



STATE OF CONNECTICUT
GOVERNOR DANIEL P. MALLOY

SECRETARY OF THE STATE
CAPITOL OFFICE

2011 JAN 17 AM 9:42

Personal Care Attendant Working Group

Special Meeting

Tuesday, January 10, 2012

Room 310, State Capitol Building – 10:00am

Members Present: Dennis Murphy (Chair), Larry Fox, Kathy Bruni, Dr. Candace Howes, S. Fae Brown-Brewton

Members Absent: None

- 1) **Call to Order:** Dennis Murphy called the meeting to order at 10:05am.
- 2) **Approval of Minutes:** Dennis Murphy tabled approval of the 12.21.2011 meeting minutes until the working group's next meeting.
- 3) **Walter Kamiat presentation:** Walter Kamiat, the Associate General Counsel of SEIU spoke about SEIU's role in representing homecare workers. He has worked to design collective bargaining agreements in California, Illinois, Massachusetts, Oregon and Washington. He spoke about the importance of consumers and provider being participants in this program and pointed out that assumptions of tension between the two parties are false. He spoke about collective bargaining as a way of strengthening the field of personal care attendant and about the current challenges facing PCAs.

Walter Kamiat outlined the reasons why the state is best qualified to take responsibility for overcoming those challenges, through collective bargaining. He pointed out improvements in other states that have passed collective bargaining and outline the areas in which those improvements can be found. He made it clear that statutes remain to ensure that homecare is self directed, coverage is guaranteed when desired and consumers retain the right to hire, fire and direct their care.

Most states have chosen to use their public employee bargaining statutes and California is the only exception. They gave authority to their counties to administer the program. Public employee collective bargaining statutes are used because they protect the public interest, have been used for decades and include state negotiators, labor relations experts and other experts.

Kathy Bruni asked if statutes in other states also cover training.

Walter Kamiat said that it depends on the state. It is sometimes offered to both providers and consumers.

Dennis Murphy asked what happens if a worker alleges bias for discharge based on religion, race, etc.

Walter Kamiat said that the state sets those standards along with standards for background checks.

Dennis Murphy asked what standards currently exist.

Kathy Bruni said that background checks are mandatory and that consumers may currently select a provider with past crimes but there are some crimes that exclude providers automatically. The state is held harmless in the event that a provider with a criminal record is voluntarily chosen.

Walter Kamiat went on to talk about how states have defined PCAs and avoided making them state employees. He stressed the importance of clarifying what may and may not be collectively bargained over.

Larry Fox asked if the state would pay the employer's share of unemployment and workers compensation.

Kathy Bruni said no, unless they work more than twenty-five hours.

Dennis Murphy pointed out that, to his knowledge, only one state has statutes that make collective bargaining negotiations binding upon the Governor and Legislature.

Walter Kamiat said that grievance arbitration is binding.

Dennis Murphy said that Maryland has a different system in which arbitrators only make recommendations to their Commissioner of Education and the final decision lies with the Governor.

Walter Kamiat said that in his view, he doesn't know why this workforce should be uniquely singled out to not have the same rights as public employees.

Dennis Murphy asked for a response to what the group had heard: that an increase in benefits can lead to a reduction in the level of services and the amount of hours available to consumers.

Walter Kamiat said that isn't necessarily true. The union provides other benefits that lead to cost savings over the long term.

Candace Howes asked if strengthening the personal care workforce would make it a substitute for the agency model, which costs the state more money.

Kathy Bruni said that no matter how you look at it, when you increase benefits it increases the unit costs for an hour of services and it reduces the number of hours of service available to individuals who are most dependent on those hours. There is a cap on cost in the Connecticut waivers and the way the statutes are written, services would be reduced for those who need them the most and

Washington State doesn't have those same caps. Connecticut already has a provider registry and training. There are shortcomings, yes, but she is concerned of the impact on individual consumers.

Larry Fox embraced Kathy's concerns but pointed out that not every consumer is at the cap and that they are based on nursing home rates. It is important to develop a holistic approach to homecare in the context of the shift from institutional care and we must include DSS and OPM.

- 4) **Bernadette Lynch, former Executive Director of the Sacramento IHSS** presented to the group that in California's In Home Supportive Services, they address the needs of low income Californians and there are currently 430,000 receiving care. Their need is assessed by a social worker and they can receive up to 283 hours per month. Legislation was passed in 1999 requiring each county to establish an employer and the majority of counties established public authorities to be employers of record, created registries of providers and began offering training.

Before that, there was no minimum wage for PCAs and now they make between \$8 and \$12 an hour with the state paying its share up to \$12.10 an hour with \$.60 per hour going to health benefits. If a county negotiates higher wages, they must pay the difference and many counties offer health and dental benefits.

Public authorities must have governing bodies and the County Board of Supervisors is the governing body in most counties. They must also establish an IHSS Advisory Committee with 50% membership consisting of consumers of PCA care. Before registries were established, consumers had trouble finding reliable care and the public authority has yielded improvements in care quality and reliability.

Dennis Murphy asked if there are limits on right to strike and if the consumer retains the right to hire and fire.

Bernadette Lynch said yes, the legislation protects those rights.

Kathy Bruni asked what waiver they are on.

Bernadette Lynch said that they are 99% on the Medicaid waiver. 70% of providers are family members. There are over 400,000 receiving homecare and 100,000 additionally in nursing homes.

Candace Howes pointed out that California has very low turnover rates for PCAs compared to the rest of the country. It is 30% in California compared to 50% nationally. In California, there are few homecare agencies and the turnover in consumer directed programs is lower than in agencies.

- 5) **Conversation with Cheryl Miller, Executive Director of the Oregon Homecare Commission:** Dennis Murphy reported on his conversation with Cheryl Miller who said that the greatest difficulty they have faced in that state is over a bill effective in 2012 that adds individuals with mental health and substance abuse needs to the bargaining unit.
- 6) **Harry Elliot, General Counsel to the State Board of Labor Relations:** Outlined the major questions facing the working group. One major issue to look at is the fact that there are two employers, the consumer and the state.

Any legislation must clearly define the bargaining unit to make it easier to administer and avoid the problem of raiding unions. The language of the executive order must also be clarified to clearly outline the process of selecting a union, changing representation and how that process and the general grievance process is arbitrated.

Any legislation must also define what can be bargained over. The best thing to do would be to designate things that are illegal to bargain over.

7) Adjourn: Larry Fox moved to adjourn at 11:56am. Kathy Bruni seconded.