

March 25, 2014  
IX.

## AGENDA

IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY OF STANISLAUS COUNTY

1010 10<sup>TH</sup> STREET, BASEMENT LEVEL, MODESTO

MARCH 25, 2014

- I. CALL TO ORDER
- II. CONSENT CALENDAR (Those items marked with an \*)
  - \*A. APPROVAL OF THE MINUTES OF OCTOBER 29, 2013
- III. AGENDA ITEMS
  - A. APPROVAL OF THE LABOR AGREEMENT BETWEEN THE IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY OF STANISLAUS COUNTY AND THE UNITED DOMESTIC WORKERS OF AMERICA (UDW) REPRESENTING THE STANISLAUS COUNTY IN-HOME SUPPORTIVE SERVICES (IHSS) PROVIDERS
- IV. PUBLIC FORUM
- V. ADJOURNMENT

## MINUTES

### IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY OF STANISLAUS COUNTY OCTOBER 29, 2013

The In-Home Supportive Services Public Authority met in the Joint Chambers at 1010 10th Street, Basement Level, Modesto, California.

I. CALL TO ORDER

The meeting was called to order at 12:08 pm

Members present: All

Members absent: None

Staff present: Jeff Lambaren

II. CONSENT CALENDAR (Those items marked with an \*)

O'Brien/Monteith (5-0) Approved the consent calendar.

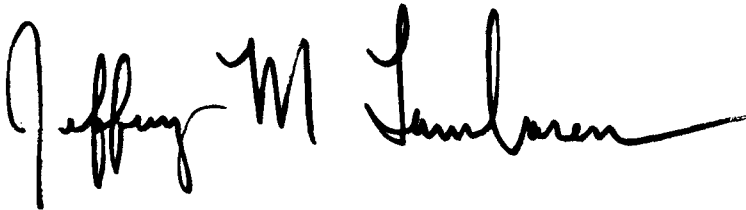
\*II-A Approved the minutes of July 23, 2013

III. PUBLIC FORUM

A. None

IV. ADJOURNMENT

A. Recessed to Closed Session at 12:10 p.m. for Conference with Labor Negotiator: Agency Negotiator: Stan Risen and Jody Hayes. Labor Organization: United Domestic Workers. Government Code Section 54957.6.



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Jeffrey M. Lambaren  
Executive Director

SITTING AS THE IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY OF STANISLAUS COUNTY  
THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: In-Home Supportive Services Public Authority *Jim* BOARD AGENDA# IX. III. A.  
Urgent \_\_\_\_\_ Routine X AGENDA DATE March 25, 2014  
CEO Concurs with Recommendation YES *BP* NO \_\_\_\_\_ 4/5 Vote Required YES \_\_\_\_\_ NO X  
(Information Attached)

**SUBJECT:**

Approval of the Labor Agreement between the In-Home Supportive Services Public Authority of Stanislaus County and the United Domestic Workers of America (UDW), Representing the Stanislaus County In-Home Supportive Services (IHSS) Providers

**STAFF RECOMMENDATIONS:**

1. Approve the tentative agreement reached between In-Home Supportive Services Public Authority (PA) of Stanislaus County and the United Domestic Workers of America (UDW), representing the Stanislaus County In-Home Supportive Services (IHSS) Providers.
2. Authorize the Public Authority to submit a Rate Change Request to the California Department of Social Services (CDSS) to implement the salary provisions agreed to.
3. Authorize the Chairman of the Public Authority and all parties to sign the agreement.
4. Authorize the Public Authority Director to continue to work with the California Department of Social Services on approval of the health benefits deferred revenue spending plans.

**FISCAL IMPACT:**

In-Home Supportive Services (IHSS) is a mandated entitlement program operating in Stanislaus County through the Individual Provider mode. As of Mid-year Fiscal Year 2013-14, IHSS Provider Wages and Benefits are budgeted at \$67,800,018. Federal and State revenues offset all but the mandated county Maintenance of Effort (MOE) of \$8,707,205. The County MOE is supported by 1990-1991 realignment funds to remain within the General Fund Match of \$2,044,499.  
(Fiscal Impact continued on page 2)

**BOARD ACTION AS FOLLOWS:**

No. 2014-137

On motion of Supervisor Chiesa \_\_\_\_\_, Seconded by Supervisor Withrow \_\_\_\_\_

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, Monteith, and Chairman De Martini \_\_\_\_\_

Noes: Supervisors: None \_\_\_\_\_

Excused or Absent: Supervisors: None \_\_\_\_\_

Abstaining: Supervisor: None \_\_\_\_\_

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

ATTEST: *Christine Ferraro*  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

### **FISCAL IMPACT: (Continued)**

MOE legislation requires a county share increase to MOE estimated at 17.5% of the total amount of any locally negotiated wage or benefit increases. The total cost of increasing wages and eliminating health insurance benefits over the three year agreement commencing June 1 of 2014 is \$1,514,210, with an ongoing estimated MOE impact of \$266,235 as follows;

- Fiscal Year (FY) 2013-2014 \$32,114 total; county share impact \$5,642
- FY 2014-2015 \$949,788 total; county share impact \$166,966
- FY 2015-2016 \$1,514,210 total; county share impact \$266,235

The one month impact to FY 2013-2014 can be supported within the existing appropriation and General Fund Match in the PA budget units. No budget adjustments are requested for the current fiscal year. The MOE is legislated to increase by 3.5% each fiscal year beginning in FY 2014-2015; this increase will be in addition to the increase from the MOU approval and reported in future budget submissions for Board of Supervisors review and approval.

### **DISCUSSION:**

Negotiations with UDW began in August of 2012, and have continued until final contract language was tentatively agreed to in February 2014. As labor negotiations were occurring, the IHSS program in California was undergoing major changes: changes in the funding formula, State planning to shift collective bargaining to the State, settlement of a group of class action lawsuits against the IHSS Program and sweeping Federal health care legislation.

In FY 2012-13 with the passage of the State Budget and the passage of trailer bills Senate Bill (SB) 1008 and SB 1036 along with Assembly Bill (AB) 1467 the State significantly changed the IHSS Program. In an effort to control costs and improve care for thousands of poor elderly residents, the State created the Coordinated Care Initiative (CCI). CCI is an effort to improve care coordination for individuals who receive both Medi-Cal and Medicare, many of which are IHSS Recipients. As part of CCI the State proposed to shift collective bargaining to a Statewide Public Authority and create a new funding formula for IHSS. CCI would start in eight pilot counties Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo and Santa Clara; once a county had completed its CCI enrollment collective bargaining for IHSS Providers would shift from the local level to a newly created Statewide Public Authority (Statewide Authority). Transition of the program is in progress in the initial eight pilot counties. Stanislaus County is expected to transition to the CCI program with the subsequent transfer of labor relations responsibilities to the Statewide Authority sometime within the next 24-48 months.

Also included in the legislation was the change in funding for the IHSS Program. The State changed the program funding, moving from a sharing formula to a Maintenance of Effort (MOE). Counties were issued a MOE amount based on their county's share of FY 2011-2012 IHSS expenditures, which included IHSS Administration, Public Authority (PA) Administration and IHSS

Approval of the Labor Agreement between the In-Home Supportive Services Public Authority of Stanislaus County and the United Domestic Workers of America (UDW), Representing the Stanislaus County In-Home Supportive Services (IHSS) Providers  
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Provider Wages and Benefit expenses. Each year, beginning July 1, 2014, counties would also receive an annual inflation factor of 3.5%. As a provision of the legislation the counties would be responsible for any locally negotiated wage increase, using the old sharing formula, until the Statewide Authority assumed responsibility for collective bargaining.

In June of 2013, the State settled a number of lawsuits which had been filed against the IHSS Program, known as the Oster and Dominguez cases. In the Oster case the State sought to reduce program costs by reducing IHSS Recipient hours by 20%. In the Dominguez case the State sought to limit its financial participation for IHSS Provider wages to \$10.10 per hour. The parties agreed to a settlement, which saw IHSS Recipient hours reduced by an additional 4.4%. There was already a 3.6% reduction and the additional 4.4 % brought the total reduction to 8%. In July 2014 the reduction would be reduced to 7%. Additionally, there would be no State reduction in funding for IHSS Provider wages, the current limit is \$12.10 per hour.

