

**MEMORANDUM OF UNDERSTANDING**

**FOR JOINT SUBMISSION TO  
THE COUNTY OF MERCED IN-HOME SUPPORTIVE SERVICES PUBLIC  
AUTHORITY (IHSS)**

**AND**

**UNITED DOMESTIC WORKERS OF AMERICA (U.D.W.)  
AFSCME Local 3930, AFL-CIO**

**FOR THE TERM OF**

**March 10, 2020- December 31, 2022**

**ENTERED INTO  
THIS 10<sup>th</sup> DAY OF March, 2020**

**BY AND BETWEEN**

**AUTHORIZED REPRESENTATIVES OF THE COUNTY OF MERCED IHSS  
PUBLIC  
AUTHORITY  
(Hereinafter "Public Authority")**

**AND**

**AUTHORIZED REPRESENTATIVES OF U.D.W.  
(Hereinafter "Union")**

**MEMORANDUM OF UNDERSTANDING  
IN-HOME SUPPORTIVE SERVICES EMPLOYEES**

**TABLE OF CONTENTS**

<u>ARTICLE</u>	<u>PAGE</u>
PREAMBLE .....	3
ARTICLE 1 – RECOGNITION .....	3
ARTICLE 2 – SAVING CLAUSE, SEPARABILITY .....	4
ARTICLE 3 – MODIFICATION .....	4
ARTICLE 4 – WAIVER .....	4
ARTICLE 5 - NON-DISCRIMINATION .....	4
ARTICLE 6 - BULLETIN BOARDS .....	5
ARTICLE 7 – DIRECT DEPOSIT .....	5
ARTICLE 8 – PAYROLL .....	5
ARTICLE 9 – DUES DEDUCTION .....	5
ARTICLE 10 – LABOR-MANAGEMENT RELATIONS COMMITTEE .....	6
ARTICLE 11 – REGISTRY .....	7
ARTICLE 12 – NO STRIKE OR WORK STOPPAGE .....	7
ARTICLE 13 - UNION STEWARDS .....	8
ARTICLE 14 – GRIEVANCE PROCEDURE .....	8

**TABLE OF CONTENTS**

<u>ARTICLE</u>	<u>PAGE</u>
ARTICLE 15 – WAGES.....	10
ARTICLE 16 – TRAINING REIMBURSEMENT .....	11
ARTICLE 17 – SUPPLIES .....	12
ARTICLE 18 – AGREEMENT TERM.....	12

**PREAMBLE**

This MEMORANDUM OF UNDERSTANDING (MOU) is entered into by the County of Merced IHSS Public Authority (hereinafter referred to as “Public Authority”) and the United Domestic Workers of America, AFSCME Local 3930, AFL-CIO (hereinafter referred to as “Union”) as a mutual recommendation to the County of Merced IHSS Public Authority Board of Directors on wages, hours, and terms and conditions of employment which are to be in effect during the term of the MOU for IHSS Providers in the program, subject to the provisions of all required implementation procedures. This MOU shall be in compliance with the County of Merced Public Authority Employer-Employee Relations Resolution except as otherwise provided in Sections 12300 and 12301.6 of the State of California Welfare and Institutions Code, as amended. Whenever used in this MOU, the term IHSS Provider(s) shall mean all “Individual Provider(s)” or “Independent Provider(s)” selected by Consumer(s) of In-Home Supportive Services for whom the Public Authority is the employer of record, as provided by Welfare & Institutions Code §12301.6(a)(2).

This MOU is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Section 3500 et. seq.) and Sections 12300 and 12301.6 of the State of California Welfare and Institutions Code, as amended, and has been jointly prepared by the parties.

**ARTICLE 1: RECOGNITION**

Pursuant to the provisions of the County of Merced Public Authority Employer-Employee Relations Resolution and applicable State law, the Union was certified on February 25, 2003, secret ballot election as the majority representative of the IHSS Providers. The

Public Authority hereby recognizes the Union as the sole and exclusive representative for the IHSS Providers covered by this MOU.

The Union agrees that it has the duty to provide fair and non-discriminatory representation to all IHSS Providers covered by this MOU and as required by law.

