



**SEIU**Healthcare®  
United for Quality Care

# **COLLECTIVE BARGAINING AGREEMENT**

between

SEIU HEALTHCARE 775NW

and

HOME CARE SERVICES



**Effective January 11, 2008 through June 30, 2009**

## Table of Contents

<b>TITLE</b>	<b>PAGE NUMBER</b>
PREAMBLE .....	1
ARTICLE 1: RECOGNITION .....	2
ARTICLE 2: UNION MEMBERSHIP AND UNION SECURITY .....	3
Section 2.1 Union Membership .....	3
Section 2.2 Religious Exemption .....	3
Section 2.3 Discharge for Failure to Meet Obligations .....	4
Section 2.4 Bargaining Unit Information .....	5
Section 2.5 Paycheck Deductions .....	6
Section 2.6 Membership Forms .....	7
Section 2.7 Political Accountability Fund/COPE Deduction .....	7
ARTICLE 3: UNION RIGHTS .....	8
Section 3.1 Advocates or Worker Representatives .....	8
Section 3.2 Advocate or Worker Representative Recognition .....	8
Section 3.3 Bulletin Boards and Kiosks .....	9
Section 3.4 In-Service Meetings .....	9
Section 3.5 Access to Employer Property: Office .....	9
Section 3.6 Access to Employer Property: Personnel Files .....	9
Section 3.7 Employee Communications: Pay Envelopes .....	9
Section 3.8 Paycheck Distribution .....	10
Section 3.9 Paid Bank Time .....	10
ARTICLE 4: EMPLOYER RIGHTS .....	11
Section 4.1 Retention of General Rights .....	11
Section 4.2 Workforce Issues .....	11
Section 4.3 Work Policies and Procedures .....	12
Section 4.4 Work Hours .....	12
Section 4.5 Non-Waiver of Employer Rights .....	12
Section 4.6 Conflicting Provisions .....	12
Section 4.7 Joint Policy Development .....	13
ARTICLE 5: NO DISCRIMINATION .....	13
ARTICLE 6: CLIENT RIGHTS .....	13
ARTICLE 7: PROBATION .....	14
ARTICLE 8: DISCIPLINE AND DISCHARGE .....	15
Section 8.1 Just Cause and Right to Representation .....	15
Section 8.2 Notification of Formal Disciplinary Action/ Written Justification for Discipline for Cause .....	17
Section 8.3 Suspension or Discharge .....	17

Section 8.4 Investigation of Just Cause by Union .....	18
Section 8.5 Employer Rules .....	18
Section 8.6 Personnel Files .....	18
Section 8.7 APS or Regulatory Investigations .....	19
ARTICLE 9: GRIEVANCE PROCEDURE .....	20
Section 9.1 Definition of a Grievance.....	20
Section 9.2 Time Limits.....	20
Section 9.3 Grievance Steps .....	20
Section 9.4 Request for Arbitration .....	23
Section 9.5 Arbitration .....	23
Section 9.6 Arbitration Decision and Costs.....	25
ARTICLE 10: VACANCIES .....	25
Section 10.1 Open Positions.....	25
Section 10.2 Notification of Available Hours .....	26
ARTICLE 11: LABOR-MANAGEMENT COMMITTEE .....	27
Section 11.1 Purpose .....	27
Section 11.2 Composition, Schedule and Process .....	27
Section 11.3 Home and Community Based Care Industry-wide Communications .....	28
ARTICLE 12: HEALTH AND SAFETY .....	29
Section 12.1 Right to Safe Working Conditions .....	29
Section 12.2 Safety Equipment and Personal Protective Equipment Supplies .....	29
Section 12.3 Cleaning Equipment and Supplies.....	29
Section 12.4 Vaccinations.....	30
Section 12.5 Safety Committee .....	30
Section 12.6 Imminent Danger to Home Care Worker.....	30
Section 12.7 Compliance with the American with Disabilities Act .....	30
ARTICLE 13: PAY RECORDS AND PAY PERIODS .....	30
Section 13.1 Check Stub .....	30
Section 13.2 Pay Period .....	31
Section 13.3 Check Correction .....	31
Section 13.4 Direct Deposit .....	32
ARTICLE 14: JOB DESCRIPTIONS AND CARE PLANS.....	32
ARTICLE 15: UNPAID LEAVE .....	32
Section 15.1 Union Leave .....	32
Section 15.2 Bereavement Leave.....	34
Section 15.3 Election Leave .....	34
Section 15.4 Other Leaves of Absence.....	34
ARTICLE 16: HOLIDAYS .....	36

Section 16.1	Holidays Qualifying for Premium Pay .....	36
Section 16.2	Personal Leave Days Recognized as a Day for Personal or Religious Observance.....	37
ARTICLE 17:	TRAVEL PROVISIONS .....	38
Section 17.1	Travel Pay and Mileage .....	38
Section 17.2	Insurance and Driver’s License.....	39
Section 17.3	Documentation of Expenses.....	39
Section 17.4	Don’t Speed! .....	39
ARTICLE 18:	COMPREHENSIVE HEALTH AND WELFARE BENEFITS .....	39
Section 18.1	Benefits Provided through the Trust.....	39
Section 18.2	Eligibility.....	40
Section 18.3	Employer Contributions.....	41
Section 18.4	Employee Contributions .....	41
Section 18.5	Savings .....	41
Section 18.6	Enrollment Information and Coordination .....	42
Section 18.7	Controlling Agreement .....	42
Section 18.8	Mutual Commitment to Expediting Health Care Coverage .....	42
ARTICLE 19:	PAID TIME OFF .....	42
Section 19.1	Accrual .....	42
Section 19.2	Use of Paid Time and Scheduling .....	43
Section 19.3	Cash-Out .....	43
Section 19.4	Utilization of Sick Leave .....	44
Section 19.5	Notice and Proof of Illness .....	44
Section 19.6	Combination with Other Benefits .....	45
ARTICLE 20:	WAGES AND PREMIUMS.....	45
Section 20.1	Available Funding.....	45
Section 20.2	Starting Wages.....	45
Section 20.3	Direct Care Worker Wage Increase .....	46
Section 20.4	Client/Service Inaccessible Pay .....	46
Section 20.5	Overtime .....	47
ARTICLE 21:	NO STRIKE OR LOCKOUT .....	47
ARTICLE 22:	MODIFICATION AND PAST PRACTICE.....	48
ARTICLE 23:	SEVERABILITY.....	49
Section 23.1	Adherence to Existing Statutes .....	49
Section 23.2	Invalidation of a Provision of the Agreement .....	49
ARTICLE 24:	SUCCESSORSHIP.....	49
Section 24.1	.....	49
Section 24.2	Subcontracting .....	50

ARTICLE 25: HOME CARE ADVOCACY DAY UNION LEAVE ..... 50  
ARTICLE 26: TERM OF AGREEMENT ..... 51

## **PREAMBLE**

The purpose of this Agreement is to achieve and maintain harmonious relations between Capital Opportunities, Inc. (“the Employer”) and Service Employees International Union 775, also known as SEIU Healthcare 775NW (“the Union” or “SEIU”), (collectively: “the Parties”) to provide for equitable and peaceful adjustment of differences which may arise, and to set forth the understanding reached between the Parties with respect to wages, hours of work, and terms and conditions of employment.

Capital Opportunities, Inc. and SEIU Healthcare 775NW share a common goal of maintaining and promoting the quality of in-home care in Montana. Both organizations are committed to developing a stable and well-trained workforce, promoting the financial viability of Capital Opportunities, Inc.’s home care business, expanding home care services in the state of Montana, and building public respect for the long-term care profession. We intend to develop a productive working relationship focused on problem solving for mutual benefit. With this mutual interest understood, the Parties commit to further developing and modifying the Alliance Agreement to Improve Home Care in Montana to reflect on-going legislative efforts. The Parties recognize that the appropriate setting for these discussions may be the Home and Community-Based Industry-wide Communications Committee covered in Article 11.3 of this Agreement.