Finally, Federal legislation came into play with the passage and implementation of the Patient Protection and Affordable Care Act (ACA). The ACA required that all individuals obtain health insurance, either on their own or through an employer sponsored plan. The ACA required that all plans provide certain standards of coverage, including wellness components.

All of these factors, CCI, MOE, the settlement of the Oster and Dominguez lawsuits and the ACA played a part in increasing the complexity and duration of labor negotiations.

Two of the major components of negotiations have centered on wages and health benefits. With greater understanding of the MOE requirements, determination of county costs associated with any negotiated wage increase became clearer. It is important to note that the State of California oversight agencies have yet to issue the detailed instructions for calculation of MOE adjustments as related to locally negotiated wage increases. The current understanding is that the prior county sharing ratio of 17.5% would be utilized to factor any adjustment to the MOE. As a result of negotiations with UDW, the parties agreed to shift monies from health benefits to wages. The current \$0.60 per paid hour for health benefits would be shifted to wages and will result in the elimination of the current medical, dental and vision programs. The parties agreed to a wage of \$10.00 per hour beginning the date the CDSS approved the agreement. On July 1, 2014, the wage would increase to \$10.10 per hour. On July 1, 2015, the wage would rise to \$10.20 per hour. The negotiated wage increases will ensure Provider wages are compliant with new State minimum wage standards scheduled to increase to \$10.00 per hour on January 1, 2016.

The focus of negotiations then shifted to health benefits. Prior to July 2011, the Memorandum of Understanding (MOU) with UDW provided a full Health Maintenance Organization (HMO) medical program along with dental and vision coverage. Covered IHSS Providers paid \$20 per month in premium cost-share for medical, dental and vision coverage. In the final year of the HMO medical plan, it was calculated that the plan could support approximately 400 IHSS Providers. It was known that a major rate increase the following plan year was going to significantly decrease the number of IHSS Providers who could be covered by the plan. Working with the UDW, the PA agreed to change the medical plan to a limited benefits plan that UDW selected. The limited benefits plan was put in place in July 2011; enrollment went from approximately 400 IHSS Providers to approximately 800 IHSS Providers and the monthly premium cost-share was reduced to \$15 per

Approval of the Labor Agreement between the In-Home Supportive Services Public Authority of Stanislaus County and the United Domestic Workers of America (UDW), Representing the Stanislaus County In-Home Supportive Services (IHSS) Providers

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month. The plan capacity is approximately 980 IHSS Providers however; due to low enrollment from Providers, the target was never achieved.

The under-enrollment issue was discussed with the UDW in 2012, but no definitive solution was reached. The unintended consequence of the under-enrollment in the new limited benefits plan was that revenue accumulated to the extent that approximately \$2 million dollars is currently available and reserved for provider health insurance support in PA deferred revenue accounts. There are two deferred revenue accounts; the first is the Provider Premium Reserve, which is composed solely of IHSS Provider contributions. The second fund, the IHSS Benefit Reserve, is composed of Federal, State and County funds. UDW and the PA discussed various options to utilize the deferred revenue in a manner that recognized the PA fiduciary responsibility for providing health insurance benefits.

The new concept was to terminate the health benefits plan operated by the PA, as it was non-ACA compliant. IHSS Providers would be encouraged to enroll in Covered California (California Health Exchange). The Provider Premium Reserve funds, approximately \$500,000 would be used to reimburse qualifying IHSS Providers who purchased health insurance through Covered California. The remaining \$1.5 million dollars, the IHSS Benefit Reserve, would be used to fund a dental and vision plan. The new dental and vision plan is to be administered by UDW and the PA will pay dental and vision costs for IHSS Providers until the fund is fully expended. The PA will have no financial obligation towards Provider benefits once the existing reserve funds are exhausted.

Both parties understood that agreement was contingent on CDSS approval. In December of 2013, the PA contacted CDSS to seek pre-approval of the health insurance concept. Communications between the PA and CDSS have been on-going since that time but as of the writing of this agenda item, no approval has been received. Both the PA and UDW agreed not to delay the wage component of the agreement and continue to seek approval from CDSS for the new health benefit plan. Therefore, the provision of dental and vision benefits funded by the IHSS Benefit Reserve will not be implemented until the PA has received documentation from the CDSS to verify that this planned use of benefit reserves is consistent with the funding requirements of CDSS.

A copy of the revised MOU between UDW and the PA is attached to this agenda item for review.

**POLICY ISSUE:**

The IHSS Public Authority should consider the effect of this labor agreement on the fiscal and policy direction and priorities of the organization.

**STAFFING IMPACT:**

There is no staffing impact associated with this item.

**CONTACT PERSON:**

Jody Hayes, Assistant Executive Officer 525-5714

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE IN-HOME SUPPORTIVE SERVICES PUBLIC  
AUTHORITY OF STANISLAUS COUNTY**

**AND**

**THE IN-HOME SUPPORTIVE SERVICES  
PROVIDERS**

**REPRESENTED BY**

**UDWA, AFSCME Local 3930  
The Homecare Providers Union**

**June 1, 2012 – June 30, 2016**

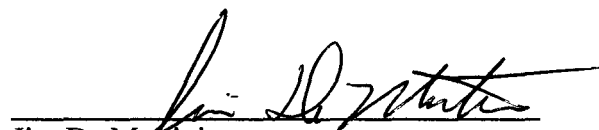
**Memorandum of Understanding  
Between the IHSS Public Authority of Stanislaus County and the  
In-Home Supportive Services Providers  
Represented by**

**UDWA, AFSCME Local 3930, The Homecare Providers Union**

THIS MEMORANDUM OF UNDERSTANDING IS ENTERED INTO BETWEEN THE IHSS PUBLIC AUTHORITY OF STANISLAUS COUNTY, HEREINAFTER REFERRED TO AS THE "PUBLIC AUTHORITY" AND THE IN-HOME SUPPORTIVE SERVICES PROVIDERS, REPRESENTED BY THE UDWA, AFSCME Local 3930, the Homecare Providers Union, HEREINAFTER REFERRED TO AS THE "UNION".

Pursuant to the Employee Relations Ordinance of the County and Section 3500 *et seq.* of the Government Code, the duly authorized representatives of the Public Authority and the Union have met and conferred in good faith concerning the issues of wages, hours, and terms and conditions of employment as herein set forth and are in agreement with the provisions of the Memorandum of Understanding.

**FOR THE PUBLIC AUTHORITY:**



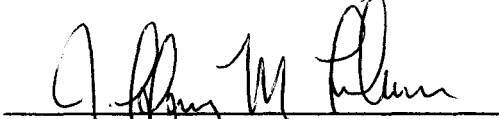
Jim De Martini  
Chairman, Board of Supervisors  
IHSS Public Authority



Stan Risen  
Chief Executive Officer



Jody L. Hayes  
Assistant Executive Officer, CEO



Jeffrey M. Lambaren  
Executive Director, Public Authority

**FOR THE UNION:**



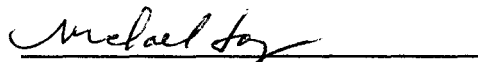
Douglas Moore  
Executive Director, UDWA



