

Memorandum of Understanding

between

San Mateo County IHSS Public Authority

and

**Service Employees International Union
(SEIU)**

July 1, 2014 – December 31, 2015

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IHSS
MEMORANDUM OF UNDERSTANDING

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MEMORANDUM OF UNDERSTANDING

ARTICLE 1. PREAMBLE

This collective bargaining agreement is entered into by San Mateo In-Home Supportive Services (IHSS) Public Authority (hereinafter referred to as the Public Authority) and Service Employees International Union, Local 521 (hereinafter referred to as the Union). This agreement shall be in compliance with the employer-employee relations of IHSS Independent Providers except as otherwise provided in Sections 12300 and 12301.6 of the State of California Welfare and Institutions Code, as amended. The Union and the Public Authority acknowledge that the relationship between the Public Authority and the IHSS Independent Providers is governed by state law, specifically Welfare and Institutions Code Section 12301.6, that this relationship is unique, that the Public Authority does not employ or manage the IHSS Independent Providers in the role of a traditional employer, and that the IHSS recipients (Consumers) remain the employer for the purposes of hiring, firing, and directing the work of any Independent Provider providing services to them. This collective bargaining agreement is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3510) and Sections 12300 and 12301.6 of the State of California Welfare and Institutions Code, as amended, and has been jointly prepared by the parties.

ARTICLE 2. RECOGNITION

The Public Authority recognizes the Union as the exclusive collective bargaining representative for the IHSS Independent Provider representation unit, certified pursuant to Resolution No. 3-IHSS, adopted by the San Mateo County IHSS Public Authority on April 12, 1994.

ARTICLE 3. UNION SECURITY

Section 3.1 Agency Shop

- A. The Union agrees that it has the duty to provide fair and non-discriminatory representation to all Independent Providers covered by this MOU, regardless of whether they are members of the Union.
- B. All Independent Providers covered by this MOU, except for those excluded as defined in the side letter agreement shall either:
 1. Become a member of the Union in good standing; or
 2. Pay to the Union an agency fee in an amount which does not exceed an amount which may be lawfully collected under applicable constitutional, statutory, and case law (e.g., *Hudson v. Chicago Teachers Union, Local No. 1, AFL-CIO*) and which shall be less than the monthly dues made during the duration of this MOU; it being understood that it shall be the sole responsibility of the Union to determine an agency fee which meets the above criteria; or
 3. Do both of the following:
 - a. Present to the Union and Public Authority a written declaration that he/she is a member of a bona fide religion, body, or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and
 - b. Pay a sum equal to the agency fee to one of five negotiated non-religious, non-labor, charitable funds that are exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code As follows:
 1. Hope Services

2. American Red Cross
3. Achieved Kids
4. Second Harvest Food Bank
5. IHSS Consortium of SSF and SMC

Section 3.2 Payroll Deduction

The Public Authority will cooperate with the State Controller to assist in the deduction of Union membership dues through payroll deduction. The specific procedure for implementing payroll dues deduction will be determined in conjunction with the State Controller.

If practicable for the State to implement, the dues or service fees shall be deducted from the provider's pay check on a monthly basis starting the first day of the month following completion of 45 days after the ratification date of this agreement.

Section 3.3 COPE Check Off

Members may also request voluntary deductions to the Union's Political Activity Fund (COPE). Such deductions shall be sent in a separate check to the Union each payroll. Workers may withdraw from COPE deduction at any time by notifying the Union office. The provisions of this Section 3.3 are contingent on implementation by the State Controller's Office.

Section 3.4 Hold Harmless

The Union shall indemnify, defend, and hold the Public Authority harmless against any and all claims, demands, suits, orders, or judgments, or other forms of liability that arise out of or by reason of this Article 3, or action taken or not taken by the Public Authority under this Article 3. This includes, but is not limited to, the Public Authority's attorney's fees and costs.

Section 3.5 Forfeiture of Deduction

If, after all other involuntary deductions are made in any pay period, the balance is not sufficient to pay the deduction of Union dues, agency fee, or charity fee required by this Section, no such deduction shall be made for the current pay period.

Section 3.6 Compliance

If any currently employed Independent Provider fails to authorize Union deductions within 30 days of employment, there shall be involuntary deductions for agency fee from the Independent Provider's paycheck.

