

IN THE MATTER OF THE INTEREST)	ARBITRATOR'S
)	
ARBITRATION BETWEEN)	OPINION
)	
OFFICE OF FINANCIAL MANAGEMENT)	AND
STATE OF WASHINGTON)	
)	AWARD
"THE EMPLOYER" OR "THE STATE")	
)	
AND)	
)	
SERVICE EMPLOYEES INTERNATIONAL)	
UNION LOCAL 925)	
)	
"THE UNION" OR "LOCAL 925")	

HEARING: August 25 & 26, 2014
Attorney General's Office
1250 Pacific Avenue Suite 105
Tacoma, Washington

August 27 & 28, 2014
Offices of Sherwin Campbell Barnard Iglitzin
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CLOSING ORAL ARGUMENTS:
August 28, 2014

HEARING CLOSED: August 28, 2014

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BACKGROUND

The Service Employees International Union, Local 925 represents a statewide bargaining unit made up of licensed and license exempt child care workers. The Office of Financial Management of the State of Washington (hereafter "the Employer or the State") and the Service Employees International Union Local 925 (hereafter "the Union") are in the process of negotiating a replacement collective bargaining agreement that will take effect on July 1, 2015. Unable to reach agreement on a number of unresolved issues, the parties agreed to submit the matter to interest arbitration.

Pre-hearing, a copy of a letter dated August 11, 2014 was provided the Arbitrator. It contained a list of issues certified for interest arbitration by the Executive Director of PERC, Michael P. Sellars, and is provided in accordance

with WAC 391-55-200(3)(a). Those issues, as certified, are as follows:

Article 5 - Union Membership and Union Security

Article 6 - Dues Deductions, Agency Fees and Contributions

Article 12 - Subsidy Rates

Base Rate Increase (Licensed)

Base Hourly Rate Increase (FFN)

Creation of Enhanced FFN Rate

Split Day Child Care

Article 14 - Training and Incentives

STEM Training and Incentives

Professional Development Institute

Reopener to bargain over a WCCC/ECEAP Slot Based Network and Regional Compression Structure

A hearing was held before Arbitrator Timothy D.W. Williams over a period of four days and in two different locations. The first two days of hearing, August 25th and 26th, 2014 was held in Tacoma, Washington at the Attorney General's Office. The third and fourth days of hearing, August 27th and 28th, 2014 were held in Seattle, Washington at the offices of Scherwin, Campbell, Barnard, Iglitzin & Lavitt.

At hearing the Parties informed the Arbitrator that the list of issues had been modified. Article 5, Article 6 and the STEM Training and Incentives issue had been resolved and were no longer before the Arbitrator. Two issues, *Professional Development Institute and the Reopener to bargain over a WCCC/ECEAP Slot Based Network and Regional Compression Structure* were in front of PERC on a claim by the State that the Union had committed an unfair labor practice in that it

was pursuing to interest arbitration nonmandatory subjects of bargaining. By letter dated August 22, 2014 the Parties were informed by PERC that certification for interest arbitration of the above two issues was suspended. The Parties reminded the Arbitrator that in the event that PERC recertifies these two issues, a future interest arbitration proceeding before him may be necessary.

The hearing proceeded on the four remaining issues all contained within Article 12 of the CBA. The four issues all involve matters of compensation where the Union requests new increases and the State argues against any of the four.

As an interest arbitration proceeding, the case was conducted under the authority of RCW 41.56.465 and RCW 41.56.028, as well as under the requirements of the various statutory provisions that are referenced within the above two.

At the hearing, the Parties had full opportunity to make opening statements, examine and cross examine sworn witnesses, introduce documents, and make arguments in support of their positions. A transcript was made of the full proceeding and, due to the exemplary effort of the court reporter, each Party and the Arbitrator had a full copy by Tuesday, September 2, 2014.

At the close of the evidentiary portion of the hearing, the Parties agreed to provide closing oral arguments.

Arguments were heard by the Arbitrator on the afternoon of August 28, 2014. Thus the award, in this case, is based on the evidence and the arguments presented during the hearing.