Editha Adams  
President, UDWA



Matthew Maldonado  
Chief Negotiator, UDWA





Michael Loza  
Regional Coordinator, UDWA

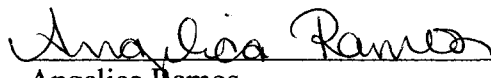


Signatures continued from Page 1

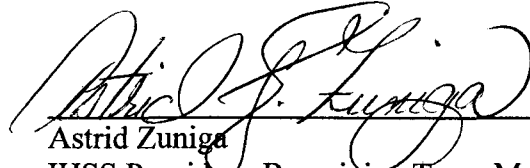
**FOR THE PUBLIC AUTHORITY:**

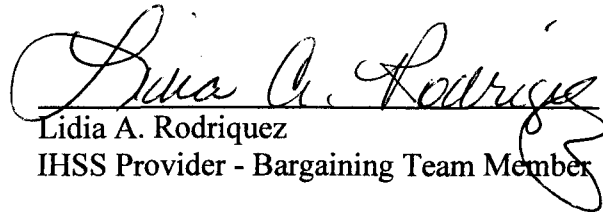
  
\_\_\_\_\_  
Janice Viss  
Assistant Director, CSA


  
\_\_\_\_\_  
Patrice Dietrich  
Assistant Director, CSA

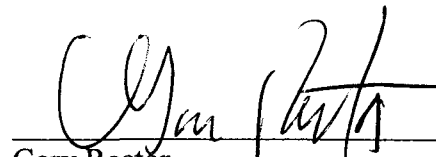
  
\_\_\_\_\_  
Angelica Ramos  
Fiscal Services Manager, CSA

**FOR THE UNION:**

  
\_\_\_\_\_  
Astrid Zuniga  
IHSS Provider - Bargaining Team Member

  
\_\_\_\_\_  
Lidia A. Rodriguez  
IHSS Provider - Bargaining Team Member

  
\_\_\_\_\_  
Chris Rector  
IHSS Provider - Bargaining Team Member

  
\_\_\_\_\_  
Gary Rector  
IHSS Provider - Bargaining Team Member

Date Signed: 5/7/14

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## PREAMBLE

It is in acknowledgment of the intrinsic value of the In-Home Supportive Services (IHSS) program and its constituent parties that this Memorandum of Understanding (MOU) or agreement is entered into by the Public Authority and the IHSS Providers represented by United Domestic Workers of America (Union).

The relationship between the Public Authority, the IHSS Provider, and the \*IHSS Consumer is a unique one, which begs a high level of compassion, humanity, understanding and respect. These parties and the IHSS program itself benefit our community in innumerable ways, including better service delivery, greater civic participation, and the economic stimulation that millions of federal and state matching dollars bring to our local businesses.

This MOU formalizes the unique employer-employee relationship defined in law between the Public Authority administered Individual Provider (IP) program and the Union. It is recognized by the parties that the Public Authority does not employ or manage the IHSS Provider workforce in the role of a traditional employer and that the IHSS Consumer remains the employer for the purposes of hiring, firing and directing the work of any Individual Provider providing services to them. The Union and the Public Authority commit themselves in this MOU to some goals that not only benefit Providers but are also intended to benefit Consumers of IHSS services.

The Public Authority and the Union recognize that due to the nature of the relationship between them and the role of that relationship in the IHSS Program, the implementation of various provisions of this MOU will require the assistance and cooperation of agencies that are not party to this MOU. The Public Authority and the Union agree to work together in good faith in order to secure the assistance of the appropriate entities when required by the provision of this MOU.

Furthermore, the Public Authority agrees to make every effort to ensure that the managers, case workers, and other Public Authority staff associated with the program respect IHSS Providers and understand the work diligently provided by IHSS Providers is difficult and valuable to our community. Likewise, the Union agrees to make every effort to ensure that the members of the bargaining unit respect all Public Authority staff associated with the program and understand that their work is also valuable and demanding.

*\*For purposes of this agreement, the terminology "IHSS Consumer" is synonymous with "IHSS Recipient" as referred to in the California Welfare and Institutions Code. The use of the term "IHSS Consumer" does not impart any additional rights/authorities other than those granted to "IHSS Recipients" by State and/or Federal law.*

**1. RECOGNITION**

The Public Authority recognizes the United Domestic Workers of America (UDWA), AFSCME LOCAL 3930, AFL-CIO, as the exclusive representative of the In-Home Supportive Services Individual Providers covered by this Agreement.

**2. MODIFICATION**

No provision or terms of this Agreement may be amended, modified, altered or waived except by written agreement between the parties hereto.

**3. WAIVER**

The waiver of any breach or condition of this Agreement by either party shall not constitute a precedent for any further waiver of any such breach or conditions.

**4. SAVINGS & SEPARABILITY**

In the event that any Article, Section or portion of this Agreement is declared invalid by a court of competent jurisdiction or is in contravention of any applicable law, the remaining provisions of this Agreement shall not be invalidated thereby and shall remain in full force and effect.

**5. UNION ACCESS TO PUBLIC AUTHORITY BUILDINGS**

The Public Authority agrees to admit to any of its offices the authorized representative(s) of the Union for purposes of adjusting grievances and conducting legitimate, appropriate Union business related to enforcing and monitoring this Agreement. The Union shall notify the Public Authority of the name of its authorized representatives upon ratification of this Agreement.

**6. LANGUAGES**

The Public Authority shall provide the capability at its administrative office to communicate with IHSS Providers as required by Title VI of the Civil Rights Act of 1964.

**7. NON-DISCRIMINATION**

The parties agree that the provisions of this Agreement shall be interpreted, applied, and/or enforced without favor or discrimination based upon union membership, race, ancestry, religion, color, age, national origin, political affiliation or belief, disability, medical condition, pregnancy related condition, sex, marital status or sexual orientation and in compliance with Federal and State laws.

## **8. CONSUMER RIGHTS**

The Union and the Public Authority recognize the right of IHSS Consumers, as established by law, to hire, supervise and terminate the work of any IHSS Provider providing services to them as well as to train such individuals in the manner in which those services are to be provided.

The Union shall not seek nor receive information from the Public Authority regarding the name, address, phone 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. If Consumer information is disclosed pursuant to this section, the Consumer and the Public Authority shall be notified of such release or disclosure immediately. The Consumer has the right to consent to the disclosure of information described herein but such consent may be withdrawn at any time for any reason.

Union representatives will not seek to conduct union business related to enforcement of this Agreement at the home of the Consumer without the express permission of the Consumer. In certain instances, union representatives may inadvertently visit a Consumer's home, having been given the Consumer's address as that of the Provider. Under such circumstances, the union representative may speak with the Provider after explaining the purpose of the visit and receiving permission from the Consumer. If the address visited is the residence of both the Provider and the Consumer, permission to conduct union business must be given by both the Provider and the Consumer, whenever possible and practical.

Any determination regarding the amount of service hours an IHSS Consumer shall be authorized is made by the Stanislaus County Community Services Agency in consultation with the Consumer. Consumers have the right to have an authorized representative of their choice, including the Provider or Union representation, present during any evaluation or annual assessment and for any appeal process regarding their authorized service hours.

## **9. CONSUMER RESPONSIBILITY NOTICE**

The Public Authority and the Union acknowledge that IHSS Consumers have the legal right to hire, train, supervise and terminate the work of the IHSS Provider who provides them service. The parties also acknowledge that this legal right brings with it a Consumer responsibility to inform the IHSS Provider of changes in their allotted service hours.

The County shall include in each notice of change in service hours to IHSS Consumers a responsibility notice, which shall read:

*“As a matter of respect and in an effort to enhance communications between you and your Provider(s), you, as the employer, under Section 30-764.31 of the IHSS Regulations, have a responsibility to inform your Provider(s) of any changes that will result in a change in his/her paid working hours.”*

A dated copy of the Consumer responsibility notice shall be kept, by the County, in the service file of the Consumer.

## **10. REGISTRY**

One of the Public Authority's primary functions is to provide Registry services to facilitate the referral of IHSS Providers to IHSS Consumers. The Public Authority retains the exclusive right to list, refer, suspend or remove an IHSS Provider from its Registry. The Public Authority will adopt written uniform procedures regarding the operation of the Registry and shall make a copy of the most current version of these procedures available to the union and all Providers who apply to the Registry.