Section 3.7 Rescission

This Agency Shop provision may be rescinded at any time that those Independent Providers covered by Agency Shop file a petition and present proof that at least 30% of the Providers in the representation unit want to rescind such provision. After petitioning, there shall be a majority vote for such rescission.

Section 3.8 Union Obligations

- A. The Union shall provide the Public Authority and the State Controller with a copy of the Union's "Hudson procedure" for the determination and protest of its agency fees. Annually, the Union

shall provide a copy of said "Hudson procedure" to every agency fee payor covered by this MOU and as a condition to any percentage change in the agency fee.

- B. Annually, the Union shall provide the Public Authority and the State Controller with copies of the financial report the Union files with the California Employee Relations Board, the Department of Labor (Form LM-2), or the union's balance and operating statement for the prior year. Failure to file such a report within 60 days after the end of its fiscal year shall result in termination of agency fee deductions without jeopardy to any worker, until such report is filed.

Section 3.9 Maintenance of Membership

Independent Providers who become Union members shall remain as members for the duration of this and each subsequent Memorandum of Understanding thereafter. For a period of twenty (20) calendar days prior to the expiration of this and any subsequent Memorandum of Understanding, members shall have the right to withdraw from the Union by selecting one of the options in Section 3.1.B above. Withdrawal shall be communicated in writing by the Provider and postmarked during the twenty (20) day period, then delivered to the Union by certified mail.

ARTICLE 4. UNION RIGHTS

Section 4.1 List and Information

The Public Authority shall provide the Union on a monthly basis a list of each Independent Provider in the unit represented by the Union. This list will include name, home address, date of hire, telephone number, date of birth, date of termination and hours worked in a designated payroll period. The list shall be provided electronically or on floppy disks in an agreed upon format. The Union shall have the right to mail materials to the home address of Independent Providers. For Independent Providers whose telephone number is also that of a Consumer, the Union agrees that calls will not be made to the Provider when the Consumer is receiving care and also agrees to terminate calls if the Consumer objects to calls to the home phone number.

The Public Authority will include official Union notices in mailings to the bargaining unit from the Public Authority if the Union provides such notices to the Public Authority five (5) working days prior to the mailing date, and if the Union reimburses the mailing costs to the Public Authority in the event that the Union documents increase mailing costs.

The Union shall be allowed use of reasonable space on available bulletin boards within the offices of the Public Authority for communications having to do with official organization business, such as times and places of meetings provided such use does not interfere with the needs of the Public Authority. Union Stewards and Union Representatives shall be allowed to attend and will be allowed up to twenty minutes to discuss Union business/share information at Public Authority orientations. The Public Authority shall provide the Union with a monthly schedule of orientations by the 25th of the previous month.

Section 4.2 Consumer Confidentiality-Right to Privacy

The Union shall neither seek nor receive information regarding the name, address, phone number, or any other personal information regarding consumers. Union representatives and IHSS Independent Providers shall maintain strict standards of confidentiality regarding consumers and shall not disclose personal information obtained, from whatever source, pertaining to consumers unless disclosure is compelled by legal process or otherwise authorized by law.

Section 4.3 Union Access/Home Visits

Union representatives shall not conduct Union business, including business related to enforcement of this agreement, nor make visits to IHSS Independent Providers at the homes of consumers unless the IHSS Independent Provider and the applicable consumer share the same residence, in which case the Union may only contact the IHSS Independent Provider. Solicitation for membership or other internal Union business shall be conducted only during the non-duty hours of all IHSS Independent Providers and with oral approval by the applicable consumer.

Should a Union representative inadvertently visit a consumer's home, having been given the consumer's address as that of the Independent Provider, the Union representative shall discontinue the visit until the procedures above are followed.

Under no circumstances shall any picketing, demonstrations or other like activity be conducted at the residence of a consumer.

Section 4.4 Stewards

The Union will give the Public Authority a list of all stewards and alternate stewards twice per year. In accordance with the employer-employee relations policy, Section XVI, stewards shall be provided reasonable release time for meetings falling within the scope of representation. Such paid release time shall not exceed a total of three hours in any month and shall not interfere with the provision of services to Consumers. The Union shall submit a written request to the Public Authority for paid release time for a particular steward(s) at least two (2) working days prior to the meeting whenever possible. Effective November 5, 2014, the Public Authority will pay up to three Independent Providers to participate in negotiations sessions.

