delivery, by facsimile (fax), e-mail or as otherwise agreed to by the Home Care Commission Executive Director, or designee, and the Union. If the Employer fails to issue a response within the time limits, the Union may advance the grievance by written notice to the next step unless withdrawn by the Union. If the Union fails to meet the specified time limits, the grievance shall be considered withdrawn and cannot be resubmitted.

#### **Section 7. Employer Not Responsible For Grievance Time.**

The Employer is not responsible for any compensation of HCWs/PSWs or their representative for time spent investigating or processing grievances nor any travel or subsistence expenses incurred by a grievant or Union Steward in the investigation or processing of grievances.

*REV: 2017,2019*

## **ARTICLE 13 – WORKERS’ COMPENSATION**

### **Section 1.**

Workers’ Compensation insurance coverage is provided pursuant to ORS 656.039(5)(a)(b).

### **Section 2.**

During the covered period, the Employer will work with the carrier to provide monthly statistical HCW and PSW claims data, including claim and injury trends. The reports will be provided to the Commission and the Developmental Disabilities and Mental Health Committee.

### **Section 3.**

The Union agrees to provide the best, good faith efforts to support and promote mandatory and/or voluntary safety training opportunities to its members.

## **ARTICLE 14 – SERVICE PAYMENTS**

### **Section 1. Prior Authorization**

- a) HCWs/PSWs may not be paid for hours that are not prior authorized.
- b) Prior authorization for APD is one of the following:
  - a. A handwritten 4105 from the local office
  - b. a completed 4105 via mail
  - c. task list or
  - d. voucher.
- c) Prior authorization for ODDS services is when the PSW has passed a background check and received their Provider number, the employee packet from the Fiscal Intermediary, the Employer has also completed and submitted the Fiscal Intermediary Employee packet, the individual has an authorized Individual Support Plan (ISP), there is a signed service level agreement describing the support to be provided that has been signed by the Employer and PSW, and there is authorization for services in eXPRS Plan of Care.
- d) Prior authorization for OHA services is considered the voucher.
- e) In the case of an emergency or urgent situation that occurs after local office hours, the HCW/PSW must notify the case manager or service plan coordinator within two (2) business days.
- f) Case Management Entities may provide hours authorization to a worker via secure email when a Consumer needs a worker to provide services that cannot wait for the prior authorization processes outlined above.

### **Section 2. Valid Provider Numbers**

- a) A Worker must receive and maintain a DHS/OHA provider number, as defined in Article 8, in order to be paid.
- b) Expectations for the State and the Worker are defined in Article 8.

### **Section 3. OHA/DHS Letter Explaining Late Payment.**

If a HCW/s/PSW/s voucher/timesheet is not processed timely pursuant to Article 8, Payroll/Voucher Systems, Section 4, upon request of the HCW/PSW, the local office will provide a letter noting when the voucher was authorized for payment and the payment amount. When a Worker receives payment for demonstrable costs incurred due to a late payment as outlined in Article 8, Section 5, this will be detailed in the above letter. Provision of a letter to the HCW/PSW does not create any additional financial liability of the Employer, DHS/OHA or its designee for any reason.

### **Section 4. Training Certification Differential.**

Workers who complete all PDC requirements, including passing competency requirements for the Oregon Home Care Commission (OHCC) Professional Development Certification (PDC) program with a current CPR/First Aid Certification shall receive a fifty cent (\$0.50) per hour differential. Workers that meet all requirements and submit a properly completed application to the OHCC shall receive the differential no later than the beginning of the pay cycle following the OHCC/DHS Processing Period. For the purposes of this Section, the OHCC/DHS processing period will be no longer than forty-five (45) calendar days. The OHCC Professional Development Certification program shall be based on the core classes of Keeping It Professional, Working Together, and Helping Caregivers Fight Fraud & Abuse; and attending a minimum of five (5) hours of safety-skills training and a minimum of five (5) hours of other services & skills trainings. The OHCC may approve recommendations from the Training Committees or the Worker Classification Workgroup that will amend the PDC program certification requirements. When changes are made to the PDC program workers will be notified at least six (6) months in advance. The requirements of the PDC program may not exceed twenty-five (25) hours, excluding CPR/First Aid training hours. Workers must maintain a training no show rate of twenty percent (20%) or less and the CPR/First Aid certification must be from an accredited program with a demonstration of skills and be valid throughout the certification period. Workers must submit their CPR/First Aid renewals to the OHCC one (1) month prior to their CPR/First Aid certification end date to continue eligibility of their PDC. The Worker shall attempt to take training classes focused on the consumer(s) they are providing services for. The HCW/PSW must maintain their CPR/First Aid certification every two (2) years to continue receiving the



differential rate. The Professional Development Certification Differential cannot be compounded with Enhanced, Exceptional, VDO, or Job Coaching differentials. PSW PDC is for twenty-four (24) months and HCW and PSW-OHA PDC are for fifty-two (52) payment cycles.

Providers who have a current (not expired) Oregon Certified Nursing Assistant (CNA) certification, License Practical Nursing or Registered Nursing License may substitute their certification/license for the PDC Safety-Type Courses and the PDC Elective Courses with their initial PDC application. Providers will be required to complete and pass the following required courses:

1. Keeping it Professional
2. Working Together
3. Helping Caregivers Fight Fraud and Abuse

Renewals will follow the prescribed renewal process for PDC.

Any skill-based training hours completed by current HCWs/PSWs due to the implementation of Senate Bill 1534 shall count toward the requirements for the PDC. For instance, if current workers are expected to complete eight (8) hours of skill-based training, those hours should count toward the twenty-five (25) hours required for the PDC. This Section will not limit the Union's statutory ability under ORS 243.698 to bargain over the impact of the implementation of Senate Bill 1534.

In-person PDC related trainings shall be offered at least quarterly in each county or be made available online.

The OHCC shall offer at least five (5) hours of safety-skills training and at least five (5) hours of other training online, in English.

OHCC shall offer the PDC core classes and safety-related courses in Spanish, Russian, Vietnamese, Somali and Arabic in in-person classes or cohort model classes. By October 1, 2019, the OHCC shall offer at least five (5) hours other training in-person classes or cohort model classes in these languages. By January 1, 2020 the COMPASS

program shall be offered in these languages. Information about these classes and cohorts will be listed in the OHCC ElevateTraining Newsletter.

Any materials required for the PDC Certification, including but not limited to, the application and training competency assessments, shall be offered in online or written format in at least the following languages: Spanish, Russian, Vietnamese, Somali and Arabic.

The Parties agree to create a joint workgroup composed of an equal number of OHCC/State representatives and Union Representatives. The workgroup shall:

- a) Identify and implement improvements in the PDC qualifying process
- b) Research and identify what specific IT changes would be required to automate the PDC qualifying process and make any differentials stackable
- c) Identify how the PDC can be a career development opportunity that can help recruit and retain providers.

This workgroup will begin meeting no later than 02/01/2020 and the State will provide data about the current program and process.

### **Section 5. Training Differential Funding.**

Subject to available funds, workers who complete the training differential requirement outlined above shall receive a fifty cent (\$0.50) per hour differential for the period they are actively certified by the OHCC and have the required CPR/First Aid card in effect. The fifty cents (\$0.50) per hour differential ends on the last day worked in the two-(2)-week authorized service period when the OHCC certification or the required CPR/First Aid card expire, whichever occurs first. Available funds dedicated by the Parties for the purposes of this Section shall be defined as no more than thirty percent (30%) of total bargaining unit workers receiving the fifty cent (\$0.50) per hour training differential. In the event more than thirty percent (30%) of total bargaining unit workers qualify for the fifty cent (\$0.50) per hour training differential, the Parties agree to meet and confer to keep the cost of the training differential within available funds. The Parties shall review

any savings from case load growth projection from the bargaining pot and agree to use any unused funds to cover training differential costs that exceed the thirty percent (30%) of bargaining unit workers for available funds. Additionally, the Parties may mutually agree to divert other existing already allocated funds.

### **Section 6. Wage Increases**

The Parties agree to work collaboratively to secure an additional general fund appropriation in the amount of three million (\$3,000,000) dollars in the 2020 Legislative Session. The three million (\$3,000,000) dollars is intended to help fund the five percent (5%) retirement contribution referenced in the Retirement Security Letter of Agreement.