## **11. RESPITE**

The Public Authority and the Union recognize that to improve retention of IHSS Providers, prevent crises, improve consistency of care to IHSS Consumers, and to promote a better, safer working environment a plan should be developed for providing respite services to Consumers so that IHSS Providers may take time off from their regular duties. The Public Authority and the Union shall work together, through the Labor-Management Relations Committee, to develop a plan to create a mechanism for respite care services. Such a plan shall include program options that include development of a paid respite benefit for bargaining unit members and utilize the Public Authority Registry and any Union Registry mechanism that may be developed. Program mechanisms for creating a respite classification of bargaining unit members shall also be explored. Other issues to be explored by the Committee shall include, but not be limited to:

1. Leveraging existing programs
2. Funding

## **12. GRIEVANCE PROCEDURE**

From time-to-time there may be differences and misunderstandings about the interpretation and application of the terms of this Agreement. Both parties agree that these differences and/or misunderstandings should be resolved promptly and, whenever possible, through informal means of communication between Providers and the Public Authority. The Union will encourage bargaining unit members to discuss and resolve their concerns directly with appropriate Public Authority staff as the first step in addressing any work-related problem in order to prevent the need for a formal grievance. However, it is also acknowledged that occasions may arise in which informal means are inadequate to resolve work-related disputes concerning the interpretation or application of this Agreement.

### **Definition**

A grievance is hereby defined as a claim by an IHSS Provider, a group of IHSS Providers, or the Union representing the IHSS Providers covered by this Agreement, involving an alleged violation of a provision of this Agreement by the Public Authority. Participation in the grievance procedure in any capacity shall be solely on the bargaining unit member's own time and shall not

be considered as within any IHSS Consumer's allocated service hours, or as paid time.

The Grievance procedure shall not apply to matters over which the Public Authority has no jurisdiction or Consumer rights.

### **Procedural Steps**

All grievances shall be handled in the following manner:

**Step one:** The Provider and/or Union representative shall meet and present the grievance to the Public Authority designee within ten (10) working days of the alleged violation. The Public Authority designee will respond to the grievance, in writing, within ten (10) days of this meeting.

**Step two:** If no settlement is reached in Step one, the grievance shall be submitted to the Director of the County's Community Services Agency (Department Head) within ten (10) working days from the Step one response. The Director, within ten (10) working days, shall meet with the Provider/Union to discuss the grievance. The Director will respond to the grievance, in writing, within ten (10) working days of this meeting.

**Step three:** If no settlement is reached within ten (10) working days after the Step two-grievance response is received, the Provider/Union shall have the right to request an impartial mediation through the State Mediation and Conciliation Service. The mediator will meet with the parties to attempt to resolve the grievance and the parties shall share any mediation costs equally.

**Step four:** In the event the grievance is not resolved by mediation, the grievance may be submitted for Arbitration within ten (10) working days after the mediation meeting. No grievance may proceed to arbitration until there has been an attempt to resolve the matter through mediation at Step three of this procedure. If the Provider wishes to appeal the Department Head's decision to binding arbitration, the Provider may do so through the Union only. The appeal shall be made in writing to the Chief Executive Officer, specifically stating this option, within ten (10) working days after receipt of the Department Head's decision.

### **General Provisions for Arbitration**

- A. Selection of Arbitrator - If the required steps of the grievance procedure have been exhausted and the grievance remains unresolved and is subject to arbitration, the arbitrator may be selected by mutual agreement between the Chief Executive Officer and the Union. However, should the parties fail to mutually agree on an arbitrator, they shall make a joint request of the State Conciliation Service for a list of five (5) qualified arbitrators. The arbitrator shall be selected from the list by the parties alternately striking names with the first strike determined by chance, until only one name remains, and that person shall serve as arbitrator.
- B. Arbitration Issues - The parties shall, within ten (10) working days following the submission review of the Chief Executive Officer, exchange in writing their understanding of the questions to be submitted to arbitration. Thereafter, the

parties to the arbitration shall use their best efforts to exchange a written summary of the evidence they intend to offer and to reach agreement on and reduce to writing the question or questions to be submitted to arbitration. The agreed upon question or questions, if agreement is reached, together with the exchanged summaries of the evidence and a list of witnesses to be used by each side, shall be submitted to each other and the arbitrator no later than five (5) working days prior to the arbitration hearing.

- C. Arbitration Expenses Shared - The cost of employing the arbitrator shall be borne equally by the parties to the arbitration. All other costs such as, but not limited to, attorney's fees shall be borne by the party incurring that cost. If both parties agree to the use of a court reporter, or if the arbitrator requires the use of a court reporter, the cost of the court reporter shall be shared equally. Absent mutual agreement, the side requesting use of the court reporter shall absorb the cost. The cost of the transcript, if one is prepared, shall be absorbed by the party requesting the transcript, unless both parties mutually agree to share the cost of the transcript. If the arbitrator requests that a copy of the transcript be prepared, both parties shall equally share the cost of the transcript.
- D. Duty of Arbitrator - The arbitrator shall conduct an informal hearing, and any other meetings or investigations as are appropriate in his/her judgment. The arbitrator shall not have the right to amend, modify, nullify, ignore, add to, or subtract from the provisions of the Memorandum of Understanding, Stanislaus County Code, resolution, or written departmental policy. He/she shall consider and make a decision with respect to only the specific issue(s) submitted, and shall not have authority to make a decision on any other issue not so submitted. In the event the arbitrator finds a violation of the Memorandum of Understanding, applicable State or Federal laws, Stanislaus County Code, resolution, or written departmental policy, he/she shall decide the appropriate resolution. The arbitrator shall have no authority to substitute his/her judgment for that of the County as to any matter within the County's discretion. The decision and award of the arbitrator shall be based solely upon the evidence and arguments presented to the arbitrator by the respective parties. Proposals to add to or change the Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposals, may be referred to arbitration under this section.
- E. Evidence - At the hearing, both parties shall have the right to be heard and to present evidence. The following rules shall apply:
1. Oral evidence shall be taken under oath.
  2. Each party shall have the right to call and examine witnesses, introduce exhibits, and cross examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct



examination. If the Provider does not testify on his/her own behalf the Provider may be called and examined as if under cross-examination.

3. The Public Authority shall be allowed to have one (1) Provider who may be called upon to testify as a witness, present at the arbitration hearing at all times.

F. Binding Decision - The decision of the arbitrator shall be binding upon the Provider, the Union, and the Public Authority.

Based upon significant financial impact of the arbitrator's decision upon the Public Authority, within ten (10) working days of receipt of the arbitrator's decision, the Public Authority may request that the Union meet with the Public Authority to discuss the financial impact of the decision. The Union agrees to meet and consult with the Public Authority over the impact upon the Public Authority of the decision. Absent agreement between the parties to modify or mitigate the impact of the arbitrator's decision, the decision of the arbitrator shall be final and binding on the parties. The arbitrator may sustain, modify or rescind an appealed action.

G. Arbitrator's Decision Due - Unless the parties agree otherwise, the arbitrator shall render the decision in writing within thirty (30) days following the close of the hearing to the Chief Executive Officer. The Chief Executive Officer shall immediately provide a copy of the decision to the Provider; the Provider's duly elected representative and the Department Head. If requested by either party, the decision shall be accompanied by findings of fact and conclusions of law.

H. Non-Union Representation - In the event that a Provider chooses to represent himself/herself, or arranges for representation independent of the recognized Provider organization, arbitration as provided herein shall not be available to the Provider.

### **13. TERM AND SALARY**

The term of this agreement shall commence upon final ratification by both parties and will end at midnight on June 30, 2016.

#### **Wages**

Wages upon commencement of this agreement shall be \$9.38 per hour.

Within five days of the commencement of this agreement, the Public Authority will submit a wage and benefit modification to be implemented by the California Department of Social Services (CDSS) to increase wages from \$9.38 per hour to \$10.00 per hour, with a corresponding decrease in benefit funding of \$0.60 per hour. The effective date of this wage increase will be

dependent on the implementation schedule determined by CDSS.

The Public Authority will submit an additional wage modification to CDSS to increase wages from \$10.00 per hour to \$10.10 per hour to be effective July 1, 2014.

The Public Authority will submit an additional wage modification to CDSS to increase wages from \$10.10 per hour to \$10.20 per hour to be effective July 1, 2015.

