State Union Activity

Compilation of Responses to the Following Questions
March 2004

1. What type of activity, if any, are unions engaging or have unions engaged in, to bargain with home health aides in your state?

2. Summarize your state association’s position and what steps the association took in relation to this activity.

3. What is your best estimate of unionized home health aides in your state?

District of Columbia - Nothing major at this point for DC

Florida - SEIU held a few poorly attended gatherings at our Capitol a few weeks ago, pushing for a law that would give nurses relief from long hours or assignments of too many patients per nurse through mandated staffing requirements. No push to include Aides. Not well received (only one democratic legislator attended); FL is a strong right-to-work state.
We have one of our large members unionized in Miami, but that was years ago and was due to doing business with some of the local public payers in Miami. No other HHAs have been affected as far as I know.

Georgia - none

Indiana - none.

Kentucky - I am not aware of any new or unusual activity related to home health in KY. We have several areas of the state, the coal mining regions where the hospital staffs and the related home health staff are part of the unions which does create some employment issues on occasions. They do report higher staff costs, benefits etc.

Maine - The primary activity is with the consumer directed PCA's. They have recently (last month) unionized under SEIU—about 1,000 of them. In addition we have unionized nurses and/or aides in two of our 31 certified agencies in Maine.
We did not take any action as it was a done deal before we even knew it was going on----our actions ARE focused on preventing the entire movement of home health services to the consumer directed model. This has already put one provider completely out of business. Not many—maybe 50.

Maryland - Nothing major at this point for MD.

Missouri - Mostly SEIU activity in the state. Some success in St. Louis area. Both hospital based and freestanding. The association held workshops with attorneys as speakers about “how to work with unions, how to avoid unionization”, etc. No official “position”. We offer a legal hotline to members. Connect members who are being solicited with others who have been solicited or who are already unionized. Best estimate is that it is a small percent, but understand that there is high interest from unions to increase numbers.
Montana - Montana does not have unionization in home care aides or long term care attendants.

Nebraska - None

New Hampshire - no union activity related to home health aides, and only one hospital-based agency in the state has unionized nursing staff.

New Jersey - We still have LOTS of union activity in home care and all of health care in New Jersey. The SEIU continues to set its sites on home health aides, but the majority of our home health aides are still not interested. Most were turned off by that union's overly aggressive and deceptive tactics last year. We sense that the "Public Authority" which the SEIU tried to legislate in our state last year - to essentially take all our home health aides into the state authority (and the union) and away from home care agencies - is no longer on the table. The bill was not reintroduced this year. Instead, the SEIU is trying via direct contacts with agencies to engineer its own industry coalition. A recent (and fairly small) SEIU home care rally in our state capitol pressed for more regulation and oversight of home care agencies. However, we have probably more regulation and oversight than most states - so the message isn't really going too far. Nevertheless, the union is continuing to try to figure out how to achieve its goals in NJ. And we are continuing to maintain an industry-wide coalition to tell the straight story to the legislature and the public. Our governor and the NJ AARP are campaigning for "Money Follows the Person", a state global budget for long term care, and a shift to more home care and other community-based options. They aren't mentioning a "public authority" anymore, either. We are partnering with the governor and AARP in support of this movement.

Our association is not "Anti-Union" per se. We are anti any organization which tries to denigrate the quality of our home care system and our agencies, and we will not tolerate underhanded methods and untruths. We support the rights of our aides and other workers to choose their own fate without a state mandate imposed upon them.

New Mexico - so far no union efforts specific to home health aides, but certainly union activity in Santa Fe. A "living wage" for all workers was presented to the Santa Fe City Council and approved. It forces all workers to be paid a minimum wage of $8.50 and moving to $10.00 over several years. It was mandated to begin January 1, 2004. So far it has been stopped and is due to be heard in Court in April. Certainly not a specific home health aide union effort, but certainly impacts wage for home health aides and reportedly national unions are behind this.

New York - The only union that represents home health aides in NY is 1199/SEIU. Other unions represent nurses (NYSNA, UFT, etc.). The answers below apply to the question regarding NAHC's position on pass-throughs as well.