If the 2020 Legislative Assembly appropriates the additional three million (\$3,000,000) dollars targeted for worker wages/retirement contributions, then the scheduled wage increases shall be as follows:

Increase #1 for DD-PSWs: Effective 01/01/2020: thirty-five (\$0.35) cents/hr

Increase #2 for DD-PSWs: Effective 07/01/2020: seventy-seven (\$0.77) cents/hr

Increase #1 for HCWs/PCAs: Effective 01/05/2020: thirty-five (\$0.35) cents/hr

Increase #2 for HCWs/PCAs: Effective 07/05/2020 seventy-seven (\$0.77) cents/hr

If the additional three million (\$3,000,000) dollars is not fully secured in the February 2020 special session, the Parties will meet and confer to adjust the July 2020 wage increase to fit within the adjusted bargaining pot.

### **Section 7. Consumer Budgets**

Nothing in this Agreement shall reduce the amount and scope of services and activities available to consumers.

### **Section 8. APD HCW On-Call.**

If an on-call program is implemented providers scheduled to be on-call shall be paid one (1) hour of her/his hourly wage for every four (4) hours of being on-call. Providers who are on-call and called into work shall be paid at least one (1) hour for each time reporting to work and shall be paid her/his hourly wage for hours worked in addition to on-call pay.

## **Section 9. Travel Time.**

- a) Providers will be paid for travel time between consumers' homes or initial service related sites (e.g., pharmacy, grocery store) occurring on the same day. Travel time will be calculated based on the most direct route possible. For HCWs/PSWs using public transportation, the posted time between stops will be used to calculate and validate travel time. Travel time will be paid at base pay for HCWs/PSWs defined in 14.1 and 14.2 Rate Tables. Travel time pay is not subject to differentials. Travel time pay is not subject to differentials.
- b) Travel time between consumers' homes/work sites may not exceed ten percent (10%) of the HCWs/PSWs authorized hours worked during each pay period. Exceptions to this rule may only be granted by DHS/OHA Central Office to meet consumer needs. Requests for exceptions to the ten percent (10%) rule shall be initiated with the Consumer(s) case manager. HCWs/PSWs are responsible for ensuring that they do not exceed the maximum travel percentage. The details of this Section shall be included in any HCW/PSW New Employee Orientations.
- c) If the HCW/PSW attends to personal business, has significant breaks in time between providing services or returns home between service recipients, the HCW/PSW is not traveling directly between service recipients and will not be reimbursed for that travel time. Brief stops such as those for gas or using the restroom between service recipients will be considered traveling directly.
- d) Service related driving that occurs during the course of authorized service hours will continue to be paid at the HCWs/PSW's hourly rate of pay for that Consumer.
- e) All HCWs and PSWs using their own personal vehicle for authorized transportation must provide the Local Service Delivery Office with verification that their driver's license and automobile insurance is up-to-date. Insurance verification must be provided a minimum of every six (6) months, or as frequently as the Worker renews their policy.

### **Section 10. Stipend for Required Training**

If a Worker is required to attend a training, by DHS/OHA, and based on the Consumer's care plan, including but not limited to the Oregon Intervention System (OIS) training, the Worker shall receive the OHCC training hourly stipend.

If a Worker is required to participate in an in-person training, seminar, online class, or other learning session regardless of medium, the time spent in such mandatory training shall be paid at the Worker's hourly rate. For Workers with multiple hourly rates required training shall be paid at their weighted hourly average wage. This Section applies to HCW and PSW mandated core training and continuing education requirements outlined in rule. In light of evolving administrative rules regarding implantation of SB 1534, the foregoing language does not waive the Union's right to negotiate over the impact of any final changes to working conditions.

### **Section 11. Timely Issuance of W-2's.**

The State or contracted Fiscal Intermediary shall issue W-2's no later than January 31st.

### **Section 12. Difficulty of Care Exemptions**

Effective January 1, 2020, upon request, the OHCC shall provide qualifying APD/HSD HCW/PSWs with written confirmation of their Difficulty of Care exemption status; ODDS PSWs may contact PPL, the fiscal intermediary, for confirmation of their Difficulty of Care Exemption status.

HCWs/PSWs shall not be required to resubmit Difficulty of Care exemption paperwork every year so long as they continue to work for the same Consumer-Employer.

### **Section 13. Community Inclusion Hours**

When an ODDS PSW provides community-based services for multiple Consumers at the same time, the Worker can bill each Consumer's plan the total number of service hours that Consumer received. The PSW will be paid for a Group Service which consist of the hours of services they worked regardless of the number of consumers.

*REV: 2019*

## **ARTICLE 14.1 – SERVICE PAYMENTS FOR HOMECARE WORKERS**

### **Section 1. Rates.**

The per hour rate schedule for compensation of eligible Homecare Workers (HCWs) is outlined below:

<b>RATES EFFECTIVE January 5, 2020</b>	<b>HOURLY</b>	<b>ENHANCED HOURLY</b>
ADL/IADL Hours	\$15.00	\$16.00

  

<b>RATES EFFECTIVE July 5, 2020*</b>	<b>HOURLY</b>	<b>ENHANCED HOURLY</b>
ADL/IADL Hours	\$15.77	\$16.77

\*These increases are conditioned on the requirements outlined in Article 14, Section 6 being met.

### **Section 2. Enhanced Homecare Worker Wages and Training.**

- a) An Enhanced Homecare worker (EHCW) provides services to consumers who require medically driven services and supports as assessed by the case manager during the assessment process. Twenty-eight (28) calendar days after the first (1<sup>st</sup>) voucher is paid following the consumer assessment, Workers will be notified if the assessment identifies the Consumer as qualifying for enhanced services and which training program they should complete to receive the higher applicable rate.
  
- b) If a new Assessment is performed and the consumer no longer qualifies for Enhanced Services, the Worker will continue to receive the applicable Enhanced Rate until the next voucher is issued. If a Consumer successfully appeals the

determination, Workers will receive back pay for all hours the Enhanced Rate would have applied.

- c) The Enhanced Homecare Worker (EHCW) must be certified through the Home Care Commission (HCC) approved certified process/training program established in 2014 to be eligible for the enhanced hourly rate.

### **Section 3. VDQ Differential.**

In addition to the rates outlined in Section 1 of this Article, all eligible Homecare Workers shall receive the following differential for all hours worked:

The Employer agrees to maintain the VDQ Differential as defined below for Individuals with Ventilator Dependency and Quadriplegia needing twenty-four (24) hour awake staff as assessed by the case manager and approved by Central Office as defined in OAR 411-030-0068(3). The VDQ Differential may be combined and paid in addition to all other applicable differentials when providing services.

Three dollars (\$3.00) per hour for all hours worked caring for Individuals with Ventilator Dependency and Quadriplegia who need awake assistance twenty-four (24) hours per day.

In order for a HCW to receive the VDQ Differential, they must be certified through the Oregon Home Care Commission (OHCC) approved certified process/training program if such a program is established. Existing providers must complete in one (1) year from the date of training availability and new providers must complete in ninety (90) days once training is available.

REV: 2017,2019

## **ARTICLE 14.2 – SERVICE PAYMENTS OF PERSONAL SUPPORT WORKERS**

### **Section 1. Wage Maintenance.**

No Personal Support Worker (PSW) shall have any service payment rate reduced as a result of this Agreement or as a result of a change in their Consumer. PSWs shall maintain their wage rate irrespective of starting work with a new Consumer/Employer. PSWs qualified or enrolled as a new provider on or after the effective date of this Agreement shall be paid at the rates outlined below. PSWs who have had their provider number inactivated for more than sixty (60) days, or who are terminated and later reapply as a PSW, shall only be eligible for the base hourly wage until completion of enhanced, exceptional or PDC training.

### **Section 2. Rates.**

The per hour rate schedule for compensation of eligible Personal Support Workers (PSWs) is outlined below:

Effective January 1, 2020	HOURLY PSW	ENHANCED PSW	EXCEPTIONAL PSW
All Prior Authorized ADL & IADL Hours Worked	\$15.00	\$16.00	\$18.00
Children's In-Home Intensive Services (CIIS)	\$17.34		
Job Coaches	\$16.50	\$17.50	\$19.50

Effective July 1, 2020*	HOURLY PSW	ENHANCED PSW	EXCEPTIONAL PSW
All Prior Authorized ADL & IADL Hours Worked	\$15.77	\$16.77	\$18.77
Children's In-Home Intensive Services (CIIS)	\$18.11		
Job Coaches	\$17.27	\$18.27	\$20.27

\*These increases are conditioned on the requirements outlined in Article 14, Section 6 being met.