We also share a vision that SEIU Healthcare 775NW and Capital Opportunities, Inc. (COI) will grow together through working in a

cooperative manner and unite all long-term care workers to become a powerful voice for the long-term care industry, in order to achieve economic justice for all workers in our industry.

The Employer and the Union will work to build a relationship that, acknowledging limitations imposed by state and program funding, will strive to maintain competitive compensation for home care workers to provide a high quality work environment and enhance an ongoing relationship of trust and respect. The Parties recognize our obligation to serve clients with the highest quality of care. The Parties further recognize the importance of raising standards throughout the home care industry and agree to work together to achieve this goal.

#### **ARTICLE 1: RECOGNITION**

The Employer, Capital Opportunities, Inc. (and its successors and assigns) recognize SEIU 775 (also known as SEIU Healthcare 775NW) (and their successors and assigns) as the sole and exclusive bargaining agent for all employees who are employed by the Employer in the State of Montana, any other State, Province or Country in the position of home care worker, who perform home care and personal care services, or work in any position related to delivery of such in-home services, including but not limited to: home care workers, caregivers, homemakers, personal care assistants, Certified Nursing Assistants (CNA or NAC), Nurse Aide Registered (NAR), and any other similar job title or classification; excluding all employees not employed in the in-home services or programs delivered by the Employer, managers, confidential employees, office clerical employees,

professional employees, and supervisors as defined in the National Labor Relations Act.

## **ARTICLE 2: UNION MEMBERSHIP AND UNION SECURITY**

### **2.1 Union Membership**

All bargaining unit employees shall, as a condition of employment, become and remain members of the Union tendering periodic dues and fees as determined by the Union. Each new employee shall be required to become and remain a member of the Union no later than the thirtieth (30th) day of employment. Employees in the bargaining unit at the time of ratification of this Agreement shall be required to become and remain members of the Union no later than three payroll periods following ratification of this Agreement. Any employee who fails to satisfy this obligation shall be discharged by the Employer pursuant to the provisions of section 2.3. Provided, however, in no case will the Employer be required to discharge an employee in violation of state or federal law.

### **2.2 Religious Exemption**

It is the intent of this Agreement that the provisions of this Article safeguard the right of employees to remain non-members based on *bona fide* religious tenets or teachings of a church or religious body of which such employee is a member. Any employee who claims a right of non-association based on *bona fide* religious tenets or teachings of a church or religious body of which such employee is a member shall provide written notice of that claim to the Union, and shall arrange with the Union to make alternative payments in lieu of the payments required for Union membership to a nonreligious charitable

organization (a 501 (c) (3) organization as defined by statute) of the employee's choice. Such employees shall pay an amount of money equal to the periodic dues and fees uniformly required under Section 1 of this Article. Failure to satisfy this alternative payment shall result in discharge from employment, pursuant to section 2.3 of this Article. The Employer shall not be financially liable for any failure of the affected employee or the Union to remit payments to the nonreligious charity.

### **2.3 Discharge for Failure to Meet Obligations**

The Union may demand the discharge of any bargaining unit employee who is delinquent in payments required in this Article or refuses to become and remain a member of the Union. Provided, however, in no case will the Employer be required to discharge an employee in violation of state or federal law.

The Union shall communicate delinquency to the affected employee and to the Employer within thirty (30) days of delinquency. The notice to the delinquent employee shall include the fact that the Union has no record of the employee's membership or religious exemption and the action required by the employee in order to satisfy requirements of this Agreement. This notice shall include: the amount needed to pay delinquent dues in full, a membership form, and/or any other action needed on the part of the employee to satisfy obligations of this Agreement. The Union shall, at the same time, notify the Employer of the name and reason for delinquency of any employee.

Should the employee fail to satisfy obligations of this Agreement, within fifteen days from the date of the original notice of delinquency,

the Union may demand in writing that the Employer discharge the employee. Following receipt of such demand, the Employer shall discharge the employee within seven (7) calendar days of the date of the Union's demand. Provided, however, in no case will the Employer be required to discharge an employee in violation of state or federal law.

#### **2.4 Bargaining Unit Information**

Employees covered by this Agreement are required to maintain up-to-date personal phone number(s), and a home address on file with the Employer. The Employer shall provide a roster of all bargaining unit employees to the Union on a monthly basis. The roster shall include each employee's name, social security number, home address, home phone number, office or unit where the employee is assigned, rate(s) of pay, gross pay, hours worked in the month (or month-to-date in the event of twice-monthly pay), total hours accrued as an employee of the Employer or hours credited towards a wage scale step year-to-date, amount and rate of any special differential pay, date of hire, and date of termination. The Union will indemnify the Employer and hold it harmless from any claims demands, damages or liabilities that may result from the provision by the Employer of any of the requested information to the Union, including the cost of defending against such claim or obligation.

The Employer shall facilitate reconciliation of these employment records with the Union, including clarifying whether workers are inactive because of paid or unpaid leave or other reason. Both Parties agree to work together to ensure that all records are as accurate as possible. All information required to be transmitted under this

Agreement shall be transmitted in a common electronic format agreed upon by the Employer and the Union.

## **2.5 Paycheck Deductions**

The Employer agrees to deduct from each bargaining unit employee's pay all authorized dues, fees, and assessments as determined or required by the Union. The Employer shall make such deductions from the employee's paycheck following receipt of written authorization, and periodically thereafter as specified on the written authorization, so long as such authorization is in effect, and shall remit the same to the local Union within thirty (30) days after the end of the last full pay period in each month. The Union will furnish all the membership forms necessary to be used for this written authorization and will notify the Employer in writing of dues, fees, or assessments to be assessed within five (5) days of execution of this Agreement, and thirty (30) days before the effective date of any change. The Employer reserves the right to ensure that the authorization of payroll deductions complies with applicable Federal and State laws regarding deductions from wages. The Employer may require an additional authorization form as per its policies and procedures, to confirm the specific authorization for continued paycheck deduction.

The Union will hold harmless the Employer against any claim or obligation which may be made by any employee by reason of the deduction of Union membership fees, including the cost of defending against such claim or obligation.

## **2.6 Union Membership Materials**

For new employees, union membership materials shall be distributed with the basic employment paperwork required by the Employer. All membership forms for the Union completed by a new employee of the Employer will be forwarded to the Union no later than the thirtieth (30<sup>th</sup>) day of the new employee's employment with the Employer.

## **2.7 Political Accountability Fund/Committee On Political Education (COPE) Deduction**

The Employer shall deduct the sum specified from the pay of each member of the Union who voluntarily signs and executes a written COPE wage assignment authorization form. When filed with the Employer, the written authorization form will be honored in accordance with its terms. The authorization form will remain in effect until or unless revoked in writing by the employee. The amount deducted and a roster of all employees using payroll deduction for COPE contributions will be promptly transmitted to the Union by separate check payable to the Union and identified as COPE deductions, at the same time as the monthly remittance of dues

Upon issuance and transmission of a check to the Union, the Employer's responsibility will cease with respect to such deductions. The Union and each employee authorizing the written assignment of wages for the payment of COPE contributions hereby undertake to indemnify and hold the Employer harmless from all claims, demands, suits or other forms of liability that may arise against the Employer for, or on account of, any deduction made from wages of an employee.

## **ARTICLE 3: UNION RIGHTS**

### **3.1 Advocates or Worker Representatives**

For purposes of representation, communication and mutual administration of the contract, the Union will designate advocates or worker representatives from among its members employed by the Employer. The Union will notify the Employer when an advocate or worker representative has been designated.

### **3.2 Advocate or Worker Representative Recognition**

Subject to the availability of reimbursement from the Employer's state funding sources, the Employer agrees to compensate designated advocates or worker representatives at their regular rate of pay for their involvement in certain limited labor relations activities. These activities are defined as participation on the Labor-Management Committee while during regular working time; actual time spent in grievance meetings provided that the advocate or worker representative notifies the immediate supervisor(s) in advance and the supervisor(s) approve; and other approved and regularly scheduled committees and work groups that benefit both the Union and the Employer by prior mutual agreement. Advocates or worker representative shall have the obligation to inform their supervisors in advance when they will be utilizing steward time, and shall follow all usual scheduling procedures to ensure client care coverage.

