

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

774



**FROM:** Human Resources Department

**SUBMITTAL DATE:**  
December 13, 2013

**SUBJECT:** Approval of the 2012 - 2015 Memorandum of Understanding with Riverside County In-Home Supportive Services (IHSS) Public Authority and United Domestic Workers Union. [District- ALL] [Total Cost - \$125,308,919] [SOURCE OF FUNDS - Fed (14%); State (8%); Realignment (61%); County (17%)]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached 2012 - 2015 Memorandum of Understanding (MOU) (Attachment A) with the United Domestic Workers (UDW) and the Riverside County Public Authority for In-Home Support Services (IHSS).

**BACKGROUND:**

**Summary**

The County met with UDW (who represents the County's In-Home Support Services providers) on four (4) occasions wherein a thirty (30) month successor MOU covering December 31, 2012 - June 30, 2015, was reached. UDW advised the County that the agreement was ratified by the represented members on December 12, 2013.

Departmental Concurrence

Michael T. Stock  
Asst. County Executive Officer/  
Human Resources Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
<b>COST</b>	\$ 24,089,463	\$ 49,345,058	\$ 125,308,919	\$ -0-	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
<b>NET COUNTY COST</b>	\$ 4,095,208	\$ 8,388,660	\$ 21,302,516	\$ -0-	
<b>SOURCE OF FUNDS:</b> Fed (14%); State (8%); Realignment (61%); County (17%)				<b>Budget Adjustment:</b> No	
				<b>For Fiscal Year:</b> 2013/14	

**C.E.O. RECOMMENDATION:**

**APPROVE**

BY:

**County Executive Office Signature**

Ivan M. Chand 12/13/2013

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Ashley and duly carried,  
**IT WAS ORDERED** that the above matter is approved as recommended.

Ayes: Jeffries, Stone, Benoit and Ashley  
Nays: None  
Absent: Tavaglione  
Date: December 17, 2013  
xc: HR, IHSS

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

(Comp. Item 7-1)

- A-30
- Positions Added
- 4/5 Vote
- Change Order

**Prev. Agn. Ref.:** 09/25/12 3.27; 7.1 | **District:** ALL | **Agenda Number:**

**3-64**

**BACKGROUND:**

**Summary (continued)**

Attachment A contains the MOU which has been tentatively agreed upon by the parties, subject to Board of Supervisors approval, and contains the following key points:

- Term: 30-month contract; end date of June 30, 2015.
- Transition to a Union run healthcare trust.
- Non-substantive cleanup throughout the MOU which includes:
  - Clarification that the Public Authority refers to the Riverside County Public Authority.
  - Modification to the training curriculum to comply with department and/or State mandates that impact IHSS (i.e. Coordinated Care Initiative (CCI) or the Patient Protection and the Affordable Care Act (PPACA)).
  - Change all references from IHSS recipient(s) to IHSS consumer(s).

**Impact on Residents and Businesses**

There is no impact on residents or businesses.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

In 2013 the State established Maintenance of Effort (MOE) fee for the County which is tied to the passage of the CCI. Due to the passage of CCI, the County's share of IHSS funding is now a fixed dollar amount which is on an annual escalator not to exceed 3.5%.

**Contract History and Price Reasonableness**

The motion before the Board of Supervisors concerns a labor contract negotiated with a labor union that has the exclusive representation rights for IHSS workers in this County. The costs associated with this motion do not exceed the parameters established by the Board as it authorized the Human Resources Department to negotiate the successor MOU.

# **ATTACHMENT A**

# **Memorandum of Understanding**

**Between**

**Riverside County  
In-Home Supportive Services  
(IHSS) Public Authority**

**And**

**United Domestic Workers Union  
UDW, AFSCME Local 3930, AFL-CIO**

**For the term of**

**December 31, 2012 – June 30, 2015**

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**ARTICLE I**  
**PREAMBLE**

This Memorandum of Understanding is entered into by the Riverside County In-Home Supportive Services (IHSS) Public Authority (hereinafter referred to as the Riverside County PA) and the United Domestic Workers, AFSCME Local 3930, AFL-CIO (hereinafter referred to as the Union) as a mutual recommendation to the governing body of wages, hours, and other terms and conditions of employment. The parties hereto acknowledge that the relationship between the Riverside County PA and the IHSS Home Care Providers (hereinafter referred to as IHSS Provider(s)) in the bargaining unit is unique in that the IHSS Consumers (hereinafter referred to as Consumer(s)) remain the employer for the purposes of hiring, terminating, training, and supervising the work of any IHSS Provider(s) providing services to them.

**Unique Nature of Services:**

The Riverside County PA and the Union also recognize and appreciate the unique nature of the services rendered by the IHSS Providers, who provide valued services to IHSS Consumers. The special relationship between the IHSS Providers and Consumers is deserving of the parties' sincere respect and appreciation.

**ARTICLE II**  
**RECOGNITION**

Pursuant to the provisions of the Employer-Employee Relations Resolution of the Riverside County Public Authority In-Home Support Services (IHSS) and applicable State law, the United Domestic Workers was certified on December 4, 2002, as a result of a secret ballot election, as the recognized representative of Riverside County Public Authority IHSS Providers, as defined in the Riverside County Public Authority IHSS Employer-Employee Relations Resolution. The Riverside County PA IHSS hereby recognizes the United Domestic Workers, AFSCME Local 3930, AFL-CIO as the exclusive representative of the IHSS Providers covered under the provisions of this Memorandum of Understanding.

**ARTICLE III**  
**NON-DISCRIMINATION**

In receiving the rights afforded by this Agreement, and in accordance with applicable law, no person shall in any way be favored or discriminated against because of race, religion, age, gender, sexual preference, national origin, marital status or disability.

Neither the Riverside County PA nor the Union shall interfere with, intimidate, restrain, coerce or discriminate against any IHSS Provider in his/her choice to participate in or join, or refuse to participate in or join, the Union.

**ARTICLE IV**  
**RIVERSIDE COUNTY PUBLIC AUTHORITY**  
**RIGHTS**

Unless otherwise specified in this Memorandum of Understanding, the rights of the Riverside County PA include, but are not limited to, the exclusive right to determine the merits, necessity or organization of any service or activity and to determine the methods, means and personnel by which its operations are to be conducted; to determine its mission and that of constituent subsections, committees, and other related work groups, to add or delete the names of IHSS Providers to and from the Riverside County PA Registry subject to the Registry appeal process; and to take all necessary actions to carry out its mission in emergencies.

**Section 1. Liability of Riverside County PA:**

The Riverside County PA is an independent legal entity, separate and apart from the County of Riverside. The Riverside County PA has no power to bind the County to any contractual or legal obligations. Nor may the obliges of the Riverside County PA seek recourse against the County of Riverside for any financial or legal obligations of the Riverside County PA.

**Section 2. Past Practice:**

Continuance of working conditions and practices not specifically incorporated into the provisions of this Agreement or authorized by resolution of the Riverside County PA is not guaranteed by this Memorandum of Understanding.

**Section 3. Emergency:**

Nothing herein shall limit the authority of the Riverside County PA to make necessary changes to carry out its operations during an emergency. The Riverside County PA shall notify the Union of the nature of the emergency and of any necessary changes as soon as possible. "Emergency" is defined as an unforeseen event caused by forces beyond the control of the Riverside County PA involving a reasonable likelihood that harm would be experienced unless immediate action is taken. Emergency action under this Article shall not extend beyond the period of the emergency. The Union shall be notified as soon as the emergency has been resolved. In the event an emergency action taken by the Riverside County PA alters a specific term and/or condition of this Agreement, the Riverside County PA agrees to meet with the Union over the effects of such change once the conditions/circumstances which led to the emergency and created the need for the change have been resolved.

**ARTICLE V**  
**TERM**

Term: The term of this Agreement shall be December 31, 2012 through June 30, 2015.

Section 1. Successor Agreement.

In the event either party desires to negotiate a successor Memorandum of Understanding, it shall serve on the other, during the period of 150 to 120 days prior to the expiration of this current Memorandum of Understanding, its full and complete proposals together with a request to commence negotiations for such successor Memorandum of Understanding. Negotiations shall begin no later than ninety (90) days prior to the expiration of the current MOU unless otherwise agreed to by the parties. Sections of this Memorandum not addressed by either party in their proposals shall remain in full force and effect upon the implementation of a signed successor Agreement.

**ARTICLE VI**  
**PAYROLL**

The parties hereto agree that the issue of payroll problems, including but not limited to late, lost, or inaccurate paychecks, shall be referred to the Labor-Management Committee provided under the provisions of this Memorandum of Understanding for review and recommendation. The parties hereto agree that payroll is not a function of the Public Authority. Therefore, the Public Authority cannot directly resolve payroll related issues.

**ARTICLE VII**  
**HEALTH INSURANCE**

Section 1. Health Insurance:

- A. The Riverside County PA shall contribute \$0.60/hr. for all compensated hours not to exceed the pro-rated equivalent (as specified below) to a Riverside County PA developed plan.

The annual aggregate net County cost for the term of this MOU is \$1.9 million.

See Wage Contingency language in Article 14 Section 3.