### **Section 3. Enhanced Payments and Training.**

- a) An Enhanced Payment is for those services to consumers who require advanced medical or behavioral driven services and supports, as assessed by the Adult Needs Assessment (ANA)/Child Needs Assessment (CNA) or Oregon Needs Assessment (ONA).
- b) The Personal Support Worker (PSW) receiving Enhanced Payments must be certified, prior to the delivery of services through the applicable HCC approved certification process or training program established in 2014 for services as defined by the Department of Human Services (DHS).
- c) No later than twenty-eight (28) calendar days following the consumer assessment, Workers will be notified if the assessment identifies the consumer as qualifying for enhanced services and which training program they should complete to receive the higher applicable rate.
- d) If a new Assessment is performed and the consumer no longer qualifies for Enhanced Services, the Worker will continue to receive the applicable Enhanced Rate for fourteen (14) days following the assessment. If a Consumer successfully appeals the determination, Workers will receive back pay for all hours the Enhanced Rate would have applied.

### **Section 4. Exceptional Payments and Training.**

- a) An Exceptional Payment is for those services to consumers who require extensive medical and/or behavioral driven services and supports, beyond the Enhanced Payment, as assessed by the ANA/CNA or ONA, also requiring awake staff more than twenty (20) hours in a twenty-four (24) hour period.
- b) The Personal Support Worker (PSW) receiving Exceptional Payments must be certified, prior to the delivery of services through the applicable HCC approved certification process or training program for extensive medical services as defined by the Department of Human Services (DHS). For extensive behavioral services

the PSW must be certified by the Oregon Intervention System (OIS) prior to providing services.

- c) No later than twenty-eight (28) calendar days following the consumer assessment, Workers will be notified if the assessment identifies the Consumer as qualifying for Exceptional services and which training program they should complete to receive the higher applicable rate.
- d) If a new Assessment is performed and the consumer no longer qualifies for Exceptional Services, the Worker will continue to receive the applicable Exceptional Rate for fourteen (14) days following the assessment. If a Consumer successfully appeals the determination, Workers will receive back pay for all hours the Exceptional Rate would have applied.

#### **Section 5. CIIS Transition.**

A Provider will continue to receive the CIIS rate from the rate schedule for the first (1<sup>st</sup>) year the Consumer transitions out of the CIIS program. The PSW will be notified at least one (1) year prior to the Consumer turning 18, of the applicable training they need to complete in order to qualify for any new rate for which the consumer may be eligible. The notification will include where the PSW can find information about upcoming trainings. In order to qualify for the ongoing APD or ODDS rates referenced above, the CIIS Provider must complete the applicable training within the year following the Consumer's transition. If the Provider does not complete the required training, their rate will default to the HCW/PSW Base Rate.

#### **Section 6. Relief Worker Wages. The proposal in Article 14 shall apply to the below hourly rates.**

- a) Effective July 1, 2020, all relief care hours provided in a twenty-four (24) hour block will be paid at thirteen dollars and twenty-five cents (\$13.25) per hour.
- b) A Relief Worker is defined as a PSW who provides substitute services. Relief care providers will be paid at least sixteen (16) hours per day and may receive

up to an additional three (3) hours per twenty-four (24) hour period for direct care provided during the consumer's normal sleep schedule. Relief Providers may be paid for more than nineteen (19) hours a day only in emergency situations. Providers will be paid in fifteen (15) minute increments for services provided during the Consumer normal sleep hours.

- c) The wage rate for Relief work will be confirmed when the local office is notified of the need for substitute services by the Consumer.

**Section 7. ODDS Personal Support Worker (PSW) Providing Attendant Care (ADL/IADL) Supports and Services in an Employment Setting.**

- a) A PSW may provide attendant care supports and services in the employment setting.
- b) A PSW only providing attendant care support in an employment setting will not be subject to the employment-specific training and certification requirements.
- c) A PSW primarily providing attendant care support in an employment settings as defined in the Individual Service Plan will receive the applicable ADL/IADL service payment rate.

**Section 8. ODDS PSW – Employment Specialist (Job Coaching)**

- a) PSW Employment Specialists receive payments for Job Coaching services as defined in OAR 411-345.
- b) The PSW Employment Specialist may provide limited ADL/IADL attendant care services incidental to the employment service.
- c) Only PSW Employment Specialists who meet all training requirements as outlined in OAR 411-345 and ODDS policy and procedure will receive the Employment Specialist service payment rate when providing job coaching.

**Section 9. ODDS PSW – Employment Specialist – Training and Certifications.**

- a) All new PSWs who receive payment for providing Job Coaching as Employment Specialists must complete training according to OAR 411-345, prior to being paid as a PSW Employment Specialist.
  
- b) PSWs shall receive the hourly training stipend for completing Department Approved Job Coaching Classes.

*REV: 2017,2019*

**ARTICLE 15 – TRANSPORTATION MILEAGE REIMBURSEMENT FOR  
HOMECARE WORKERS AND PERSONAL SUPPORT WORKERS**

**Section 1. Transportation Mileage Rate.**

Homecare and Personal Support Workers shall be reimbursed for eligible personal vehicle miles authorized for service-plan-related non-medical transportation at a rate of forty-eight and one-half cents (\$.485) per mile for the term of this Agreement.

**Section 2. Prior Authorized Reimbursement.**

All transportation must be prior authorized. In the event a Consumer/Employer is no longer eligible for services, prior authorized and documented mileage driven during the eligible service period will be reimbursed if billed within twelve (12) months of the date of service.

**Section 3. Homecare and Personal Support Worker Automobile Insurance.**

All Homecare and Personal Support Workers using their own personal vehicle for authorized transportation mileage must have a current, valid United States driver's license and automobile insurance. Workers must report to their insurance carrier that they are using their personal vehicle for work activities. Prior to operating a Consumer/Employer's vehicle, a Worker should request proof that the Consumer/Employer's insurance will cover the Worker. The contents of Article 15, Section 3 shall be covered in New Employee Orientations. Current Workers will be notified of these requirements on a rolling basis at the time of their Consumer's next assessment.

**Section 4. Preauthorized Public Transportation Reimbursement.**

DHS/APD/AAA will reimburse Homecare Workers for the actual cost incurred for preauthorized public transportation when needed to accompany a Consumer/Employer.

**Section 5.**

PSWs providing authorized travel for consumers will receive a per trip reimbursement, regardless of the number of Consumer/Employers in the vehicle.

For Independent Choices PSWs, the reimbursement is made through the Consumer/Employer.

**Section 6. Driver's License/Insurance Verification.**

All HCW's and PSWs using their own personal vehicle for authorized transportation must provide the Local Service Delivery Office with verification that their driver's license and automobile insurance is up-to-date. Insurance verification must be provided every six (6) months or as frequently as the Worker renews their policy.

Homecare and Personal Support Workers providing authorized transportation services using the Consumer's vehicle must provide proof of a valid driver's license upon request. When an HCW/PSW uses a Consumer's vehicle, they can not request mileage reimbursement.

HCW/PSWs who have not met the requirement to provide proof of valid driver's license and updated vehicle insurance verification are not authorized for mileage reimbursement. Authorized miles will not be prior authorized until updated vehicle insurance verification to the Case Management Entity is received. HCWs will not be paid for mileage when miles are not prior authorized on the voucher. HCWs who submit travel time will not be paid for travel time until vehicle insurance verification is confirmed. DHS will process travel time payment once verification has been provided.

The HCW/PSW shall receive written confirmation from the Case Management Entity when submitting their driver's license and/or vehicle insurance verification in person to a CME staff. This written confirmation shall include the date and time such documentation was submitted by the HCW/PSW.

*REV: 2017,2019*

## **ARTICLE 16 - TIME-OFF REQUEST PROCESS**

It is not the Homecare or Personal Support Worker's responsibility to find their own replacement when they take time-off. The Consumer / Employer has the primary responsibility for selecting and hiring their providers. Time-off must be prior authorized by the Consumer/Employer, relief must be available if necessary, and the appropriate Local Service Delivery Office must be notified to authorize the Substitute Worker's hours. Sometimes the Consumer/Employer will require assistance from the Case Manager/Personal Agent/Service Coordinator in finding a suitable replacement provider.

*REV: 2019*

**ARTICLE 17.1 – TASK LIST OF AUTHORIZED SERVICES FOR HOMECARE  
WORKERS**

**Section 1. HCW Task List of Approved Hours and Services.**

The OHA/DHS/SPD/AAA local office will provide a copy of the task list of approved services and maximum hours to the Homecare Worker. If HCW(s) do not receive a copy of a task list of authorized services and maximum authorized hours from their Consumer/Employer, they may request a written copy from their local office, which shall be provided to the HCW within five (5) business days from the date of request. HCWs will not be expected to provide services that are not on the task list, such as pet care. If a Consumer/Employer/Employer Representative demands the HCW complete unauthorized tasks, the HCW shall report this to the Local Office. The Local Office shall keep a written record of this report. The Local Office shall then counsel the Consumer/Employer/Employer Representative on the task list and/or make a reference to the OHCC Employer Resource Connection Program.