Both Parties will endeavor to advocate for state or other sources of funding for advocate or worker representative activities.

### **3.3 Bulletin Boards and Kiosks**

The Employer shall provide a bulletin board, in an area accessible to employees in each office for union postings. The Employer shall explore providing, where feasible, a computer terminal or kiosk with internet access for the use of employees during non-work times.

### **3.4 In-Service Meetings**

Worker representatives shall schedule and make available twenty (20) minutes before each worker in-service meeting to make a presentation about the Union and answer questions. The Union shall have the right to include written information on any orientation video tape or other basic written employment materials produced by the Employer for the purposes of new employee orientation.

### **3.5 Access to Employer Property: Office**

The Employer welcomes the authorized representative(s) of the Union to use its local office meeting rooms with advance notice. The Union may use designated these meeting rooms of the Employer for meetings, provided that space is available.

### **3.6 Access to Employer Property: Personnel Files**

The employee and/or his/her representative may reasonably expect to examine the employee's permanent personnel files, upon the employee's request.

### **3.7 Employee Communications: Pay Envelopes**

The Employer and the Union agree to work together to facilitate the highest level of communication possible for caregivers. These efforts shall include:

- Union inserts in pay envelopes
- Joint communications from the Union and the Employer
- SEIU promotional items

In the event that the insertion of Union material in pay envelopes increases the postage cost of mailing the paycheck envelopes, the Union shall pay the Employer for the additional cost in advance.

Should the Employer switch to an electronic-only method of paying employees such as direct deposit or debit cards and discontinue the use of pay envelopes, it may disregard the requirements set out in sections 3.7(a) and (b) above.

Should the Employer establish a newsletter directed at employees, or employee mail boxes at the office(s), the Union shall have the right to submit information for inclusion or distribution. The Employer shall provide a literature box in a convenient location for the use of the Union. Should the Employer establish a website, a link to the Union's website will be included in any page or section directed at employees.

### **3.8 Paycheck Distribution**

Union representatives may be present at in-person paycheck distributions. The Employer will not be expected to pay or Union representatives for their time/presence at in-person paycheck distributions.

### **3.9 Paid Bank Time**

The Employer agrees to provide five hundred (500) hours of paid bank time to be used for partnership-related activities or other mutually

agreeable activities. Hours of paid bank time will be the hourly rate of the employee participating in the following activities. Examples of these activities include, but are not limited to, Labor-Management Committee work referenced in Article 11 and Home Care Advocacy Day Union Leave referenced in Article 25.

## **ARTICLE 4: EMPLOYER RIGHTS**

### **4.1 Retention of General Rights**

The Employer retains all the general and traditional rights to manage its business as well as any rights under the law or agreed to by the Parties. These rights rest exclusively in the Employer who is the sole decision-maker regarding the operation of the business. The following list of Employer's rights is not intended to be all-inclusive, but simply sets forth some of those rights considered to be the general rights of management. The fact that a particular right is not set forth here, does not mean that the right does not exist.

### **4.2 Workforce Issues**

Employer retains the right to determine the number of employees required at any place from time to time for any of its operations. Employer retains the right to determine the jobs, content of jobs, and to modify, combine or end any job, department or operation; to hire, classify, transfer, promote, demote and layoff employees; to determine employee qualifications, evaluate performance and assign and direct the workforce; to maintain order and discipline; and to reprimand, suspend, discharge and otherwise discipline for just cause.

#### **4.3 Work Policies and Procedures**

The Employer has the right to create and administer rules, policies and procedures. This includes the right to establish or revise attendance, work, substance abuse, drug and/or alcohol testing and safety rules. The Employer has the right to establish or revise a disciplinary policy to address violations of these rules.

#### **4.4 Work Hours**

The Employer retains the right to determine work schedules, including but not limited to the number of hours and shifts to be worked, to determine when overtime work is necessary and to assign overtime; to choose clients; to utilize part-time and temporary employees; to choose where or when training on a particular task or job is required and the right to move or retrain employees.

#### **4.5 Non-Waiver of Employer Rights**

Employer's failure to exercise any right reserved to it, shall not result in a waiver of the right or prevent Employer from exercising its rights in the future or in some other way not in conflict with the express provisions of this agreement.

#### **4.6 Conflicting Provisions**

The exercise of these rights alleged to be in conflict with any other provision of this agreement shall be subject to the grievance and arbitration procedures set out in this agreement.

#### **4.7 Joint Policy Development**

The Employer and the Union have a mutual commitment to jointly developing policies, procedures and other relevant workplace solutions in the Labor Management Committee as referenced in Article 11. This does not abridge the Employer's rights set forth in this Article.

### **ARTICLE 5: NO DISCRIMINATION**

The Employer and the Union have a mutual commitment to social justice in our society, therefore the Parties agree that qualified applicants for employment will be considered without regard to race, color, physical and/or mental disability, marital status, national origin, citizenship status, ancestry, gender or sex, sexual orientation, age, religion, veteran status, political affiliation, union membership and protected activities, or other characteristics or considerations made unlawful by federal, state or local law or by Department of Public Health and Human Services (DPPHS) agency regulations. The Employer further agrees that it shall not discriminate in terms or conditions of employment on the basis of the aforementioned characteristics (except for bona fide occupational qualifications or client preference).

### **ARTICLE 6: CLIENT RIGHTS**

The Employer and the Union are committed to quality care of clients and ensuring the comfort and individualized care needed by clients. It is the right of clients, in the privacy of their home, to choose the caregiver with whom they feel the most comfortable.

The Employer will uphold and support client rights. If a client wishes to change caregivers, for any reason, the Employer will respect the right of the client to do so. If a client chooses to change caregivers, the caregiver who is being unscheduled shall be eligible for another client(s) or equivalent hours as available. The Employer will make a good faith effort to provide support for a successful caregiving relationship, if in the sole judgment of the Employer the regularly scheduled caregiver might succeed with the client if either or both the client and/or caregiver is guided with some coaching. At the discretion of the parties, the Employer and the Union may explore through the Labor Management Committee methods of coaching, counseling or mediation to assist generally in the resolution of client/worker conflicts to help ensure consistent service delivery with minimal worker reassignment.

#### **ARTICLE 7: PROBATION**

The first three (3) months of employment or re-employment shall be the probationary period for all new and returning employees. During this period the Employer shall provide specific orientation to the job performance expectations, to the Employer and to the Employer's services and programs, and to the people/clients served by the Employer. Supervisors shall monitor performance during this time and will provide appropriate feedback to the employee, to help the employee successfully complete the probationary period. If requirements of the job are not being met, the Employer may seek to counsel the employee to correct the defined deficiencies. If satisfactory improvement does not result, the probationary employee may be disciplined or terminated in the sole discretion of the Employer without

further notice or recourse to the grievance procedure. The discipline or discharge of an employee who is in probationary status shall not be in violation of this Agreement. Probationary employees are covered by the terms and conditions of this Agreement except as specifically noted and retain the same legal rights as other employees under the National Labor Relations Act and applicable local, state and Federal laws.

## **ARTICLE 8: DISCIPLINE AND DISCHARGE**

### **8.1 Just Cause and Right to Representation**

#### Just Cause and Progressive Discipline:

The Employer shall have the right to discipline and/or to discharge nonprobationary employees for just cause only. Communications between supervisors and employees about disciplinary matters shall be respectful and discipline shall be, in general, directed at correcting performance problems.

In general, progressive discipline shall be used, with the general progression as follows: verbal warning, written reprimand or warning, unpaid or paid suspension, and termination/discharge (firing).

Employees who are discharged will be sent a final paycheck by mail within five (5) days of the date of the termination of their employment. This final paycheck will include payment for all hours worked and not paid, as well as payment for any accrued personal leave.

Serious Misconduct: In the case of serious misconduct, the Employer may in its sole discretion, for just cause, bypass any one or all of the

steps of progressive discipline. Examples of serious misconduct include, but are not limited to, misrepresentation on employment applications, fraudulent timesheets, patient abuse, violence, theft, and “no call, no show.”

