

COLLECTIVE BARGAINING AGREEMENT

BETWEEN THE

**PERSONAL CARE ATTENDANT (PCA) QUALITY HOME CARE
WORKFORCE COUNCIL**

AND

1199SEIU UNITED HEALTHCARE WORKERS EAST

Preamble

1199SEIU United Healthcare Workers East and the Personal Care Attendant Quality Home Care Workforce Council believe that Consumers should be – provided with the highest possible quality of care and that Consumers, their Surrogates, and Personal Care Attendants should be treated with the highest degree of dignity and respect. The purpose of this Collective Bargaining Agreement is to promote quality jobs for Personal Care Attendants (PCAs) and harmonious and respectful relations between the parties in their pursuit of these shared commitments.

Parties to the Agreement

This Collective Bargaining Agreement (Agreement) is entered into by 1199SEIU, United Healthcare Workers East (“the Union”) and the Personal Care Attendant Quality Home Care Workforce Council (“the Council”).

Article 1: Recognition

The Council recognizes the Union as the exclusive bargaining representative for Personal Care Attendants as certified by the American Arbitration Association on November 7, 2007. The Union recognizes the Council as the employer of PCAs, for the purposes of this collective bargaining agreement, as set forth in M.G.L. c.118G, sections 28 through 33.

Article 2: Consumer Rights

Section 1: General Rights

As provided by M.G.L. c.118G, section 31 (a), Consumers and/or their Surrogates shall retain the right to:

1. Hire PCAs of their choice;
2. Supervise, manage and train PCAs in their employ;
3. Determine the work schedules of PCAs in their employ;
4. Terminate PCAs from their service at will; and
5. Determine under any circumstances who may and may not enter their home or place of residence.

Such authority and control on the part of the Consumers is not, and shall not be, diminished in any way whatsoever by this Agreement:-

Section 2: Confidentiality Rights

The Union shall not seek information regarding the name, address, phone number, or any other personal information regarding Consumers. The Union and PCAs shall maintain strict standards of confidentiality regarding Consumers and shall not disclose any personal information obtained, from whatever source, pertaining to Consumers, unless disclosure is compelled by legal process or otherwise required by law.

Section 3: Non-Waiver of Consumer Rights

The above enumerations of Consumer rights are not exclusive and do not exclude other rights as provided by all applicable law. The exercise or non-exercise of rights retained by the Consumer shall not be construed to mean that any Consumer right is waived.

Article 3: Workforce Council Rights

The Council has the exclusive authority to operate and carry out its mandate as provided in Chapter 268 of the Acts of 2006 as it may be amended. Except to the extent modified by this Agreement, the Council reserves exclusively all the inherent rights and authority to manage and operate its activities. All rights not specifically granted in this Agreement are reserved solely to the Council and the Council has the sole right to decide and implement its decisions regarding such management rights. The exercise or non-exercise of rights retained by the Council shall not be construed to mean that any right of the Council is waived. Nothing contained in this Agreement shall subtract from, modify or otherwise diminish these rights in any manner.

The parties recognize that other agencies, and/or contractors of the Council, may continue to be responsible for implementation and administration of certain provisions of this Agreement, as directed by the Council.

Article 4: Union Rights

Section 1: Union Security

The payment of dues or agency service fees is required for all PCAs covered by this contract. An authorization form designated and provided by the Union, shall be mailed to all PCAs covered by this agreement. Each PCA who chooses to become a Union member shall have union dues deducted from his or her wages as specified in Section 2 of this Article. Each PCA who chooses not to become a Union member and signs the form authorizing agency fee deductions shall have an agency service fee deducted from his or her wages as specified in Section 2 of this Article. If an authorization form is not returned to the Fiscal Intermediary mailing the form, an additional mailing of the form will be made between sixty (60) and ninety (90) days of the original mailing. If an authorization form is still not received, a third mailing of the form will be made between sixty (60) and ninety (90) days of the second mailing

Section 2: Payroll Deduction

Initiation fees, regular dues, or agency service fees, as established from time to time by the Union, in accordance with Section 1 of this Article, shall be deducted from the wages due each PCA upon receipt of a signed authorization form or as permitted by state law. All deductions for initiation fees, dues or agency service fees made from the wages of PCAs shall be remitted to the Union by the end of the month following the month in which those dues and initiation fees were deducted.