The HCW may not charge the consumer/employer, or a relative or representative of the consumer/employer, for items included in service payments, for any items for which the Department makes payment, or for any additional services that they choose to provide the individual.

This does not preclude workers from being paid as qualified providers of other Medicaid-funded services.

If a consumer's assessment results in a change in the tasks authorized for the consumer, the HCW shall receive an updated task list within fourteen (14) days of the completed assessment.

**Section 2. HCW Notice of Change in Hours and/or Services.**

If changes in hours and/or services occur other than as a result of Consumer/Employer illness requiring alternative care or death, notice of the change shall be provided to the HCW in writing within seven (7) days of written notice from the Agency to the Consumer/Employer of the change.



**Section 3. Consumer Choice in Hours and/or Services.**

The Consumer/Employer retains the right to reduce the number of hours and/or services at any time.

*REV: 2019*

**ARTICLE 17.2 – SERVICE AGREEMENT OR CLIENT SERVICE PLAN OF  
AUTHORIZED SERVICES FOR PERSONAL SUPPORT WORKERS**

**Section 1. Service Agreement or Client Service Plan.**

Each PSW will be provided a PSW-DD Service Agreement or a PSW-MH Client Service Plan prior to beginning of work. Either party, PSW or Common Law Employer, may request a change to the PSW-DD Service Agreement or PSW-MH Client Service Plan to accurately reflect Consumer support needs and interests. Duties and descriptions must continue to reflect Consumer and Common Law Employer choice and person-centered planning.

**Section 2. Consumer Choice in Hours and/or Services.**

Based on program rules, the Common Law Employer retains the right to modify the number of hours and/or services of a PSW at any time.

**Section 3. PSW Notice of Change in Hours and/or Services.**

If changes in hours and/or services occur due to Agency funding, notice of the change shall be provided to the Union in writing within seven (7) days of written notice from the Agency to the Consumer and Common Law Employer.

**Section 4. Independent Choice Program.**

Sections 1 through 3 of this Article do not apply to Independent Choices PSWs.

*REV: 2019*

## **ARTICLE 19 – SERVICE PAYMENT OVERPAYMENTS**

### **Section 1. Overpayments.**

Overpayments in wages, resulting from Consumer/Employer or HCW/PSW or other error shall be recouped at no more than five percent (5%) of the HCW/PSW pay that is based on hours paid until repaid in full unless one of the following happens:

- a) HCWs/PSWs may choose to pay back their overpayment at an accelerated rate by requesting a higher percentage rate or making additional pay back payments.
- b) Any overpayment greater than thirty percent (30%) of the Provider's correct payment rate, for that payment period and/or consumer, shall be paid back within six (6) months.
- c) If a Provider has two (2) or more outstanding overpayments, said overpayments will be paid back within six (6) months of the date of the second (2<sup>nd</sup>) overpayment.
- d) If the HCW/PSW leaves employment before the overpayment has been fully recovered, the remaining maximum amount may be deducted from the HCW/PSW's final service payment(s).

Workers may initiate the OHCC complaint process to verify the cause and/or amount of any overpayment. Initiating the complaint process shall not waive a Worker's right to file a grievance per Section 3 of this Article. HCWs/PSWs shall immediately report in writing any overpayment they become aware of to the Case Management Entity.

### **Section 2.**

No later than March 1, 2020, a workgroup shall be established to work on a process to address this new Section and will consider the points listed in the paragraph below. The Workgroup shall consist of four (4) SEIU members and four (4) State members. If any

new overpayment processes are agreed to by the Parties, the Parties will execute a Letter of Agreement memorializing such processes. If the Parties fail to reach agreement, the outstanding issues are subject to the requirements set forth in ORS 243.

The first (1<sup>st</sup>) meeting of the workgroup will establish the scope of the discussions; which may include but is not limited to the following topic: Providing the HCW/PSW with a written explanation of the overpayment and the timeline for receipt of such notice by the Provider.

### **Section 3. Overpayment Technical Assistance.**

If a Worker causes an overpayment the State shall provide technical assistance and/or resources to help prevent future occurrences. This can include assessing any barriers the Provider is experiencing in correctly submitting their timesheet/voucher. Additionally, if applicable, the Case Management Entity will notify the Employer or Common Law Employer of the error and provide guidance on how to appropriately review a completed timesheet before providing their signature.

### **Section 4. Investigatory Process Regarding Overpayments.**

If the State suspects that a HCW/PSW is deliberately generating overpayments, the State may initiate an investigation into the matter and follow the process outlined in Article (25) – Worker Rights and Protections.

If it is determined that a Provider deliberately generated an overpayment, the overpayment must be paid back per each Program (APD/ODDS/HSD) rule. A Worker's provider number may be terminated for deliberately generating overpayment(s).

### **Section 5. Medicaid Fraud Overpayments.**

Substantiated Medicaid Fraud overpayments will be recouped at one hundred percent (100%) from the HCWs/PSWs service payment(s) until the overpayment is paid in full.

### **Section 6. Overpayment Determination Grievance.**

A HCW/PSW who disagrees with the determination that an overpayment has been made may grieve the determination through the grievance procedure.

## **ARTICLE 20.1 – HEALTH AND SAFETY**

### **Section 1. Gloves and Masks.**

When gloves and masks are not available at the Consumer/Employer's residence, the HCW may request them from the local DHS/APD/AAA location and receive a sufficient amount to address assessed Consumer/Employer needs on a monthly basis. An unopened package of non-latex, non-powdered gloves will only be provided where there is a demonstrable need, including those relating to allergic reactions to latex and/or powder. The local DHS/APD/AAA office will have packages of multiple glove sizes, and if a needed size is not available the office will obtain the appropriate size within two (2) weeks. Requests by HCWs for safety equipment other than the gloves and masks that are routinely provided shall be in writing and shall be provided subject to local DHS/APD/AAA management approval. All such requests will be responded to by Program Managers or designee in each office within twenty (20) calendar days from the receipt of the written request.

### **Section 2. Gloves and Masks through Consumer/Employer Health Plan.**

When gloves and masks are not provided by the health plan, the local office will provide these to the HCW on a monthly basis as long as the HCW continues to do Activities of Daily Living based on the Task List involving possible contact with bodily fluids and until these items are made available through the Consumer/Employer's health plan.

### **Section 3. Housekeeping.**

Gloves and masks will not be provided to a HCW for completing general housekeeping tasks or to avoid contact with cleaning agents or detergents.

### **Section 4. Communicable Diseases and Universal Precautions Information.**

HCWs shall have access to information on communicable diseases, blood-borne pathogens, and universal precautions through the local DHS/APD/AAA office. Such information shall be made available at New Homecare Worker Orientations, and will also be made available by Program Managers or designee in each office, upon request.

**Section 5. Flu Shot Information.**

The Employer and the Union agree to jointly develop a list of free and low-cost flu shots available around the state. Both Parties agree to publicize this information on their websites and in other materials available to HCWs.

## **ARTICLE 20.2 – HEALTH AND SAFETY**

### **Section 1. Gloves and Masks.**

When gloves and masks are not available at the Consumer's residence, the PSW may request them from the local Brokerage, CDDP, CIIS, Community Mental Health or AMH office and receive a sufficient amount to address assessed Consumer needs on a monthly basis. An unopened package of non-latex, non-powdered gloves will only be provided where there is a demonstrable need, including those relating to allergic reactions to latex and/or powder. The local Brokerage, CDDP, CIIS, Community Mental Health or AMH office will have packages of multiple glove sizes, and if a needed size is not available the office will obtain the appropriate size within two (2) weeks. Requests by PSWs for safety equipment other than the gloves and masks that are routinely provided shall be in writing and shall be provided subject to local Brokerage, CDDP, CIIS, Community Mental Health or AMH office management approval. All such requests will be responded to by Management or designee in each office within twenty (20) calendar days from the receipt of the written request.

### **Section 2. Gloves and Masks through Consumer Health Plan.**

When gloves and masks are not available at the Consumer's residence, the PSW may request them from the local Brokerage, CDDP, CIIS, Community Mental Health or AMH office on a monthly basis as long as the PSW's job description or service agreement continues to include activities of daily living or personal care worker with Consumers involving possible contact with bodily fluids and until these items become available through the Consumer's health plan or service plan if applicable.