ARTICLE 5. REGISTRY

Consumers have the right to seek IHSS Independent Providers from any source, including but not limited to referrals from the Registry. The Public Authority reserves the right to recruit IHSS Independent Providers for the Registry from any source. The Public Authority reserves the right to deny an application to be listed on the Registry if the applicant does not comply with the Registry application requirements and/or the Registry application process/procedure or who has a past criminal record or work history which the Public Authority determines would make him/her inappropriate for the Registry. The Public Authority has the discretion to not include IHSS Independent Providers on the Registry. The Public Authority does not have the power to preclude IHSS Independent Providers from IHSS employment.

Registry referrals shall be handled in the following manner:

1. Should the consumer request a specific independent provider who is listed on the registry, only that individual's name will be referred;
2. Only names that meet the consumer's needs/criteria will be referred;
3. For registry referrals, seniority shall be defined as the most recent date of being registered at the Public Authority registry;
4. If the registry is utilized, and if the consumer does not name request an individual from the registry, the registry will first be screened to identify independent providers who meet the consumer's needs/criteria. Referral lists shall have a minimum of three (3) and a maximum of

ten (10) names, except in cases where fewer than three (3) individuals on the registry meet the consumer's needs/criteria. Only names that meet the consumer's needs/criteria will be referred. If there are more than ten (10) Independent Providers on the registry list who meet the consumer's needs/criteria, only the ten (10) most senior names, as defined above, will be referred.

5. The registry shall furnish the Union, through the Public Authority, a monthly list(s) of all Independent Providers referred during the preceding month. This list(s) will not identify the consumers to whom the Independent Providers were referred.

ARTICLE 6. REGISTRY PROVIDER REVIEW PROCESS

The Public Authority shall have the right to remove an Independent Provider from the registry for just cause. If the removal is due to any of the following reasons, the Provider may only appeal the removal to the Public Authority Advisory Committee. Any such appeal to the Advisory Committee will be heard by a subcommittee and the Independent Provider may be represented by the Union. The subcommittee shall issue its decision in writing no more than thirty (30) work days after the hearing and shall send a copy to the Union if the Independent Provider is represented by the Union at the hearing.

- Abuse (financial, emotional, physical, sexual, or neglect)
- Theft
- Misrepresentation (for example, providing false information on an application, timecard, or other document)
- Unauthorized disclosure of confidential information
- Being under the influence of or use or possession of alcohol or illegal substances while on duty
- Absence from or leaving the job without notice
- Possession of a firearm or other dangerous weapon while on duty
- Knowingly putting the Consumer in jeopardy
- Conviction of or arrest pending trial for a crime which indicates unfitness for the job or which raises a threat to the safety or well being of the Consumer

If the removal is due to other reasons, or if the Independent Provider alleges a violation of this Memorandum of Understanding, the Provider may appeal through the three-step review process described below and may be represented by the Union in this process.

Step 1 - Program Director The Provider and the Steward will send a written complaint to the Program Director. The complaint must be made within ten (10) working days of the event leading to the complaint or of when the Provider should have been reasonably aware of the event or circumstances giving rise to the complaint and must contain the following:

1. A complete statement of the complaint and the facts upon which it is based;
2. The article(s) or section(s) of the MOU that the Independent Provider or Union alleges have

been violated; and

3. The remedy or correction sought.

Complaints failing to contain the above shall not be eligible to be referred beyond Step 1. Upon receipt of the written notification, the parties shall meet within ten (10) working days or at a time mutually agreed to by the parties. This meeting will be attended by a Union representative and/or Union steward, the Independent Provider filing the complaint, and the IHSS Program Director or his/her designee. The Program Director will respond to the complaint in writing within fifteen (15) working days after the Step 1 meeting.

Step 2 - If the complaint is not resolved at Step 1, either party may call for a Step 2 meeting. This meeting shall be held within ten (10) working days of the request or at a time mutually agreed to by the parties. This meeting will be attended by a Union representative and/or Union steward, the Independent Provider filing the complaint, the IHSS Program Director, and the Director of Aging and Adult Services or his/her designee. The Director will respond to the complaint in writing within fifteen (15) working days after the Step 2 meeting.

Step 3 - If the matter is not settled at Step 2, either party may, within fifteen (15) working days, submit it to advisory mediation to attempt to resolve the issue. The parties agree to use the Peninsula Conflict Resolution Center for such advisory mediation. The parties will attempt to secure such mediation services at no charge. If there is a charge, the parties agree that any charge will be shared equally by the Union and the Public Authority. Each party, however, shall bear the costs of its own presentation, including preparation and post-mediation briefs, if any.

