

Information Memorandum Transmittal Developmental Disabilities Services



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Number: APD-IM-20-010

Issue date: 1/24/2020

Topic: Developmental Disabilities

Due date: 1/24/2020

Subject: Collective Bargaining Updates Regarding Personal Support Workers

Applies to (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> All DHS employees | <input checked="" type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging: {Select type} | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input checked="" type="checkbox"/> ODDS Children's Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD program managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input checked="" type="checkbox"/> Support Service Brokerage Directors | <input checked="" type="checkbox"/> Other (<i>please specify</i>): Oregon Home Care Commission |
| <input type="checkbox"/> ODDS Children's Residential Services | |
| <input type="checkbox"/> Child Welfare Programs | |

Message:

The 2019 – 2021 Collective Bargaining Agreement (CBA) between the Department of Administrative Services (DAS) and the Service Employees for International Union (SEIU) for Personal Support Workers (PSWs) has been ratified and finalized.

The following is a summary of the changes that impact Case Management Entities:

Union Bulletin Board: (Article 7, Section 2) *

SEIU bulletin boards must be permitted in the office of each Case management Entity if allowed by the facility owner or manager.

**** A separate transmittal will follow once the signed CBA is received.***

PSW Requirements Before Working: (Article 8, Section 13)

The following must be completed before a PSW can be authorized to work:

- * An approved background check and assigned provider number;
- * The PSW employee packet for the Fiscal Intermediary (PPL) and the employer packet has completed and submitted to PPL creating the employer / employee relationship;
- * The person to be supported has an authorized Individual Support Plan;
- * A service agreement has been signed and dated by both the PSW and the employer;
- * The PSW has been authorized to provide services in eXPRS.

PSW Payment Processing Changes:

Secure emails for timesheets: (Article 8, Section 11) *

At the end of each pay cycle, Case Management Entities (CMEs) must send a secure email to all PSWs who have an email address on file so that the PSW may submit their timesheet through a secure email.

If a CME has an existing secure email system or web portal already available for a PSW to initiate a secure email, the CME must ensure the PSWs are aware of this option and will not need to send out a secure email to all PSWs with an email on file at the end of each pay cycle.

Electronic signatures: (Article 8, Section 1 and 2). *

Electronic signatures from the employer may be allowed only if the system used, requires an original signature each time a timesheet is submitted.

Copies of timesheets: (Article 8, Section 11) *

If a PSW hand delivers a timesheet to an employee at the CME and requests a date stamped copy for their records, the CME must provide a date stamped copy of the timesheet to the PSW for their records. Each CME should follow existing policies around charging for copies of documents. This does not include drop boxes.

Conditions for approving time without employer signature:(Article 8, Section 1.d) *

If PSW cannot obtain an employer signature due to allegations of a threatening or unsafe situation by the person or someone in their home, the PSW shall note this reason on the timesheet. Along with the timesheet, the PSW must submit their resignation for working with the individual due to the unsafe condition. PPL must be notified of the reason for the lack of signature to assure timely payment and to discontinue the PSW and EOR role. Service Coordinators and Personal Agents should then follow internal policies for following up with the individual to ensure safety.

**** A separate transmittal will follow once the signed CBA is received.***

Overlapping hours: (Article 8, Section 1.f):

If a PSW's time overlaps with time worked by another PSW or Agency provider, the PSW or agency if applicable shall be paid in the next out-of-cycle payment as soon as the error is corrected.

Electronic Visit Verification (Article 8, Section 3):

PSWs must enter their time directly into the eXPRS Mobile-EVV solution unless the PSW has an approved exception. The exceptions policy represents what is already in eXPRS for CMEs to enter. Exceptions must be entered no later than March 31, 2020.

**** See Informational Memorandum APD-IM-19-095***

<http://www.dhs.state.or.us/policy/spd/transmit/im/2019/im19095.pdf>

eXPRS exceptions due to temporary loss of internet access: (Article 8, Section 3)

A PSW may request an exception up to four (4) times per calendar year due to temporary limited access to the internet. The PSW must contact the Case Management entity and include the reason needed for the temporary exception.

Late payment fee: (Article 8, Section 6) *

A PSW may be entitled to a daily late payment fee of \$20 when payment is delayed due to an administrative error. The PSW must file a complaint with OHCC to determine if they are eligible for payment. In the situations of late payment, PSWs must still contact the CME who will still process an out of cycle payment per pre-existing policy.