In the event that health care reform at the State and/or federal level (including, without limitation, the Patient Protection and the Affordable Care Act "PPACA") expands healthcare options for IHSS Providers such that part or all of the current benefits provided by this agreement are rendered unnecessary, upon request of either party, the parties will meet to discuss during the timeframe of April 1



through May 30, 2014, how to re-allocate any excess health care funds to wages and/or benefits.

**B. Union Healthcare Trust**

The Riverside County PA shall have no responsibility for health benefits. The Union shall be solely responsible for the provision of the health benefits and the administration of the health benefit program for IHSS Providers as well as providing communications and notifications to IHSS Providers. The Union shall ensure that benefits meet the requirements of the PPACA, and shall otherwise be responsible for complying with the PPACA.

Should the Union managed health trust become self-funded, the provisions of the Employee Retirement and Income Security Act of 1974 ("ERISA") shall apply.

The Union shall indemnify, defend, and hold harmless the Riverside County PA, the County of Riverside, and their respective governing bodies, officers, agents, and employees against any and all claims, demands, suits, orders, or judgments, or any other forms of liability that arise out of this section or in any way related to the provision, or failure to provide, health benefits to providers. This, includes, without limitation, the failure to provide required notices and the failure to comply with the Health Insurance Portability and Accountability Act ("HIPAA").

The Riverside County PA will authorize its share of contributions to the Union Healthcare Trust each month in arrears using the information for the Case Management, Information, and Payrolling System (CMIPSII) regarding hours paid for the prior month. The Riverside County PA shall provide to the Union the Health Benefit funds monthly no later than the 20<sup>th</sup> of each month. The Union shall deposit all such payments from the Riverside County PA in a separate account, which shall be used for the sole purpose of providing health benefits for Riverside County IHSS Providers.

The Union agrees to maintain and make available to the County of Riverside accurate books and records relative to the subject health benefits and Riverside County PA contributions. The Union shall permit the County of Riverside to audit all such books and records and shall maintain all pertinent material in an accessible location and condition for a period of no less than three (3) years from the date of final payment under this Article or until after the conclusion of any audit whichever occurs last.

The Union and the Riverside County PA acknowledge that some current members are now, or recently were, enrolled in the health plan currently offered by the Riverside County PA to its IHSS Providers, and some of the current members have not made their required premium payments for that coverage. Riverside County PA will continue to invoice and collect these overdue and

unpaid premiums from current members for up to three (3) months after full transition to the Union Healthcare Trust.

C. Union Healthcare Trust Reports

Upon written request of the County of Riverside, the Union shall provide written accountings of all funds received from the Riverside County PA and disbursed from that separate account established pursuant to Article VII – Health Benefits. The written requests may be made quarterly, and must be received by the Union no later than thirty (30) days from the end of each quarter for which the PA requests such reports. The Union shall provide all requested reports within thirty (30) days of receipt of the written request.

D. Transition of Benefits to Union Healthcare Trust

Prior to Board of Supervisors approval of this MOU, the Union Health Care Trust shall provide the Riverside County PA with:

- a plan to notify and transition existing health care members to the new health and dental benefits under the Trust;
- the health plan eligibility criteria.

**ARTICLE VIII**  
**CONSUMER RIGHTS AND CONFIDENTIALITY**

**Section 1. Consumer Rights:**

Consumers have the sole and undisputed right to hire and supervise the work of any IHSS Provider and to terminate any IHSS Provider without cause and without notice. Consumers shall retain their right to train and direct services rendered by the IHSS Provider as set forth in the Welfare and Institutions Code. Consumers shall have the right to determine in advance and under all circumstances who may or may not enter their home.

**Section 2. Information Regarding Consumers:**

The Union shall neither seek nor receive information from the Riverside County PA regarding the name, address, telephone number, or any other personal information regarding Consumers. Union representatives and IHSS Providers shall maintain strict standards of confidentiality regarding Consumers and shall not disclose personal information pertaining to Consumers obtained from any source unless the disclosure is compelled by the legal process or otherwise required by law. In the event Consumer information is disclosed pursuant to this section, the Consumer and the Riverside County PA shall be immediately notified of such release of disclosure.

The Consumer may voluntarily consent to the limited disclosure of information described herein and such consent may be withdrawn at any time and for any reason.

Section 3. Visits by Union Representatives:

Union representatives shall not conduct union business, including business related to the enforcement of this Agreement, at the homes of Consumers unless the home of the Consumer is also the home of the IHSS Provider. If the home of the Consumer is also the home of the IHSS Provider, no Union business, including business related to the enforcement of this Agreement, shall take place during hours allocated for the provision of authorized services.

**ARTICLE IX**  
**TRAINING**

All new IHSS IHSS Providers may be required to attend a pre-hire briefing which will cover IHSS Providers' obligations under the program.

Prior to acceptance onto the Riverside County PA Registry, IHSS Providers who have successfully completed the registry application process are required to attend a pre-hire briefing which will cover the registry functions and IHSS Providers' obligations.

Consistent with California Welfare and Institutions Code Section 12301.6, the Riverside County PA shall provide for training for IHSS Providers and Consumers of IHSS services. The Riverside County PA will develop and implement a training plan with input from the Union in the Labor-Management Committee. The plan and any curriculum shall also be presented to the IHSS Advisory Committee for their input. Riverside County PA will modify Training Curriculum as appropriate to comply with new department procedures and/or State mandates that impact administration of In-Home Supportive Services (i.e., Coordinated Care Initiative or the PPACA).

**ARTICLE X**  
**UNION RIGHTS**

Section 1. Work Access

The Riverside County PA agrees to admit to its administrative office, the authorized Union representative(s) for purposes of adjusting grievances and conducting other legitimate, appropriate Union business related to enforcing and monitoring the Agreement, provided that the Union representative has first contacted an official of the Riverside County PA and secured his/her approval to enter the office. The Union shall notify the Riverside County PA of the names of its authorized representatives and access shall be limited to these persons. The Riverside County PA shall not unreasonably withhold access.

Section 2. Dues Deductions

The Union has the exclusive privilege of dues deduction for all IHSS Providers in the bargaining unit covered by this Agreement. The Union will advise the State Controller, as the payroll agent for the IHSS Providers, to deduct all authorized dues, fees and/or assessments as voluntarily requested by bargaining unit members. The Public Authority will assist and cooperate with the Union and the State Controller to ensure the timely deduction of said dues, fees and/or assessments and the timely and accurate reporting to the Union of all such payments made pursuant to this Agreement.

Union dues shall be deducted, as authorized by each IHSS Provider, from bargaining unit wages and other earned compensation, including "lump sum" and/or retroactive pay.

Section 3. New Provider Orientations

The Union shall be entitled to attend and make presentations at new provider orientations. The Riverside County PA shall provide reasonable notice to the Union of scheduled new provider orientations. The Riverside County PA shall provide an opportunity for Union representatives to make presentations at such gatherings. All material presented shall be in good taste and shall not malign the Riverside County PA or its representatives.

**ARTICLE XI**  
**GRIEVANCE PROCEDURE**

Section 1. Pay Status During the Grievance Process:

Participation in the grievance procedure, in any capacity, shall be solely on the Provider's own time, and shall not be treated as within any IHSS Consumer's allocated service hours or as paid time.

Section 2. Discussion of Request or Complaint:

It is the intent of this procedure that grievances be settled at the lowest possible administrative level. Any IHSS Provider who believes that he/she has a justifiable request or complaint shall discuss the request or complaint with the Registry Supervisor within fourteen (14) calendar days of the date on which the circumstances giving rise to the grievance occurred.

Section 3. Grievance Definition:

A "grievance" is the subject of a written request or complaint, which has not been settled as a result of the discussion required by Section 2 initiated by a IHSS Provider, a group of IHSS Providers, or the Union on behalf of a specifically named IHSS Provider or a specifically named group of IHSS Providers, arising out of a dispute concerning the

application or interpretation of the specific terms and conditions set forth in this Memorandum of Understanding, Ordinance, rule, regulation, or policy concerning wages, hours, and other terms and conditions of employment. All other matters are excluded from the grievance procedure including, but not limited to:

- A. Matters over which the Riverside County PA has final jurisdiction.
- B. Matters covered by the Riverside County PA Employer-Employee Relations Resolution.
- C. Requests or complaints, the solution of which would require the exercise of legislative power, such as the adoption or amendment of an ordinance, rule, regulation, or policy established by the Riverside County PA's Board of Directors.
- D. Matters concerning providers' rights.
- E. Matters covered under the provisions of Article XI "B" of this Memorandum of Understanding.
- F. Matters concerning any other subjects, unless the subject is covered by the expressed terms of this Agreement that relate specifically to wages, hours, and other terms and conditions of employment.

Section 4. Freedom from Reprisal.

No IHSS Provider shall be subject to coercion for discussing a request or complaint with Riverside County PA Management or for the good faith filing of a grievance petition.

Section 5. Representation Rights.

IHSS Providers covered by the provisions of this Agreement are entitled to representation in the preparation and presentation of a grievance at any step of this grievance procedure.

Section 6. Timeliness.