ARTICLE 7. NO STRIKE-NO LOCKOUT

During the term of the agreement, the Union, its members and representatives agree not to engage in, authorize, sanction or support any strike, slowdown, stoppage of work, curtailment of production, or refusal to perform customary duties, during the term of this agreement or when there is no agreement in place. The Union, its members and representatives further agree not to engage in job action for the purpose of effecting changes in the directives or decisions of management of the Public Authority, nor to effect a change of personnel or operations of management or of workers not covered by this MOU either during the term of this agreement or when there is no agreement in place. The Public Authority agrees not to lock out members during the term of this agreement or when there is no agreement in place. In the event that any dispute arises at the end of the agreement, the Public Authority and the Union shall follow the provisions of Section XIII of the Employer-Employee Relations Policy.

ARTICLE 8. PUBLIC AUTHORITY RIGHTS

Unless otherwise expressly specified in this agreement, the Public Authority retains the exclusive right to determine the methods, means and personnel by which its operations are to be conducted; to determine the mission of its governing body, constituent departments, committees, and other related work groups; to add or delete names of Independent Providers to and from the registry; and to take all necessary actions to carry out its mission in emergencies.

ARTICLE 9. NON-DISCRIMINATION

Neither the Public Authority nor the Union shall discriminate with respect to enrollment on the registry by reason of race, creed, color, national origin, sex, sexual orientation, age or legitimate union activities. To the extent prohibited by applicable state and federal law, there shall be no discrimination against any disabled person solely because of such disability unless that disability prevents the person from adequately performing the essential duties of the position. The provisions of this Article 9 are not applicable to consumers as defined in Article 10.

ARTICLE 10. CONSUMER RIGHTS

The parties reaffirm that under the statute and ordinance establishing the Public Authority, IHSS Consumers have the sole and undisputed right to:

- a) Hire Independent Providers of their choice, with full disclosure of relevant information on registry referrals according to IHSS regulations;
- b) Remove Independent Providers from their service at will and without appeal;
- c) Determine in advance and under all circumstances who may or may not enter their homes;
and
- d) Manage, supervise, and direct the Independent Providers assisting them.

ARTICLE 11. TRAINING

Section 11.1

The Public Authority shall seek and give full consideration to the Union's input for the purpose of developing and implementing training programs for Independent Providers. Training materials and the curriculum will be developed in conjunction with the Public Authority Advisory Committee, giving full consideration to the Union's input.

The Public Authority will invite IHSS Independent Providers to training sessions. Notice of such training sessions shall be sent to the Union at the same time as the invitations to IHSS Independent Providers. Training sessions will be held in locations throughout San Mateo County. The Public Authority and the Union will meet to agree upon locations of trainings in June, with an optional second meeting, at the Union's request, in January. The Public Authority will give the Union two (2) weeks notice for the meeting. Training will be voluntary and without pay and will be at no cost to IHSS Independent Providers.

The Public Authority will provide eight (8) training sessions annually.

Topics to be covered will include but are not limited to: basic personal care, body mechanics, first aid, CPR, trainings specific to particular diseases such as diabetes and Alzheimer's disease, communication skills, dealing with difficult clients, death and dying, etc.

All such trainings will have Spanish and/or Chinese translation available upon request at the time of registration. Effort will be made by both the Public Authority and the Union to encourage providers to request translation services if necessary.

Section 11.2 – Job Development/Life Enhancement Fund

A Job Development/Life Enhancement Fund shall be established in the amount of \$5,000 annually. Any remaining funds (up to a maximum of \$5,000) shall be rolled over into the next contract year provided that the total amount in the fund shall not exceed \$15,000. Independent Providers shall be reimbursed from this fund up to \$300.00 annually to attend programs of education and training, including the cost of course books which enhance the effectiveness of the Independent Provider and/or provide value to the care of the Consumer under the following conditions:

1. The program must be done in an off-duty status;

2. The Independent Provider must both begin and successfully complete the course while employed by a Consumer or while actively on the Registry;
3. The Independent Provider must submit an application on a form provided by the Public Authority to the Public Authority listing the name of the program and the dates of attendance prior to enrolling in the program. This application form must be submitted no less than thirty (30) calendar days prior to the beginning date of the course or program. The Public Authority will review the application and notify the Provider, within ten (10) working days following receipt of the application, of approval or disapproval, including reason for disapproval. The Public Authority shall forward to the Union, on a monthly basis, a list of all Job Development Reimbursement Forms received so the parties can monitor the types of training requested;
4. Upon completion of the program, the Independent Provider must submit to the Public Authority a request for reimbursement accompanied by a copy of the school grade report or a certificate of successful completion; and
5. Should the amount dedicated to the Job Development Fund be exhausted in any given year, further applications will not be accepted that year. For purposes of this Section 11.2, a year shall be considered the period of July 1 through June 30.