In the case of any form of discipline less than termination, the employee’s disciplinary action shall include a description of the conduct that is the basis for the disciplinary action(s). The Employer will strive to identify specific corrective action(s) that the employee is expected to take to improve his/her performance.

Factfinding: Prior to issuing any form of disciplinary action to an employee, the Employer shall attempt to meet with the employee to investigate and gather facts. The Employer shall advise the employee of the purpose of the investigatory meeting and that the meeting could lead to disciplinary action, and shall advise the employee of his/her right to request the presence of a Union representative in the meeting. If an employee requests the presence of a Union representative, the Employer will make a reasonable attempt to schedule a meeting when the participating Union representative and employee are available to meet.

The unavailability of a representative for a meeting date shall not unreasonably delay or impede the Employer’s investigation or decision to take disciplinary action.

## **8.2 Notification of Formal Disciplinary Action/Written**

### **Justification for Discipline for Cause**

In the case of any written reprimand (written warning), suspension, economic sanction, or termination/discharge for cause, the Employer shall give a copy of the disciplinary action to the employee, stating the reasons for the discipline. The document shall include a line for the signature of the employee and the immediate supervisor or manager responsible for the decision to issue discipline, including the following notice: "Signing this document indicates that you have received a copy of the document but does not indicate that you agree or disagree with its contents. You may have the right to contest this action through filing a grievance, if you believe this action violates the Union contract. You may contact your advocate, worker representative or the SEIU Healthcare 775NW office at 1-866-371-3200."

The lack of the employee's signature on the notice shall not be grounds for nullifying or challenging the notice or any ensuing disciplinary action where reasonable evidence shows that the Employer attempted to inform the employee of the investigation, pending or actual discipline.

### **8.3 Suspension or Discharge**

Within seven (7) calendar days after any suspension or discharge for cause, the Employer shall notify the Union in writing (by fax or email) of the suspension or discharge and the reason for this action and shall attach a copy of the disciplinary notice signed by the employee or provided to the employee.

Employees who are suspended may use any accrued, paid leave during their period of suspension.

#### **8.4 Investigation of Just Cause by Union**

A Union representative shall have the right to interview employees and management personnel and gather information concerning specific and identifiable disciplinary matters. Such interviews shall not interfere in any way with the Employer's business activity. Should a client complaint be involved, the Employer will attempt to provide a copy of the clients' written complaint, if any, with all identifiers removed, so long as the removal of identifiers adequately protects the confidentiality rights of the client and the provision of the complaint does not violate federal, state, local laws or regulations.

#### **8.5 Employer Rules**

The Employer may establish work rules necessary to regulate employees' conduct at work. Work rules shall be reviewed with new employees who will sign a form provided by the Employer to confirm their understanding of the Employer's rules, and made available to all employees and the Union. The Employer will advise the Union of any proposed changes to the work rules thirty (30) days in advance.

#### **8.6 Personnel Files**

Any information about the employee may be included in the personnel file, including without limitation information regarding disciplinary action, such as client complaints, warnings, placements on probation status, and formal evaluation reports prepared by the Employer. This employee personnel file, or a copy of the same, shall be made available to the employee upon the employee's written request. The

Employer shall allow an employee to examine his/her personnel file maintained in an office of the Employer, upon the employee's request. Employees who have a reasonable dispute with information in their personnel file may submit written comments, replying to any material in their file, which comments shall also be maintained in their personnel file. Employees may not submit additional written comments regarding disputes which have been resolved through the grievance process. Should the employee maintain a good record for one (1) year, all identified negative materials shall be removed from his/her personnel files at the employee's request, unless otherwise required to be retained by state law or regulation. Files that are not removed after one (1) year shall be considered as if they had been removed.

### **8.7 Regulatory Investigations**

Should a regulatory agency initiate an investigation of a home care worker that requires suspension or removal of that home care worker from any client, but does not require suspension or removal from all home care work, the Employer will attempt to assign the employee other suitable home care work until the investigation is complete if permitted by state law or regulation.

If, following the conclusion of a regulatory investigation, it is determined by the Employer, or the regulatory agency that the employee is to be disciplined, up to and including termination, the notification provisions of section 8.2 will apply.

If the investigation indicates that disciplinary action is unnecessary, the Employer will make reasonable efforts to reinstate the employee to the same hours/position with the original client. If the client should decline to be served by

the employee, the Employer will make reasonable efforts to assign suitable and available client hours to the employee, until s/he is employed at the same number of hours as before the investigation.

## **ARTICLE 9: GRIEVANCE PROCEDURE**

### **9.1 Definition of a Grievance**

A grievance is defined as a claim by an employee or the Union that the Employer has violated an express provision of this Agreement or specific past practices applicable to members of the bargaining unit, as specifically contained in the Employer's written policies and procedures that are in effect upon the date of ratification of this Agreement, and which have not been altered or amended by this Agreement of the Employer if not addressed in this Agreement. The Union and the Employer are mutually committed to resolving disputes at the lowest level possible, where practicable, and in an expedient manner.

### **9.2 Time Limits**

The purpose of time limits within the Grievance Procedure is to encourage the swift resolution of disputes. Time limits may be extended or waived at any step in the grievance procedure by mutual agreement of an authorized Employer representative and the Union. The Union may withdraw a grievance at any step in the grievance process. The Parties agree the grievance may be resolved at any stage of the grievance process provided that all appeals are timely.

### **9.3 Grievance Steps**

Grievances shall be handled in the following manner:

Step One: The grievant and/or Union representative shall present a grievance orally to the grievant's immediate supervisor within fourteen (14) calendar days after the employee should reasonably have learned of the event giving rise to the grievance or within fourteen (14) calendar days after the event giving rise to the grievance, whichever is later. The supervisor shall respond orally to the employee not later than five (5) business days thereafter. The supervisor's response will propose a resolution of the grievance which may include, but is not limited to agreeing to the remedy proposed by the grievant or the Union, proposing a remedy other than that proposed by the grievant or the Union, or denying the grievance. The supervisor's response shall be addressed to the grievant and the Union representative.

Step Two: If no resolution or settlement is reached between the grievant and the supervisor, the grievant or the Union may file a written appeal of the supervisor's decision rendered in Step One to the Personnel Officer or his/her designated representative. The employee or Union representative shall file this written grievance within five (5) calendar days after his/her receipt of the supervisor's decision from Step One. A meeting with the Personnel Officer or his or her representative, the grievant and the Union representative shall be held not later than fourteen (14) calendar days after receipt of the written appeal. The Personnel Officer's response shall be addressed to the grievant and the Union and shall be copied to the Chief Executive Officer.

The written grievance must contain the following information:

- (a) the exact nature of the grievance;
- (b) the act or acts alleged to be violations of the Agreement or the Employer's past practice that is not specifically addressed in this Agreement;
- (c) when the alleged act(s) occurred;
- (d) the identity of the grievant or grievants;
- (e) the specific article or provision of this Agreement or the past practice applicable to members of the bargaining unit, as specifically contained in the Employer's written policies and procedures that are in effect upon the date of ratification of this Agreement, and which have not been altered or amended by this Agreement alleged to have been violated;
- (f) the remedy proposed to attempt to resolve the grievance.

The written grievance need not be on the Union's grievance form, as long as it contains the information above.

**Grievances initiating at Step Two:**

Grievances concerning discharge or discrimination, or grievances filed by the Union shall be filed initially at Step Two (2). Group grievances claiming the same allegedly violative conduct involving employees who work under more than one supervisor may be filed initially at Step Two. Multiple individual grievances alleging the same violation that are

filed during the same time frame may be combined into a group grievance and commenced at Step Two.

#### **9.4 Request for Arbitration**

The Union must file a request for arbitration of the Personnel Officer's final decision issued in Step Two within ten (10) calendar days of the Personnel Officer's decision issuance. The Union shall advise the Chief Executive Officer or his/her designee that the Union is forwarding the grievance to a neutral arbitrator for arbitration. The Union shall notify the Chief Executive Officer that they are forwarding the grievance to arbitration.