### **Cardio-Pulmonary Resuscitation Certification Differential**

#### **A. Overview**

Upon the effective date of this Agreement the Public Authority shall provide at no cost, except as described in the Fee Section, to Providers under this Agreement, Cardio-Pulmonary Resuscitation (CPR) certification training on a quarterly basis. CPR Training will be available on a first come first serve basis with preference given to Registry Providers. The availability of CPR training is subject to a sufficient number of Providers enrolling in the training to meet the minimum number of students required by the CPR training provider. The Public Authority may conduct additional CPR training if the level of enrollment exceeds the number of training slots available on a quarterly basis.

#### **B. Notification**

The Public Authority and the Union will promote the CPR training to Providers through the use of communication materials (such as newsletters, flyers, websites, etc.). Dates and times will be provided by the Public Authority to the Union on a quarterly basis.

#### **C. Cancellation/Rescheduling**

Providers covered under this agreement, who enroll in CPR training, must contact the Public Authority two (2) business days prior to the scheduled training date in the event the Provider wishes to cancel or reschedule the training.

#### **D. Fees**

Except as provided in Section C above, Providers who are scheduled for CPR training and do not attend shall be deemed to have used their CPR differential for a period not to exceed the length of the certification's term. Providers who missed scheduled training without prior notification, as described in the Cancellation/Rescheduling section, may take CPR training but will be required to pay the cost of said training prior to enrollment. The Public Authority will take into consideration mitigating circumstances regarding a Provider's failure to timely notify the Public Authority of a Provider's intent to cancel a scheduled training. Providers will not be required to pay for missed trainings or late cancellations in cases in which the Public Authority is not required to pay for the missed training class.

## **14. PAYROLL/DIRECT DEPOSIT**

### **Payroll**

To promote a timely and accurate payroll system, the Public Authority and the Union will utilize the Labor Management Relations Committee to identify causes and solutions to on-going problems resulting in late, lost or inaccurate paychecks and related payroll issues. When the causes of problems are outside the direct control of the Public Authority, the Public Authority and the Union agree to work cooperatively to create solutions by bringing the problems to the attention of the responsible agencies and working with those agencies to seek and implement appropriate solutions. When the causes of problems are within the control of the Public Authority, the Public Authority will act expeditiously to solve the problem and work to prevent said problems from occurring in the future.

### **Direct Deposit**

This option has been made available by the State Controller and this service is optional and made available at no cost to the Provider.

## **15. AGENCY SHOP**

### **Purpose**

Both the Public Authority and the Union recognize the responsibility of the Union to provide fair and professional representation to the Providers in the bargaining unit. The Public Authority and the Union mutually understand and agree that all affected Providers have the option to join or not join the Union.

### **Provider and Union Rights and Responsibilities**

#### **Implementation of Agency Shop**

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 Provider's paycheck on a monthly basis starting the first day of the month following completion of sixty (60) days of employment, subject to the limitations and practices of the State Controller's payroll system. This sixty (60) days shall be shortened to thirty (30) days if practical. This provision shall become effective the first day of the month following sixty (60) days after certification.

### **Provider's Rights of Conscientious Objection**

A 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 Provider must present a written declaration to the Union and the Public Authority that he/she qualifies for this exemption. The 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 Provider from a list of funds

designated in this article.

**Designation of Nonreligious, Nonlabor Charitable Funds**

Providers covered by Section 4.2, may designate one of the following non-religious, non-labor charitable funds to which his/her applicable payments will be paid:

1. The United Way of Stanislaus County
2. Disability Resources Agency for Independent Living
3. The Howard Training Center
4. Society of Handicapped Children & Adults

**Sufficiency of Provider’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 pay 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.

**Union Indemnification**

The Union shall indemnify, defend, and hold the County, Public Authority, its agents, officers and employees harmless from and against any and all claims, demands, suits, orders, or judgments, or any other forms of liability (including defense costs and reasonable attorney fees) that arise out of or by reason of this article, or action taken or not taken by the County and/or Public Authority under this article.

**16. DUES DEDUCTION**

**Communication Between Agencies**

The Union has the exclusive privilege of dues deduction or agency fee deduction for all Providers in the bargaining unit covered by this Agreement. The Public Authority will advise, as necessary to initiate deduction, the California Department of Social Services and/or State Controller, as the payroll agent(s) for its IHSS Individual Providers, to deduct all authorized dues, fees and/or assessments as required by the Union, or as voluntarily requested by bargaining unit members. The Public Authority will assist and cooperate with the Union and the aforementioned entities 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.

**Exchange of Information**

The Public Authority shall provide all necessary information in order to assist in the implementation of the Agreement between the Union and the Public Authority, unless such information is prohibited by law. The Public Authority shall assist in providing all necessary information to assist in dues and deduction processing for all bargaining unit members, unless such information is prohibited by law. The Public Authority may provide the information directly to the State representatives and/or to the Union to allow for an orderly processing of dues and deduction processing for Union members. The Union also agrees that in the event the Public Authority provides to the Union confidential Provider information, including but not limited to Provider's name and social security number, the Union agrees to treat the information as confidential and private and to use it only for the purposes of performing dues and deduction processing. The Union agrees that in the event information such as social security or other information which has been provided to the Union is released by the Union and used for purposes other than the implementation of the Agreement between the Public Authority and the Union, that the Union will indemnify, defend and hold the County and Public Authority harmless for any actions that may arise for violation of privacy or use or improper use of said confidential Provider information.

### **Process**

Union dues shall be deducted, as authorized by the Union, from all bargaining unit Providers and from all bargaining unit wages and other earned compensation, including "lump sum" and/or retroactive pay. The amount of union dues and/or fees shall be determined by the Union, subject to applicable laws and the Agency Shop provision of this Agreement.

### **Indemnification**

The Union shall indemnify, defend and hold harmless the County, Public Authority, its agents, officers, and employees from and against any and all liability (including defense costs and reasonable attorney fees) and claims for damages of any nature whatsoever, including but not limited to Union's negligent acts or omissions, arising out of the performance of this Agreement, except liabilities and claims for damages caused by County and/or Public Authority's negligence or willful misconduct.

### **Dues Structure for United Domestic Workers of America, AFSCME LOCAL 3930, AFL-CIO**

The Union will provide a dues structure sheet within 30 days of signing this agreement, and provide the Public Authority with an update any time there are changes to the Union Dues structure.

## **17. LABOR-MANAGEMENT RELATIONS COMMITTEE**

The Public Authority and the Union recognize the importance of maintaining an effective working relationship that fosters good communication, information sharing, and early issue resolution in order to fulfill the mission of the IHSS program and provide quality, reliable care to all IHSS Consumers. Both parties recognize their responsibility to address any program matter

that might affect this goal.

The Public Authority and the Union shall establish a Labor-Management Relations Committee. The purpose the Committee shall be to consider and take action on matters affecting the relations between the parties and recommend measures to improve Consumer care and the IHSS program. The committee shall not engage in negotiations or 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 group if that participant becomes too disruptive to the work of the Committee.
- B. The Committee shall be composed of up to ten (10) Union representatives or their designees and up to ten (10) Public Authority representatives, or their designees, including at least one IHSS Program Manager.
- C. Responsibility for hosting and chairing the Committee will alternate between the parties on each successive meeting date. Such responsibilities and duties shall include: securing and preparing the location for the meeting, preparing the mutually agreed upon meeting agenda, providing water and other simple refreshments, and selecting one representative to chair the meeting.
- D. Minutes for each meeting shall be prepared and distributed by the party that is not hosting the meeting within thirty (30) days following each meeting.
- E. The Committee may meet as frequently as agreed to by the parties, but shall convene no less than quarterly.
- F. The Public Authority and the Union will address each recommended item within a reasonable amount of time or as agreed by the parties.
- G. Bargaining unit member Committee members serve on a voluntary basis and will receive no remuneration from the Public Authority for their participation.
- H. In order to foster an environment conducive to building an effective and productive ongoing relationship between the parties, proceedings of the Labor-Management Committee shall not be open to the public. Observers or guests may attend if agreed to by the parties in advance of the meeting. Joint reports may be given to external bodies as agreed to by the parties.