- 1) Each fee remittance shall be accompanied by a list of all PCAs. To the extent it may be administratively feasible and the information is available, such list shall include, for each PCA, the following information:
 - a. full name;
 - b. home or mailing address;
 - c. home phone number
 - d. cellular phone number
 - e. email address
 - f. unique PCA ID number
 - g. first pay period and last pay period;
 - h. amount of dues deducted;
 - i. amount of agency service fees, if any, deducted;
 - j. amount of Political Action Fund deduction, if any;
 - k. amount of time for which the PCA was paid in the pay period
 - l. gross pay; and
 - m. total pay subject to dues deduction.

The inclusion of the above information is contingent upon the information being provided by the PCA and forwarded by the Consumer.

For items on the above list that are not currently collected, collection of those items shall begin on or about July 1, 2009.

The list shall be transmitted in a mutually agreeable electronic format. The Council shall provide to the Union the name, title, e-mail address, and phone number of one person to whom the Union may direct inquiries regarding the lists generated pursuant to this paragraph. Eighteen (18) months after the date on which this contract is signed, the labor management committee shall review the number of PCAs who have signed authorization cards. If the percentage of signors is 90% or lower of the most recently calculated population of PCA workers, 1199SEIU may seek to reopen negotiations solely on the content of Article 4.

- 2) Remittance of dues, initiation fees and agency service fees shall be made payable to:

1199SEIU United Healthcare Workers East

and shall be mailed to:

1199SEIU United Healthcare Workers East
PO Box 2665
New York, NY 10108

- 3) Any agency service fee deducted under the provisions of this Article must be calculated in accordance with the provisions of Chapter 150E of the Massachusetts General Laws and any regulations promulgated by the Massachusetts Division of Labor Relations.
- 4) Political action fund deductions shall be made in accordance with Section 17J of Chapter 180 of the Massachusetts General Laws. Upon receipt of written authorization from a PCA on a form designated and provided by the Union for the purpose of political action deductions, the sum specified in said authorization shall be deducted from the wages due said PCA and the funds shall be remitted to the 1199SEIU Massachusetts Political Action Fund, in the same manner and at the same time as dues, initiation fees and/or agency service fees are remitted as described in this Article. This remittance shall be made separate from any payment made for dues and agency service fees.

Remittance of Political Action Funds shall be made payable to:

1199SEIU Massachusetts Political Action Fund

and shall be mailed to:

1199SEIU United Healthcare Workers East
PO Box 2665
New York, NY 10108

The Council assumes no obligation, financial or otherwise, arising out of compliance with any provisions of this Article, and the Union hereby agrees that it will indemnify and hold the Council harmless from any claims, actions or proceedings by any PCA arising from deductions made at the request of the Council hereunder. Once funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

Article 5: Communications

Section 1: New Hire Materials

The Union may provide materials to be included in new PCA packets distributed to Consumers. Any such material must be clearly marked as originating from the Union

and not in any way endorsed, condoned, or supported by any Consumer, the Council or the Commonwealth, unless the Council and the Union agree otherwise in advance. To the extent that such materials increase the mailing cost of new PCA packets, such cost shall be paid by the Union. In all communications, both parties will refer to the other party in a respectful manner.

Section 2: Time Sheet Drop-off Locations

The Union will be permitted at time sheet drop-off locations to talk to PCAs in a way that does not interfere with the regular business of the Fiscal Intermediary.

Section 3: Website Links

In order to enhance communication between the Council and the PCA workforce, the Council shall post a link on the home page of its website to the Union's website, and the Union shall post a link on the home page of its website to the Council's website.

Section 4: Union Representatives

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

Article 6: Continuity of Care

- 1) It is in the best interest of Consumers and PCAs that the continuity of care between a Consumer and PCA is not disrupted. As such, the Union, its members, officials and representatives shall not under any circumstances engage in, authorize, sanction or support any strike, slowdown or any other act of curtailment or any other similar interference with services to Consumers. The Union shall make every possible effort to discourage and prevent any such strike, slowdown or any other act of curtailment or any other similar interference with services to Consumers from occurring.
- 2) The Council shall not cause or initiate any lockout of PCAs.
- 3) Nothing in this Article shall limit or infringe upon the rights of Consumers described in Article 2 of this Agreement.

Article 7: Antidiscrimination

Neither the Council nor the Union shall discriminate against or in favor of any PCA, Consumer or Surrogate on account of race, color, creed, national origin, political or religious belief or activity, sex, age, disability, height, weight, marital status, sexual orientation, union activity or membership, or any other basis prohibited by law.

This Article shall not limit or impede in any way the right of Consumers or their Surrogates to select, hire, supervise, determine the work schedules of, discipline, or

terminate at-will, any PCA as described in Article 3 of this Agreement. , nor shall it limit referrals on the basis of bona fide job-related skills (e.g. language fluency or the physical ability to lift and transfer a Consumer) or Consumer preferences such as gender.