A grievance shall be deemed untimely and otherwise null and void if it is not filed within fourteen (14) calendar days of the date on which the informal discussion described in Section 2 above occurred.

Section 7. Grievance Procedure Steps.

All grievances shall be processed in the following manner:

All grievances must be set forth in writing on a mutually agreed-upon grievance form supplied by the Riverside County PA citing the alleged violation of the Agreement, and

identifying both the specific article and section of the Agreement that the Riverside County PA is alleged to have violated and the specific remedy requested. No grievance petition shall be accepted for processing until the form is complete. Such grievance shall set forth the specific section(s) of the Memorandum of Understanding violated as provided under Section 3 of this Article.

Extension of Time. The time limits set forth below within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the grievant (or the union representative) and the person before whom disposition of the petition is pending.

Step 1: Executive Director:

If the grievance is not settled informally between the provider/grievant and the Registry Supervisor, the grievant may submit the grievance within ten (10) calendar days upon receipt of the decision by the Registry Supervisor to the Executive Director of the Riverside County PA.

If the grievant requests a meeting with the Executive Director, such meeting with the Executive Director or his/her designee shall take place within ten (10) calendar days after receipt of the Step 2 written response by the Riverside County PA, or at a time mutually agreed to by the parties.

The Executive Director or his/her designee shall respond to the grievance within ten (10) calendar days of the receipt of the written grievance or from the date of the meeting with the grievant, whichever is later.

Step 2: Mediation.

If the grievance is not settled at Step 1, the parties may voluntarily agree to use mediation to resolve the issue in dispute. The parties shall request an impartial mediator from the State Mediation and Conciliation Service to meet with the parties to attempt to resolve the grievance within twenty (20) calendar days after the completion of Step 1 or at a time mutually agreed to by the parties. The costs of mediation, if any, shall be shared equally by the parties. It is intended that the Mediator shall only serve as a facilitator to assist the parties in resolving the issue(s) in dispute and that he/she does not have the authority to order a remedy.

Step 3: Advisory Arbitration.

In the event the parties are unable to resolve the issues in dispute during mediation, the grievance may be submitted to advisory arbitration and decision by the Board of Directors.

The Board of the Riverside County PA shall either accept or reject the arbitrator's decision, or accept part of the decision and reject the rest, without further testimony

from either party. If the Board rejects all or part of the Arbitrator's decision, the Board shall state the reasons for its rejection. The decision of the Board of the Riverside County PA shall be final. Unless otherwise mutually agreed, proceedings conducted at any step of the grievance procedure shall be private except the proceedings before the Board of Riverside County PA.

No grievance may proceed to advisory arbitration unless and until it has been submitted to Step 1 of this grievance procedure. The request to proceed to arbitration must be filed in writing within fifteen (15) calendar days from the completion of the previous step of this grievance procedure.

- A. After submission of a request for review, the Union and the Riverside County Employee Relations Manager or a designee shall attempt to agree on an arbitrator.
- B. The parties shall maintain a jointly negotiated list of up to eleven (11) arbitrators who shall be selected by the striking method. The only remaining name after the striking process shall serve as the arbitrator. If unable to agree on who should strike first, the first name shall be struck by the party winning the toss of a coin. The list shall include no fewer than seven (7) or more than eleven (11) names. If the arbitrator chosen is unable to serve within a time frame acceptable to both parties, the last name struck will serve as the arbitrator.
- C. If either party wishes to have a transcript of the arbitration proceedings, the requesting party will be solely responsible for all costs associated with the transcript. If both parties request a transcript, the cost shall be shared equally. The expenses of the arbitrator, if any, shall be shared equally by the parties.
- D. Each party shall make arrangements for and pay expenses of witnesses that are called by such party. Such arrangements shall be made through the Riverside County's Employee Relations Manager, or a designee, at least two (2) working days in advance of the hearing date. When the grievant is self-represented or represented by other than the Exclusive Employee Organization, the employee shall deposit one-half (1/2) of the estimated hearing costs (including transcripts) with the Employee Relations Manager, or a designee, who shall determine the estimate and process grievant's deposit.
- E. Prior to the arbitration hearing, the grievant and the Employee Relations Manager, or a designee, shall meet and attempt to prepare a joint statement of the issues which describes the existing controversy to be heard by the arbitrator. If the parties are unable to agree on a joint statement, each shall prepare a separate statement of issues.
- F. The arbitrator shall render a decision only on those issues within the statement of the issues submitted by the parties. Issues which have not been raised and

considered at an earlier step of the grievance procedure shall not be considered by the arbitrator.

- G. If the arbitrator sustains the grievance, a remedy shall be fashioned that does not conflict with the provisions contained in this Memorandum.
- H. Arbitration proceedings shall be conducted pursuant to the Voluntary Labor Arbitration Rules of the American Arbitration Association, unless the parties agree that the proceedings may be conducted pursuant to the Expedited Labor Arbitration Rules of the American Arbitration Association.
- I. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. In addition, communications between Riverside County Representatives and Riverside County Management involved in an arbitration, and communications between the union representative and the IHSS Provider who is the subject of an action shall be confidential and not subject to disclosure in a grievance hearing.
- J. Any arbitration expense incurred as the result of a postponement or cancellation of a hearing shall be borne by the postponing or canceling party.

Effect of Failure of Timely Action:

Failure of the grievant to file an appeal within the required time period at any step shall constitute an abandonment of the grievance. Failure of the Riverside County to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.

**ARTICLE XII**  
**REGISTRY**

It is recognized that one of the primary missions of the Riverside County PA is assuring a registry to facilitate the referral of IHSS Providers for Consumers. Subject to the appeal process described in below, the Riverside County PA retains the exclusive right to list, refer, suspend, or remove with or without comment an individual IHSS Provider from the Registry.

Appeal Process:

The IHSS Provider will receive written notice from the Riverside County PA upon a decision to suspend or remove him/her from the registry. A copy of the written notice will be sent to the Union. The Union or the IHSS Provider may file a written appeal for such suspension or removal from the registry to the Registry Supervisor of the Riverside County PA within ten (10) calendar days after receipt of the notice of the Registry Supervisor decision.



The appeal process is only applicable to IHSS Providers on the IHSS Registry. Those Individuals who are not on the registry are not eligible to utilize the appeal process provided herein:

Step 1. The Registry Supervisor, if he/she deems its necessary, may schedule a meeting with the IHSS Provider within ten (10) calendar days after receipt of the written appeal. If requested by the IHSS Provider, a Union representative may be present during such meeting.

Step 2. If the Registry Supervisor's decision is not satisfactory to the IHSS Provider, he/she may appeal it to the Executive Director of the Riverside County PA. Such appeal must be in writing and must be received by the Executive Director within ten (10) calendar days after the Registry Supervisor's Step (1) decision and response.

The Executive Director shall issue his/her written decision to the IHSS Provider and a copy to the Union within fifteen (15) calendar days from receipt of the appeal. Such decision by the Executive Director shall be final and binding and neither the IHSS Provider nor the Union shall have the right to seek further resolution of the matter through administrative or judicial means including, but not limited to, any grievance procedure or arbitration proceeding.

### **ARTICLE XIII** **ANTI-STRIKE CLAUSE**

It is hereby agreed that neither the Union nor the IHSS Providers covered under the provision of this Agreement shall take part in, call for, sanction, foster, or support any strike, work stoppage, slow-down, sick-in or refusal to perform customary duties.

Should a strike, sick-in, picketing, boycott or any other interruption of work occur, the Riverside County PA shall notify the Union of the existence of such activity and the Union will take all reasonable steps to terminate such activity and induce the IHSS Provider to return to work.

This provision shall continue in full force and effect for the term of this Agreement and for a minimum of one (1) year beyond the term of this Agreement.

### **ARTICLE XIV** **WAGES**

#### **Section 1.**

Effective January 1, 2010, wages for all IHSS Providers covered by this Agreement shall be increased by \$.75 to \$11.50 per hour.

These wages are subject to the conditions outlined in Section 3 of this Article.

Section 2.

The term of this Agreement shall be December 31, 2012 through June 30, 2015.

Section 3. Wage Contingency

If, during the term of this Agreement, either State or Federal participation levels are reduced, State caps their funding participation in a Provider Wage lower than wages paid under this Agreement, or either the State or federal sharing formula is modified in any manner that would result in an increased cost to the County to maintain the wage and/or benefit level described in this Agreement, then the County's overall contribution will not increase, rather the IHSS provider wages will be adjusted to reflect the reduced State and/or Federal contribution.

The Riverside County PA shall make every effort to provide to the Union a written description of any adjustments to be made pursuant to this section at least fourteen calendar (14) days prior to the effective date of such adjustments. Upon receipt of a written request from the Union to do so, the Riverside County PA will meet and confer regarding the impact of the above-described loss of funding or funding participation wage cap. In no case will the County, be required to increase its contribution level toward the affected benefit and/or wages, as applicable.