**** A workgroup has convened to develop the process and criteria for late payment fees. More information will be forthcoming.***

PSW Pay rates

Base rate vs. higher rate (Article 14.2, Section 1)

PSWs who have had their provider number inactivated for more than sixty (60) days or who are terminated and later reapply as a PSW, shall only be eligible for the base hourly wage, even if previous wage was higher due to OHCC certification. New certification of enhanced, exceptional or PDC training will be required to receive the appropriate higher rate.

Rate increases: (Article 14.2, Section 1)

Effective 1/1/2020 PSWs will receive a pay increase of \$0.35 and another increase in July 1, 2020. The July 1, 2020 increase amount will be communicated prior to the date of the increase.

More information can be found at:

<http://www.dhs.state.or.us/policy/spd/transmit/im/2019/im19109.pdf>

Relief Care: (Article 14.2, Section 2)

Effective July 1, 2020 a PSW providing relief care will be paid a daily rate of \$212.00 which equates to \$13.25 per hour for at least 16 hours per day.

PSW Job Coach training stipend: (Article 14.2, Section 9)

PSW Job Coaches (Employment Specialists) shall receive the hourly training stipend for completing Department Approved Job Coaching Classes.

PSW Overpayment: (Article 19, Section 1) *

Additional conditions were added to the CBA regarding how overpayments may be collected from a PSW. This will be managed by ODDS. However, if a PSW becomes aware of an overpayment, they must notify the CME in writing. A PWS has a right to file a complaint with OHCC if they disagree with the ODDS recoupment of overpayment.

Investigations of Overpayments (Article 19, Section 4) *

If it is suspected that a PSW is deliberately generating overpayments, the State may initiate an investigation into the matter. When the investigation is being completed by the Medicaid Fraud Unit, the CME shall only communicate to the PSW when told to do so by the Medicaid Fraud Unit. The CME should also notify ODDS if it is identified that the PSW deliberately generated an overpayment as the PSW may be subject to termination for fiscal improprieties

**** A workgroup will be formed to address the overpayment issues.***

Difficulty of Care: (Article 14, Section 12)

A PSW may contact PPL (fiscal intermediary) for confirmation of their Difficulty of Care Status. PSWs shall not be required to resubmit paperwork every year if they work for the same person qualifying them for the exemption.

Transportation:

Required documentations for mileage authorization: (Article 15, Section 6) *

A PSW must submit their driver's license and vehicle insurance verification to the CME to be authorized for mileage reimbursement. The CME shall provide written confirmation to the PSW including the date and time the documentation was submitted.

Mileage reimbursement: (Article 15, Section 6) *

A PSW may not claim mileage reimbursement if they utilize the persons or the person's family members vehicle.

**** A separate transmittal will follow once the signed CBA is received.***

PSW Rights and Protections:

Safe Work Environment: (Article 25, Section 1) *

Information was added to the Collective Bargaining Agreement that outlines expectations of PSWs when they are working in a situation that becomes threatening to the PSWs health and safety. It is expected that the PSW will notify the CME immediately or on the next business day and call 911 if there is a life threatening or dangerous situation

**** a workgroup will convene to develop and implement consistent expectations for CME's to address work environments that may be unsafe for a PSW within 12 months of ratification of the agreement.***

ADA Accommodations: (Article 25, Section 2):

The Department cannot authorize ADA accommodations for a PSW. If a PSW has an ADA accommodation request, they must make the request to the employer of record. The EOR or PSW may contact the CME to request a referral to OHCC Employer Resource Connections (ERC) if the Employer of Record requires assistance with determining how to implement an accommodation for a PSW. If the ADA accommodation is related to the Employer of Records function, the request shall be made directly to the OHCC.

PSW Inactivation and Terminations: (Article 25, Section 4)

ODDS will inform PSW's of their right to have Union Representation when issuing all letters of inactivation and termination of the PSW provider number except in cases of Immediate risk to the person receiving services.

Notification shall not be given to a PSW in the event of an investigation by the Department of Justice.

Retirement Security: (Letter of Agreement):

Effective the pay period in which the second (2nd) wage increase for PSWs is implemented, PSWs will be enrolled in the Oregon Saves program with an automatic five percent (5%) contribution via payroll deduction.

ODDS will be hosting an informational call regarding CBA updates for CME's

Tuesday January 28, 2020 at 3:00 – 4:00

To Participate:

Call: 1-877-336-1831

guest code: 230706

If you have any questions about this information, contact:

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