ARTICLE 12. WAGES

Section 12.1

The current hourly wage is \$11.50 per hour, contingent upon the State and Federal governments' agreements to share at that level under the current funding formula. Effective upon ratification, Board Adoption and State approval, the wage shall be increased to \$12.65 per hour.

Section 12.2 Additional Funding

It is understood that the Union actively and aggressively fights and wins funding for IHSS. Should any extra funding be secured for the IHSS Program, the Union and the Public Authority will meet thirty (30) days after its approval to discuss the funding appropriations.

ARTICLE 13. BENEFITS

Section 13.1 Transportation

As soon as feasible after ratification and adoption of this MOU, IHSS Independent Providers shall be provided a "Clipper" transportation card under the following conditions:

1. The first One hundred twenty-five (125) Independent Providers who apply will receive the Clipper card. A wait list will be created.
2. The card will be automatically loaded with a value of \$50 each month.
3. If an Independent Provider becomes inactive the Clipper card will be deactivated and the first person on the wait list will be provided with a Clipper card the following month.
4. If an active Independent Provider does not utilize the Clipper card for a period of three months the card will be deactivated and the first person on the wait list will be provided with a Clipper card the following month.

The Public Authority will monitor usage. Should the Clipper card be used inappropriately, the card will be deactivated and the first person on the wait list will be provided with a Clipper card the following month.

Section 13.2 – Health, Dental and Vision Insurance Benefits

Effective January 1, 2013, the Public Authority will fund up to 1000 healthcare slots. The Public Authority will fund up to 2200 dental slots.

These benefits are restricted to Independent Providers who work at least 35 hours per month for two consecutive months and is limited to employee only (no dependent coverage). Effective January 1, 2013, Independent Providers who are enrolled in the Health Plan of San Mateo shall pay \$20.00 per month toward the monthly premium and Independent Providers who are enrolled in Dental Benefits shall pay \$5.00 per month toward the monthly premium. In the event of an increase in premium, the parties will meet and confer to discuss potential reallocation of funds available for benefits within the County share.

Dental and vision insurance is for Independent Providers who work at least 35 hours per month for two consecutive months. Dental and Vision coverage shall be provided at the premium rate of \$21.28. Dental coverage shall be provided under the Blue Cross 2500 Dental plan. The Public Authority shall continue to pay for those Independent Providers who are currently receiving dependent and family coverage and who were paid for 35 or more hours in June 2003, to continue at their current level of coverage as long as they are continuously employed as an Independent Provider at 35 or more hours per month with no break in service.

The number of filled slots for Health will be reviewed on a quarterly basis on September 30, December 31, March 31, and June 30. If the number of filled slots is within 10 of the maximum allowable slots as stated above, the Union and the Public Authority will meet no later than thirty (30) days of the dates stated above to review allocation of slots.

Independent Providers not currently receiving dependent and family coverage may purchase dental coverage for their dependents under the condition that the Independent Provider shall be responsible for all costs for such coverage. The number of hours worked per month is determined by the “Provider Hours Paid for Month Report” from EDS, or a similar report agreed to by the Public Authority and the Union. This report covers a one month period. To ensure that there is no break in eligibility for benefits, time cards are to be submitted no later than five (5) working days after the end of the pay period.

The Union will administer Health, Dental and Vision Insurance plans for IHSS Independent Providers through December 31, 2012. In exchange for these services, the Public authority will provide \$25,000 (including state and federal matching funds) for these services. Beginning January 1, 2013 (or on a date thereafter mutually agreed upon) the Public Authority will administer Health, Dental, and Vision Insurance plans for IHSS Independent Providers. In order to be eligible to enroll for Health, Dental or Vision benefits, Independent Providers must be either members or pay an agency fee to the Union.

ARTICLE 14. ADVANCE NOTICE

Except in cases of emergency as provided below in this subsection, the Union, if affected, shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the Public Authority and shall be given the opportunity to meet with appropriate management representatives prior to adoption.