### **Section 3. Housekeeping.**

Gloves and masks will not be provided to a PSW for completing general housekeeping tasks or to avoid contact with cleaning agents or detergents.

### **Section 4. Communicable Diseases and Universal Precautions Information.**

PSWs shall have access to information on communicable diseases, blood-borne pathogens, and universal precautions through the Home Care Commission's PSW Tool web page.

**Section 5. Flu Shot Information.**

The Employer and the Union agree to jointly develop a list of free and low-cost flu shots available around the state. Both Parties agree to publicize this information on their websites and in other materials available to PSWs.

**Section 6. PSWs Independent Choices Program.**

Independent Choices PSWs are to follow the guidelines in Article 20.1 – Health and Safety for Homecare Workers.

REV: 2019



## **ARTICLE 21 – OHCC TRAINING COMMITTEE**

### **Section 1. Committee Membership**

It is the Employer's intent to maintain the OHCC's Training Committee as an Advisory Committee to make recommendations to the Commission related to training. The Committee will also make recommendations regarding Personal Support Worker trainings to the Developmental Disability/Mental Health Committee (DD/MH-C). The DD/MH-C shall be those persons designated by ORS 410.600-410.625, as amended by HB 3618, Section 3 (2010 Legislature). The OHCC Training Committee shall consist of the following members:

1. Four (4) representatives from the OHCC or designated by the Commission
2. Two (2) representatives from the Department of Human Services
3. One (1) representative from the Oregon Health Authority.
4. Six (6) representatives from the Union/Homecare and Personal Support Workers.

The Commission may invite other appropriate partners, as necessary or as requested by the Committee members, to attend the meeting(s) to provide their expertise on training-related topics/issues.

### **Section 2. Quarterly Budget Report and Information Sharing.**

The Employer agrees to provide members of the OHCC Training Committee and the Union with a training budget report on a quarterly basis. This quarterly budget will be presented at the OHCC Training Committee meeting.

### **Section 3. Union Minority Report.**

In the event that the Union disagrees with a recommendation from the Training Committee to the OHCC and/or to the DD/MH-C, the Union will be invited to submit a "minority report" for consideration by the Commission and/or the DD/MH-C.

### **Section 4. Committee Tasks:**

- Prioritize training needs for Homecare and Personal Support Workers;

- Recommend training to improve Homecare and Personal Support Worker and Consumer Safety;
- Recommend training topics that cover specialty areas that are a concern to Homecare and Personal Support Workers and Consumers;
- Evaluate the effectiveness of training provided; and
- Recommend marketing incentive programs to increase Homecare and Personal Support Worker participation in the training program.

**Section 5. Committee Goals:**

- Provide Homecare and Personal Support Workers with skill-building opportunities to enhance the services provided to Consumers in a safe and efficient manner.
- To empower Consumers with the knowledge and skills to effectively direct their services and manage their Employees.
- Identify and develop professional and workforce development opportunities for Homecare and Personal Support Workers.

**Section 6. Homecare and Personal Support Worker Attendance at Trainings.**

Homecare and Personal Support Workers must have authorized and paid hours within three (3) calendar months prior to the month of a training or during the month the worker attends a training. Homecare and Personal Support Workers who meet these requirements will receive a stipend for actual hours in attendance at approved OHCC stipend trainings. Each online course will have a preset duration for the purpose of determining the stipend amount. Homecare and Personal Support Workers will only receive a stipend once a year per class taken, which includes online courses.

**Section 7. Stipends.**

Subject to approval by the OHCC the stipend payment will be at the base rate per hour for Homecare and Personal Support Workers.

*REV: 2017*

## **ARTICLE 22 – JOINT ISSUES COMMITTEE**

### **Section 1.**

The Parties agree to a committee to discuss issues of mutual concern on such topics as work processes and communication between the Parties.

- a) The committee shall be on a meet-and-confer basis.
  
- b) The committee shall have no power to negotiate or contravene any provision of the Collective Bargaining Agreement, or to enter into any agreements binding on the Parties to the Collective Bargaining Agreement, or resolve issues or disputes surrounding the implementation of the Collective Bargaining Agreement.
  
- c) Matters that should be resolved through the grievance procedure shall be deferred to the grievance procedure. No discussion or review of any matter by the committee shall forfeit or affect the time frames related to the grievance procedure.

### **Section 2. Meeting Times.**

Meetings shall be held at least quarterly, but no more than monthly, at a time that is convenient for both Parties.

### **Section 3. Meeting Agenda.**

Parties must submit meeting agenda items to the Home Care Commission by noon (12:00 pm) one (1) week prior to the meeting.

### **Section 4. Meeting Cancellations.**

The meeting will be cancelled if no agenda items are received or if the Parties mutually agree to cancel the meeting.

### **Section 5. Meeting Participants.**

The Committee shall consist of the following members;

Five (5) representatives from the HCC or DHS/OHA

Five (5) representatives from the Union.

The Home Care Commission and DHS/OHA will make every effort to include additional staff as needed to address specific agenda topics. The Union may invite other participants as needed to address specific agenda topics.

**ARTICLE 23 – HOMECARE AND PERSONAL SUPPORT WORKER NEW WORKER  
ORIENTATION, APD ONBOARDING SESSIONS, EXPRS ORIENTATION, AND  
ONLINE ORIENTATIONS**

The current New Homecare Worker Orientation process, including the twenty (20) minutes of Union time, will stay in effect January 1, 2021 as established through Senate Bill 1534 and subsequent OARs.

**Section 1. New Worker Orientation Requirements.**

All new Homecare and Personal Support Workers must complete a New Worker Orientation.

- a) Homecare and Personal Support Workers must complete the New Member Orientation within ninety (90) days of receiving a Provider number.
- b) If a Homecare or Personal Support Worker does not complete an orientation within ninety (90) days of receipt of their Provider number their Provider number will be inactivated and the worker will not be authorized or paid to work until their Provider number is reactivated.
- c) This Section will sunset on January 1, 2021.

**Section 2. APD Local Onboarding Session**

To complete the process to become a Homecare Worker an individual must attend an in-person Local Onboarding Session at the DHS/OHA Local Service Delivery System Office to complete employment documents and other related documentation required by DHS/OHA.

**Section 3. New Worker Orientation Options.**

The Oregon Home Care Commission will provide Online, Regional Quarterly In-Person Homecare and Personal Support Worker New Worker, and Recruitment Event Orientations. This Section sunsets on January 1, 2021.

**Section 4. Regional Quarterly In-Person New Worker Orientation.**

A Regional Quarterly In-Person New Worker Orientation will be held when ten (10) or more registrants are scheduled for the orientation. This Section sunsets on January 1, 2021.

**Section 5. New Worker Orientation Registration**

- a) Homecare and Personal Support Workers must register for online orientations through the Oregon Home Care Commission online training site.
  
- b) Homecare and Personal Support Workers must self-register for Regional Quarterly In-Person New Worker Orientations online through the Registry or if necessary, by calling the OHCC.
  
- c) This Section sunsets on January 1, 2021.

**Section 6. Union Presentation – Regional Quarterly In-Person New Worker Orientation.**

- a) When the Oregon Home Care Commission holds a Regional Quarterly In-Person New Worker Orientation, the Union will be allowed to make a twenty (20) minute presentation at a mutually agreeable time about the organization, representational status, and Union benefits and to distribute and collect membership applications.
  
- b) This Section sunsets on January 1, 2021.

**Section 7. Union Representation – HCW/PSW Recruitment Event Orientation.**

When the Oregon Home Care Commission holds a HCW/PSW Recruitment Event the Union will be allowed to make a twenty (20) minute presentation at a mutually agreeable time about the organization, representational status, and Union benefits and to distribute and collect membership applications.

This Section sunsets on January 1, 2021.

**Section 8. New Worker Orientation Shared Information.**

The Oregon Home Care Commission will provide the Union with a list of all orientation participants. The list will include the following:

- a) Date of the Orientation
- b) Participant first and last name
- c) Provider number (if available)
- d) Phone number
- e) Email address (if available)

This Section sunsets on January 1, 2021.

**Section 9. eXPRS User Information.**

eXPRS User information will be available to new and incumbent personal support workers online or through YouTube video tutorials.

## **ARTICLE 24 – OVERTIME AND HOUR LIMITATIONS**

### **Section 1. Work Week**

The regular work week shall consist of a forty (40) hour work week. The work week shall be defined as 12:00 a.m. Sunday through 11:59 p.m. Saturday.