**ARTICLE XV**  
**AGENCY SHOP**

Section 1. IHSS Provider Obligation

IHSS Providers must either become and remain members of the Union and pay Union dues, or pay an agency fee to the Union in an amount that does not exceed that which may be lawfully collected. Such dues or fees shall be deducted from the IHSS Provider's paycheck on a monthly basis starting the first day of the month following completion of sixty (60) days (thirty (30) days if feasible) of employment, subject to the limitations and practices of the State Controller's payroll system. This provision shall become effective the first day of the month following sixty (60) days (thirty (30) days if feasible) after certification.

Section 2. Employee's Right of Conscientious Objection:

A IHSS Provider who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The IHSS Provider must present a written declaration to the Union and the Riverside County PA that he/she qualifies for this exemption. The IHSS Provider shall be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a non-religious, non-labor charitable fund exempt from taxation under

Section 501 c. 3. of the Internal Revenue Code, chosen by the employee from a list of funds designated in this MOU.

**Section 3. Designation of Nonreligious, Non-labor Charitable Funds:**

IHSS Providers covered in in Section 2 above, may designate a non-religious, non-labor charitable fund to which his/her applicable payments will be paid from one of the following charities:

1. Alzheimer's Association
2. Community Action Partnership
3. The Center for Community Action and Environmental Justice

**Section 4. Sufficiency of Employee's Earnings:**

The IHSS Provider's earnings must be sufficient after required Federal and State deductions are made to cover the amount of dues or agency shop fees subject to the following limitations:

- a) When an IHSS Provider is in a non-pay status for a full period, no dues payment or agency shop fee will be withheld or due for that pay period.
- b) All required Federal and State deductions or other legal deductions shall have priority over Union dues and agency shop fees.

**Section 5.**

The Riverside County PA shall not deduct monies specifically earmarked for a Political Action Committee or other political activities unless such deduction is affirmatively, separately and specifically authorized in writing by the unit member.

**Section 6. Union Indemnification:**

UDW will indemnify, defend, and hold harmless the Riverside County PA from any loss, liability, or cause of action arising out of the operation of this Article.

The Riverside County PA, immediately upon receipt of notice of legal action, shall inform UDW of such action, provide UDW with all information, documents, and assistance necessary for UDW's defense or settlement of such action, and fully cooperate with UDW in providing all necessary witnesses, experts and assistance for said defense.

UDW upon its compromise or settlement of such action, shall immediately pay the parties for such action all sums due under such settlement or compromise. UDW, upon final order and judgment of a Court of competent jurisdiction awarding damages to any

IHSS Provider covered under the provisions of this Agreement, shall immediately pay to such IHSS Provider all sums owed under such order and judgment.

**ARTICLE XVI**  
**FULL UNDERSTANDING, MODIFICATION AND WAIVER**

**Section 1.**

This Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein and any other prior or existing understandings or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Except as modified herein or as otherwise required by law, existing wages, hours and other terms and conditions of employment set forth in applicable Riverside County PA Ordinances and related resolutions and regulations shall continue in effect.

**Section 2.**

It is the intent of the parties that this Memorandum of Understanding be administered in its entirety in good faith during the full term. It is recognized that during such term, it may be necessary to make changes in rules or procedures affecting the employees in the Unit. Where Management finds it necessary to make such changes, it shall notify the Union of the proposed change prior to its implementation.

Where such changes would significantly affect the working conditions in the unit, where the subject matter of the change is subject to negotiations pursuant to the Meyers-Milias-Brown Act, and where the Union requests to negotiate with Management, the parties shall expeditiously undertake negotiations regarding the effect the change would have on the IHSS Providers represented by the Union.

Nothing herein shall limit the authority of Management to make necessary changes required during emergencies. However, Management shall notify the Union of such changes as soon as practicable. Emergency is defined as an unforeseen circumstance affecting life or property requiring immediate implementation of the change.

Where Management makes any changes in working conditions because of the requirements of Federal or State law, the Riverside County PA shall not be required to renegotiate the matter or manner of compliance with such law where manner of compliance is specified by such law.

**Section 3.**

Except as specifically provided herein, it is agreed and understood that each party voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required, to negotiate with respect to any subject or matter covered herein or with

respect to any other matters within the scope of negotiations during the term of the Memorandum of Understanding.

Section 4.

Any agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all the parties hereto and, if required, approved and implemented by the Riverside County PA's Board of Directors.

**ARTICLE XVII**  
**SEPARABILITY**

It is understood and agreed that this Memorandum of Understanding is subject to all present and future applicable Federal and State laws, regulations, and the provisions of the Riverside County PA's Employer-Employee Relations Resolution and that the provisions hereof shall be effective and implemented only to the extent permitted by such laws and regulations. If any part of this Memorandum of Understanding is in conflict or inconsistent with such applicable provisions of Federal or State laws or regulations, such part or provision shall be suspended and superseded by such applicable laws and regulations and the remainder of this Memorandum of Understanding shall not be affected thereby and shall remain in full force and effect.

**ARTICLE XVIII**  
**LABOR-MANAGEMENT COMMITTEE**

Section 1.

The Riverside County PA and the Union recognize the importance of maintaining an effective working relationship in order to fulfill the mission of the IHSS program and provide quality, reliable care to all Consumers. Both parties recognize their responsibility to address any program matter that might affect this goal.

Section 2.

The Riverside County PA and the Union shall establish a Labor-Management Relations Committee. The purpose of the Committee shall be to consider and recommend action on matters affecting the relations between the parties, and to recommend measures to improve IHSS Consumer care, IHSS Provider training, and the IHSS program. The parties shall neither engage in negotiations nor agree to any changes that increase Riverside County PA expenditures or affect wages, hours, and other terms and conditions of employment. The committee also shall not consider matters properly the subject of a grievance.

- (a) Each party shall select their own participants for the Committee. However, either party may request the removal of a participant from the other's group if that participant becomes too disruptive to the work of the committee.
- (b) The Committee shall consist of four (4) Union representatives and up to four (4) alternates and four (4) Riverside County PA representatives and up to four (4) alternates. Alternates may serve only as observers. Recommendations of the committee shall be decided by a showing of consensus and not by a majority vote.
- (c) The Committee chair will be alternate between the two parties. The Chair is responsible for preparing the mutually agreed upon agenda.
- (d) The Committee may meet as frequently as agreed to by the parties, but shall convene no less than quarterly.
- (e) Minutes will be prepared by the Riverside County PA and the Union, with alternating responsibility, within thirty (30) days of each meeting.
- (f) The Riverside County PA and the Union will address each recommended item within a reasonable amount of time or as agreed to by the parties.
- (g) Union Committee members serve on a voluntary basis and will not receive any remuneration from the Riverside County PA for their participation on the Committee.

The parties hereto agree that, as a condition of agreement, designated committee members from both the Riverside County PA and the Union shall attend joint training sessions provided by the Federal Mediation and Conciliation Service (FMCS) regarding joint labor-management committee rules/procedures prior to the initial meeting.

**Memorandum of Understanding**

**between Between**

**Riverside County  
In-Home Supportive Services  
(IHSS) ~~Public Authority~~ Public  
Authority**

**and And**

**United Domestic Workers Union  
UDW, AFSCME Local 3930, AFL-CIO**

**for For the term of**

**July 1, 2011~~December 31, 2012~~ –**  
**December 30, 2012 June 30, 2015**

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**ARTICLE I**  
**PREAMBLE**

This Memorandum of Understanding is entered into by the Riverside County In-Home Supportive Services (IHSS) Public Authority ~~Riverside County PA for In-Home Supportive Services~~ (hereinafter referred to as the Riverside County Public Authority ~~Riverside County PAA~~) and the United Domestic Workers, AFSCME Local 3930, AFL-CIO (hereinafter referred to as the Union) as a mutual recommendation to the governing body of wages, hours, and other terms and conditions of employment. The parties hereto acknowledge that the relationship between the Public Authority ~~Riverside County PA~~ and the Independent Providers ~~IHSS Home Care Providers~~ (hereinafter referred to as IHSS Provider(s)) in the bargaining unit is unique in that the IHSS recipients ~~Consumers~~ (hereinafter referred to as Recipient ~~Consumer~~(s)) remain the employer for the purposes of hiring, terminating, training, and supervising the work of any IHSS Provider(s) providing services to them.

Unique Nature of Services:

The Public Authority ~~Riverside County PA~~ and the Union also recognize and appreciate the unique nature of the services rendered by the IHSS Providers, who provide valued services to IHSS Consumers. The special relationship between the IHSS Providers and Consumers is deserving of the parties' sincere respect and appreciation.

**ARTICLE II**  
**RECOGNITION**

Pursuant to the provisions of the Employer-Employee Relations Resolution of the Riverside County Public Authority In-Home Support Services (IHSS) ~~Riverside County IHSS Public Authority~~, and applicable State law, the United Domestic Workers was certified on December 4, 2002, as a result of a secret ballot election, as the recognized representative of Riverside County In-Home Supportive Services (IHSS) Independent Providers ~~Riverside County Public Authority IHSS Providers~~, as defined in the Public Authority ~~Riverside County Public Authority~~ IHSS Employer-Employee Relations Resolution. The Public Authority ~~Riverside County PA~~ IHSS hereby recognizes the United Domestic Workers, AFSCME Local 3930, AFL-CIO as the exclusive representative of the In-Home Supportive Services ~~IHSS~~ Providers covered under the provisions of this Memorandum of Understanding.