ARBITRATOR'S AUTHORITY

An Arbitrator's authority to issue an interest award is generally derived from statute. RCW 41.56.028(2)(d), the statute covering family child care providers, sets forth that the "interest arbitration provisions of RCW 41.56.430 through RCW 41.56.470 and RCW 41.56.480 apply." RCW 41.56.450 establishes the Arbitrator's authority to issue a binding decision and sets out the requirements for conducting the hearing and issuing an award. RCW 41.56.465 requires that the Arbitrator, in making his or her decision, consider the following criteria:

- (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW [41.56.430](#) and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:
 - a. The constitutional and statutory authority of the employer;
 - b. Stipulations of the parties;
 - c.
 - i. For employees listed in RCW [41.56.030\(7\)\(a\)](#) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on

the west coast of the United States;

- d. For employees listed in RCW 41.56.030(7)(e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;
- e. The average consumer prices for goods and services, commonly known as the cost of living;
- f. Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and
- g. Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

RCW 41.56.465(4) requires that the Arbitrator, in making his or her decision for "employees listed in RCW 41.56.028," additionally consider the following criteria:

- (a) The panel [arbitrator] shall also consider:
 - (i) A comparison of child care provider subsidy rates and reimbursement programs by public entities, including counties and municipalities, along the west coast of the United States; and
 - (ii) The financial ability of the state to pay for the compensation and benefit provisions of a collective bargaining agreement; and
- (b) The panel [arbitrator] may consider:

(i) The public interest in reducing turnover and increasing retention of child care providers;

(ii) The State's interest in promoting, through education and training, a stable childcare workforce to provide quality and reliable child care from all providers throughout the state; and

(iii) In addition, for employees exempt from licensing under chapter 74.15 RCW. the State's fiscal interest in reducing reliance upon public benefit programs including but not limited to medical coupons, food stamps, subsidized housing, and emergency medical services.

The Arbitrator is charged with the responsibility of carefully weighing the factors outlined above when rendering his decision. As he worked his way through the four issues in dispute, this Arbitrator has faithfully applied the above criteria. Additionally, he has been careful to give special consideration to those criteria that were the focal points of the discussion between the two parties.

RCW 41.56.450 grants the Arbitrator 30 days from the conclusion of the hearing to make "written findings of fact and a written determination of the issues in dispute." The instant case, however, is quite different in that the parties, at the time that they retained his services, fully informed the Arbitrator of the need for his written findings by September 15, 2014. The Arbitrator has worked diligently to comply with that understanding.

In summary, this document contains the Arbitrator's final decision which is based on a thorough review of the

documentary and testimonial evidence that has been provided, a careful study of the closing arguments and the faithful application of the statutory criteria.

HISTORY OF SEIU 925/STATE BARGAINING

SEIU Local 925 represents a statewide bargaining unit made up of licensed family child care providers and unlicensed child care providers often referred to as Family, Friends and Neighbors (FFN). The collective bargaining relationship between this bargaining unit and the State of Washington is reasonably new with the inaugural agreement taking effect on July 1, 2007. The current negotiations are for an agreement that will take effect on July 1, 2015 and it will be the Parties' fifth CBA.

The Parties are not new to the use of interest arbitration as a way to resolve issues that do not yield to the Parties efforts for a negotiated settlement. This Arbitrator provided an award that helped bring closure for the inaugural agreement and Arbitrator Michael Cavanaugh served for agreements that took effect on July 1, 2009 and July 1, 2011. The Parties successful reached settlement without interest arbitration for the current CBA.

State subsidized child care is the program that financially ties the members of the bargaining unit to the

State. Parents with income low enough to qualify can receive State subsidy for child care. To be a member of the SEIU Local 925 bargaining unit, licensed family child care providers and unlicensed child care providers must accept subsidized children. Among other issues that are brought to the bargaining table, SEIU Local 925 negotiates the compensation that a provider receives when a subsidize child is provided care.

The Parties instant negotiations are heavily influenced by work being performed in the Department of Early Learning (DEL). The State made clear through its opening statement and the testimony of Heather Moss, DEL Deputy Director, that improving the quality of child care is a top priority. The Department's efforts, supported by a 60 million dollar federal grant, are primarily focused on what it calls the Early Achievers Program.

The following summary looking at the relationship between the Early Achievers Program and the collective bargaining process is taken primarily from the testimony of Heather Moss. A major part of Early Achievers is the Tiered Reimbursement Program for licensed family care facilities. The Tiered Reimbursement Program applies to licensed family child care providers; not to FFN. It is designed to incentivize quality child care.