Article 8: Joint Labor Management Committee

- 1) In recognition of our mutual commitment to the success of the Council and the continued growth and stability of the PCA program, the Union and the Council shall establish a Labor Management Committee (LMC) to discuss topics of mutual interest.
- 2) To this end, the parties agree to establish a LMC that shall meet on a flexible basis, but shall meet formally not less than quarterly at mutually convenient times and locations. All meeting locations shall be fully accessible. The LMC shall consist of four (4) representatives of the Union and four (4) representatives of the Council. By mutual agreement, the LMC may change the number of LMC members and/or invite additional persons to attend meetings. PCA members of the LMC shall receive pay, at the applicable rate, for their time spent at LMC meetings, exclusive of travel, for up to 4 LMC meetings.
- 3) The agenda for LMC meetings will be agreed to by the LMC members at least 7 days prior to each meeting. The topics for such meetings may include, but are not limited to: mutual respect, payroll processing, health and safety issues and the referral directory. The LMC shall also give priority consideration to training and education topics including, but not limited to:
 - Training needs from PCA and Consumer perspectives
 - Current training opportunities for PCAs and Consumers
 - Training programs and models in other states
- 4) The LMC may establish subcommittees as needed and bring in outside representatives to help inform its work.

Article 9: Payroll and Electronic Deposit

Timely Payment

PCAs shall be entitled to receive timely payment for services authorized, documented and rendered.

Electronic Deposit

PCAs shall have the right to authorize electronic deposit of payments issued for services properly authorized and rendered.

Article 10: Wages

Effective July 1, 2008*, the PCA wage rate shall be \$11.60 per hour.

Effective July 1, 2009, the PCA wage rate shall be \$12.00 per hour.

Effective July 1, 2010, the PCA wage rate shall be \$12.48 per hour.

The Commonwealth will use all feasible efforts to put this wage increase into effect as soon as possible. Any sum representing the difference between the actual effective date of implementation of the increase and July 1, 2008, that cannot be paid directly to PCAs as retroactive wages, shall be added to the funding for the first year of paid time off.

Article 11 : Health Insurance

A committee shall be established to study health insurance options for PCA's. The committee will have representation from the 1199SEIU, the Council, the Commonwealth Connector, the Secretaries of Health and Human Services and Administration and Finance. The study will be conducted during the first year of this agreement. The findings from the study will be used to inform negotiations over eligibility for health benefits, benefit levels and contribution levels.

- The Commonwealth is committed to initiating contributions in fiscal year 2010 for the provision of health insurance for PCA's determined to be eligible, subject to the Council reaching agreement with the union
- The union acknowledges that the Commonwealth has fiscal constraints that may limit its capacity to meet all of the health insurance funding needs for PCA's that may be identified pursuant to the study.
- The study will be completed by January 1, 2009. The parties to this agreement will then begin negotiations regarding health benefits with the intention of reaching agreement before July 1, 2009 to commence implementation in FY2010.

Article 12 : Paid Time Off

A \$750,000 Commonwealth contribution to fund paid time (PTO) off will be made in the first year of this agreement. A \$500,000 Commonwealth contribution to fund PTO will be made, in the second year of the agreement. A \$1,000,000 Commonwealth contribution will be made in the third year of the agreement. These contributions are the Commonwealth's contribution, exclusive of sums that may be available through the federal government during the second and third years of this agreement. The contributions for PTO are fixed contributions. The PCA Council and the Union will negotiate/determine the eligibility/accrual criteria to ensure that the cost of this benefit stays within the contribution levels. Contributions to PTO, not spent in the year they are made, can be carried over to subsequent years.

Article 13: Holidays

New Year's Day (January 1), Independence Day (July 4), Thanksgiving Day and Christmas Day (December 25) shall be considered holidays and all hours worked between 6:00 a.m. and midnight on these days shall be paid at the premium rate of time and one-half the regular rate of pay. PCAs who do not work on a holiday shall not be paid for that holiday.

Article 14: Dispute Resolution

Section 1: Grievances

- 1) Mutual respect and trust require that the Council and the Union address and resolve disputes arising under this Agreement in a fair and responsible manner, using mediation and conflict resolution techniques whenever appropriate.
- 2) No matter arising from, or dispute pertaining to, the exercise by a Consumer and/or his or her Surrogate of any rights described in Article 3 of this Agreement, including, but not limited to, the right to select, hire, schedule, train, direct, supervise and/or terminate any PCA providing services to him or her, shall in any way be subject to the provisions of Section 2 of this Article.
- 3) A grievance is defined as an allegation by a PCA and/or the Union of a violation of one or more provisions of this Agreement.