History:
1199 first organized the home attendants (akin to personal assistants, not trained up to the home health aide level) in the 1980s. In early 1987, the new leadership of Local 1199 joined cause with District Council 37 of the American Federation of State, City, and Municipal Employees (AFSCME) to form "New York Labor Union Coalition for Home Care Workers." They succeeded in getting Jesse Jackson and John Cardinal O'Connor (leader of the Catholic community) to join forces to secure a wage and benefit increase of $2.44. Subsequently, HCA asked the State to provide the same increase to the home health aides who were not unionized. We succeeded in getting the increase and asked that the Health Department require a pass through from the CHHAs to the licensed agencies that employ the aides. They refused and only a handful of agencies gave the wage increase. In 1999, HCA joined with a number of other associations to for the Workforce Investment Now (WIN) Coalition educate the public on the need to take immediate steps to stabilize the workforce -- professional and paraprofessional. We were asking for additional resources to retain and recruit.
In December of 2000, Dennis Rivera, the New York leader of 1199/SEIU, went to Governor Pataki and promised to keep his members quiet if the Governor would use the Tobacco Settlement dollars to provide wage increases over the next 4 years. Initially, all of home care was included; however, shortly before the deal was finalized, Rivera demanded that the CHHAs and LTHHCPs and non-unionized personal care providers be cut out of the deal. He managed to get over $900 million for his unionized employees -- all of whom work in NYC in the Home Attendant program (high hour personal care cases).

HCA came behind this and got a 3% add-on to the rates in the 2000 budget. We asked 1199 to support pass-through language and they would not. This was because it would interfere with their unionizing (see next section). Instead, agencies were allowed to use the money however they saw fit provided they honored the volume of the contracts with specific licensed agencies. Still, they could give it as bonuses or education rather than wage and benefit. Since it was for professionals as well, many agencies used it primarily for their nurses.

**Union Activity** - 1199 had some 50,000 unionized home care workers in NYC. After they achieved the wage and benefit increase of 2000’s Workforce Recruitment and Retention Act, they set about organizing the workers in the licensed home care services agencies in NYC. It took three years, but they succeeded.

Last year, they got a bill introduced that would require a cost report for licensed agencies (personal care and private duty) as well as a cap on their A&G. Initially the legislation asked for a cap on profits as well (most of the licensed agencies are for-profit). HCA remained neutral on this bill although we opposed the cap on profits; HCP vigorously opposed it. The point of the legislation is to identify exactly how much money is going into the owner's pockets rather than into the aides hands.

Recently, they have distributed a report that charges that the certified agencies are hanging on to the money and pocketing it. (A copy of the report is attached) We have written a rebuttal (also attached).

This legislative session, 1199 and its partner, The Greater New York Hospital Association (GNYHA) have proposed HEAL NY, a “pay or play” approach to taxing employers that do not provide health insurance (see their web-site or that of GNYHA). Along with the tax, they would have the State issue a bond of over $1 billion to underwrite the wage and benefit increases in their next contract with the hospitals and nursing homes. When an organization joins GNYHA, they pay into a fund that is set aside for buying television ads for health care funding increases. As part of this year's strategy, 1199 moved up their hospital and nursing home contract negotiations from 2005 to 2004 in order to take advantage of the timing with the legislature (Republican convention is in NYC in August so they have leverage now). They will also seek $s from the conversion of any not-for-profit health insurers. They are seeking $10.00 an hour for home health aides. Their home attendant members’ health insurance benefit is full family coverage with no co-pay.

It has been said that when NY State needed to make cuts to Medicaid, 1199 proposed a tax on gross receipts of hospitals and home health rather than a Medicaid cut. I believe this to be true as the tax weighs more heavily on upstate providers and a Medicaid cut would have weighed on downstate. The Governor proposed a .07 tax on gross receipts (it works out to about a $25 million hit to my members).

**HCA's Position**

We are neutral with respect to the union. I will say, however, that the union has fared far better at getting the wage and benefit increases to the aides than anyone else.

I speak to 1199 staff and have attended press conferences that they have organized on behalf of health care funding. In 1994, Dennis Rivera funded the "Save Home Care Coalition" which we helped put together.