### **Section 2. Overtime**

HCWs/PSWs shall be paid at a rate of time and a half (1 ½) of her/his hourly wage rate for all hours authorized and paid in excess of forty (40) hours per week. For workers with multiple hourly rates, overtime shall be paid at a rate of time and a half (1 ½) of their weighted hourly average wage.

Overtime payments will be processed no later than thirty-six (36) days after a HCW/PSW has properly submitted their voucher and/or timesheet.

### **Section 3. New Homecare and Personal Support Workers' Hours Limitation.**

HCWs/PSWs newly authorized to work on or after June 1, 2016, shall have an hours limitation where hours worked shall not exceed forty (40) hours per week beginning September 1, 2016. This includes any HCW/PSW that had their provider number(s) inactivated for more than sixty (60) days and has since had their provider number reactivated. Consumer/Employers may be granted exceptions to this hour's limitation for HCWs/PSWs by DHS/OHA, or designee, due to workforce shortages or to meet other service needs of the consumer. Irrespective of the above language, a HCW/PSW may not work more hours than they are authorized, except in emergency situations to meet the needs of the Consumer as outlined in Article 14, Section 1.

### **Section 4. Current Homecare and Personal Support Workers' Hours Limitation**

HCWs/PSWs authorized to work before June 1, 2016, shall have an hours limitation as defined below. Consumer/Employers may be granted exceptions to the below hour's limitations for HCWs/PSWs by DHS/OHA, or designee. The Worker's average paid weekly hours in the months of March, April and May of 2016 shall be used to determine subsections (a-c).



- a) All HCWs/PSWs working more than fifty (50) hours per week, will have a fifty (50) hour cap applied when the first (1<sup>st</sup>) Consumer's reassessment or renewal occurs between September 1, 2016 and no later than June 30, 2017. This Section shall apply irrespective of starting with a new Consumer/Employer.
- b) HCWs/PSWs working less than fifty (50) hours, but more than forty (40) hours, per week shall be limited to no more than fifty (50) hours per week. This Section shall apply irrespective of starting with a new Consumer/Employer.
- c) HCWs/PSWs working less than forty (40) hours, per week shall be capped at forty (40) hours per week.
- d) Live-in workers moved to the hourly program prior to the live-in program ending in October 2017 shall be limited to no more than fifty (50) hours per week.
- e) Irrespective of the above language, a HCW/PSW may not work more hours than authorized, except in emergency situations to meet the needs of the Consumer as outlined in Article 14, 17.1, 17.2 and Article 24.
- f) All hours worked include hourly, travel time and relief care hours.

*New: 2017*

## **ARTICLE 25 – WORKER RIGHTS AND PROTECTIONS**

### **Section 1. Safe and Healthy Work Environment.**

The State recognizes the importance of providing a safe and healthy work environment for HCWs/PSWs while recognizing the rights and responsibilities of the Consumer/Employer to manage the work environment.

- a. Workers have the right to initially decline working for a Consumer/Employer who lives in a situation which could threaten the HCWs/PSWs health and safety.
  
- b. If the HCW/PSW is currently working with a Consumer/Employer and the situation becomes threatening to the Worker's health and safety, the Worker must:
  1. Contact the Case Management Entity immediately. If the event occurs afterhours, or on a weekend, the Worker must contact the Case Management Entity by the first (1<sup>st</sup>) business day after the event.
  
  2. Call 911 if the situation is life threatening or dangers.
  
- c). HCWs/PSWs reserve the right to immediately end employment with a Consumer after notifying the Case Management Entity of a health and safety issues.

Within twelve (12) months of the ratification of this Agreement, the State shall develop and implement consistent expectations for Case Management Entities on how to address unsafe work environments. These expectations shall be developed through a workgroup process that includes HCWs/PSWs/PCAs/Consumers and Case Management Representatives. The workgroup shall develop:

- a. A consistent statewide process whereby HCWs/PSWs can report an unsafe work environment.
  
- b. Process for how complaints will be investigated and tracked.

- c. How to inform potential Providers about serious past health and safety issues with a specific Consumer or a Consumer's household.

## **Section 2. Americans with Disabilities Act (ADA) Accommodations.**

HCWs/PSWs shall have the right to request an ADA accommodation.

- a. If the accommodation request is related to the services a HCW/PSW provides to the Consumer/Employer, the request shall be made directly to the Consumer/Employer. If the Consumer/Employer does not understand how to evaluate or make an accommodation, or is unable to make an accommodation, the HCW/PSW may contact the Case Management Entity and request a referral to the Employer Resource Connection. The State does not have the authority to make ADA accommodation behalf of Consumer/Employers or require Consumer/Employers to do so.
- b. If the ADA accommodation is related to the Employer functions provided by the State, the request shall be made directly to the OHCC. The OHCC shall create a centralized process for receiving and evaluating requests for reasonable accommodations. The State shall retain the right to deny requests that cause an undue hardship for the State. Alleged violations of this Section shall not be subject to the grievance procedure.
- c. Workers shall retain their right to file a complaint with the Equal Employment Opportunity Commission (EEOC) and or Oregon's Bureau of Labor and Industries (BOLI).

## **Section 3.**

The State shall ensure there is no language in HCW/PSW paperwork or policies that refers to the workforce as domestic employees or domestic workers, unless required by Statute or CFR.

#### **Section 4. Provider Number Termination Rights.**

The State shall provide HCWs/PSWs written and timely notice of any issues that could potentially lead to the loss of the Worker's provider number except in the case of immediate risk of harm to the Consumer. HCWs/PSWs shall be notified of their right to Union representation as soon as an investigation has been initiated, including at any investigatory interview. DHS/OHA will make reasonable efforts to accommodate a HCWs/PSWs request to include Union representation during such an interview. Such requests will not unreasonably delay those activities nor will a request for Union representation result in the re-scheduling of an investigatory interview that would otherwise be conducted without advance notice.

The above paragraph does not apply to any Department of Justice investigation.

It is the responsibility of the Provider, if the Provider elects, to notify the Union that his/her provider number might be terminated.

HCWs/PSWs who allegedly committed a violation shall be provided a summary of the reason for the termination process being initiated. The summary shall notify the HCW/PSW of their right to Union representation.

The outcome of a Provider number termination is not subject to the grievance procedure.

## **LETTER OF AGREEMENT – Joint Effort to Reduce and Prevent Medicaid Fraud**

DHS, OHA, OHCC and Union agree to convene a workgroup to explore strategies to reduce and prevent occurrences of Medicaid fraud and develop materials for DHS/OHA approval to distribute to Consumer/Employers, Homecare Workers and Personal Support Workers. The workgroup will consist of three (3) representatives DHS/OHA, three (3) representatives from OHCC, three (3) representatives from Brokerages/CDDPs/AAAs and three (3) Union representatives and will be chaired by an APD Medicaid Long Term Care Systems representative. The workgroup will commence meeting ninety (90) days from the ratification date of this Agreement at mutually agreeable times and locations. The workgroup will present written recommendations within one (1) year from the first meeting of the workgroup. The workgroup will sunset upon completion of written recommendations and in the event further work is needed the matter will be taken to the Issues Committees.

Based on the workgroup written recommendations, the Union agrees to explore using existing available resources to educate members about the types of Medicaid fraud, the warning signs of fraud, appropriate responses to invitations to participate in fraudulent activities, and the legal consequences of engaging in Medicaid fraud.

APD/ODDS/OHA/OHCC will continue efforts to educate Providers, Consumer/Employers and local offices about Medicaid fraud prevention.

**LETTER OF AGREEMENT – Consistent Policies and Procedures Regarding  
Consumer Hours**

The Parties have a shared interest in the establishment and distribution of consistent policies and procedures regarding changing or unique Consumer service needs.

No later than July 1, 2018, DHS/OHA shall:

- 1) Develop and distribute a transmittal to Local Service Delivery Offices clarifying when a Consumer/Employer can direct service hours to be utilized in conjunction with medical services.
- 2) Develop and distribute a transmittal to Local Service Delivery Offices outlining the process HCWs/PSWs should follow to communicate an emergent service need.
- 3) Update the relevant Worker Guides to reflect this information.
- 4) Update the New Employee Orientations to include this information.

**LETTER OF AGREEMENT – Implementation of Provider Time Capture for State  
CEP Providers**

**Purpose:**

This Agreement is by and between the Oregon Homecare Commission (Employer) and SEIU, OPEU (Union). The purpose of this Agreement is to outline the shared interests of the Parties regarding the implementation of the new Provider Time Capture system for State CEP Providers.