Section 2: Grievance Procedure

1) Step One: Informal Resolution

The PCA and/or a Union representative shall confer with the Council's designee to attempt to resolve the grievance informally.

2) Step Two: Formal Grievance

If the grievance is not resolved at Step One, the Union representative shall reduce the grievance to writing, including a statement of relevant facts surrounding the grievance, the alleged violations of the Agreement, and the remedy requested. The written grievance shall be presented to the Council's designee within thirty (30) days of the occurrence of the alleged violation or within thirty (30) days of when the Union could reasonably have been aware of the occurrence giving rise to the grievance. However, in no event shall the Council be obligated to consider a grievance more than six (6) months after the occurrence of the alleged violation. The Union may submit the written grievance to the Council's designee in person, by e-mail, by fax, or by mail.

3) Step Three: Mediation

- A. If the grievance is not resolved at Step Two, the Union may,
 1. within thirty (30) days of receipt of the written Step Two response, or,

2. in the absence of a written Step Two response, within six (6) months of the Union's submission of the grievance at Step Two, present a written request to the Council to submit the grievance for resolution before a mediator through the Massachusetts Division of Labor Relations or other mutually agreeable mediator. The Council's designee will, within fourteen (14) days of receiving the Union's request, notify the Union in writing as to whether or not the Council agrees with the Union's request.

4) Step Four: Arbitration

- A. If the grievance is not resolved at Step Three, the Union may,
1. within thirty (30) days of receiving a written Step Two response from the Council's designee, or
 2. if the Union has requested mediation at Step Three, within thirty (30) days of receiving the Council's written refusal to submit the grievance to mediation, or
 3. in the absence of a written response from the Council's designee at either Step Two or Step Three, within one (1) year of the Union's submission of the grievance at Step Two, advance the grievance to final and binding arbitration by filing a demand for arbitration with the Council.
- B. The Union and the Council shall attempt to select an arbitrator by mutual agreement. If the parties fail to agree upon an arbitrator, the Union shall forward the matter to an arbitrator listed on the Commonwealth's Master Service Agreement
- C. The Council and the Union shall each pay one half the costs of the arbitration, including the fees of the arbitration and proceeding itself, but not including the costs of representation, advocacy, or witnesses of either party.
- D. The arbitrator shall have no power to add to, subtract from, or change any of the provisions of this Agreement. The award of the arbitrator shall be final and binding on the parties.
- 5) The time limits provided in this Section are essential to the orderly resolution of grievances. Any grievances not presented or advanced within the timelines specified herein shall be considered withdrawn. If the Council fails to meet the timelines specified herein, the Union may move the grievance to the next step. Any of the timelines may be extended by mutual agreement of the Union and the Council.

The parties may, by mutual agreement, choose to pursue alternative dispute resolution processes in lieu of the grievance/arbitration process provided in this Section.

Article 15: Duty to Bargain

During the negotiations that resulted in this Agreement, the parties had the unlimited opportunity to make demands and proposals with respect to any and all appropriate

subjects of collective bargaining. Therefore, for the life of this Agreement, this Agreement shall constitute the total agreement between the parties, and the parties shall not be obligated to any additional collective bargaining except as may be required by this agreement or pursuant to Chapter 150E of the Massachusetts General Laws.

The parties acknowledge, however, that matters may arise during the term of this inaugural Agreement that may not have been anticipated at the time this Agreement was negotiated. Therefore, during the term of this Agreement, each party shall give full consideration to any request by the other party to reopen discussions regarding subjects covered by this Agreement.

Article 16: Savings Clause

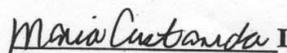
This Agreement shall be subject to all present and future applicable federal, state and local laws and rules and regulations of governmental authority. Should any provision of this Agreement, or the application of such provision to any person or circumstance be invalidated or ruled contrary to law by Federal or State court, or duly authorized agency, the remainder of this Agreement or the application of such provision to other persons or circumstances shall not be affected thereby.

In the event of such invalidation, the parties shall promptly meet to negotiate a substitute provision. Any changes or amendments to this Agreement shall be in writing and duly executed by the parties and their representatives.

Article 17: Duration

This agreement shall go into full effect subsequent to ratification by the Union and upon the date of signing by the parties, and shall continue in full effect until June 30, 2011. The parties shall begin negotiation for a successor agreement no later than January 1, 2011

 Date 1/24/08
For: Personal Care
Attendant Quality Home
Care Workforce Council

 Date 1/9/09
For: 1199SEIU
Maria Castaneda
Secretary Treasurer