## **ARTICLE 2: SAVING CLAUSE, SEPARABILITY**

If any Article or Section of this MOU, or any addition thereto, should be held invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal, the remainder of the MOU shall not be affected thereby, and the parties shall immediately begin the meet and confer process for the purpose of arriving at a mutually satisfactory replacement for such invalid or restrained Article or Section. If any Article, part or provision of this MOU will operate to withhold or prohibit the receipt of any State or Federal funds, such Article, part or provision shall be suspended to the extent that the Article, part or provision operates to withhold or prohibit the receipt of such funds.

## **ARTICLE 3: MODIFICATION**

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

## **ARTICLE 4: WAIVER**

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

## **ARTICLE 5: NON-DISCRIMINATION**

The Public Authority shall not discriminate against qualified applicants and IHSS Providers with regards to race, creed, color, ethnic origin, sex, age, marital status, sexual orientation, language, or citizenship status, physical disabilities, Union activity, or any other reason considered unlawful by Federal, State, or local law.

## **ARTICLE 6: BULLETIN BOARDS**

**Section 1.** The Public Authority will provide an 18" x 24" bulletin board in its office for use by the Union; provided the communications displayed have to do with official organization business. The Public Authority reserves the right to remove any material posted in violation of this section. If posted material is removed, the Public Authority will notify the Union.

**Section 2.** When the Public Authority sends a mailing to all IHSS Providers, it shall give the Union fifteen (15) business days advance notice of its intent and shall allow the Union to include Union information in the mailer as long as the information is not derogatory and pertains to union business. The Union will provide the Public Authority with any materials to be included in such mailings at least ten (10) business days in advance of the mailing, unless mutually agreed upon, and cover any increased costs due to including the Union materials.

## **ARTICLE 7: DIRECT DEPOSIT**

The Public Authority will cooperate with the Union to encourage the establishment of a system by the State Controller to allow for direct deposit of IHSS Providers' paychecks into their accounts once that option has been made available.

## **ARTICLE 8: PAYROLL**

To promote a timely and accurate payroll system, the Public Authority and the Union agree to cooperatively identify causes and solution to on-going problems resulting in late, lost, or inaccurate paychecks.

## **ARTICLE 9: DUES DEDUCTION AND ORIENTATIONS**

The Union has the exclusive privilege of dues deductions for IHSS Providers in the bargaining unit covered by this agreement. The Union will advise the California Department of Social Services (CDSS) or its designated payroll agent to deduct all dues and other voluntary deductions of bargaining unit members. The Public Authority will cooperate with the Union and CDSS to ensure the timely deduction of said dues and voluntary deductions and the timely and accurate reporting to the Union of all such payments made pursuant to this MOU.

Union dues shall be deducted, as authorized by IHSS Providers, from bargaining unit wages and other earned compensation, including "lump sum" and/or retroactive pay.

The Public Authority shall provide, or assure that the Union receives, on a regular monthly basis, the following information in order to perform dues and voluntary deduction processing for bargaining unit members: IHSS Provider's name, full address with zip code, phone number, work period/pay period, hours worked and paid per month and gross amount of pay received. This information shall be provided electronically, by a means mutually agreeable to both parties.

The Union shall indemnify, defend, and hold harmless the Public Authority, the County of Merced and the State of California against any and all claims, demands, suits, orders, or judgments, or any other forms of liability that arise out of this article, or any action taken or not taken by the Public Authority or the County of Merced under this Article. This includes, but is not limited to, the Public Authority and County of Merced's attorney fees and costs.

The Public Authority will provide thirty days' advance notice to the Union of annually prescheduled mandatory Provider orientations and at least ten days' advance notice to the Union of supplemental (those added to original, annually prescheduled) mandatory Provider orientations. The Union will provide at least three business days advance notice to the Public Authority of the names of no more than two Union representatives who will attend and present and at such time will also provide to the Public Authority the materials the Union will utilize at the orientation. Unless agreed otherwise, at the beginning of the orientation, the Public Authority representative will announce that the Union presentation will commence, and the Union will then be permitted up to a maximum of thirty (30) minutes to make a presentation and answer questions.

## **ARTICLE 10: LABOR-MANAGEMENT RELATIONS COMMITTEE**

**Section 1.** The Public Authority and the Union recognize the importance of maintaining an effective working relationship in order to fulfill the mission of the IHSS program and provide quality, reliable care to all IHSS Consumers.