Licensed family child care providers are not required to be a part of the Early Achievers Program when they provide subsidized childcare. While there have been legislative efforts to make it mandatory, currently joining the Program is voluntary.

The Tiered Reimbursement Program provides compensation over and above the base rate; a rate structure that was negotiated and agreed to by the Union. It has five tiers with each higher tier reflecting a higher level of quality and receiving a higher level of compensation. Level 1 is achieved by receiving a regular license to operate a childcare facility and by agreeing to accept subsidized payment for services. A licensed family child care provider moves up to tier 2 when he or she signs an agreement to be a part of the Early Learning Program. Upon signing the agreement a provider receives a 2 percent premium on the base rate and has 30 months to complete the work necessary to be evaluated.

Within the first 30 months an Early Achievers Program participant goes through a rating process and can be rated as a 2, a 3, a 4 or a 5. Considerable work is involved to achieve each higher level of rating. A rating of a 2 leaves the facility with the original 2 percent above base premium. The premium for a rating of 3 is 4 percent above base, for a

rating of 4 it is 10 percent above base and a rating of 5 it is 15 percent above base.

The Tiered Reimbursement Program first took effect on July 1, 2014 and is currently operating as a pilot program. It is to be reviewed for its effectiveness by the Parties in May of 2015. The premium for each tier can be adjusted through negotiations at that time based on an analysis of whether the premium is sufficient to encourage participants to do the extra work. The Parties have agreed to extend the compensation aspect of the tiered program through the 1st year of the new CBA (through June 30, 2016).

The Arbitrator specifically notes that the Parties are in agreement that negotiations for a successor agreement have been primarily cooperative with the Parties recognizing that they have a substantial amount of shared interests in improving the quality of child care. The Parties, with the exception of the financial issues contained in Article 12, have been able to successfully reach agreement on most of the other issues that have been brought to the bargaining table. The agreement that was reached on the Tiered Reimbursement Program is a good example of a cooperative negotiation product. The State, in its opening statement, specifically emphasized that this cooperation included providing 8 million

new dollars to help resolve issues to include increases in the healthcare benefit.

The Parties, however, remain in disagreement with regard to four matters of increased compensation as requested by the Union. The Union argues for increases while the State takes the position that it has given all that it is capable of giving while funding the tiered reimbursement program and that what it has given is sufficient to fully meet the criteria that the Arbitrator is bound to follow. The Arbitrator notes that the fact that the Parties are divided on these four issues leads logically to the next section of this award; an issue by issue discussion and decision.

POSITIONS, ARGUMENTS, OPINION AND AWARD

The Parties are in the process of negotiating a collective bargaining agreement that will replace the existing agreement and take effect on July 1, 2015. Negotiations over the new agreement resolved all matters with the exception of six issues. Two of the six issues are the subject of an unfair labor practice charge (ULP) brought by the State and are suspended from arbitration until the ULP is resolved by PERC. The remaining four are the issues before the Arbitrator to be addressed through this award. The Parties have provided the Arbitrator with their separate

positions on each of these issues along with evidence and arguments in support of their positions.

As is true in most interest arbitration proceedings, the record in the instant case is voluminous with both Parties presenting extensive documentary and testimonial evidence. The Arbitrator has carefully studied the transcript and has reviewed the documentary evidence. His considerations have been completed with full consideration for the above stated statutory criteria. While he has given attention off the cuff to the whole record, the Arbitrator will not attempt to provide an exhaustive discussion of all points raised or respond to every piece of documentary evidence. Rather, his discussion will focus on those factors for each issue that ultimately were key in determining the award.

The analysis now moves to the discussion and award on the specific issues. The Union is the moving party on all four issues. The first two involve proposals to raise the base rate of compensation for both the licensed and unlicensed providers. Additionally, the Union proposes to add two new provisions involving compensation: one involving split day child care and the other involving an enhanced rate for FFN providers. On each of the four issues the Arbitrator will set forth the position of the Parties, the basis of the Arbitrator's award and the award.

ISSUE 1

Article 12.1, Subsidy Rate Increases - Licensed Providers

Union's Proposal:

Base rate increase of 5% effective July 1, 2015.

Employer's Response:

No base rate increase during the life of this agreement.