#### **9.5 Arbitration**

In the event that a grievance proceeds to arbitration, the Parties shall make a good faith effort to agree on an arbitrator. In the event the Parties are unable to agree, and not later than five (5) days from receipt of the request by the Union for arbitration, the Parties shall select an arbitrator as follows:

- (a) The Federal Mediation and Conciliation Service (FMCS) shall provide a list of five (5) arbitrators to the Union and to the Employer.
- (b) Within five (5) working days after receipt of the list of arbitrators, the parties shall select an arbitrator through the process of elimination by alternately striking names. The party to strike first shall be selected by a toss of the coin.

OR

- (c) The Parties may mutually agree to a list of arbitrators to be used during the term of this Agreement and shall select any arbitrator whose schedule permits timely hearing of the grievance.

The jurisdiction of the impartial arbitrator is limited to:

- (1) Adjudication of the grievance setting forth the issue or issues to be arbitrated;
- (2) Interpretation of the specific terms of this Agreement or past practices applicable to members of the bargaining unit, as specifically contained in the Employer's written policies and procedures that are in effect upon the date of the ratification of this Agreement, and which have not been altered or amended by this Agreement of the Employer which are applicable to the particular issue presented to the arbitrator;
- (3) The rendering of a decision or award that in no way modifies, adds to, subtracts from, changes or amends any term or condition of this Agreement or that is in conflict with any of the provisions of this Agreement; and
- (4) The rendering of a decision or award based solely on the evidence and arguments presented to the arbitrator by the respective parties.

(5) The rendering of a decision involving the administration or interpretation of insurance plans or contracts. The arbitrator shall not have jurisdiction over internal rules of the insurance plan itself which are outside the Employer's or the Union's control.

### **9.6 Arbitration Decision and Costs**

The arbitrator will render a decision within thirty (30) calendar days after the conclusion of the hearing or within thirty (30) calendar days following any period allowed for the filing of post-hearing briefs. The decision shall be final and binding upon the Employer, the Union and the employee(s) affected. The costs of the arbitration including professional services for preparation of transcripts (if agreed by the parties) shall be divided equally between the Union and the Employer. Any fees for witnesses shall be borne by the party calling such witness.

## **ARTICLE 10: VACANCIES**

### **10.1 Open Positions**

The Employer's policy is to prefer promotion from within prior to recruitment from outside the agency. In order to ensure that all interested employees are advised of employment opportunities, job announcements for vacant promotional opportunities will be posted on bulletin boards designated by the Employer. In addition, information about all job vacancies will be available to employees by calling the office and on the website of the Employer, if feasible.

All regular full and part time vacancies will be posted and filled in accordance with the nondiscrimination provisions of this Agreement.

Postings will include position requirements, minimum qualifications, substitute and preferred qualifications (if any) and base rate of pay.

### **10.2 Notification of Available Hours**

A caregiver seeking to work additional hours will notify his/her supervisor(s) of a desire to work additional hours, and schedule availability. Workers who are seeking to qualify for health care coverage shall indicate that they are seeking additional hours in order to qualify for health care coverage. Such notification will be made at least once a month. It is the responsibility of the employee to notify her/his immediate supervisor when his/her schedule changes.

The Employer will publish information, by office, regarding available hours via designated bulletin boards and other means which will assist employees in obtaining more hours. The means used to notify employees of available hours may also be referred to the Labor-Management Committee for development following the ratification of this Agreement.

The principle of client choice shall be the determinative factor for assignment of worker(s). All other factors and qualifications being equal, the Employer shall offer additional hours first to those workers seeking enough hours to qualify for health care coverage and thereafter the Employer shall use seniority as the factor in assigning additional hours, up to a maximum of forty (40) hours per week.

## **ARTICLE 11: LABOR-MANAGEMENT COMMITTEE**

### **11.1 Purpose**

The Employer and the Union shall establish a Labor-Management Committee (LMC). The purpose of the Committee shall be to consider matters affecting the relations between the Employer, the Union, and the employees, and to recommend measures to improve client care in specific at Home Care Services and in the industry in general; provided, however, the Committee shall not engage in negotiations, nor shall the Committee consider matters properly the subject of a grievance.

### **11.2 Composition, Schedule and Process**

The Committee shall be composed of five Union representatives and an equal number of representatives of the Employer. In addition, the President or Executives of the organizations, or their designees may attend the meetings.

Other provisions for this Committee are as follows:

(a) The Committee shall be co-chaired by one of the Union representatives and one of the Employer representatives. The Committee may also decide to rotate facilitation of meetings.

(b) The Committee shall meet bimonthly, at a time and location mutually convenient to the Union and the Employer.

(c) The Union and the Employer co-chairs will prepare an agenda to be presented to the Committee at least three (3) working days prior to the scheduled meeting.

(d) Employee Committee members will be released for participation for any scheduled hours of work that the worker foregoes by service on the Committee and may access any Paid Bank Time available as referenced in Article 3.9. The Union and the Employer shall pay any travel expenses for the participation of their respective representatives.

(e) Minutes of the meetings will be presented to the Employer and the Union within twenty-five (25) working days after the meeting of the LMC or at the following LMC meeting by agreement.

(f) The LMC will address each recommended agenda item in writing within one month to the members of the Committee. Should any item(s) be referred to the Executive Director or to another body, such person(s) shall report decisions or actions to the LMC within one month.

**11.3 Home and Community Based Care Industry-wide Communications**

The Parties share an equal stake in advocating for improvements in the quality of care with the regulators, the State, the Legislature, and the Congress, in building workforce development programs which prepare caregivers and Employers to meet the challenges of providing

service to our rapidly aging population. Recognizing our common interests, the Employer agrees, when feasible, to join the Union in convening a forum for unionized Employers 2-4 times each year to discuss matters of mutual interest.

## **ARTICLE 12: HEALTH AND SAFETY**

### **12.1 Right to Safe Working Conditions**

The Employer and the Union agree to comply with all federal, state, and local laws to provide working conditions that are safe. The Employer may, in its discretion, establish safety and health rules.

### **12.2 Safety Equipment and Personal Protective Equipment Supplies**

No employee shall be required to provide at his/her own expense safety equipment, supplies, or protective garments, including, but not limited to gloves and/or masks, to perform any task for a client. The Employer or client as appropriate shall provide both latex-free and powder-free options for gloves, and shall dispense the gloves in such a manner as to safeguard the sterile conditions. If such a situation arises where there are insufficient supplies or materials, the employee will report the situation immediately to his/her supervisor.

### **12.3 Cleaning Equipment and Supplies**

No employee shall be required to provide at his/her own expense cleaning equipment, supplies, or protective garments to perform any task for a client. If such a situation arises where there are insufficient supplies or cleaning materials, the employee will report the situation immediately to his/her supervisor.

#### **12.4 Vaccinations**

The Employer shall endeavor to provide a cost-effective way to offer Hepatitis A and B vaccinations, TB Tine and influenza (flu) shots to all home care workers who request them, at no cost to the employee.

#### **12.5 Safety Committee**

The Employer shall maintain its Safety Committee, consistent with applicable state and/or federal laws. The Union may designate up to three (3) members of the bargaining unit to serve on the Safety Committee.

#### **12.6 Imminent Danger to Home Care Worker**

Any employee who believes in good faith that his/her health and/or safety is in imminent danger at an assigned work location may leave that location immediately and contact a supervisor. If the employee believes the client may be in danger, the employee should call 9-1-1 or other emergency services.

#### **12.7 Compliance with the Americans with Disabilities Act**

Notwithstanding any other provision of this Agreement to the contrary, the Employer may take any action that it, in its discretion, deems necessary to comply with the Americans with Disabilities Act.

### **ARTICLE 13: PAY RECORDS AND PAY PERIODS**

#### **13.1 Check Stub**

Employees shall be furnished with a copy of their itemized deductions each pay period, which shall include the current hours worked, accrued

time off for eligible employees, current wages earned, current wage rate, cumulative wages to date, and any regular itemized deductions, including any duly authorized dues and COPE deduction, in accordance with the Employer's payroll procedures.