## **18. UNION STEWARDS**

- A. The Public Authority will recognize up to one Union steward for every one hundred (100) bargaining unit members.
- B. The Public Authority will recognize up to ten (10) stewards designated as Senior

Stewards.

- C. The Public Authority will recognize up to five (5) stewards designated as District Representatives.
- D. All such stewards, Senior Stewards and District Representatives, shall be selected by the Union. The Union will provide a list of IHSS Providers in these positions to the Public Authority on a quarterly basis.

### **Compensation**

The Public Authority agrees to consider discussions in future contract negotiations to establish a plan to compensate stewards for time spent in administering this MOU. The Union understands that this agreement to consider future discussions is not a commitment to agree to any particular plan.

### **Communication**

The Public Authority and the Union recognize the unique circumstances of the IHSS workforce and that the lack of a common workplace makes dissemination of information to the bargaining unit a challenge for both the Union and the Public Authority. Both parties will work together to explore methods to achieve effective communication with the bargaining unit about the MOU and the rights and responsibilities hereunder.

### **Bulletin Board**

The Public Authority will provide one bulletin board for use by the Union to communicate official Union business. The Executive Director of the Public Authority reserves the right to remove any material posted in violation of this Section or deemed offensive. If the Public Authority does remove material posted by the Union, it will notify the Union in writing within 10 days.

## **19. HEALTH BENEFITS**

The parties agree to restructure the Provider health insurance program in 2014 in recognition of the implementation of the Patient Protection and Affordable Care Act. The effective date of the restructuring will be the first day of the month in which Provider wages are increased to \$10.00 per hour and funding for Provider benefits is decreased \$0.60 per hour in accordance with Section 13 of this agreement.

### **Elimination of Public Authority Medical Benefits Program**

The current medical benefits program will be eliminated upon the effective date of the health insurance restructuring. Providers enrolled in the medical insurance program will no longer receive medical benefits from the Public Authority upon the elimination of the program.

The parties agree that should the Public Authority be legally required at any time to provide medical insurance or pay a tax penalty as a result of being identified as the employer of record for purposes of Patient Protection and Affordable Care Act, the Public Authority shall reduce wages to the level necessary (up to a maximum \$.60 per hour) to fund the cost of providing mandated medical insurance benefits. The Public Authority acknowledges the legal requirements necessary to maintain IHSS Provider wages consistent with State and Federal minimum wage standards.

### **Transitional Assistance for Covered California**

The parties acknowledge that the Public Authority has accumulated reserve funds as a result of monthly insurance deductions Providers have previously contributed as monthly insurance premium co-pays. This reserve is referred to as the Provider Premium Reserve. The parties agree to implement a program to use the Provider Premium Reserve to provide transitional assistance funding to Providers who were enrolled in the current Public Authority health insurance program as of December 31, 2013, and who subsequently enroll in any medical benefits program provided through Covered California (California healthcare exchange). Eligible Providers may receive up to \$50.00 per month in transitional assistance to fund the cost of benefits provided through Covered California. The effective date of this provision will be January 1, 2014, consistent with the implementation of insurance programs available through Covered California.

The parties acknowledge that transitional assistance is being funded with the Provider premium reserve, and the transitional assistance program will end if/when all funds have been expended from the Provider premium reserve.

Providers will be required to submit necessary documentation to the Public Authority to demonstrate enrollment in Covered California and individual monthly premiums paid to the program. The Public Authority will pay eligible Providers \$50.00 per month, or 100% of the cost of the Provider's individual monthly premiums, whichever amount is less, for enrollment starting on or after January 1, 2014. Once a Provider submits the necessary documentation to confirm enrollment in Covered California, the Public Authority will pay the monthly premium assistance for each month the Provider is enrolled in Covered California, up to a maximum of six months. Providers will need to submit updated enrollment documentation every six months to confirm ongoing eligibility for premium assistance. The Public Authority will be responsible for establishing the reimbursement procedures necessary to support the transitional assistance program.

### **Dental and Vision Insurance Program**

The parties acknowledge that the Public Authority has accumulated additional reserve funds based on the total number of enrolled Providers in the health insurance program and available funding from Federal, State and local funding sources. This reserve is referred to as the IHSS Benefit Reserve. The parties agree to utilize the IHSS Benefit Reserve to extend the availability of dental and vision insurance to Providers who are active in the IHSS program and who work a minimum of twenty-five (25) hours or more per month for two consecutive months. All Providers who work twenty-five (25) hours a month for two consecutive months will be automatically covered. A provider can "opt-out" with written notice to UDW Trust. If a



provider participating in the benefits program does not work twenty-five (25) hours per month for two consecutive months, they will be terminated the first of the following month. A provider that has become ineligible for the benefits program can re-establish their eligibility for benefits and will be automatically enrolled after the provider works 25 hours or more for two consecutive months. Hours worked are equal to, and defined as, paid hours as reported on the Case Management Information and Payroll System II (CMIPS II). UDW Trust will serve as the plan sponsor for the dental and vision insurance programs and will administer all eligibility, enrollment and financial administration of the program. UDW Trust will submit monthly invoices to the Public Authority to document the monthly enrollment and cost of the program. Providers will be discontinued in the dental and vision program on the first of the month following two months of inactive status in the IHSS program or paid hours of less than 25 hours per month for two consecutive months. The Public Authority may audit enrollment and eligibility in the dental and vision insurance programs as necessary.

The parties acknowledge that the dental and vision insurance programs are being funded with the IHSS benefit reserve, and financial support for the dental and vision programs will end if/when all funds have been expended from the benefit funding reserve. The parties also agree to allow for the collection of monthly Provider premium co-pays in calendar years 2015 and 2016 based on the cost of the dental and vision insurance programs and available funding remaining in the IHSS benefit reserve. Future premium cost-sharing for dental and vision insurance will be determined through a meet and confer process with UDW and the Public Authority as necessary.

The provision of dental and vision benefits funded by the IHSS benefit reserve will not be implemented until the County has received documentation from the California Department of Social Services (CDSS) to verify that this planned use of benefit reserves is consistent with the funding requirements of CDSS.

#### Future Meet and Confer for Health Insurance

The parties agree to meet and confer during the term of this agreement at the request of either party to evaluate the transitional assistance, dental and vision insurance programs. Subjects for meet and confer will include the projected utilization of reserve funds and the level of benefits provided in each program.

## **20. WAGE AND BENEFIT CONTINGENCY**

If, during the term of this Agreement either State or Federal participation levels are reduced, State realignment funding is reduced, the 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 Public Authority to maintain the wage and/or benefit level described in this Agreement, the affected benefit and/or wages, will be reduced by an amount necessary to keep the total cost to the Public Authority the same as such supported by the new Federal and/or State share or funding participation cap.

The Public Authority shall provide to the Union a written description of any adjustments to be made pursuant to this section at least thirty (30) days prior to the effective date of such

adjustments. Upon receipt of a written request from the Union to do so, the Public Authority will meet and confer regarding the impact of the above-described loss of funding or funding participation wage cap. In no case will the Public Authority be required to increase its contribution towards the affected benefit and/or wages, as applicable.