Analysis:

This award involves a labor contract effective from July 1, 2015 through June 30, 2017. The Union proposes a 5% base wage increase for licensed providers effective July 1, 2015 and no additional increases during the life of the agreement. The State, specifically noting that a 4% increase has been granted licensed providers on July 1, 2014 and an additional 4% on January 1, 2015, contends that no additional increase is justified during the life of the new agreement. The State also emphasizes that licensed providers have the opportunity to acquire additional compensation through the Early Achievers quality enhancing tiered compensation structure. Any new money, emphasizes the State, should be directed to the tiered program not to an increase on base compensation.

The Arbitrator notes that a substantial majority of the Parties' evidence and arguments focus on the issue of base rate increases for licensed providers. He carefully reflected on all of this evidence and arguments and arrives at the

conclusion that a single base rate increase of 2% is warranted effective July 1, 2016. The following is a multipoint summary of the key factors and considerations that led to this conclusion.

First and foremost, the Parties have agreed to a quality improvement program previously discussed in this award; a program that is based on a tiered reimbursement schedule which operates off the base compensation rates. The idea is to incentivize quality improvement. Licensed providers that participate in the early achievers program will be compensated with base rates plus tiered incentives. Not all licensed providers will participate and they will be compensated only at the base rate.

The Union's position is that while it fully supports the tiered incentives it is also concerned with maintaining a base rate sufficient to meet the needs of non-participants and participants. Moreover, allowing the base rate to deteriorate by over emphasizing the tiered incentive program is not to the advantage of the larger program of providing state supported quality child care as it drives potential providers out of the market particularly in low income neighborhoods.

The State has a double concern in that it believes that increases to the base rate diminish the incentive value of the tiered reimbursement program. And, money assigned to the base

rate is money taken from a limited pot making it more difficult to fund the tiered reimbursement program.

The important point here is that there is a necessary balance between the base rate and the tiered incentives. There is obviously a need to capture the right balance; a balance that maintains a viable base rate but one that does not compromise the incentives contained in the tiered compensation program. Ms. Moss' testimony is telling on this point as she stated:

So you need to keep your base rates at a level that sufficiently pays for child care for children coming into the system, but then you need to put on top of that tiered reimbursements that are attractive enough to encourage providers to move up that scale.

So you have to figure out what the right balance is between a base rate that pays enough for basic child care, but that also allows for you to build on attractive Tiered Reimbursement Rates on top of that. (Tr 701)

The Arbitrator emphasizes that his award on this issue and his further award on Issues 2 and 3 is his effort to set the right balance and to do so in the context of the State's limited ability to fund any increases in compensation.

Second, since the Union has signed off on the Tiered Reimbursement Program and has indicated its full support for making the Program work, the only issue for the Arbitrator is whether there should be additional money added to the base during the life of the new agreement. As earlier set forth, the Arbitrator has determined that adding 2% to the base

effective July 1, 2016 is supported by the evidence and by those criteria that he is bound to utilize.

Both Parties provided extensive comparability data related to the West Coast jurisdictions of Oregon and California. California data is always difficult to apply, as noted by both Parties and by this Arbitrator in a prior decision, because rates are set at the county level. Some counties, mainly Los Angeles, have a greater population than the entire State of Washington (by last count 10.02 million v. 6.97 million) while others are quite small in comparison and have a singular demographic makeup. Oregon is easier to draw comparisons with but that data involves two separate bargaining units.

Most important and what is new to this arbitration award versus prior interest awards involving this bargaining unit, it is difficult to make comparisons when the tiered reimbursement quality incentive program is added to the discussion. Is comparability to be considered only on base rates or should one take into account compensation available to licensed providers through tiered incentive payments? Ultimately the Arbitrator determined that for this award, where the only issue at dispute is whether to increase the base rate during the life of the agreement, the 75% factor thoroughly discussed by both Parties is the critical point and

that the 75% factor should be related to the base rate not to the tiered quality incentives.

The 75% factor is related to the ability of parents to choose an appropriate childcare facility; options need to be available. The State rate needs to be high enough so that 75% of the providers will accept that payment for services. In other words, base rates need to be kept high enough as to not permit the available options to parents to substantially shrink. While California comparables are not particularly helpful on this point, Oregon comparables are since in that state the 75% rate is specifically pegged to the collective bargaining agreement. Since there is no dispute that Washington's rates struggle to achieve the 75% level, the Arbitrator finds that some increase in base rate is justified.