**Scope of Bargaining:**

The Parties agree that these negotiations shall be limited to the following issue:  
Improvements to the payroll timelines

The Parties may mutually agree in writing, to negotiate on additional issues that arise from implementation of the Provider Time Capture System.

**Timeline:**

The Parties agree to commence bargaining one hundred twenty (120) days prior to the implementation of the new system.

**LETTER OF AGREEMENT – Implementation of Provider Time Capture (PTC) for  
Homecare and Personal Support Workers Paid through the Client Employed  
Provider (CEP) Payment System.**

This Agreement is by and between the Oregon Homecare Commission (Employer) and SEIU, OPEU (Union).

**Purpose:**

The purpose of this Agreement is to outline the shared interests of the Parties regarding the implementation of the new PTC system for Homecare and Personal Support Workers paid through the CEP Payment System. For the purposes of this LOA, PTC shall encompass whatever system the State implements as the Electronic Visit Verification (EVV) system.

**Scope of Bargaining:**

The Parties agree that these negotiations shall be limited to the following issues:

- a) Improvements to the payroll timelines
  
- b) Agreements between the Parties regarding the implementation of PTC as the EVV system for homecare and personal support workers paid through the CEP System. Such agreements shall include, but not be limited to:
  - 1. What data will be collected
  
  - 2. How such data will be used, and
  
  - 3. Criteria for exceptions to the use of the new system if allowed by CMS.

The Parties may mutually agree in writing, to negotiate on additional issues that arise from implementation of the PTC System. Nothing in this LOA shall waive the Union's rights under ORS 243.698 to bargain over the impact of any additional federal guidelines



released regarding the EVV system, including any new guidance from CMS regarding exceptions to the use of EVV.

Timeline:

The Parties agree to commence bargaining at least one hundred eight (180) days prior to the implementation of the new system. Either Party may invoke Mediation after bargaining has commenced for at least sixty (60) days. Thereafter, the timelines and procedures set out in ORS 243.712 and 243.742 shall apply unless the Parties mutually agree, in writing, otherwise.

**LETTER OF AGREEMENT – Timely Processing of Union Dues Deductions for  
HCWs and MH PSWs**

Effective December 1, 2017, the Parties agree to modify the language in Article 7 – Union Rights to include the following:

The State shall ensure, for HCWs & MH PSWs that Union deductions stop on the next immediate paycheck if the Union deductions electronic file is submitted by the Union seven (7) business days prior to a given payroll date.

The Parties agree to make good faith efforts towards modifying the language in Article 7 – Union Rights to include the following:

- The Union deductions electronic file shall contain the State issued UID and this shall be the sole match criteria used by the State to process Union deductions.
- The State shall ensure that Union deductions start on the next immediate paycheck if the Union deductions electronic file is submitted by the Union seven (7) business days prior to a given payroll date.
- The State will continue to send exception reports to the Union one (1) business day after each Union submission.

DHS will actively work with the Union to make the necessary changes as soon as possible but no later than July 1, 2019.

**LETTER OF AGREEMENT – Enhanced/Exceptional Stipend for CIIS Transition  
Training**

**Purpose:**

This Agreement is by and between the Oregon Homecare Commission (Employer) and SEIU, OPEU (Union). The purpose of this Agreement is to outline the stipend payment process for Personal Support Workers during the CIIS transition process of their Consumer/Employer.

**Scope:**

During the 2019-2021 biennium, CIIS PSWs shall receive the training stipend for completion of Enhanced/Exceptional training classes during the CIIS transition process of their Consumer.

Stipend Payments will be at the established base rate.

**Timeline:**

This Letter of Agreement will sunset on June 30, 2021.

## **LETTER OF AGREEMENT – OHCC Customer Relations Mailbox**

This Letter of Agreement (LOA) is entered into between the Oregon Home Care Commission, DHS and SEIU Local 503.

Specifically, the following is agreed:

1. OHCC shall create a Customer Relations electronic mailbox for complaints/issues.
2. The OHCC Customer Relations electronic mailbox is for complaints/issues that are:
  - a) Covered by the Collective Bargaining Agreement; and
  - b) Not appropriate for discussion in the Joint Issues Committee.
3. The OHCC Customer Relations process should not replace a Worker's attempt to first (1<sup>st</sup>) contact the Case Management Entity for resolution.
4. The OHCC shall create a separate OHCC/Union Pay Issue electronic mailbox for initiating the payment complaint investigation process. This OHCC/Union Pay Issue electronic mailbox is intended for use between the OHCC and the Union, and not between the OHCC and individual workers.
5. This Agreement is not precedent setting and does not preclude the Parties from raising this issue in subsequent contract negotiations.
6. Complaints and issues submitted through the OHCC electronic complaint resolution mailbox are matters that may be elevated according to Article 11 and resolved through the grievance procedure.

## **LETTER OF AGREEMENT – Electronic Visit Verification for DD PSWs**

This Letter of Agreement (LOA) is entered into between the Department of Administrative Services (DAS) on behalf of the Department of Human Services (DHS), the Oregon Home Care Commission (OHCC) (the “Employer”) and SEIU Local 503 (the “Union”). Collectively “the parties”.

### **Purpose:**

The purpose of this Agreement is to outline the agreements between the parties regarding the implementation of the federally mandated EVV system for DD Personal Support Workers.

### **Agreement:**

1. DHS is committed to respecting the privacy of people receiving services and their providers. The system will only capture the data needed to meet the requirements of the Cures Act:
  - a. Worker Name
  - b. Person receiving services
  - c. Type of service
  - d. Date of service
  - e. Time the service begins and ends
  - f. Location of the service at the time the service begins and ends.
2. Location will only be captured where services start and end. No other geolocation information will be captured.
3. Exceptions to the use of EVV shall be granted for PSWs who:
  - a. Do not have a smart phone or tablet with Internet access.
  - b. Provide services in an area of the State without reception.

- c. English is not the primary language of the worker and this presents a barrier to their utilizing EVV.
4. No later than October 31, 2019, eXPRS will be updated to include the options for EVV exceptions, whereby PSWs can make a request to the CME and identify the reason why they need an exception. Until this exception process is available in eXPRS, PSWs may continue to enter their time into eXPRS on the desktop site.
5. PSWs must either have an approved exception or be using EVV by April 1, 2020.
6. HCWs/PSWs who do not wish to have their biometric data collected will not be required to do so. If biometric data is collected, workers will be provided with clear documentation of how and when it is collected and analyzed. Workers must be able to request deletion of biometric data from the system.
7. HCWs/PSWs who do not wish to use voice or image reporting mechanisms through EVV will not be required to do so. The State must clearly communicate this right to workers, in addition to communicating how and when the EVV system will record voice and visual data should that system be made available and the Worker so chooses to utilize that data collection method.
8. Personal Support Workers will be able to add missing hours and/or adjust incorrect hours after a shift has been completed by logging into the desktop version.
9. The State will not collect biometric or geolocation data, nor will it collect data that can be used to interfere with constitutionally-protected activities, unless it serves a specific, discrete purpose that cannot be accomplished otherwise and adds a clear value to the Consumer and Worker.

10. Data collected via the mobile EVV solution will not be repurposed for and sued by third parties, including subsidiaries and commercial partners. This does not impact the State's responsibility to share information outlined in Article 7 – Union Rights.
11. Data collected by EVV will not be made available in law enforcement without warrants. Data can be used during any local, state, or federal audits.
12. The eXPRS Mobile-EVV solution will place no undue burden on providers or consumers. If additional federal guidelines are released regarding the EVV system, the Union reserves its statutory ability under ORS 243.698 to bargain over the impact of any such guidelines. The State shall immediately notify the Union in writing upon receipt of any new and/or additional federal guidelines regarding the EVV system that directly impact the worker.
13. The State will provide a hotline for Workers to access support and training throughout the implementation of EVV.
14. The State will pay for any additional equipment, hardware or software required under EVV.
15. The Union will be informed of all communications from the State that are sent to PSWs regarding the EVV system. The Union shall receive a copy of the communication prior to it being sent to PSWs.

## **LETTER OF AGREEMENT – Development of a Referral and Retention Benefit**

Purpose:

This Letter of Agreement (\*LOA) is entered into between the Department of Administrative Services (DAS) on behalf of the Department of Human Services (DHS), the Oregon Health Authority (OHA), the Oregon Home Care Commission (OHCC) (the “Employer”), and SEIU Local 503 (the “Union”), Collectively “the Parties”.