### **13.2 Pay Period**

Payment of wages shall be biweekly unless such pay schedule is altered by agreement between the Parties. The Employer shall make the pay schedule available to all employees, published as a yearly calendar with pay days and mandatory due dates for submission of time sheets. Should an employee fail to turn in the time sheet on or by the date required, the Employee may not be paid until the next pay period except in the case of an emergency beyond the control of the employee.

Direct deposit will be made on the Thursday following the end of the pay period. Manual checks will be distributed one (1) week from the Monday following the end of the pay period.

### **13.3 Check Correction**

In the event an employee does not receive his/her paycheck on payday or is underpaid due to administrative error, a new check shall be issued within three (3) business days from the pay date as long as the Employer is made aware of the problem on the pay date or the first business day following the pay date. If the underpayment is for a small amount, the Employer may ask the employee if the corrected amount may be paid on the next subsequent paycheck.

### **13.4 Direct Deposit**

The Employer may offer direct deposit of paychecks. Such direct deposit shall be voluntary, and will require authorization by each participating employee. In the event that SEIU Healthcare 775NW establishes a credit union or other financial institution during the term of this Agreement, the Employer agrees to facilitate institution of direct deposit of all paychecks through the Union's designated credit union upon authorization from the employee(s).

## **ARTICLE 14: JOB DESCRIPTIONS**

In order to help assure the best quality of care, and continuity of care, upon receiving assignment to a client, the home care worker will review with his/her supervisor or mentor a detailed care plan (service plan) designating what specific care is required for each particular assigned client. Home care workers are not authorized to make any changes to the care plan. If problems arise with a client's or employee's understanding of the care plan, the Employer will take all reasonable steps to assist the client and/or employee to understand the care plan. Any changes to client care plans will be reviewed with the assigned employee(s) and the appropriate supervisor, who shall identify and offer any further training needed by the employee(s) to meet the changed client need(s).

## **ARTICLE 15: UNPAID LEAVE**

### **15.1 Union Leave**

- a) Any employee elected or appointed to an office or position in the Union shall be granted a leave of absence for a period of

continuous service with the Union not to exceed two (2) years, except in cases where the term of office exceeds this period. Thirty (30) days written notice must be given the Employer before the employee takes leave to accept such office or position, or before such employee returns to work. Such leave of absence shall be without pay.

- b) A leave of absence without pay shall also be granted to no more than ten (10) employees per year and no more than five (5) employees at the same time for no more than ninety (90) days to conduct the Union's business provided fifteen (15) days written notice is given. The Employer and the Union shall cooperate in the scheduling of substitutes, so that employees on leave can return to their job positions upon ending their leave. If this leave lasts more than ten (10) days the Employer may not be able to guarantee the employee a return to work with the same clients. If the Employer determines it will harm client services, the Employer may delay a leave request to the employee serving the affected client, until the Employer can find a suitable substitute.
  
- c) An employee on an approved union leave shall continue to accrue seniority at the same rate of their accrual immediately preceding the leave. The Union and the Employer shall arrange for reimbursement of the health care provider (as legally permitted) to continue benefits for employees on extended union leave not to exceed three months.

### **15.2 Bereavement Leave**

Employees are eligible for up to three (3) days of unpaid bereavement leave for members of the employee's immediate family and two (2) days of unpaid funeral or bereavement leave for close relatives. For purposes of this bereavement leave policy, "immediate family" includes the employee's children, parents or adoptive parents, parents-in-law, spouse or partner, grandparents and siblings. "Close relatives" includes the employee's aunts, uncles, cousins, nieces, nephews, and siblings-in-law.

At the sole discretion of the Employer, requests for unpaid bereavement leave may be granted in other circumstances. At the sole discretion of the Employer, additional unpaid bereavement leave of up to two (2) weeks may be granted for travel out-of-state or out of the country. The employee requesting such extended bereavement leave shall be allowed to utilize any Paid Time Off that s/he has accrued and earned.

### **15.3 Election Leave**

The Employer shall grant all employees up to two hours unpaid leave to participate in election activities.

### **15.4 Other Leaves of Absence**

Eligible employees shall be entitled but not limited to all rights and privileges provided in the Family and Medical Leave Act of 1993; and other federal and state laws regulating pregnancy and/or medical leave.

#### **a) Types And Definitions Of Leaves Of Absence**

Employees may request a leave of absence without pay by presenting a written request to their immediate supervisor along with any supporting documentation. The decision to grant a leave of absence for military service, jury duty, family medical leave and parental leave shall be as provided by state or federal law and according to the policies of the Employer. Any other unpaid leave will be at the discretion of the Employer.

Leaves of absence shall not be construed as a break in service. Employees on leave shall retain their seniority.

**b) Return From Leave Of Absence**

The Employer will make a good faith effort to reinstate employees returning from an authorized leave of absence to their previous or similar assignment and schedule, subject to client preference. An employee who fails to return to work within three (3) working days of the expiration of a leave or has not obtained an extension of the leave prior to its expiration will be considered to have voluntarily terminated employment.

**c) Return To Work Program**

The Employer will comply with all federal and state laws regarding workplace injuries. The Employer may request certification from the employee's physician to determine if and when the employee can return to duty, and what assignments and/or activity level restrictions may be appropriate.

## **ARTICLE 16: HOLIDAYS**

### **16.1 Holidays Qualifying for Premium Pay**

The following days qualify as a holiday for the purposes of applying the holiday premium pay provisions of this article, as noted below. No employees shall be unreasonably denied holiday leave requests to work on holidays in the following list.

#### **Holidays Qualifying for Premium Pay if Assigned and Worked:**

New Year's Day

July 4<sup>th</sup> (Independence Day)

Thanksgiving Day

Christmas Day

The Employer shall publish an annual list of the actual date of observance of the holidays listed above.

#### **Holiday Premium Pay**

Employees who are assigned to work on one of the qualifying holidays shall be paid one and one-half times (1.5X) their regular rate of pay for all hours worked on the qualifying holidays. If an employee is not assigned to work and does not work on the holiday, s/he shall not be paid the holiday premium pay. Workers who do not work on one of the qualifying holidays above shall be allowed to use any accrued leave up to eight (8) hours upon request.

#### **Limited Client Services**

The Employer reserves the right to designate which clients will receive client services on the qualifying holidays for which the Employer pays holiday premium pay. The Employer shall advise regularly assigned workers that service to their client will not be required on one or more

of the premium pay holidays listed above at least two (2) weeks in advance of the holiday date.

### **Open Holiday Premium Pay Shifts**

Should a regularly assigned employee be requested to work on one of the premium pay holidays listed above, and decline that assignment, the Employer shall offer the hours to the most senior qualified employee who volunteers for the hours.

### **16.2 Unpaid Leave Days Recognized as a Day for Personal or Religious Observance**

Employees desiring to take off any of the days listed below shall notify the Employer of their desire to take an unpaid day off two (2) weeks prior to the date. Employees may designate another "personal holiday" referenced in 15.2 as a special day for religious observance or other celebration (for example, such as Rosh Hashanah, Good Friday, the beginning/end of Ramadan, Orthodox Christmas, etc). As long as the Employer has been given two (2) weeks notice, all such requests for one (1) additional unpaid personal holiday a year shall be granted. If an employee from this faith tradition works on any of these recognized observance days, below, s/he shall NOT be eligible for holiday premium pay.

#### **Recognized Days:**

1. Easter
2. Yom Kippur
3. Eid Al Fitr
4. A personal holiday for religious observance or celebration

## **ARTICLE 17: TRAVEL PROVISIONS**

### **17.1 Travel Pay and Mileage**

#### **a. Portal-To-Portal Time**

Employees shall be paid one hour of regular pay for every thirty-five (35) miles driven, while traveling between assigned work locations or clients during the workday. Employees will not be paid for time spent traveling to the first assigned workplace, nor for traveling from the last assigned work location of the workday. This will only apply if the employee goes and comes directly from home to the work location.