Another factor considered by the Arbitrator is that the State placed a heavy emphasis on the conclusion in the Anne Mitchell report that "base subsidy rates do not need to be increased" (S 44, P 32). The Arbitrator carefully studied this report and has a number of concerns as it applies to base rates effective during the 2015 - 17 CBA. For one thing, the date of the report is October 21, 2013 and the Arbitrator is concerned about the appropriate rate in 2016-17 some three years later. For another, the report does not provide an actual number to use to determine whether the base is

sufficient or at what point there needs to be a raise in the base. Thus the Arbitrator returns to the 75% figure, the number recommended by Federal regulations. The Arbitrator is convinced that the 75% figure fully justifies his 2% increase effective July 1, 2016.

Finally, the Arbitrator did give full consideration to the extensive presentation put on by the State with regard to its budgetary concerns. Bluntly stated, the Arbitrator tempered his award with this information because he found it fully credible. He is convinced that had the 75% figure been rigorously applied, the base rate increase would have to have been substantially larger.

The simple fact is that the State has taken a very aggressive posture with regard to funding some substantial improvements in how child care is provided. In the Arbitrator's view, the State is to be applauded for its national leadership on the matter of early child learning. The State's efforts, however, are costly, they are in part supported by a large federal grant which will expire in the near future and the State provided convincing evidence that there should be no expectation that it can draw from a large pot of money as revenue is expanding slowly while costs are expanding more rapidly. These facts were given full

consideration by the Arbitrator in making his determination on this and the other issues in dispute.

Arbitrator's Award:

Base rate increase of 2% effective July 1, 2016.

ISSUE 2

Article 12.1, Subsidy Rate Increases FFN

Union's Proposal:

Base hourly rate increase of 5% effective July 1, 2015.

Employer's Response:

No base hourly rate increase during the life of this agreement.

Analysis:

Unlicensed providers otherwise known as family, friends and neighbors (FFN) are a significant presence within the instant bargaining unit. Compensation to these providers is on a straight hourly basis with one rate for the first child and a lesser rate for a second child. The base compensation rate for FFNs was increased by 4% on July 1, 2014 and will be increased another 4% on January 1, 2015.

The Union has requested a single increase to the base rate during the new agreement of 5% effective July 1, 2015. The State strongly argues against granting FFNs any increase during the term of the new agreement. Ultimately, having

carefully studied the basis for each party's position, the Arbitrator is awarding a one-time 2% increase effective July 1, 2016. The basis for this award is summarized in the following multipoint analysis.

The Arbitrator notes that the FFN's compensation is distinctly separate from that of licensed providers - a straight hourly basis vs. a complex compensation schedule. Yet historically compensation for FFNs has kept pace with the licensed providers. For example, the last three FFN increases were 2%, 4% and the 4% that will occur on January 1, 2015. These increases were all similar to those given the licensed providers.

Also, as a new source of compensation, licensed providers can now sign up for the Early Achievers Program and receive a 2% of base premium for doing so. As discussed below, the Arbitrator is awarding an FFN enhanced rate of 2% effective July 1, 2015. In both cases, the increased compensation is not automatic - it has to be earned, and it is a quality improvement incentive.

The Arbitrator's award of a 2% base increase effective July 1, 2016 mirrors that awarded the licensed providers and the above analysis provided in support of the increase given the licensed providers applies here and does not need to be repeated. The Arbitrator will, however, emphasize the fact

that the FFN compensation increase he is awarding is almost two years in the future and reflects his concern that the State not fall behind both with regard to comparability and cost-of-living increases.

With regard to FFNs and using its own comparability data, the State acknowledges that it is somewhat ahead of California and behind Oregon (Tr 723). In the Arbitrator's view, the comparability evidence does not support an increase the first year of the new agreement particular in light of the Arbitrator's award of a 2% enhance rate for FFN's effective July 1, 2015. But, this same evidence raises questions about a 0% increase for the entire two years of the new agreement. While it is somewhat a matter of conjecture, it does not seem logical to assume that the State of Oregon and the State of California will provide no increases to comparable FFNs through June 30 of 2017. Any increases granted by those two states will logically erode the State's comparability standing.