**IHSS Public Authority**

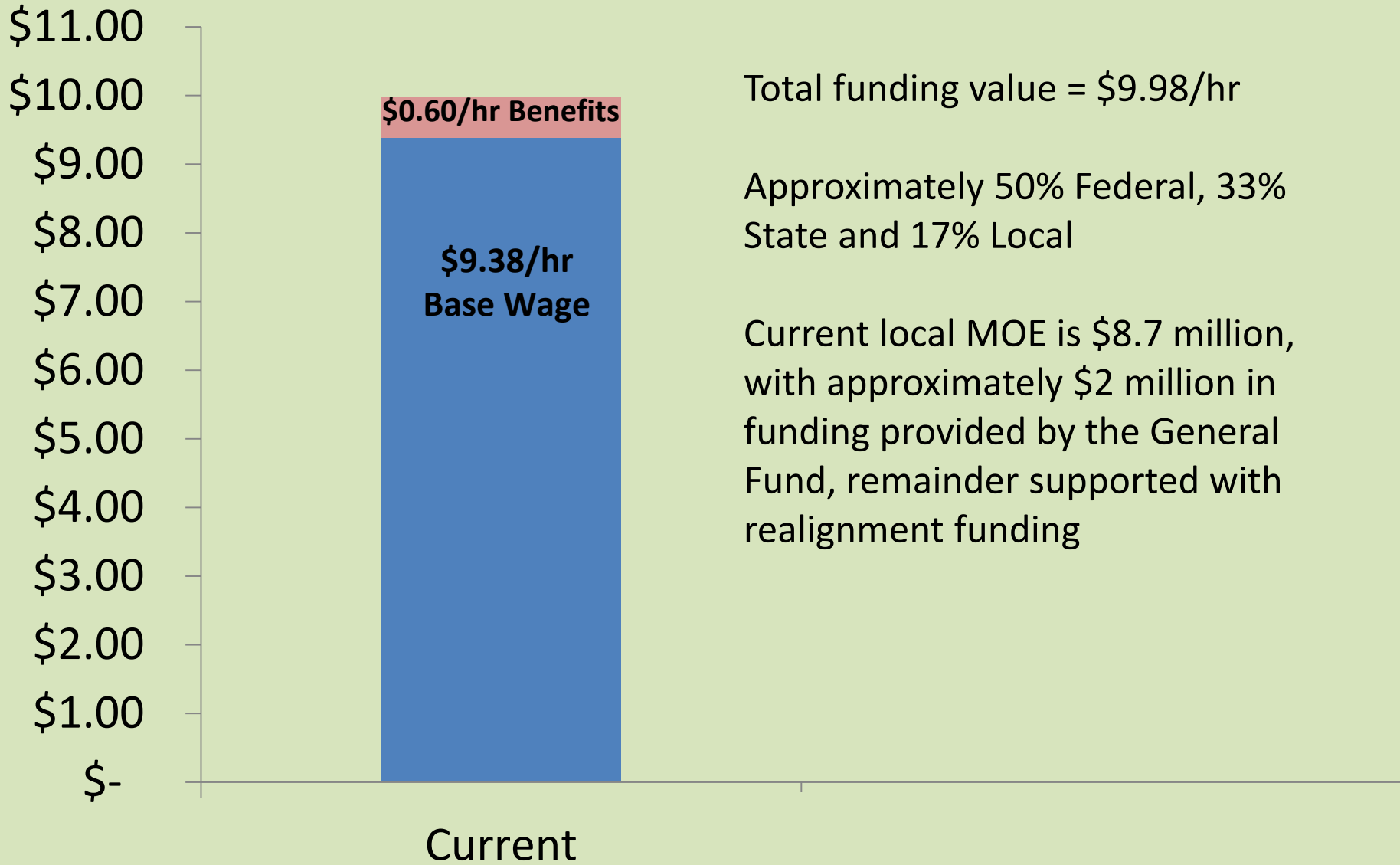
**Labor Agreement With  
United Domestic Workers**

**March 25, 2014**

# Negotiations Process

- Negotiations August 2012 – February 2014
- Changes in program funding structure, new Maintenance of Effort effective July 2012
- Reductions in program services and litigation
- Implementation of Affordable Care Act and impacts to IHSS Providers