In cases of emergency when the foregoing procedure is not practical or in the best public interest, the Public Authority may adopt or put into practice immediately such measures as are required. At the earliest practicable date thereafter the Union shall be provided with the notice described in the preceding paragraph and be given an opportunity to meet with the appropriate management representatives.

ARTICLE 15. SEPARABILITY OF PROVISIONS

In the event that any provision of this agreement is declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of the agreement shall be null and void but such nullification shall not affect any other provisions of this agreement, all of which other provisions shall remain in full force and effect.

ARTICLE 16. PAST PRACTICES

Continuance of working conditions and practices not specifically authorized by resolution of the Public Authority is not guaranteed by this agreement.

ARTICLE 17. LABOR MANAGEMENT COMMITTEE

A joint committee consisting of representatives from the Union and the Public Authority shall meet on a quarterly basis for the purpose of discussing issues of mutual concern and interest. Each party shall have up to five (5) members. The Union or the Public Authority may add or cancel joint labor-management committee meetings by mutual agreement.

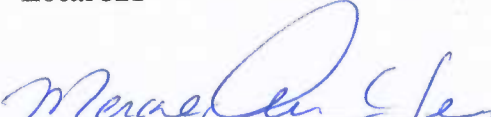
ARTICLE 18. TERM

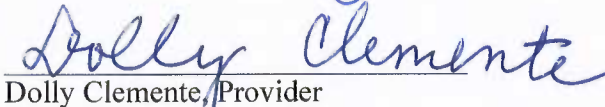
This agreement and all of its provisions shall become effective upon ratification by the Union membership and adoption by the Public Authority and shall remain in full force and effect until December 31, 2015 unless either party hereto serves notice on the other to amend or terminate the agreement as provided herein.


Dated: January 27, 2015

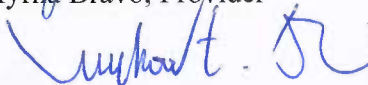
For Service Employees International Union

Local 521

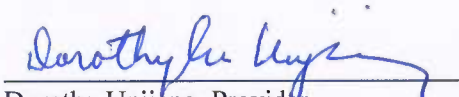

Merina Au Yeung, Internal Organizer

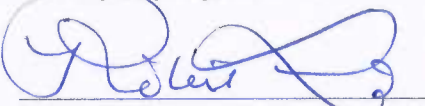

Dolly Clemente, Provider


Myrna Bravo, Provider



Tuyhoa Do, Provider

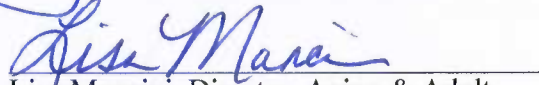
Tuyhoa Do, Provider


Dorothy Unjieng, Provider


Robert Li, Director

For San Mateo IHSS Public Authority


Jean Fraser, Chief, Health System


Lisa Mancini, Director, Aging & Adult Services


Nicole McKay, Employee Relations Manager

Sideletter of Agreement

Service Employees International Union Local 521 and the County of San Mateo IHSS Public Authority hereby agree as follows:

All Independent Providers currently working 25 hours or less per month shall be exempt from the Agency Fee provision.

Two Independent Providers coded 01 or 02 currently not paying the Agency Fee or Union Dues shall be grandfathered until they so select Agency Fee or their minor child is no longer minor. All future Independent Providers coded as 01 or 02 shall be included under Agency Shop provision Section 3.1. Listed are the 13 Independent Providers and their corresponding code:

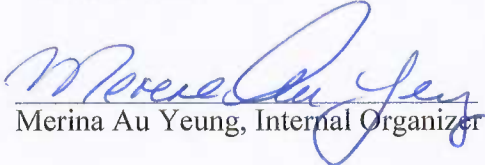
- | | | |
|----|---------------|----|
| 1. | KATAMI, Wafa | 01 |
| 2. | CHHIM, VUTDET | 02 |

Nothing in this agreement shall preclude these Independent Providers from joining the Union or paying a service fee if they so choose.

This Side Letter of Agreement shall be available upon request to either the San Mateo County IHSS Public Authority, or the Service Employees International Union Local 521.

Dated: January 27, 2015

For the Union


Merina Au Yeung, Internal Organizer

For San Mateo IHSS Public Authority


Lisa Mancini, Director, AAS