

Asst

Date: March 6, 2007

Re: Necessary terms for an agreement of 100% neutrality

Policy Benchmarks:

1. Reform tort law to set hard caps on non-economic and punitive damages for elder abuse claims. Prevent all other legislation that expands potential liability of a facility.
2. Annual SNF Medi-Cal budget growth always at least 6% or higher.
 - a. Always prevent change to legislation already "paid" for.
 - b. Preserve AB1629 statute and original funding principles.
 - c. Protect quality assessment fee from encroachment by others.
 - d. Preserve use of federal matching funds to SNF care only.
 - e. Ensure Medi-Cal managed care plans follow AB1629 rules.
 - f. Track new mandates for direct pass-through.
 - g. Eliminate sunset.
 - h. Maintain Medicare funding levels and FMAP policy applying to QAF.
3. Improve AB1629 Methodology
 - a. Eliminate time lag between company spending and Medi-Cal rate paid.
 - b. Make "liability insurance" pass-through consistent with Medicare.
 - c. Eliminate global caps or always set at 6% or higher.
 - d. Remove all restrictions on FRVS component.
 - e. Remove operator allocation 5% of rate cap.
 - f. Refine peer group methodology to allow low spending areas to catch up.
 - g. Implement a new risk management pass-through to cover more liability cost.
 - h. Implement a new pass-through for employee health insurance costs.
4. Add \$3 billion new dollars to SNF Medi-Cal spending by time 100% density occurs.
 - a. Increase CA's FMAP percentage.
 - b. Create a protected funding source immune to annual budget fights.
5. Prevent shift ratios from ever being implemented per 2001's AB 1075.
6. If increase minimum staffing, do so only if Medi-Cal and Medicare 100% fund and workforce is available.
7. Prevent all consumer activist regulation and enforcement aimed at mandating quality care through greater punishment.
8. Allow for different classification of staff to be used and included in the nursing hours calculation (i.e., medication tech, feeder aide).
9. Allow for non direct care staff to be included in the staffing ratios if staff ratios are to be increased (i.e., social services to account for quality of life).
10. Have strict liability removed so providers are not responsible for independent employee acts.
11. Fix the "highest practical and psychological well-being" provision in the regulation.
12. Change all State Title 22 regulations to match federal OBRA regulations.
13. Have a definition established for "actual harm."
14. Hold status quo on worker's compensation. No erosion of current rights and responsibilities.

General Security Issues:

1. Unilateral opt out provision at any time with no penalty.
2. Employees sharing burden of decreased reimbursement (rate cuts =s pay cuts).
3. Union sharing burden of adverse legislation or sun-setting of legislation by giving back facilities, or all employees voting for/against the union at the end of each contract cycle.
4. Number of "neutral" facilities should be reduced if number of companies in Alliance does not increase.
5. Prohibition on all organizing until measurable policy objectives are achieved.
6. Pre-valued levels of "neutrality" when specific policy benchmarks are delivered as long as union remains in compliance with remainder of agreement.
7. No organizing of company's other business units anywhere else in the same jurisdiction as the SEIU Locals in the contract.
8. No negative rhetoric ever, regardless of level of contentment with collective bargaining negotiations.
9. One statewide approach for SEIU; no Bay Area exceptions. Only one statewide Local with Tyrone Freeman's vision/philosophy.
10. Limit to 50% density until 50% of the industry is in the Alliance. (A possible exception here would be if a situation were created where union buildings get something of high value for being unionized.)
11. No strikes, slowdowns, etc. ever for any reason.
12. Only long-term template CBAs, else letter disclaiming interest placed in escrow and available if union seeks change in provisions.
13. Union is happy to have little or no role in workplace decision-making.
14. "100% neutrality" does not apply if facility's Medi-Cal percentage is less than 50%.
15. The union provides to its members supplemental insurance so providers in the Alliance have something that non-Alliance providers don't have. The union funds a secondary school that feeds only providers in the Alliance.

Collective Bargaining Agreement:

1. 50 year collective bargaining agreement per the current template with "no strike" and only remedy of "interest arbitration," except as below.
2. No cap or limitations on economic return to employers.
3. No conditions for the sale of the facility.
4. Loser pays provision (if any action is brought and challenged by other party, loser pays all costs, fees and expenses of prevailing party).
5. Union covenants not to take any action that could reasonably be expected to adversely impact the health and welfare of the residents.
6. At the end of the CBA term, all employees covered by the CBA have the right to vote whether to retain the SEIU as their representative.
7. Grievance/Discharge/Arbitration terms have an expedited process to address bargaining employee's abuse of resident allegation that requires termination. Greater flexibility to terminate caregivers alleged to have abused patients, even when it cannot be clearly proven.

8. Economic provision that only allocates money for bargaining unit cost increase when Medi-Cal rate increases.
9. No ability for union to demand 100% paid health care or use of union pension plan.
10. Even attempting to bargain away template CBA provisions and replace with traditional contract provisions is per se "bad faith." 3/5/07 2:12 PM

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