**ARTICLE III**  
**NON-DISCRIMINATION**

In receiving the rights afforded by this Agreement, and in accordance with applicable law, no person shall in any way be favored or discriminated against because of race, religion, age, gender, sexual preference, national origin, marital status or disability.

Neither the ~~Public Authority~~Riverside County PA nor the Union shall interfere with, intimidate, restrain, coerce or discriminate against any IHSS Provider in his/her choice to participate in or join, or refuse to participate in or join, the Union.

**ARTICLE IV**  
**PUBLIC AUTHORITYRIVERSIDE COUNTY PUBLIC AUTHORITY**  
**RIGHTS**

Unless otherwise specified in this Memorandum of Understanding, the rights of the ~~Public Authority~~Riverside County PA include, but are not limited to, the exclusive right to determine the merits, necessity or organization of any service or activity and to determine the methods, means and personnel by which its operations are to be conducted; to determine its mission and that of constituent subsections, committees, and other related work groups, to add or delete the names of IHSS Providers to and from the ~~Riverside County -PA~~ Registry subject to the Registry appeal process; and to take all necessary actions to carry out its mission in emergencies.

**Section 1. Liability of ~~Public Authority~~Riverside County PA:**

The ~~Public Authority~~Riverside County PA is an independent legal entity, separate and apart from the County of Riverside. The ~~Public Authority~~Riverside County PA has no power to bind the County to any contractual or legal obligations. Nor may the obliges of the ~~Public Authority~~Riverside County PA seek recourse against the County of Riverside for any financial or legal obligations of the ~~Public Authority~~Riverside County PA.

**Section 2. Past Practice:**

Continuance of working conditions and practices not specifically incorporated into the provisions of this Agreement or authorized by resolution of the ~~Public Authority~~Riverside County PA is not guaranteed by this Memorandum of Understanding.

**Section 3. Emergency:**

Nothing herein shall limit the authority of the ~~Public Authority~~Riverside County PA to make necessary changes to carry out its operations during an emergency. The ~~Public Authority~~Riverside County PA shall notify the Union of the nature of the emergency and of any necessary changes as soon as possible. "Emergency" is defined as an unforeseen event caused by forces beyond the control of the ~~Public Authority~~Riverside County PA involving a reasonable likelihood that harm would be experienced unless immediate action is taken. Emergency action under this Article shall not extend beyond the period of the emergency. The Union shall be notified as soon as the emergency has been resolved. In the event an emergency action taken by the Riverside County

~~PA Authority~~ alters a specific term and/or condition of this Agreement, the Riverside County ~~PA Authority~~ agrees to meet with the Union over the effects of such change once the conditions/circumstances which led to the emergency and created the need for the change have been resolved.

**ARTICLE V**  
**TERM**

~~Term: 18 months.~~ The term of this Agreement shall be ~~July 1, 2011~~ December 31, 2012 through ~~December 30, 2012~~ June 30, 2015. ~~In the event the membership ratification and/or approval by the State occurs after July 1, 2007, the Agreement shall become effective on the first day of the month following ratification and State approval.~~

Comment [HR1]: 11/06/13 UDW agreed to strike language.

Section 1. Successor Agreement.

In the event either party desires to negotiate a successor Memorandum of Understanding, it shall serve on the other, during the period of 150 to 120 days prior to the expiration of this current Memorandum of Understanding, its full and complete proposals together with a request to commence negotiations for such successor Memorandum of Understanding. Negotiations shall begin no later than ninety (90) days prior to the expiration of the current MOU unless otherwise agreed to by the parties. Sections of this Memorandum not addressed by either party in their proposals shall remain in full force and effect upon the implementation of a signed successor Agreement.

**ARTICLE VI**  
**PAYROLL**

The parties hereto agree that the issue of payroll problems, including but not limited to late, lost, or inaccurate paychecks, shall be referred to the Labor-Management Committee provided under the provisions of this Memorandum of Understanding for review and recommendation. ~~The parties hereto agree that payroll is not a function of the Public Authority. Therefore, the Public Authority cannot directly resolve payroll related issues.~~

Comment [WU2]: 11/06/13 UDW and County agree to not strike this language.

**ARTICLE VII**  
**HEALTH INSURANCE**

Section 1. Health Insurance:

A. ~~The Public Authority~~ Riverside County PA shall contribute \$0.60/hr. for all compensated hours not to exceed the pro-rated equivalent (as specified below) to a ~~Public Authority~~ Riverside County PA developed plan.

~~Effective July 1, 2009, \$1.8 million annual aggregate net County cost for the fiscal year 2009.~~

~~Effective July 1, 2010, \$1.9 million. The annual aggregate net County cost for the fiscal year 2010/2011 term of this MOU is \$1.9 million.~~

See Wage Contingency language in Article 14 Section 3.

In the event that health care reform at the State and/or federal level (including, without limitation, the Patient Protection and the Affordable Care Act "PPACA") expands healthcare options for IHSS Providers such that part or all of the current benefits provided by this agreement are rendered unnecessary, upon request of either party, the parties will meet to discuss during the timeframe of April 1 through May 30, 2014, how to re-allocate any excess health care funds to wages and/or benefits.

**Comment [WU3]:** County proposes to add language that continues only to the extent that State funding equals or exceeds that currently authorized in the Welfare and Institutions Code. In the event the State government reduces its participation in and contribution to benefits, benefits shall be reduced to the level that the State will participate in benefits for Riverside County. The Riverside County PA shall not be obligated to provide health benefit contributions should the State contribution be eliminated.

**Comment [WU4]:** 11/06/13 UDW agrees to add this language. Including the timeframe.

#### B. Union Healthcare Trust

~~Minimum benefits include, but are not limited to, coverage for regular medical visits, annual physical examinations, emergency care, full hospitalization, prescriptions, mental health care, and no limitation on pre-existing conditions. Effective the next open enrollment for 201208, benefit services will include basic dental insurance and vision discount program.~~

**Comment [WU5]:** 11/06/13 UDW agrees to delete this language.

The Riverside County PA shall have no responsibility for health benefits. The Union shall be solely responsible for the provision of the health benefits and the administration of the health benefit program for IHSS Providers as well as providing communications and notifications to IHSS Providers. The Union shall ensure that benefits meet the requirements of the PPACA, and shall otherwise be responsible for complying with the PPACA.

**Comment [HR6]:** 11/06/13 UDW agrees to this language.

~~The Union shall ensure that the health care benefits provided by the Union Healthcare Trust are provided pursuant to the Employee Retirement and Income Security Act of 1974 ("ERISA"). Should the Union managed health trust become self-funded, the provisions of the Employee Retirement and Income Security Act of 1974 ("ERISA") shall apply.~~

**Comment [WU7]:** County proposes to add language. 11/06/13 UDW proposed to strike this language. County to contact counsel about County's position.

The Union shall indemnify, defend, and hold harmless the Riverside County PA, the County of Riverside, and their respective governing bodies, officers, agents, and employees against any and all claims, demands, suits, orders, or judgments, or any other forms of liability that arise out of this section or in any way related to the provision, or failure to provide, health benefits to providers. This, includes, without limitation, the failure to comply with ERISA, the failure to provide required notices, and the failure to comply with the Health Insurance Portability and Accountability Act ("HIPAA").

**Comment [WU8]:** 11/06/13 County and UDW agreed to delete previous sentence of this paragraph and add this language to alleviate the ERISA issue.

The Riverside County PA will authorize its share of contributions to the Union Healthcare Trust each month in arrears using the information for the Case Management, Information, and Payrolling System (CMIPSII) regarding hours

**Comment [HR9]:** 11/06/13 County and UDW agree to delete this language.

paid for the prior month. The Riverside County PA shall provide to the Union the Health Benefit funds monthly no later than the 20<sup>th</sup> of each month. The Union shall deposit all such payments from the Public Authority Riverside County PA in a separate account, which shall be used for the sole purpose of providing health benefits for Riverside County IHSS Providers.

The Union agrees to maintain and make available to the County of Riverside accurate books and records relative to the subject health benefits and Riverside County PA contributions. The Union shall permit the County of Riverside to audit all such books and records and shall maintain all pertinent material in an accessible location and condition for a period of no less than three (3) years from the date of final payment under this Article or until after the conclusion of any audit whichever occurs last.

The Union and the Riverside County PA acknowledge that some current members are now, or recently were, enrolled in the health plan currently offered by the Riverside County PA to its IHSS Providers, and some of the current members have not made their required premium payments for that coverage. Riverside County PA will continue to invoice and collect these overdue and unpaid premiums from current members for up to three (3) months after full transition to the Union Healthcare Trust.