Likewise, while cost-of-living increases have been modest, they are consistent and show a gentle upward trend (U 46 and 47). The Arbitrator is convinced that providing no increase during the new CBA will ultimately mean that compensation granted to FFNs will regress versus increases to the cost-of-living.

In summary, it is the Arbitrator's conclusion that comparability data and potential increases to the cost of living justify the 2% increase to FFN base compensation effective July 1, 2016.

Arbitrator's Award:

Base hourly rate increase of 2% effective July 1, 2016.

ISSUE 3

12.5 Enhanced FFN Hourly Rate

Union's Proposal:

Create an enhanced hourly rate of 5% over base for all FFN Providers that:

- Complete 2 hours training child abuse and neglect
- Certification in Infant and Child CPR and First Aid
- 8 hours additional training related to child care issues every 2 years

Employer's Response:

The State is opposed to this new provision.

Analysis:

This is an issue specific to FFN providers. As noted above, FFNs and licensed providers will have received base rate increases of 2%, 4% and 4% by the end of the current CBA (June 30, 2015). Licensed providers, however, have the opportunity to sign up for the Early Achievers Program and receive an additional 2% base rate increase not available to a FFN. Based on the evidence and arguments, the Arbitrator

finds adequate reason to grant the Union's request for an incentive base rate increase provided to FFNs but at the rate of 2% not 5%.

A primary factor leading to this conclusion is the strong emphasis that the State has placed on incentivizing quality improvement. A substantial amount of subsidized child care is provided by FFNs. The State has also emphasized that it wants to incentivize a high standard of quality and that part of its resistance to the Union's proposal was that the quality standard was not high enough. The Arbitrator specifically notes the testimony of Janetta Sheehan, who served as the State's negotiator on this issue, regarding the State's unwillingness to agree to the Union's proposal. She stated:

So our counter proposal to that, as part of our package proposals, was to also have what the equivalent of the two hours of child abuse training, the infant and child CPR and first aid, but we wanted the basic training, which actually incorporates the child abuse and neglect training into it. And that's a little bit more of an intensive training and so that's - that's the training we wanted. And we could never come to an agreement on the training aspects of this, and so our -- our final protected position did not include any language having to do with enhanced FFN. (Tr 504)

On reflection, the Arbitrator concurs with the State as to the work that would justify receiving an enhanced rate - complete 30 hours (Tr 513) of basic training. He has incorporated this conclusion into the award.

Finally, the Union requests a 5% above base enhanced rate but the Arbitrator is awarding only 2%. The Arbitrator's award reflects two basic considerations. The first is the State's limited financial resources as discussed above. A 5% increase is too much when viewed in light of the State's budgetary concerns.

The second consideration is the fact that the Early Achievers Program signup bonus available to licensed providers is only 2% and, once rated, if the provider stays at level 2 then the incentive also remains at 2%. In the Arbitrator's view, the quality requirements for an FFN to receive the enhanced rate are not greater than the requirements for a licensed provider to be rated at a level 2. Therefore, there is a basic equity in setting the enhanced rate for FFN at 2%.

Finally, the Arbitrator gave careful consideration to the State's argument that there are already incentives that have been agreed on for an FFN to take needed training. The Arbitrator carefully reviewed this argument and the Parties' agreements but finds that much of what has been agreed to is cost reimbursement not incentive dollars. It appears that some of the "\$500 incentive" does genuinely serve as an incentive as opposed to cost reimbursement but there are FFN's time considerations and other factors that lead the Arbitrator

to conclude that there is not an unwarranted duplication when an enhanced rate is added to the CBA.

Arbitrator's Award:

Effective July 1, 2015, create an enhanced hourly rate of 2% over base for all FFN Providers that:

- Complete 30 hours basic training as set by the State
- Are certified in Infant and Child CPR and First Aid
- Obtain 8 hours additional State approved training related to child care issues every 2 years following the completion of basic training

ISSUE 4

12.6 Split Day Child Care for Licensed Providers

Union's Proposal:

For all children that attend child care twice in one day, for less than 5 hours total per day, the provider will receive a full day subsidy.

Employer's Response:

This is an entirely new provision proposed by the Union and the State is opposed to it.