**Section 2.** The Public Authority and the Union shall establish a Labor Management Relations Committee subject to the following:

- (a) The Committee shall be composed of up to four (4) Union representatives and up to four (4) Public Authority representatives, or their designees.
- (b) The Committee will be chaired by one (1) of the Union representatives and one (1) of the Public Authority representatives on an alternating calendar year basis.

- (c) The Committee may meet as frequently as agreed to by the parties. Meetings shall be scheduled semi-annually.
- (d) Minutes will be prepared by the entity not chairing the meeting.

**Section 3.** The purpose of the Committee shall be to consider and make recommendations on relations between the parties. The Committee shall not engage in negotiations or consider matters properly the subject of a grievance. The IHSS Provider committee members shall serve on a voluntary basis and will receive no remuneration from the Public Authority for their participation.

## **ARTICLE 11: REGISTRY**

The Public Authority recognizes that one of its primary functions is to provide registry services to facilitate the referral of IHSS Providers to IHSS Consumers for hiring consideration (Welfare and Institutions Code 1230-12316). The operation of the registry will be conducted in such a way as to respect the rights and needs of the IHSS Consumer.

The Public Authority and the Union agree to meet and confer regarding those registry matters, if any, which impact the terms and conditions of the IHSS Provider's employment which are controlled by the Public Authority.

The Public Authority will provide a copy of active Registry Providers to the Union on a quarterly basis on the 20th day of the month. The copy shall include the name, address telephone number, and enrollment date of the current providers.

## **ARTICLE 12: NO STRIKE OR WORK STOPPAGE**

Due to the special and critical health-care services provided through the IHSS program, the Public Authority finds that any interruption of such services would pose an imminent threat to the health and safety of the IHSS Consumers of IHSS services and to the community. Therefore, the Union, its representatives or members shall not cause, engage, or participate in, instigate or encourage a strike or work stoppage, slowdown, sick-out or any other concerted actions adverse to the IHSS Consumers and the Authority. Participation by an IHSS Provider in or any concerted actions listed above shall subject the IHSS Provider to removal from the registry. The non-strike clause shall continue at least one (1) year beyond the other provisions of any and all collective bargaining agreements.

## **ARTICLE 13: UNION STEWARDS**

The Public Authority shall recognize the Union Stewards designated by the Union. The Union shall supply to the Public Authority a list of designated union stewards.

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 MOU to consider future discussions is not a commitment to agree to any particular plan.

## **ARTICLE 14: GRIEVANCE PROCEDURE**

### **Section 1 – Definition**

- a. A grievance is a dispute that involves the interpretation or application of a provision of this MOU excluding, however, matters over which the Public Authority has no jurisdiction, IHSS Consumer rights or regarding the County of Merced. The Union may represent the grievance at any stage of the process.
- b. This provision shall replace the "Grievances Regarding MOU Provisions" section set forth in the County of Merced IHSS Public Authority Employer-Employee Relations Policy. Authority for replacement of the provision is established by the responsibility of the parties to meet and confer on issues of working conditions.
- c. IHSS Provider participation in the grievance procedure in any capacity shall be solely on the IHSS Provider's own time, and shall not be treated as being within any IHSS Consumer's allocated service hours, or as paid time.
- d. Grievances must be filed within ten (10) days of the incident or occurrence giving rise to the grievance and shall be processed in the following manner:

### **Section 2 - Grievance Procedure Steps**

- Step 1:** Any IHSS Provider and/or their Union Representative who believe that a provision of this MOU has been violated and who wish to file a grievance shall do so in writing at the Public Authority office within the time limits set forth in the Section 1 (D). Failure to file within these time limits shall result in dismissal of the grievance.
- Step 2:** The Public Authority Director and/or representative will schedule a meeting, if requested, with the IHSS Provider and/or the IHSS Provider's Union Representative at the Public Authority office within ten (10) days from the filing of the grievance.
- Step 3:** The Public Authority Director and/or representative will investigate and



issue a decision in writing within ten (10) working days to the grievant and Union Representative, from the filing date or meeting date, whichever is later. If the Public Authority Director and/or representative does not issue a decision within 10 working days, the grievant and/or Union Representative may appeal the grievance to Step 4.

- Step 4:** If the grievant disagrees with the Public Authority Director's and/or designee's decision, the grievant may appeal the decision of the Public Authority Director and/or designee within ten (10) working days to the Public Authority Board of Directors. If a grievant submits a timely appeal, the grievance will be heard by an External Hearing Officer (EHO) or representative from the State Mediation and Conciliation Service. Failure to file a timely appeal will result in the decision of the Public Authority Director and/or designee being made final.