~~The Public Authority shall conduct a monthly determination of newly eligible IHSS Providers and provide them with an opportunity to enroll in this Public Authority developed plan. Eligibility is based on working in Riverside County for a minimum of eighty (80) paid hours for three (3) consecutive months and continue to meet the eighty (80) hours each month.~~

~~Eligibility shall be on a first come, first served basis. Once the pro-rated equivalent of the annual aggregate County cost (cap) in effect for those enrolled has been reached, any IHSS Provider that has requested, and would otherwise qualify for health care benefits, shall be placed on a waiting list until funds become available for coverage or until space is made available due to the attrition of previously enrolled members.~~

Section 2. Health Benefit Newsletters and Non-confidential Correspondence

~~In order to ensure that employees receive accurate health benefit information, the Public Authority and the Union mutually understand and agree that any newsletters and non-confidential correspondence to be sent to IHSS Providers regarding their health benefits will be reviewed and approved by both parties in advance of distribution. The parties mutually agree to provide each other with an electronic copy of said correspondence at least three (3) business days in advance of distribution, and the parties agree to review said correspondence within two business days.~~

~~The Union and the Public Authority understand and agree that a notice of correction will be mailed by the responsible party if incorrect benefit information is distributed. The Union also agrees to post a link to health plan information provided by Exclusive Care on the UDWA website.~~

Section 3. Remittance of Health Benefit Payments

~~The Union will remit health benefit payments collected from eligible IHSS Providers through payroll deduction to the Public Authority within thirty (30) days of their receipt of payment from the State Controller's Office. If circumstances arise that are beyond the control of the Union, the Union will immediately notify the Public Authority of any delay beyond the aforementioned thirty (30) days. In this event the Union will make every attempt to remit funds as soon as possible.~~

C. Union Healthcare Trust Reports

~~Upon written request of the County of Riverside, the Union shall provide written accountings of the Riverside County PA quarterly accounting reports of all the money all funds received from the Riverside County PA and disbursed from that separate account established pursuant to in Article VII - Health Benefits. The written requests may be made quarterly, and must be received by the Union no later than thirty (30) days from the end of each quarter for which the PA requests such reports. The Union shall provide all requested reports within thirty (30) days of receipt of the written request. The first of such reports shall be submitted to the Riverside County PA by the 30<sup>th</sup> day of the month following the first full quarter upon transition to the Union Healthcare Trust.~~

D. Transition of Benefits to Union Healthcare Trust

~~Prior to Board of Supervisors approval of this MOU, the Union Health Care Trust shall provide the Riverside County PA with:~~

- ~~• a plan to notify and transition existing health care members to the new health and dental benefits under the Trust;~~
- ~~• the health plan eligibility criteria.~~

Comment [WU10]: 11/06/13 UDW agrees to language.

**ARTICLE VIII**  
**CONSUMER RIGHTS AND CONFIDENTIALITY**

Section 1. Consumer Rights:

Consumers have the sole and undisputed right to hire and supervise the work of any IHSS Provider and to terminate any IHSS Provider without cause and without notice. Consumers shall retain their right to train and direct services rendered by the IHSS Provider as set forth in the Welfare and Institutions Code. Consumers shall have the right to determine in advance and under all circumstances who may or may not enter their home.

Section 2. Information Regarding Consumers:



The Union shall neither seek nor receive information from the ~~Public Authority~~Riverside County PA regarding the name, address, telephone number, or any other personal information regarding Consumers. Union representatives and IHSS Providers shall maintain strict standards of confidentiality regarding Consumers and shall not disclose personal information pertaining to Consumers obtained from any source unless the disclosure is compelled by the legal process or otherwise required by law. In the event Consumer information is disclosed pursuant to this section, the Consumer and the ~~Public Authority~~Riverside County PA shall be immediately notified of such release of disclosure.

The Consumer may voluntarily consent to the limited disclosure of information described herein and such consent may be withdrawn at any time and for any reason.

**Section 3. Visits by Union Representatives:**

Union representatives shall not conduct union business, including business related to the enforcement of this Agreement, at the homes of Consumers unless the home of the Consumer is also the home of the IHSS Provider. If the home of the Consumer is also the home of the IHSS Provider, no Union business, including business related to the enforcement of this Agreement, shall take place during hours allocated for the provision of authorized services.

**ARTICLE IX**  
**TRAINING**

All new IHSS IHSS Providers may be required to attend a pre-hire briefing which will cover IHSS Providers' obligations under the program.

Prior to acceptance onto the ~~Public Authority~~Riverside County PA Registry, ~~Registry~~, ~~IHSS~~ IHSS Providers who have successfully completed the registry application process are required to attend a pre-hire briefing which will cover the registry functions and IHSS Providers' obligations.

Consistent with California Welfare and Institutions Code Section 12301.6, the ~~Public Authority~~Riverside County PA shall provide for training for IHSS Providers and Consumers of IHSS services. The ~~Public Authority~~ Riverside County PA will develop and implement a training plan with input from the Union in the Labor-Management Committee. The plan and any curriculum shall also be presented to the IHSS Advisory Committee for their input. ~~The plan may include the procurement of Cardio-Pulmonary Resuscitation Certification (CPR) Training.~~ Riverside County PA will modify Training Curriculum as appropriate to comply with new department procedures and/or State mandates that impact administration of In-Home Supportive Services (i.e., Coordinated Care Initiative or the PPACA).

Comment [WU11]: 11/06/13 Parties agree to language.

## ARTICLE X UNION RIGHTS

### Section 1. Work Access

The ~~Public Authority Riverside County PA~~ agrees to admit to its administrative office, the authorized Union representative(s) for purposes of adjusting grievances and conducting other legitimate, appropriate Union business related to enforcing and monitoring the Agreement, provided that the Union representative has first contacted an official of the ~~Public Authority Riverside County PA~~ and secured his/her approval to enter the office. The Union shall notify the ~~Public Authority Riverside County PA~~ of the names of its authorized representatives and access shall be limited to these persons. The ~~Public Authority Riverside County PA~~ shall not unreasonably withhold access.

### Section 2. Dues Deductions

The Union has the exclusive privilege of dues deduction for all IHSS Providers in the bargaining unit covered by this Agreement. ~~The Union is solely responsible for obtaining the necessary IHSS Provider information from the California Department of Social Services in order to process and deduct union dues.~~ The Union will advise the State Controller, as the payroll agent for the IHSS Providers, to deduct all authorized dues, fees and/or assessments as voluntarily requested by bargaining unit members. The Public Authority will assist and cooperate with the Union and the State Controller to ensure the timely deduction of said dues, fees and/or assessments and the timely and accurate reporting to the Union of all such payments made pursuant to this Agreement.

Comment [WU12]: 11/06/13 UDW does not agree to add this language.

Comment [WU13]: 11/06/13 UDW does not agree to delete this language.

Union dues shall be deducted, as authorized by each IHSS Provider, from bargaining unit wages and other earned compensation, including "lump sum" and/or retroactive pay.

~~The Public Authority Riverside County PA shall provide, or assure the Union receives, on a regular monthly basis, the following information in order to perform dues deduction processing for its members: IHSS Provider name, Social Security number, full address with zip code, phone number, work period/pay period, hours worked and paid per month, and gross amount of pay received. This information shall be provided electronically, by a means mutually agreeable to both parties. As a condition of this Agreement, the Union agrees to indemnify, defend, and hold harmless the Public Authority Riverside County PA with respect to the release of Home Care Provider personal identifiable information (PII).~~

### Section 3. New Provider Orientations

The Union shall be entitled to attend and make presentations at new provider orientations. The ~~Public Authority Riverside County PA~~ shall provide reasonable notice to the Union of scheduled new provider orientations. The ~~Public Authority Riverside~~

County PA shall provide an opportunity for Union representatives to make presentations at such gatherings. All material presented shall be in good taste and shall not malign the ~~Public Authority~~Riverside County PA or its representatives.

## **ARTICLE XI** **GRIEVANCE PROCEDURE**

### **Section 1. Pay Status During the Grievance Process:**

Participation in the grievance procedure, in any capacity, shall be solely on the Provider's own time, and shall not be treated as within any IHSS Consumer's allocated service hours or as paid time.

### **Section 2. Discussion of Request or Complaint:**

It is the intent of this procedure that grievances be settled at the lowest possible administrative level. Any IHSS Provider who believes that he/she has a justifiable request or complaint shall discuss the request or complaint with the Registry Supervisor ~~Administrative Services Manager~~ within fourteen (14) calendar days of the date on which the circumstances giving rise to the grievance occurred.

### **Section 3. Grievance Definition:**

A "grievance" is the subject of a written request or complaint, which has not been settled as a result of the discussion required by Section 2 initiated by a IHSS Provider, a group of IHSS Providers, or the Union on behalf of a specifically named IHSS Provider or a specifically named group of IHSS Providers, arising out of a dispute concerning the application or interpretation of the specific terms and conditions set forth in this Memorandum of Understanding, Ordinance, rule, regulation, or policy concerning wages, hours, and other terms and conditions of employment. All other matters are excluded from the grievance procedure including, but not limited to:

- A. Matters over which the ~~Public Authority~~Riverside County PA has final jurisdiction.
- B. Matters covered by the ~~Public Authority~~Riverside County PA Employer-Employee Relations Resolution.
- C. Requests or complaints, the solution of which would require the exercise of legislative power, such as the adoption or amendment of an ordinance, rule, regulation, or policy established by the Riverside County PA~~Authority's~~ Board of Directors.
- D. Matters concerning ~~patients'~~providers' rights.