The Department of Human Services, the Oregon Home Care Commission, the Oregon Health Authority and SEIU Local 503 (collectively the Parties) have a collective interest in administering a robust technology solution that:

- Enables consumers to easily recruit HCWs and PSWs
- Enables HCWs/PSWs to make themselves available for work and express interest in potential employment opportunities.

This technology solution will be available to Medicaid and OPI consumers directly. Homecare and Personal Support Workers, including OHA-HSD Personal Support Workers. This technology solution will also be available for use by Case Management Entities.

The Parties agree to continue dialogue over the 2019-2021 biennium over potential solutions with an outcome of a collaborative strategy for a modern registry and referral system by June 30, 2020. The Parties agree to work in good faith to execute the strategy identified. All Parties understand the Department cannot and will not pursue any information technology initiatives that threaten the successful implementation of the Integrated Eligibility System.

Effective July 1, 2020 the State shall contribute to the Supplemental Benefit Trust three cents (\$0.03) per Department-paid hour worked by all workers covered by this Agreement.



Department paid hours worked by all workers covered by this Agreement shall not include training hours, overtime hours or paid time off.

## **LETTER OF AGREEMENT – Retirement Security**

The State of Oregon and SEIU have a shared interest in ensuring all Oregonians have an opportunity to save for a secure retirement. House Bill 2960 created the Oregon Saves Program, an automatic, portable and secure way for Homecare and Personal Support Workers to save the money they earn toward a retirement.

Effective the pay period in which the second (2<sup>nd</sup>) wage increase for HCWs/PSWs is implemented, the State agrees to implement the Oregon Saves program for all HCWs/PSWs. All current and new HCWs/PSWs will be enrolled in the Oregon Saves program with an automatic five percent (5%) contribution via payroll deduction. The implementation of the Oregon Saves program shall be in compliance with Oregon Administrative Rules. The State on behalf of Consumer/Employers will implement the Employer functions of the Oregon Saves Program.

The State and Union shall work collaboratively, and in partnership with the Treasurer's Office, to implement the program. The Union shall communicate, at least ninety (90) days in advance of this implementation, to all workers regarding the Oregon Saves Program, upcoming change in their payroll and their choice and the process to opt out. The Union shall provide member resource information (phone numbers/email) for questions surrounding this change in this advance communication. The State shall be responsible for operationalizing the payroll withholdings in collaboration with the Oregon Saves Program, PPL and APD's payment systems. ODDS will be required to submit a contract amendment with PPL to assume this new work and timelines. Timelines for both APD's payment system and PPL are unknown at this time due to the uncertainty of the requirements for the Oregon Saves Program.

DHS and SEIU will work together collaboratively to secure three million (\$3,000,000) dollars from the Legislature, during the February 2020 Legislative Session to help fund this retirement contribution.

## **LETTER OF AGREEMENT – Overtime**

Purpose: This Agreement is by and between the Oregon Homecare Commission and SEIU, OPEU. The purpose of this Agreement is to outline the ongoing negotiations between the Parties regarding whether an individual can be both a HCW/PSW and a State employee.

### Process:

Both Parties shall seek legal guidance regarding the State's potential overtime liability and any State or Federal Agency Rule that impacts, if any, when someone works/wants to work as both a HCW/PSW and a State employee. Once such guidance has been obtained, the Parties shall then consider whether any future updates should be made to Oregon Administrative Rules to either allow or prohibit State Employees from also being HCWs/PSWs.

### Timeline:

The Parties agree to commence bargaining within one hundred and twenty (120) days of the settlement of the Collective Bargaining Agreement. Either Party may invoke Mediation after bargaining has commenced for at least sixty (60) days. Thereafter, the timelines and procedures set out in ORS 243.712 and 243.742 shall apply unless the Parties mutually agree, in writing, otherwise.

## **LETTER OF AGREEMENT – Direct Pay Authorization (DPA)**

This Letter of Agreement (LOA) is entered into between the Department of Administrative Services (DAS) on behalf of the Department of Human Services (DHS) the Oregon Health Authority (OHA), the Oregon Home Care Commission (OHCC) (the “Employer”), and SEIU Local 503 (the “Union”). Collectively “the Parties.”

### Purpose

The purpose of this LOA is to amend Section 8 and 9 of Article 7 of the Collective Bargaining Agreement. The Parties can mutually agree to combine the negotiations of this LOA with the Committee process developed in the previously executed LOA entitled: Letter of Agreement – Direct Pay Authorization (DPA).

### Agreement

The Parties agree to the following:

Section 1: Amendments to Article 7 of the Parties Collective Bargaining Agreement

#### ARTICLE 7 – UNION RIGHTS

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#### **Section 10. List and Information.**

By the tenth (10<sup>th</sup>) calendar day of each month, the Union shall receive a list of all current HCWs’ and PSW’s (except PSW ICPs as outlined in Section 14 of this Article).

The list shall contain the following data:

1. Name
2. Address
3. Telephone number
4. Email address (if available)
5. Program name and code
6. Provider specialty code (e.g. Enhanced HCW or Enhanced PSW)
7. Base hourly pay rate
8. Language preference (if available) language
9. Unique identification number
10. Date of Birth (DOB)

11. Gender (if collected).
12. Provider number

Section B:

One (1) business day before each payroll processing date, the Union shall receive a list of all current HCW's and PSW's (except PSW ICPs as outlined in Section 14 of this Article). The list shall contain the following data:

1. Unique identification Number
2. Provider number
3. Name
4. Base hourly pay rate
5. Total hours worked (including overtime hours, if applicable)
6. Non-overtime hours worked
7. Total gross pay (including overtime pay, if applicable)
8. Non-overtime pay
9. Union dues and other deductions for the previous month's activity
10. Whether provider has direct deposit.

These lists will be provided in an agreed-upon format and transmitted electronically.

**Section 11. New Provider List Information.**

DHS agrees to provide the Union a list of all new HCW and PSWs each business day, on the day the HCW/PSW provider number is activated. This list will contain HCWs' and PSW's name, address, telephone number, e-mail address (if available), date of birth, program name and code, Unique identification number, provider number and whether the provider has direct deposit.

\*\*\*\*\*

This Letter of Agreement shall be implemented in accordance with Article 7 of the Parties' Collective Bargaining Agreement and does not alter any of the Provisions of that Agreement aside from those expressly set forth in this Letter of Agreement.

The Parties agree that this LOA shall be effective upon signature of both Parties and is not subject to the ratification process.

Signed this 14<sup>TH</sup> day of APRIL, 2020, at Salem, Oregon.



**FOR THE OREGON HOME CARE COMMISSION:**

A large, stylized handwritten signature in black ink, appearing to read "Jose C Espinoza".

**Jose C Espinoza**, State Labor Relations Manager  
DAS State Labor Relations Manager

A handwritten signature in black ink that reads "Cheryl Miller".

**Cheryl Miller**, Executive Director  
Oregon Home Care Commission



**FOR THE SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 503:**

A handwritten signature in black ink that reads "Melissa Unger".

**Melissa Unger**, Executive Director  
SEIU Local 503

**Katie Coombes**, Chief Spokesperson  
SEIU Local 503

**Rebecca Sandoval**, Bargaining Team

**Joy'e Willman**, Bargaining Team

**Bobbie Sotin**, Bargaining Team

**Diana Lobo**, Bargaining Team

**Avery Horton**, Bargaining Team

**Pam Dyer**, Bargaining Team

**Gary Fletcher**, Bargaining Team

**Terry Haydon**, Bargaining Team

**Christina Aviles**, Bargaining Team

**Nannette D. Carter-Jafri**, Bargaining Team

**Serena McCurdy**, Bargaining Team

**Penny Wicklander**, Bargaining Team

**Sally Cumberworth**, Bargaining Team

**Carolynn Kahout** Bargaining Team

**Mark Prever** Bargaining Team

**Alice Redding**, Bargaining Team



**DAS** DEPARTMENT OF  
ADMINISTRATIVE  
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**Department of Administrative Services**  
**Chief Human Resources Office**  
**Labor Relations Unit**  
**155 Cottage Street NE**  
**Salem, OR 97301-3971**  
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**LRU@oregon.gov**

The official version of this Agreement is held by the Department of Administrative Services Labor Relations Unit on its electronic files at the website below. The Department of Administrative Services does not recognize any other copies or publications of this Agreement.

**Electronic version of the Agreement located at:**  
<http://www.oregon.gov/das/HR/Pages/LRU.aspx>