### **Section 3 - General Provisions**

- a. The EHO may be selected by mutual agreement of the parties. The EHO will be selected from a list jointly developed by the Public Authority Counsel and IHSS Providers from attorney candidates who have indicated a willingness to serve in this capacity. If the parties cannot agree upon an EHO, a list of seven (7) EHO's shall be obtained from the California State Mediation and Conciliation Service, or some other agreed upon source. The grievant shall strike one (1) name from the list first, and then each party shall alternately strike one (1) name from the list until only one (1) name remains.
- b. The parties agree to equally share in the cost of the EHO or State Mediation and Conciliation representative. The EHO shall be strictly limited to determining whether there has been a violation of a provision of this MOU. The EHO shall not have any power to add, subtract, modify, or establish any terms or conditions in this MOU.
- c. The decision of the EHO shall be issued within thirty (30) days of the close of the hearing.
- d. The decision of the hearing officer shall be advisory to the Governing Body of the Public Authority.
- e. The Governing Body of the Public Authority may accept the decision of the EHO or after reviewing all of the evidence presented at the grievance hearing by both parties may modify or reject the EHO's decision. The decision of the Governing Body shall be final and binding on the parties.

## **ARTICLE 15: WAGES**

A. Base Wage: The “Base Wage” for Providers shall be the State or Federal minimum wage, whichever is highest.

B. Wage Supplement:

a. Effective as soon as practicable following approval of this Agreement by the Public Authority Governing Board, the Public Authority will supplement the Base Wage by sixty cents (\$.60) per hour as a wage supplement in accordance with the Welfare and Institutions Code section 12306.16(d)(6)-(7) and will submit the appropriate request to the State to implement the new rate within five (5) working days of approval of this Agreement by the Public Authority Governing Board and subsequently with sufficient advance notice of each subsequent change to the Base Wage. The cost of the Wage Supplement to the Base Wage will be added to the County’s Maintenance of Effort (MOE) on a one-time basis as provided in the Welfare and Institutions Code section 12306.16(d)(7).

b. If the Provider Base Wage, plus the Wage Supplement, plus the cost of benefits exceed the maximum State participation level for wages plus benefits, the amount of the Wage Supplement will be adjusted so that the County’s MOE remains the same as it would have been had the State participation level not been exceeded.

c. Wage Contingency:

The uncertainty of the levels and continuation of the State and Federal funding for the IHSS program requires that the Public Authority and the County protect its other programs and services from sudden revenue shifts. Contract commitments to the IHSS program could result in millions of dollars of unfunded liability if the levels of State and/or Federal participation change. Due diligence requires that the County and the Public Authority protect its fiscal interests in this regard. (Note: the words “wage”, “wages”, or “wage cost” as used hereafter includes Base Wages, Wage Supplements, benefits, employment taxes, and administrative costs.)

If the State or Federal participation levels are reduced, or the State or Federal sharing formula is modified in any way that would result in increased cost to the Public Authority or County to maintain the wage level described in this MOU, or the State and/or Federal Government limits, caps or reduces its participation in wages and/or health benefits, or takes any other actions that increase the Public Authority

or the County's share of funding and/or costs for the program, then the Public Authority shall have the option to reduce the wages and/or benefits in an amount equivalent to the State participation rate of pay and/or by an amount necessary to keep the cost to the Public Authority and/or County of Merced the same as it was before such reduction, modification, and/or State and/or Federal Government change. The wage adjustment will be effective on the date the reduction or modification is effective.

If during the term of this Agreement, the State or Federal sharing formula is modified in any manner that would result in a decreased cost to the County to maintain the wage and/or benefit level described in this Agreement, if requested by either the County or UDW, the parties agree to meet and confer regarding only the affected benefit and/or wages.

Prior to any change in wages and/or health benefits, the Public Authority shall provide the Union notice of intent to change wages and/or health benefits, by an amount necessary to keep the net costs to the Public Authority and County of Merced the same as such cost existed prior to the effective date of such action by the State or Federal Government.