E. Matters covered under the provisions of Article XI "B" of this Memorandum of Understanding.

F. Matters concerning any other subjects, unless the subject is covered by the expressed terms of this Agreement that relate specifically to wages, hours, and other terms and conditions of employment.

Section 4. Freedom from Reprisal.

No IHSS Provider shall be subject to coercion for discussing a request or complaint with ~~Public Authority~~ Riverside County PA Management or for the good faith filing of a grievance petition.

Section 5. Representation Rights.

IHSS Providers covered by the provisions of this Agreement are entitled to representation in the preparation and presentation of a grievance at any step of this grievance procedure.

Section 6. Timeliness.

A grievance shall be deemed untimely and otherwise null and void if it is not filed within fourteen (14) calendar days of the date on which the informal discussion described in Section 2 above occurred.

Section 7. Grievance Procedure Steps.

All grievances shall be processed in the following manner:

All grievances must be set forth in writing on a mutually agreed-upon grievance form supplied by the ~~Public Authority~~ Riverside County PA citing the alleged violation of the Agreement, and identifying both the specific article and section of the Agreement that the ~~Public Authority~~ Riverside County PA is alleged to have violated and the specific remedy requested. No grievance petition shall be accepted for processing until the form is complete. Such grievance shall set forth the specific section(s) of the Memorandum of Understanding violated as provided under Section 3 of this Article.

Extension of Time. The time limits set forth below within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the grievant (or the union representative) and the person before whom disposition of the petition is pending.

Step 1: Executive Director:

If the grievance is not settled informally between the provider/grievant and the ~~Administrative Services Manager~~ Registry Supervisor, the grievant may submit the

grievance within ten (10) calendar days upon receipt of the decision by the Registry Supervisor~~Administrative Services Manager~~ to the Executive Director of the Public Authority Riverside County PA.

If the grievant requests a meeting with the Executive Director, such meeting with the Executive Director or his/her designee shall take place within ten (10) calendar days after receipt of the Step 2 written response by the Public Authority Riverside County PA, or at a time mutually agreed to by the parties.

The Executive Director or his/her designee shall respond to the grievance within ten (10) calendar days of the receipt of the written grievance or from the date of the meeting with the grievant, whichever is later.

Step 2: Mediation.

If the grievance is not settled at Step 1, the parties may voluntarily agree to use mediation to resolve the issue in dispute. The parties shall request an impartial mediator from the State Mediation and Conciliation Service to meet with the parties to attempt to resolve the grievance within twenty (20) calendar days after the completion of Step 1 or at a time mutually agreed to by the parties. The costs of mediation, if any, shall be shared equally by the parties. It is intended that the Mediator shall only serve as a facilitator to assist the parties in resolving the issue(s) in dispute and that he/she does not have the authority to order a remedy.

Step 3: Advisory Arbitration.

In the event the parties are unable to resolve the issues in dispute during mediation, the grievance may be submitted to advisory arbitration and decision by the Board of Directors.

The Board of the Public Authority Riverside County PA shall either accept or reject the arbitrator's decision, or accept part of the decision and reject the rest, without further testimony from either party. If the Board rejects all or part of the Arbitrator's decision, the Board shall state the reasons for its rejection. The decision of the Board of the Public Authority Riverside County PA shall be final. Unless otherwise mutually agreed, proceedings conducted at any step of the grievance procedure shall be private except the proceedings before the Board of Public Authority Riverside County PA.

No grievance may proceed to advisory arbitration unless and until it has been submitted to Step 1 of this grievance procedure. The request to proceed to arbitration must be filed in writing within fifteen (15) calendar days from the completion of the previous step of this grievance procedure.

- A. After submission of a request for review, the Union and the ~~Public Authority~~ Riverside County's Employee Relations Manager or a designee shall attempt to agree on an arbitrator.
- B. The parties shall maintain a jointly negotiated list of up to eleven (11) arbitrators who shall be selected by the striking method. The only remaining name after the striking process shall serve as the arbitrator. If unable to agree on who should strike first, the first name shall be struck by the party winning the toss of a coin. The list shall include no fewer than seven (7) or more than eleven (11) names. If the arbitrator chosen is unable to serve within a time frame acceptable to both parties, the last name struck will serve as the arbitrator.
- C. If either party wishes to have a transcript of the arbitration proceedings, the requesting party will be solely responsible for all costs associated with the transcript. If both parties request a transcript, the cost shall be shared equally. The expenses of the arbitrator, if any, shall be shared equally by the parties.
- D. Each party shall make arrangements for and pay expenses of witnesses that are called by such party. Such arrangements shall be made through the ~~Public Authority~~ Riverside County's Employee Relations Manager, or a designee, at least two (2) working days in advance of the hearing date. When the grievant is self-represented or represented by other than the Exclusive Employee Organization, the employee shall deposit one-half (1/2) of the estimated hearing costs (including transcripts) with the Employee Relations Manager, or a designee, who shall determine the estimate and process grievant's deposit.
- E. Prior to the arbitration hearing, the grievant and the Employee Relations Manager, or a designee, shall meet and attempt to prepare a joint statement of the issues which describes the existing controversy to be heard by the arbitrator. If the parties are unable to agree on a joint statement, each shall prepare a separate statement of issues.
- F. The arbitrator shall render a decision only on those issues within the statement of the issues submitted by the parties. Issues which have not been raised and considered at an earlier step of the grievance procedure shall not be considered by the arbitrator.
- G. If the arbitrator sustains the grievance, a remedy shall be fashioned that does not conflict with the provisions contained in this Memorandum.
- H. Arbitration proceedings shall be conducted pursuant to the Voluntary Labor Arbitration Rules of the American Arbitration Association, unless the parties agree that the proceedings may be conducted pursuant to the Expedited Labor Arbitration Rules of the American Arbitration Association.

- I. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. In addition, communications between ~~Public Authority~~Riverside County Representatives and ~~Public Authority~~Riverside County Management involved in an arbitration, and communications between the union representative and the IHSS Provider who is the subject of an action shall be confidential and not subject to disclosure in a grievance hearing.
- J. Any arbitration expense incurred as the result of a postponement or cancellation of a hearing shall be borne by the postponing or canceling party.

Effect of Failure of Timely Action:

Failure of the grievant to file an appeal within the required time period at any step shall constitute an abandonment of the grievance. Failure of the ~~Public Authority~~Riverside County to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.

## ARTICLE XII REGISTRY

It is recognized that one of the primary missions of the ~~Public Authority~~Riverside County PA is assuring a registry to facilitate the referral of IHSS Providers for Consumers. Subject to the appeal process described in below, the ~~Public Authority~~Riverside County PA retains the exclusive right to list, refer, suspend, or remove with or without comment an individual IHSS Provider from the Registry.

Appeal Process:

The IHSS Provider will receive written notice from the ~~Public Authority~~Riverside County PA upon a decision to suspend or remove him/her from the registry. A copy of the written notice will be sent to the Union. The Union or the IHSS Provider may file a written appeal for such suspension or removal from the registry to the ~~Administrative Services Manager~~Registry Supervisor of the ~~Public Authority~~Riverside County PA within ten (10) calendar days after receipt of the notice of the Registry Supervisor ~~Administrative Services Manager's~~ decision.

The appeal process is only applicable to IHSS Providers on the IHSS Registry. Those Individuals who are not on the registry are not eligible to utilize the appeal process provided herein:

Step 1. The ~~Administrative Services Manager~~Registry Supervisor, if he/she deems its necessary, may schedule a meeting with the IHSS Provider within ten (10) calendar

days after receipt of the written appeal. If requested by the IHSS Provider, a Union representative may be present during such meeting.

Step 2. If the Registry Supervisor's ~~Administrative Services Manager's~~ decision is not satisfactory to the IHSS Provider, he/she may appeal it to the Executive Director of the ~~Public Authority~~ Riverside County PA. Such appeal must be in writing and must be received by the Executive Director within ten (10) calendar days after the ~~Administrative Services Manager's~~ Registry Supervisor's Step (1) decision and response.

The Executive Director shall issue his/her written decision to the IHSS Provider and a copy to the Union within fifteen (15) calendar days from receipt of the appeal. Such decision by the Executive Director shall be final and binding and neither the IHSS Provider nor the Union shall have the right to seek further resolution of the matter through administrative or judicial means including, but not limited to, any grievance procedure or arbitration proceeding.

### **ARTICLE XIII** **ANTI-STRIKE CLAUSE**

It is hereby agreed that neither the Union nor the IHSS Providers covered under the provision of this Agreement shall take part in, call for, sanction, foster, or support any strike, work stoppage, slow-down, sick-in or refusal to perform customary duties.

Should a strike, sick-in, picketing, boycott or any other interruption of work occur, the ~~Public Authority~~ Riverside County PA shall notify the Union of the existence of such activity and the Union will take all reasonable steps to terminate such activity and induce the IHSS Provider to return to work.

This provision shall continue in full force and effect for the term of this Agreement and for a minimum of one (1) year beyond the term of this Agreement.