#### **b. Mileage Reimbursement**

Mileage reimbursement will be compensated and administered according to the current policies and procedures of the Employer as of January 1, 2008. The Employer will provide the Union with an electronic copy of its' mileage reimbursement policies, procedures and compensation structure within two (2) weeks of the ratification of this Agreement.

Should additional funding for enhancing mileage reimbursement become available, the Employer agrees to re-open this section and any other related sections of the Agreement for re-negotiation. The Employer retains the right to determine and assign the most efficient drive routes, in order to minimize mileage and gas consumption.

#### **c. Disputes about Reimbursement**

The Employer reserves the right to use Mapquest.com, RandMcNally or similar distance-measuring tools to determine whether claimed miles

are reasonable. The Employer is not obligated to reimburse unreasonable reimbursement claims.

**17.2: Insurance and Driver's License**

Employees shall at all times while on duty maintain a current valid driver's license if required to drive to assignments or while on assignments.

Employees at all times while on duty shall only utilize vehicles that are covered by liability insurance, consistent with laws and regulations of the state of Montana. The Employer shall require proof of sufficient liability insurance.

**17.3: Documentation of Expenses**

Employees must present written documentation of any expenses reimbursed pursuant to this Article, if requested by the Employer, and must conform specifically to all schedules, rules and travel routes as set by the Employer.

**17.4: Don't Speed!**

The Employer shall not be liable for any moving violation or parking tickets related to the employee's operation of a vehicle in connection with the employee's work for the Employer.

**ARTICLE 18: COMPREHENSIVE HEALTH AND WELFARE  
BENEFITS**

**18.1 Benefits Provided through the Trust**

The SEIU 775 Multi-Employer Health Benefits Trust ("Trust") provides medical, dental, prescription drug and vision coverage for eligible

workers as a unified and comprehensive benefit program. Beginning with contributions on January 1, 2009, or as soon as administratively possible, and for the duration of this Agreement, and subject to the availability of reimbursement from the Employer's state funding sources, the Employer shall provide comprehensive employee health care, dental, prescription drug and vision benefits through the Trust. The Employer, the Trust, and the carriers participating in the Trust shall coordinate to provide benefit plan design and enrollment information to eligible employees.

### **18.2 Eligibility**

Pursuant to any eligibility requirements set forth in this Agreement, or by the Trust, employees shall qualify for health and welfare benefits through the Trust as outlined in DPHHS rules and regulations regarding the reimbursement of health care costs to the Employer. Should DPHHS rules and regulations on health care reimbursement change substantially, the Union and the Employer agree to bargain over the impact of these changes. Employees who do not qualify for these benefits as outlined in DPHHS rules and regulations may participate at their own expense.

Should a participant fail to meet the eligibility requirements, the Employer shall notify them that they have not worked enough hours to maintain eligibility. Employees who lose eligibility for Employer-paid benefits shall be provided with a notice of their rights for continuing benefits coverage under COBRA. The Employer requests that the Trust provide such COBRA notices.

### **18.3 Employer Contributions**

Subject to the availability of reimbursement from the Employer's state funding sources, the Employer shall pay to the Trust the employee premium up to the maximum dollar amount allowed for reimbursement of benefit costs by the DPHHS (and less the employee deductible referenced below) for all employees who are eligible for coverage.

### **18.4 Employee Contributions**

Employees enrolled in a Trust plan shall pay a premium co-share of twenty-five dollars (\$25) per month for each year of the Agreement. Employees wishing to enroll their spouse or eligible dependents in the Trust plan(s) may do so at their own cost if such dependent coverage is available. Workers shall pay their employee deductible and dependent premium charges (if applicable) via payroll deduction if they so authorize in writing, or directly to the Trust upon arrangement with the Trust.

### **18.5 Savings**

Should state-mandated requirements change substantially, the Employer and Union shall meet to negotiate changes. The Trust shall be the policy holder of any insurance plan or health care coverage plan offered by and through the Trust. As the policy holder, and fiduciary agent, the Trust shall indemnify and hold harmless from liability the Employer from any claims by beneficiaries, health care providers, vendors, insurance carriers, or employees covered under this Agreement.

### **18.6 Enrollment Information and Coordination**

The Employer, the Union, and the Trust shall coordinate to provide information about the plan choices to employees, and shall arrange for translation or interpretation to facilitate employee understanding of the plans if necessary. Open enrollment meetings and materials shall be made available to all employees at least annually.

### **18.7 Controlling Agreement**

This Agreement controls in the event there is a dispute as to the terms or provisions appearing in this Agreement and any Trust documents.

### **18.8 Mutual Commitment to Expediting Health Care Coverage**

Both Parties will endeavor to gain access to health care coverage for bargaining unit employees through the Trust prior to the beginning of state reimbursement on January 1, 2009. At the next meeting of the Trust's Board of Trustees on March 5, 2008, , the Union will present and recommend that the Trust consider the creation of a new benefit plan or other methods of achieving health care coverage for bargaining unit employees before January 1, 2009.

## **ARTICLE 19: PAID TIME OFF**

### **19.1 Accrual**

Employees are eligible to accrue and use paid time off, except those that elect to receive pay-in-lieu of benefits (PIB). Paid time off is available to those employees that do not elect the pay-in-lieu of benefits option. Employees shall accrue one (1) hour of paid time off for every forty (40) hours worked. Employees shall accrue, but not be able to use, paid time off during their initial probationary period.

Each employee's personal leave balance will be shown on their pay stubs bimonthly.

### **19.2 Use of Paid Time Off and Scheduling**

Employees shall be eligible to take paid time off in one-hour increments after their initial probationary period. Employees may use any accrued paid time off for sick leave (subject to Section 19.4) single days off, or consecutive days of vacation. Employees must submit paid time off requests for vacation time off in writing at least two (2) weeks prior to the date of vacation requested. In the event that too many employees request paid time off for the same time period, and the Employer cannot ensure safe client coverage, paid time off approvals shall be granted by seniority within the office to which the employee is primarily assigned.

### **19.3: Cash-Out**

Employees may elect to cash out their accrued, unused paid time off. Employees may exercise this cash-out option up to twice per year, however, the Employer will not unreasonably deny additional requests. If the employee does not exercise the cash-out option, then the full remaining unused paid time off shall continue to be carried forward.

The Employer shall notify employees of the cash-out option under this Agreement and shall provide a form for employees who wish to exercise their cash-out option.

Employees who terminate their employment shall be paid for all unused, accrued paid time off. Such cash out shall be made by the Employer at the time of the employee's final pay period and paycheck.

#### **19.4 Utilization of Paid Time Off as Sick Leave**

Employees who have accrued paid time off time shall be eligible for paid time off for any period of absence from employment which includes but is not limited to the employee's illness; injury; temporary disability; medical or dental care; or to attend to members of the employee's or the employee's spouse's immediate family or domestic partner or domestic partner's immediate family, where the employee's presence is required because of illness or as otherwise required by the state or federal Family Medical Leave Act or other State law.

The Employer may, in its sole discretion, require reasonable proof of illness or disability and/or certification of the necessity of the employee's absence. Eligible employees will be required to use available paid time off as part of any period of FMLA leave.

#### **19.5 Notice and Proof of Illness**

The Employer reserves the right to require reasonable proof of an employee's illness, if the absence from work last beyond three (3) consecutive scheduled work days. The Employer also may require a doctor's release in the event that the absence from work exceeds three (3) consecutive scheduled work days.

Employees who are sick shall make a good faith effort to provide as much advance notice as possible to the Employer. However, Employees shall personally notify their supervisor(s) of illness no less than three (3) hours prior to their first assignment of the day, unless there is a verifiable emergency preventing an employee from fulfilling this requirement.

The Employer will maintain a twenty-four (24) hour call or paging service for employees seeking to reach supervisors.

**19.6 Combination with Other Benefits**

Payment of accrued paid time off shall supplement any disability or workers' compensation benefits. The combination of paid time off payments and disability or workers' compensation benefits shall not exceed the amount the employee would have earned had the employee worked her/his normal schedule.

