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“We respect the arbitrator’s decision, though much more needs to be done to fix the home care system.” – CPC President and CEO Reacts to Decision in 1199SEIU Grievance

New York, NY – On February 25th, a decision was reached in the [1199SEIU grievance process](#), which established a Special Wage Fund of at least \$30 million with contributions from all 42 home care agencies in order to compensate current and former 1199SEIU home care workers in a resolution of wage and hour claims. The Chinese-American Planning Council Home Attendant Program Inc. (CPCHAP) is among the 42 home care agencies involved in the process, of which arbitration was the final step.

“Of the more than 100,000 home care workers unionized by 1199SEIU and participating in this process, about 5% are former or current CPCHAP workers. As a long-time, proud unionized organization, CPCHAP respects our home care workers’ election of 1199SEIU as their advocate and representative and acknowledges 1199SEIU’s grievance process to address worker concerns. Similar to 1199SEIU, we accept the arbitrator’s final decision,” said Wayne Ho, President and CEO of CPC.

According to the arbitrator’s decision, prompt resolution through the efficient and speedy establishment of the Special Wage Fund is of critical importance to the home care workers and the home care agencies alike. The arbitrator stated: “I am particularly cognizant of the need to avoid serious disruption to the Employers’ mission of delivering essential services...This is especially so for patients in underserved communities and others whose lives would be thrown into chaos by [home care agencies] having to close.”

CPCHAP provides critical, life-saving home care services to Medicaid patients – those who are older adults and people of all ages with disabilities – who cannot afford such services otherwise. CPCHAP is well-respected for its ability provide culturally and linguistically competent home care services to a rapidly aging population in New York State

The arbitrator also made a point to underscore that not all home care agencies were in violation to the same degree or extent – and that a few of the home care agencies had no liability at all for claims made under certain of the covered statutes – but that, in the interest of a fair remedy and prompt funding for all workers, this decision is fair and equitable, and CPCHAP agrees.

“Throughout this process, we have been – and remain – committed to doing right by our home care workers. The grievance process exists to correct any issues or mistakes if or when they occur with our unionized workforce, and all 42 home care agencies will now have the opportunity to address any missteps, however unintentional. CPCHAP previously implemented systems like Electronic Visit Verification to make tracking and reporting easier for workers, and we will examine if other measures are needed to be even more accessible,” said Mr. Ho.

Grievance procedures exist in the home care sector to support workers and hold employers accountable for any mistakes. In this Medicaid funded sector, even the City of New York has provided home care agencies with worker compensation guidance which the City later retracted as mistaken. This is why the 1199SEIU grievance process remains important and why CPCHAP has participated in good faith. We also acknowledge that the arbitrator fully considered the positions of the plaintiffs in the lawsuits against home care agencies. The arbitrator also issued no findings of specific fault by any home care agency but

found that all 42 home care agencies unintentionally made some mistakes in compensation during the 13-year period.

Details on the Payout Methodology

1199SEIU summarized the arbitrator's decision and the workers' payout methodology in their [FAQs](#). The arbitrator required that each home care agency pay into the Special Wage Fund an amount equal to \$250 multiplied by the number of unionized home care workers employed from 2008 to 2021. Under this equation, CPCHAP will contribute approximately \$1.3 million into the fund in the next several months after the decision has been validated by the court. The arbitrator developed a methodology whereby workers with 24-hour shifts and with longer work histories will receive significantly more than \$250.

Directly related to this arbitration decision and interestingly linked to the larger, very complex and challenging issue of 24-hour care, the arbitrator specifically pointed out that only localities (like the City of New York) and Managed Care Organizations (MCOs) have the ability and authority to 1) assign 24-hour shifts to home care agencies and 2) convert such shifts into two 12-hour split shifts. The arbitrator also indicated that he does not have the authority to challenge or overturn the 13-hour rule that only 13 hours of 24-hour shifts are compensated because that rule remains the law of the State of New York and that only State government can change it.

Major Issues Remain

"Moving forward, there remain serious, pressing issues that must be addressed to create a more sustainable home care industry for all workers and patients. This is why we continue to advocate alongside 1199SEIU, patients, and workers for systemic reforms, as we have for more than five years, to call for the passage of Fair Pay for Home Care to raise wages and the Epstein/Persaud bill to end 24-hour shifts. This legislation will help build a more just and caring economy for both long-term care recipients and those who serve them," said Mr. Ho.

Like other fully Medicaid-funded, nonprofit home care agencies, CPCHAP is subject to all Medicaid rates, rules, and regulations. As such, change is only possible through new legislation. CPC and CPCHAP continue to call for the following legislative changes of New York's home care system, which all advocates, home care agencies, and community members alike can also help with by calling their State legislators:

- End the 24-hour rule for home care (A3145A Epstein/S359A Persaud)
- Pass Fair Pay for Home Care (S5374 May/A6329 Gottfried)
- Lift the Medicaid cap to enable at least \$3 billion for Fair Pay for Home Care and \$1 billion to mandate 24-hour shifts be converted to 12-hour split shifts without impacting care hours for patients
- Pass the New York Health Act (A6058 Gottfried/S5474 Rivera) to provide comprehensive health care and long-term care for every New Yorker

To learn more about CPCHAP, visit <https://www.cpchap.org/>. You can read about the steps that CPC and CPCHAP have been taking to [advocate on these issues since 2017 here](#).

ABOUT CPC

The Chinese-American Planning Council (CPC) is the parent nonprofit organization of CPCHAP and is a social services organization that creates positive social change. Founded in 1965, CPC is the nation's largest Asian American social services organization and aims to promote the social and economic empowerment of Chinese American, immigrant, and low-income communities of New York City. CPC is the trusted partner to individuals and families striving to achieve goals in their education, family, community, and career.

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