That said, my upstate members are vehemently opposed to 1199 -- particularly those that are affiliated with an upstate hospital. This relates to the 2000 "deal." The majority of my downstate members are unionized. That effort was aided by VNS of NY asking 1199 into their agency in 1999 to unionize their licensed agency, Partners in Care. Since VNS of NY is so large, what they do affects others. At that time, they had some 20+ vendors for aide services. Today, they have about 10 vendors, and they are unionized.
Where 1199 has been unable to obtain the wage increases as "pass-through" from the CHHAs to the licensed agencies and from the licensed agencies to the workers, they have succeeded in getting "living wage" legislation passed. Today NYC, Suffolk County (Long Island), and Westchester have passed the legislation which requires a minimum wage of around $9 an hour and health insurance for those workers who work a minimum of 20-30 hours a week (there are differences in the three laws). Westchester and Suffolk have found it difficult to fund these increases.

**Best Estimate of Totals**
At least 60,000 home health aides in NYS are members of 1199/SEIU. All totals (hospitals and nursing homes included), 250,000.

**North Carolina** - North Carolina is one of the strongest “right to work states” in the country. We have experience no unionization of home health aides or home care workers in general to speak of.

**Ohio** - In Ohio the SEIU has begun, and to our knowledge they started earlier this year, to solicit home care workers mainly the aides with the theme of uniting for: fair pay raises, respect, affordable insurance, and for the clients. It began in the Cincinnati area and just recently in the Columbus area. Everything is so new, literally things just broke this week in Columbus so we are in the fact finding process. Reading what Mary Schantz had to say about what they are doing was a big help. Currently the estimate of home health aides it is low, but with the strong effort that SEIU is putting into this there may very well be an increase.

**Oklahoma** - In Oklahoma we have had an attempt in Eastern Oklahoma to unionize an aide group but luckily it hasn't seemed to catch on since we are a strong right-to-work state.

**Oregon** - SEIU is not to my knowledge going after home health aides in our state. They are, however, unionizing what we call the Client Employed Providers who are the non-skilled caregivers. There are approximately 12,000 of these people on the books with the state. The union has worked closely with senior groups and the Area Agency on Aging and has formed a “Home Care Commission”. They've only succeeded in securing minimal funding from the state coffers. We have not been involved to-date with this initiative since it does not largely effect the services our agencies currently provide. (*Most HHAs in Oregon do not provide non-skilled services). For now, we are only indirectly monitoring the activity.

**Pennsylvania** - SEIU has been conducting some meetings to try and unionize attendants and those aides that are employed directly by a consumer. Our association has alerted our members of this activity, however we have not done anything formally. Several of our member agencies have also attended these informational meetings that have been conducted by union representatives. My estimate of agencies with unionized direct care workers is about 2% of 321 Medicare-certified agencies in Pennsylvania.

**South Carolina** – No activity.

**Tennessee** - Nothing in TN that I am aware of. We do have one hospital that has had a unionized nurse staff for many years. They are part of a multi-hospital system with several home health offices, but that activity has not bled over outside of the single hospital.

**Texas** - There is no unionization in Texas for home health aides or long term care attendants. Texas has never been much of a union state and there is no money in the state coffers to increase rates.

**Utah** - In Utah we have not had any union activity concerning Home Health Aides. We have recently had some nurse activity in a hospital but not in home health.
**Vermont** – No activity so far. The state association has taken no position. Best estimate of number of unionized aides - I suspect organizing home care agencies in Vermont is pretty far down the union's wish list as their bigger target is hospitals. I think only 4 of 16 hospitals have nurses unions and none has a union for lower level health care staff. The unions here are spending much of their effort and money trying to get “whistle blower” legislation passed. This may not seem directly related to setting up union shops but it is because they use the argument that there is a lot of nefarious activity out there but the nurses, aides and other staff are just too scared to talk. With union protection, the truth would come out. The lobbyist for the hospital association and the union actually got in to a shoving match at the capitol and the capitol security staff had to intervene, boys will be boys and all. So far the legislation includes only hospitals. There was a move last week to add home health to it but home health is still not included. (The chair of the House Judiciary is the president of one of my members so she helped us out.). My guess is the unions will not be successful.

**West Virginia** - none for home health aides. There are some unionized hospitals here and those with affiliated home health agencies are then unionized.

**Wisconsin** - In Wisconsin, about a third of our agencies are based in county government health departments, all of which have been unionized for many years. We are seeing, however, a great increase in activity by SEIU. It's made deep inroads in Milwaukee and is now working in Madison.