### **ARTICLE XIV** **WAGES**

#### Section 1.

~~Effective July 1, 2007, wages for all IHSS Providers covered by this Agreement shall be increased by \$0.75 to \$0.75 per hour effective on the first of the month following approval by the Board of Supervisors as Governing body of the Public Authority, and State approval of the Public authority rate and completion of required State programming of Case Management Information and Payroll System (CMIPS) to reflect such wage increase.~~

~~Effective July 1, 2008, wages for all IHSS Providers covered by this Agreement shall be increased by \$0.50 to \$10.25 per hour.~~



~~Effective July 1, 2009, wages for all IHSS Providers covered by this Agreement shall be increased by \$0.50 to \$10.75 per hour.~~

Effective January 1, 2010, wages for all IHSS Providers covered by this Agreement shall be increased by \$.75 to \$11.50 per hour.

These wages are subject to the conditions outlined in Section 3 of this Article.

#### Section 2.

The term of this Agreement shall be ~~July 1, 2011~~ December 31, 2012 ~~January 1, 2013~~ through ~~June~~ September 30, 2015. ~~December 30, 201~~

#### Section 3. Wage Contingency

If, during the term of this Agreement, either State or Federal participation levels are reduced, State caps their funding participation in a Provider Wage lower than wages paid under this Agreement, or either the State or federal sharing formula is modified in any manner that would result in an increased cost to the County to maintain the wage and/or benefit level described in this Agreement, then the County's overall contribution will not increase, rather the IHSS provider wages will be adjusted to reflect the reduced State and/or Federal contribution.

The ~~Public Authority~~ Riverside County PA shall make every effort to provide to the Union a written description of any adjustments to be made pursuant to this section at least fourteen calendar (14) days prior to the effective date of such adjustments. Upon receipt of a written request from the Union to do so, the ~~Public Authority~~ Riverside County PA will meet and confer regarding the impact of the above-described loss of funding or funding participation wage cap. In no case will the County, be required to increase its contribution level toward the affected benefit and/or wages, as applicable.

### **ARTICLE XV** **AGENCY SHOP**

#### Section 1. IHSS Provider Obligation

IHSS Providers must either become and remain members of the Union and pay Union dues, or pay an agency fee to the Union in an amount that does not exceed that which may be lawfully collected. Such dues or fees shall be deducted from the IHSS Provider's paycheck on a monthly basis starting the first day of the month following completion of sixty (60) days (thirty (30) days if feasible) of employment, subject to the limitations and practices of the State Controller's payroll system. This provision shall become effective the first day of the month following sixty (60) days (thirty (30) days if feasible) after certification.

Section 2. Employee's Right of Conscientious Objection:

A IHSS Provider who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The IHSS Provider must present a written declaration to the Union and the ~~Public Authority~~ Riverside County PA that he/she qualifies for this exemption. The IHSS Provider shall be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a non-religious, non-labor charitable fund exempt from taxation under Section 501 c. 3. of the Internal Revenue Code, chosen by the employee from a list of funds designated in this MOU.

Section 3. Designation of Nonreligious, Non-labor Charitable Funds:

IHSS Providers covered in in Section 2 above, may designate a non-religious, non-labor charitable fund to which his/her applicable payments will be paid from one of the following charities:

1. Alzheimer's Association
2. Community Action Partnership
3. The Center for Community Action and Environmental Justice

Section 4. Sufficiency of Employee's Earnings:

The IHSS Provider's earnings must be sufficient after required Federal and State deductions are made to cover the amount of dues or agency shop fees subject to the following limitations:

- a) When an IHSS Provider is in a non-pay status for a full period, no dues payment or agency shop fee will be withheld or due for that pay period.
- b) All required Federal and State deductions or other legal deductions shall have priority over Union dues and agency shop fees.

Section 5.

The ~~Public Authority~~ Riverside County PA shall not deduct monies specifically earmarked for a Political Action Committee or other political activities unless such deduction is affirmatively, separately and specifically authorized in writing by the unit member.

Section 6. Union Indemnification:

UDW will indemnify, defend, and hold harmless the ~~Riverside County Public Authority~~Riverside County PA from any loss, liability, or cause of action arising out of ~~or in any way directly or indirectly related to~~ the operation of this Article.

Comment [WU14]: 11/08/13 UDW does not agree to add this language.

The ~~Public Authority~~Riverside County PA, immediately upon receipt of notice of legal action, shall inform UDW of such action, provide UDW with all information, documents, and assistance necessary for UDW's defense or settlement of such action, and fully cooperate with UDW in providing all necessary witnesses, experts and assistance for said defense.

UDW upon its compromise or settlement of such action, shall immediately pay the parties for such action all sums due under such settlement or compromise. UDW, upon final order and judgment of a Court of competent jurisdiction awarding damages to any IHSS Provider covered under the provisions of this Agreement, shall immediately pay to such IHSS Provider all sums owed under such order and judgment.

**ARTICLE XVI**  
**FULL UNDERSTANDING, MODIFICATION AND WAIVER**

Section 1.

This Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein and any other prior or existing understandings or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Except as modified herein or as otherwise required by law, existing wages, hours and other terms and conditions of employment set forth in applicable ~~Public Authority~~Riverside County PA Ordinances and related resolutions and regulations shall continue in effect.

Section 2.

It is the intent of the parties that this Memorandum of Understanding be administered in its entirety in good faith during the full term. It is recognized that during such term, it may be necessary to make changes in rules or procedures affecting the employees in the Unit. Where Management finds it necessary to make such changes, it shall notify the Union of the proposed change prior to its implementation.

Where such changes would significantly affect the working conditions in the unit, where the subject matter of the change is subject to negotiations pursuant to the Meyers-Miliias-Brown Act, and where the Union requests to negotiate with Management, the

parties shall expeditiously undertake negotiations regarding the effect the change would have on the IHSS Providers represented by the Union.

Nothing herein shall limit the authority of Management to make necessary changes required during emergencies. However, Management shall notify the Union of such changes as soon as practicable. Emergency is defined as an unforeseen circumstance affecting life or property requiring immediate implementation of the change.

Where Management makes any changes in working conditions because of the requirements of Federal or State law, the Riverside County PA Authority shall not be required to renegotiate the matter or manner of compliance with such law where manner of compliance is specified by such law.

Section 3.

Except as specifically provided herein, it is agreed and understood that each party voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required, to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of negotiations during the term of the Memorandum of Understanding.

Section 4.

Any agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all the parties hereto and, if required, approved and implemented by the Public Authority Riverside County PA's Board of Directors.

**ARTICLE XVII**  
**SEPARABILITY**

It is understood and agreed that this Memorandum of Understanding is subject to all present and future applicable Federal and State laws, regulations, and the provisions of the Public Authority Riverside County PA's Employer-Employee Relations Resolution and that the provisions hereof shall be effective and implemented only to the extent permitted by such laws and regulations. If any part of this Memorandum of Understanding is in conflict or inconsistent with such applicable provisions of Federal or State laws or regulations, such part or provision shall be suspended and superseded by such applicable laws and regulations and the remainder of this Memorandum of Understanding shall not be affected thereby and shall remain in full force and effect.

**ARTICLE XVIII**  
**LABOR-MANAGEMENT COMMITTEE**

Section 1.

The ~~Public Authority~~Riverside County PA and the Union recognize the importance of maintaining an effective working relationship in order to fulfill the mission of the IHSS program and provide quality, reliable care to all Consumers. Both parties recognize their responsibility to address any program matter that might affect this goal.

Section 2.

The ~~Public Authority~~Riverside County PA and the Union shall establish a Labor-Management Relations Committee. The purpose of the Committee shall be to consider and recommend action on matters affecting the relations between the parties, and to recommend measures to improve IHSS Consumer care, IHSS Provider training, and the IHSS program. The parties shall neither engage in negotiations nor agree to any changes that increase ~~Public Authority~~Riverside County PA expenditures or affect wages, hours, and other terms and conditions of employment. The committee also shall not consider matters properly the subject of a grievance.

- (a) Each party shall select their own participants for the Committee. However, either party may request the removal of a participant from the other's group if that participant becomes too disruptive to the work of the committee.
- (b) The Committee shall consist of four (4) Union representatives and up to four (4) alternates and four (4) ~~Public Authority~~Riverside County PA representatives and up to four (4) alternates. Alternates may serve only as observers. Recommendations of the committee shall be decided by a showing of consensus and not by a majority vote.
- (c) The Committee chair will be alternate between the two parties. The Chair is responsible for preparing the mutually agreed upon agenda.
- (d) The Committee may meet as frequently as agreed to by the parties, but shall convene no less than quarterly.
- (e) Minutes will be prepared by the ~~Public Authority~~Riverside County PA and the Union, with alternating responsibility, within thirty (30) days of each meeting.
- (f) The ~~Public Authority~~Riverside County PA and the Union will address each recommended item within a reasonable amount of time or as agreed to by the parties.
- (g) Union Committee members serve on a voluntary basis and will not receive any remuneration from the ~~Public Authority~~Riverside County PA for their participation on the Committee.

The parties hereto agree that, as a condition of agreement, designated committee members from both the ~~Public Authority~~Riverside County PA and the Union shall attend joint training sessions provided by the Federal Mediation and Conciliation

Service (FMCS) regarding joint labor-management committee rules/procedures prior to the initial meeting.