# IHSS Provider Wage Summary

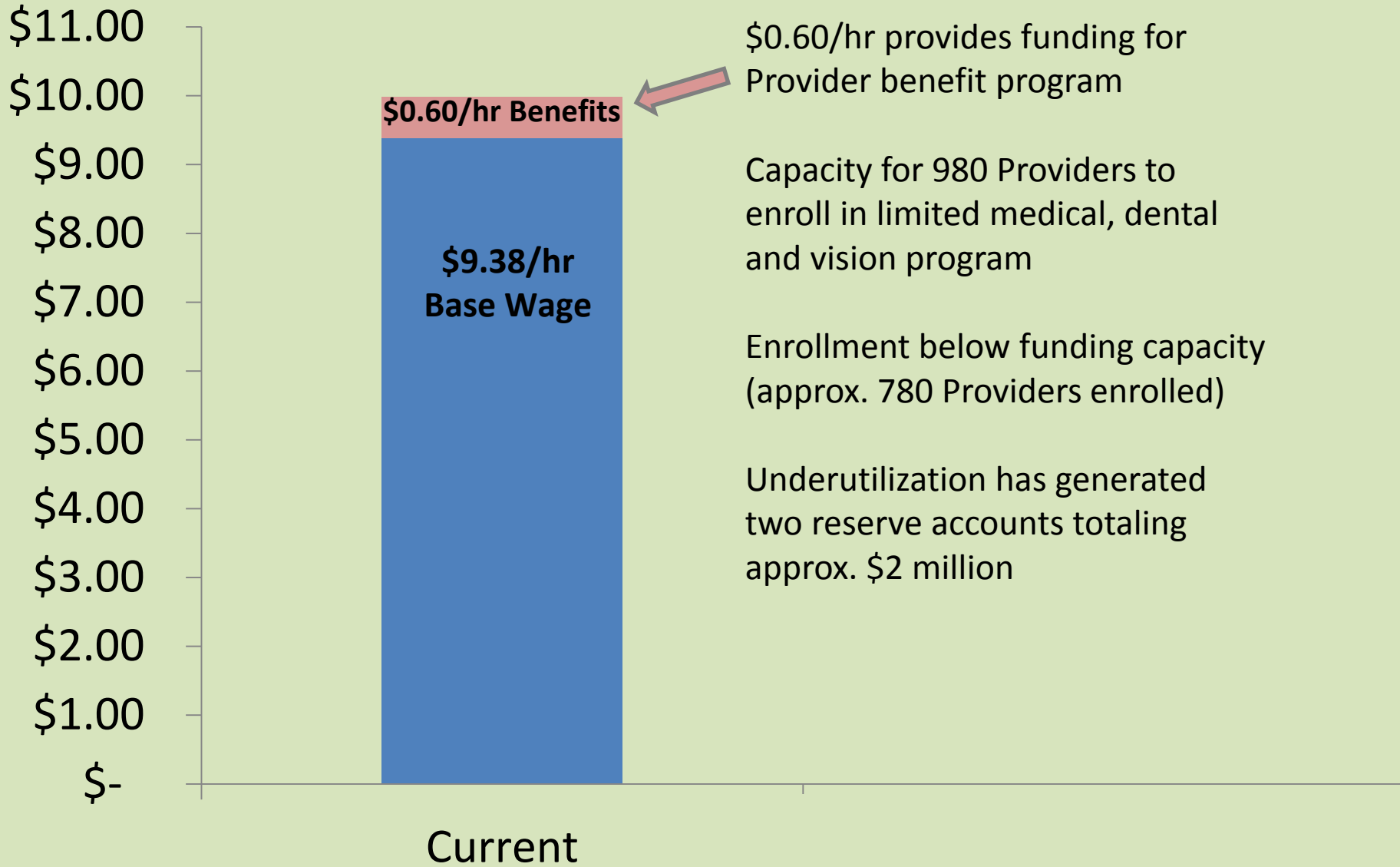


Total funding value = \$9.98/hr

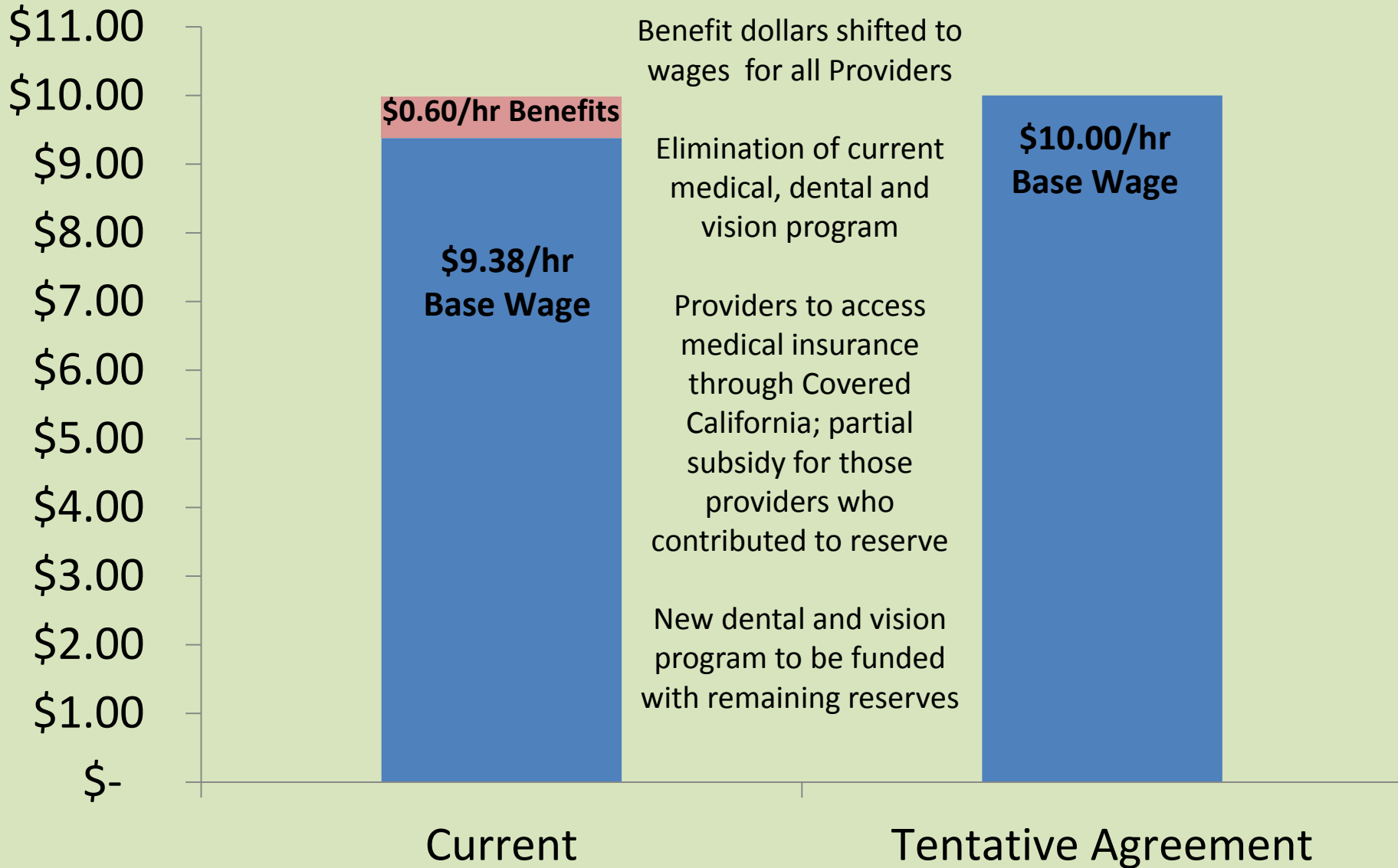
Approximately 50% Federal, 33% State and 17% Local

Current local MOE is \$8.7 million, with approximately \$2 million in funding provided by the General Fund, remainder supported with realignment funding

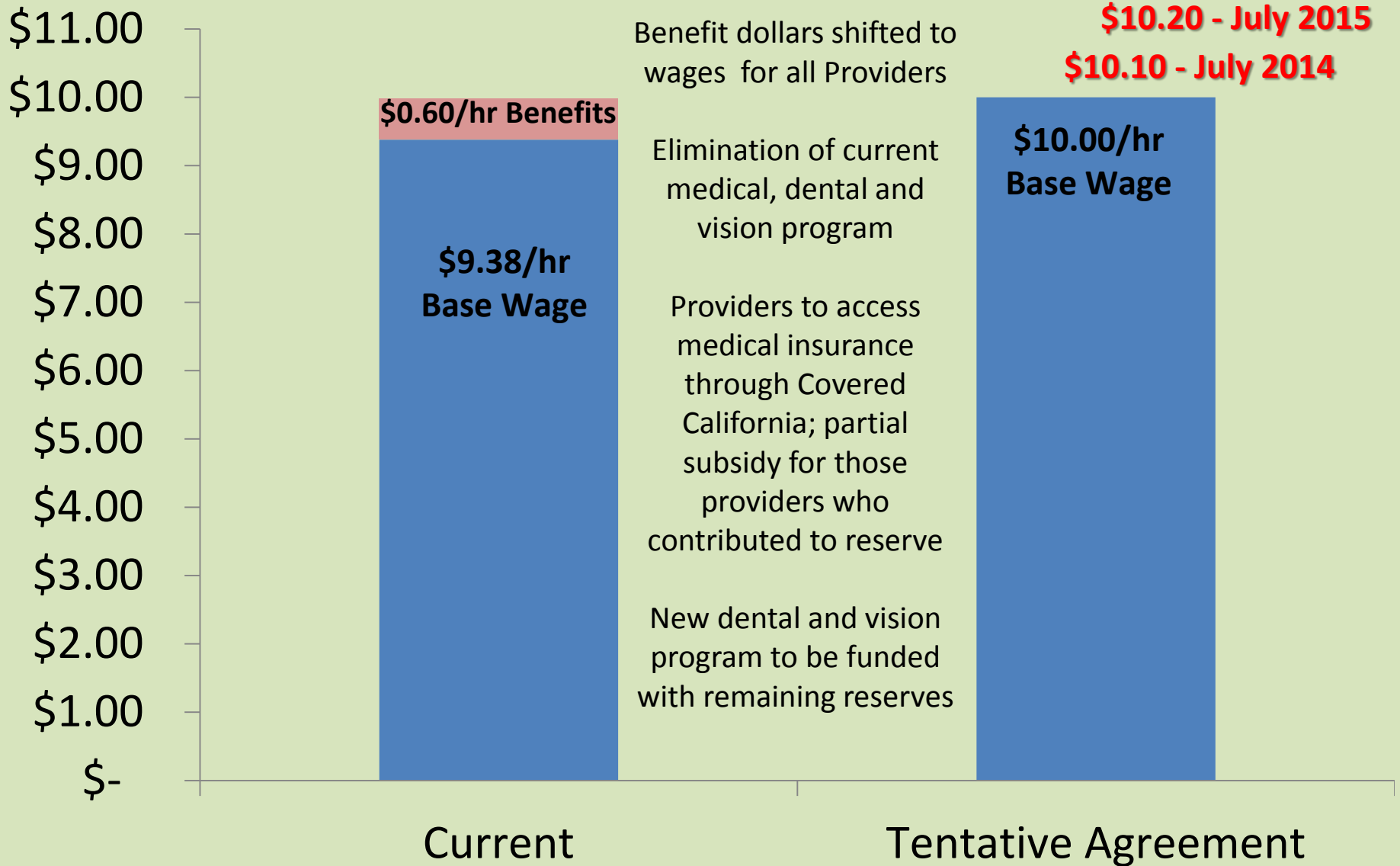
# IHSS Provider Wage Summary



# IHSS Provider Wage Summary



# IHSS Provider Wage Summary





# Looking Forward

- Agreement with UDW expires July 2016
- State expected to assume bargaining responsibilities of the program sometime in next 24-48 months
- Staff and UDW continue to work together to obtain State approval of use of reserves to implement new dental and vision program

# Recommendations

- Approve the tentative agreement between the IHSS Public Authority and UDW
- Authorize the Public Authority to submit a rate change request to California Department of Social Services (CDSS) to implement wage increases
- Authorize Chairman and all parties to sign agreement
- Authorize the Public Authority Director to work with UDW and CDSS to implement new dental and vision program funded with benefit reserves