**ARTICLE 20: WAGES AND PREMIUMS**

**20.1 Available Funding**

The Union and the Employer agree that all future 'collective bargaining' shall only include those increased Medicaid and State fund reimbursements which exceed current funding levels, specifically for Personal Care Attendant wages which the Union is able to secure through its lobbying and public policy activities.

**20.2 Starting Wages**

Newly hired employees covered by this Agreement shall be compensated as follows:

Personal Care Attendants (Probationary Wage): \$9.53/hour  
Personal Care Attendants (Probationary Wage with PIB): \$10.42/hour

Upon successful completion of their probationary period, wages for employees covered by this Agreement will increase to following rates:

Personal Care Attendant (Regular Wage): \$9.79/hour

Personal Care Attendant (Regular Wage with PIB): \$10.42/hour

Eligible employees electing PIB (“Pay-in-Lieu of Benefits”) are eligible for health care benefits. Employees eligible to elect PIB include only those employees who provide self-directed personal care services as defined by the Montana DPHHS.

### **20.3 Direct Care Worker Wage Increase**

All employees employed by the Employer as of December 23, 2007, shall receive a wage increase of twelve cents per hour (\$0.12/hour) to their regular rate of pay. This is provided for and in accordance with the Direct Care Worker Wage Increase from the 2007 Montana Legislative session.

Funds received for a Direct Care Worker Wage Increase may not be used to offset any other wage increase mandated by any other laws, contracts, or written agreements, including this Agreement, which will go into effect at the same time as or after implementation of the Direct Care Worker Wage Increase.

All wage increases and due to bargaining unit employees as a result of the implementation of the December 23, 2007, wage increase shall be paid in the pay period beginning December 23, 2007.

### **20.4 Client/Service Inaccessible Pay**

If an employee is unable to provide service to a client due to the client’s failure to answer the door, or if the client is not home, the employee shall notify the Employer by telephone promptly. If the Employer is unable to provide a substitute assignment, the employee

shall be paid at the straight time hourly wage rate for one-half (1/2) hour show-up/no access pay. If this should happen with the same client on more than one occasion, the Employer shall pay the employee only the actual time spent waiting for the client but no more than one-half (1/2) hour.

### **20.5 Overtime**

Employees required to work in excess of forty (40) hours in a week shall be paid overtime for such additional hours at the rate of one and one-half (1 ½) times their regular hourly rate of pay. Paid time off or union leave time or any other time that is not actual hours worked shall not be considered time worked for the purposes of this section.

## **ARTICLE 21: NO STRIKE OR LOCKOUT**

There shall be no strike by the Union and no lock out by the Employer over the issues covered in this Agreement during the term of the Agreement. Should the Employer reasonably believe that the Union and/or its member employees are in violation of this Article 21, the Employer shall contact the President or Secretary-Treasurer of SEIU Healthcare 775NW or appropriate designee(s) to advise him/her of the situation. The officer so notified immediately shall advise employees and/or the Union representatives engaged in the objectionable activity that the activity is unsanctioned.

In the event of an alleged violation of this Article 21, the Employer may commence expedited arbitration proceedings to seek a cease and desist order or other relief by contacting the Federal Mediation and Conciliation Service and requesting the immediate appointment of an

arbitrator to hear the matter. A hearing of the matter shall be held within twenty-four (24) hours after the arbitrator's appointment. The sole issue at the hearing will be whether a breach of this Article 21 has occurred.

## **ARTICLE 22: MODIFICATION AND PAST PRACTICE**

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

Subject to the other provisions of the Agreement, all conditions relating to wages, hours of work, and other terms, conditions and benefits of employment shall be maintained as in effect at the signing of this Agreement. For the purposes of this Agreement, past practice will be considered those past practices applicable to members of the bargaining unit, as specifically contained in the Employer's written policies and procedures that are in effect upon the date of ratification of this Agreement, and which have not been altered or amended by this Agreement.

The Parties agree that all negotiable items have been discussed during the negotiations leading to this Agreement, and, therefore, agree that negotiations will not be reopened on any items, or as a result of new regulatory, legislative, or funding issues, whether contained herein or not, during the life of this Agreement, unless by mutual agreement of both Parties.

## **ARTICLE 23: SEVERABILITY**

### **23.1 Adherence to Existing Statutes**

The Parties agree to abide by all applicable municipal ordinances and state and federal statutes and regulations, including but not limited to any and all statutes pertaining to discrimination in employment.

### **23.2 Invalidation of a Provision of the Agreement**

In the event any Article, Section or portion of this Agreement, or the applications of such provision to any person or circumstance is declared invalid by a court of competent jurisdiction or is in contravention of any applicable local, state or federal law, the remaining provisions of this Agreement shall not be invalidated and shall remain in full force and effect.

## **ARTICLE 24: SUCCESSORSHIP**

### **24.1**

The Employer agrees to notify SEIU Healthcare 775NW in the event any transaction is contemplated which may affect the interests of SEIU Healthcare 775NW members. Home Care Services agrees to notify any potential purchaser of its collective bargaining agreements with SEIU and will make acceptance of such Agreements a condition of any sale, purchase, or any other form of transfer of its business, in whole or in part, to any other person or entity.

## **24.2 Subcontracting**

The Employer will not subcontract any bargaining unit work. In the event the Employer enters into any business relationship which may impact SEIU members, the Employer will notify SEIU promptly.

## **ARTICLE 25: HOME CARE ADVOCACY DAY UNION LEAVE**

The Employer agrees to grant up to fifteen percent (15%) of its bargaining unit employees, by the selection of the Union, two paid leave days each calendar year, for the general purpose of public action and advocacy to improve the quality of long term care. One of these days will be reserved for use as decided by the policy agenda created by the Home and Community-Based Industry-wide Communications Committee as referenced in Article 11.3. The other paid day will be designated by the Union. Employees participating in either day will access the use of Paid Bank Time referenced in Article 3.9. The Union shall designate in writing to the Employer the employees who are requesting such leave at least fourteen (14) calendar days in advance. Leave requests shall take client needs into consideration, but shall not be unreasonably denied by the Employer. The Employer shall communicate promptly with the Union concerning any difficulties in granting leave requests.

Employees on paid leave for advocacy activities shall receive their regular rate of pay for the number of scheduled hours normally worked on that day. Such paid leave time shall not be counted for the purpose of overtime computation.

The Union shall submit a list of those employees who attend the designated advocacy days, to verify attendance for the Employer's purpose of paying leave. The Union shall provide this information no later than the date that timesheets are due for the payroll period following the designated advocacy day. Employees who requested leave, but whose attendance is not verified by the records provided to the Employer and who did not report to work shall be denied paid leave.

## **ARTICLE 26: TERM OF AGREEMENT**

This Agreement shall become effective on the date of ratification and shall remain in effect through midnight (12 am) June 30, 2009. All terms and conditions in this Agreement shall become effective upon the date the Employer is notified in writing of the conclusion of the union's ratification process, unless a specific date for implementation is referenced within the Agreement.

In the event that during the term of this Agreement, the State substantially changes the anticipated funding for contracted services provided by the Employer and/or there is any other change that lowers or increases the level of reimbursement established at the time of the signing of this Agreement, the Parties agree to reopen this Agreement immediately for negotiations on all economically impacted sections.

SEIU Healthcare 775NW – Home Care Services 2008-2009 Collective Bargaining Agreement

Should the Parties reach impasse and fail to reach agreement by June 30, 2009, the Parties may agree to submit outstanding issues to interest arbitration.

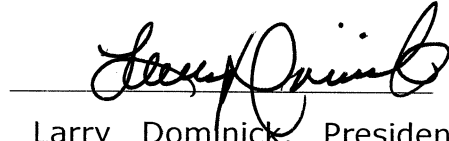
For SEIU Healthcare 775NW:



David Rolf, President

Date: 1/18/08

For Capital Opportunities,  
Inc.:



Larry Dominick, President  
and Chief Executive Officer

Date: 1/28/08