Analysis:

The Arbitrator begins his analysis of this issue by noting that the Parties view the matter from an entirely different perspective. From the Union's perspective a licensed provider loses income when it accepts a child who will come twice in the same day but for a total time of five or fewer hours. The provider is only able to bill for a half day but must use a full day slot - a loss of a half day of income. The loss of income, of course, would not occur if the

provider could find a second child to use the hours available when the first child is not present; a rare happening.

From the State's perspective, if it granted the Union's request, it would be paying for a full day of child care when only a half day was being provided. Or, as Ms. Moss testified, accepting the Union's proposal means that the State would be "doubling the cost for some "X" factor of children" (Tr 343) but without actually having any additional child care provided.

The Arbitrator carefully studied both Parties cases on this issue and shares the Union's concern over the potential loss of income. The Arbitrator notes that much of the State's analysis of potential income is based on a provider having a full census (if six slots then all six slots are filled). A split care child obviously begins to erode a provider's potential income.

However, while the Arbitrator shares the Union's concern on this issue, the State has made a compelling case that any change of this nature needs additional study, discussion and work on operational protocols by which it could be administered. The simple fact is that labor negotiations are not a onetime event and oftentimes issues with merit are raised during one bargaining session, withdrawn and then reintroduced during the negotiations for a successor

agreement. Simply put, the Arbitrator does not find the time ripe to award in the Union's favor on this issue.

Arbitrator's Award:

The Arbitrator concurs with the State and does not award the Union's proposal for a full day's compensation whenever a child receives care twice in one day but for less than five total hours.

AWARD SUMMARY

ISSUE 1

Article 12.1, Subsidy Rate Increases - Licensed Providers

Arbitrator's Award:

Base rate increase of 2% effective July 1, 2016.

ISSUE 2

Article 12.1, Subsidy Rate Increases FFN

Arbitrator's Award:

Base hourly rate increase of 2% effective July 1, 2016.

ISSUE 3

12.5 Enhanced FFN Hourly Rate

Arbitrator's Award:

Effective July 1, 2015, create an enhanced hourly rate of 2% over base for all FFN Providers that:

- Complete 30 hours basic training as set by the State
- Are certified in Infant and Child CPR and First Aid
- Obtain 8 hours additional State approved training related to child care issues every 2 years following the completion of basic training

ISSUE 4

12.6 Split Day Child Care for Licensed Providers

Arbitrator's Award:

The Arbitrator concurs with the State and does not award the Union's proposal for a full day's compensation whenever a child receives care twice in one day but for less than five total hours.

This interest award is respectfully given on this the 19th day of September, 2014 by,

Timothy D. W. Williams
Arbitrator

Ross, Lorene (PERC)

From: Bradley, Jessica (PERC)
Sent: Wednesday, December 24, 2014 4:44 PM
To: PERC, Filing (PERC)
Cc: Duffield, Robbie (PERC)
Subject: FW: Arbitration award in STATE - FAMILY CHILD CARE PROV 26672-I
Attachments: Interest_Arb_Award_Childcare.pdf

Please add this award to the case file. It should also get posted on the website and shared with the mediators.

Thanks!
Jessica

From: Sheehan, Janetta (OFM)
Sent: Wednesday, December 24, 2014 3:22 PM
To: Bradley, Jessica (PERC)
Subject: RE: Arbitration award in STATE - FAMILY CHILD CARE PROV 26672-I

Jessica – did anyone send you the award? Here it is:

Jenny Sheehan
Janetta E. Sheehan
Labor Negotiator
Labor Relations Section/State Human Resources

Office of Financial Management
MS 43113, Olympia 98504-3113
(360) 725-5160
FAX (360) 586-0793
e-mail: janetta.sheehan@ofm.wa.gov

 Please save paper by printing only when necessary.

From: Bradley, Jessica (PERC)
Sent: Monday, December 08, 2014 3:09 PM
To: Sheehan, Janetta (OFM); Robert Lavitt
Cc: Jennifer Woodward
Subject: Arbitration award in STATE - FAMILY CHILD CARE PROV 26672-I

Hello,
I am writing to follow up on the status of this interest arbitration case. Did an arbitration hearing take place?
If an award was issued, please submit the arbitration award to PERC.

Thank you,
Jessica J. Bradley
ULP Manager, Trainer, Records and Compliance Officer

Public Employment Relations Commission
(360) 570-7322