## **ARTICLE 16: TRAINING REIMBURSEMENT**

Consistent with California Welfare and Institutions Code Section 12301.6., the Public Authority shall provide training for homecare IHSS Providers. The training covers a wide variety of topics and is offered through various methods (i.e.: newsletters, pamphlets, seminars, videos and classes). The Public Authority agrees to provide training on various topics on a regular basis including CPR training. The Public Authority will notify the IHSS Providers of the scheduled trainings.

From the one-time 2012 Community First Choice Option Federal funds, in the amount of \$275,747, with the intent of exhausting the entire amount and no more, with no precedential effect and immediately sunsets upon final payment, reimbursement for training of Providers covered by this Agreement, and only such Providers, and contingent upon such training being directly relevant to Providers' responsibilities as In-Home Supportive Services Providers (i.e., Communication Skills; Care for the Caregiver; Injury and Fall Prevention; Universal Precautions; Personal Care; Paramedical Services; Food and Nutrition; Medication Management; Use of Durable Medical Equipment in the Home; Working with Consumers with Physical and Mental Health Disabilities; Emergency Procedures; Recognizing, Preventing and Reporting Abuse and Neglect; and

Cardio-Pulmonary Resuscitation and First Aide-Laypersons Responders) and UDW appropriately invoicing and itemizing training (as determined by County Auditor) and forwarding to County for reimbursement after training has occurred. Appropriate invoicing and itemization shall include: date, time, location, duration, and subject matter of training; name of the training facilitator(s); signed certificates of participation by Providers in attendance; and copies of any training material attached (if available and can be provided).

Reimbursement payments from the County are due within thirty (30) calendar days after receipt of invoice.

In a case where UDW would like to provide training outside the scope of responsibilities directly relevant to Providers' duties as In-Home Supportive Services Providers, a written request will be made to the County via the Director of the Human Services Agency detailing the subject matter of the training and a justification for how the training is relevant to In-Home Supportive Services. The County will then provide a written response to UDW within ten (10) business days following receipt of the request. Reimbursement payments to UDW will not be made without prior written County approval for such trainings that are outside the scope of Providers' responsibilities as noted in Article 16.

#### **ARTICLE 17: SUPPLIES**

Maximum amount of \$5,000 per fiscal year for Union to purchase and make available supplies for only Merced County Public Authority IHSS Providers, including gloves, masks and anti-bacterial gel and/or wipes.


#### **ARTICLE 18: AGREEMENT TERM**

The term of this Agreement shall commence upon ratification by the Providers and adoption by the Public Authority Board through December 31, 2022.

This is a Memorandum of Understanding between the County of Merced IHSS Public Authority and the United Domestic Workers of America, a Certified Employee Organization, and has as its purpose the promotion of harmonious relations between the Public Authority and the United Domestic Workers of America, and the establishment wages, hours, and terms and conditions of employment for those IHSS Providers represented by the United Domestic Workers of America.


Organization, and has as its purpose the promotion of harmonious relations between the Public Authority and the United Domestic Workers of America, and the establishment wages, hours, and terms and conditions of employment for those IHSS Providers represented by the United Domestic Workers of America.

United Domestic Workers of America  
by


  
\_\_\_\_\_  
Douglas Moore, Executive Director  
United Domestic Workers of America

02/05/2020  
\_\_\_\_\_  
Date


County of Merced Public Authority  
by

  
\_\_\_\_\_  
Rodrigo Espinoza, Chair  
County of Merced In-Home  
Supportive Services Public Authority

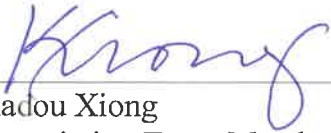
MAR 10 2020  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Editha Adams, President  
United Domestic Workers of America

02/05/2020  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Matthew A. Maldonado  
Chief Negotiator  
United Domestic Workers of America

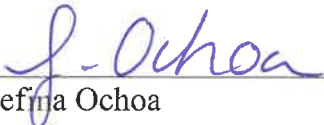
2/5/2020  
\_\_\_\_\_  
Date



Kadou Xiong  
Negotiation Team Member  
United Domestic Workers of America

2/25/2020

Date



Josefina Ochoa  
IHSS Provider Bargaining Team  
United Domestic Workers of America

2-25-2020

Date



Florence Crowson  
IHSS Provider Bargaining Team  
United Domestic Workers of America

2-13-2020

Date



Alane Quien  
Negotiation Team Member  
United Domestic Workers of America

2/13/2020

Date