

Victories for Home Health Care Workers

Home care workers get organized.

BY STU SCHNEIDER

Thirteen thousand home care workers in Oregon voted overwhelmingly two years ago to join the Service Employees International Union (SEIU). The vote was the culmination of a four-year statewide campaign modeled on earlier efforts in Washington and California. “Twenty years of being unrecognized, underpaid, with no benefits, essentially an invisible workforce, has made many of us frustrated and searching for solutions,” Herk Mertens, a home care worker from Waldport, Oregon, told the Labor Research Association after the vote. “I honestly feel the union is the only way home care workers and our clients have the ability to be visible, to have a voice decision makers will hear, and to press for improvements in quality of care and working conditions.”

Home care workers bathe, clean, and feed the frail elderly and individuals with physical disabilities. They assist their clients at the toilet and transfer them to bed. Their work is physically and emotionally demanding, but essential in a society with an aging population. Their efforts enable home care consumers to live independently within their homes and communities.

Despite their importance, home care workers are among the most underpaid workers in the United States. Predominantly women of color, they typically earn minimum wage or just above. Too often they and their children remain mired in long-term poverty. (See sidebar, “Who Are Home Care Workers?”)

Home care workers’ economic plight is compounded by a legal bind. In many areas of the country, they are classified as independent contractors. Technically “self-employed,” they have no outside employer (even though their pay often comes from federal or state funds like Medicaid). As a result, they get no employer-sponsored benefits or workers’ compensation insurance, and they are responsible for paying both the employee and employer portions of their payroll taxes out of their own paltry paychecks. Moreover, federal anti-trust law bans independent contractors from unionizing or bargaining collectively. In the eyes of the law, self-

employed home care workers are not workers, but businesses. Any effort to join together and unionize, therefore, is viewed as “collusion.”

This makes the recent west-coast union victories all the more remarkable. In California, Oregon, and Washington, organized labor, in coalition with disabilities activists, senior citizens’ lobbies, and community groups, forged a new three-step organizing strategy. In the process, these labor-community coalitions have transformed the structure of employment in the home health care sector.

The strategy was born in a 15-year struggle in California. In-Home Supportive Services (IHSS), the state’s massive home care program, is the nation’s largest and currently employs more than 202,000 workers. The Service Employees International Union (SEIU) first attempted to organize IHSS workers in the 1980s. But state courts created a roadblock in 1987, ruling that home care workers were neither employees of the state of California (which paid them), nor employees of the county (to which they submitted their semi-monthly time-sheets). Home health care worker Amanda

WHO ARE HOME CARE WORKERS?

A recent U.S. General Accounting Office study found that over 90% of all home care workers in the nation are women, one-third are African American, nearly one-fifth are Hispanic, and 20% are immigrants. The same report notes that one out of every four home care workers is unmarried with young children. Of 2 million paraprofessionals employed in the long-term care sector, 600,000 earn wages below the poverty line, according to the Service Employees International Union (SEIU).

In California, 77% of IHSS home care workers are women; half are between the ages of 41 and 60; most work part time. Almost 40% are relatives paid to care for parents, spouses, and other family members.

Figuroa testified before the Los Angeles County Board of Supervisors in 2001 that the workers had been like “ping-pong balls” tossed between the state and county, neither of which was willing to accept fiscal responsibility for wage increases or benefit coverage.

Following the court decision, SEIU realized it first had to establish an “employer of record.” The union joined with consumer advocacy groups, including the California Senior Legislature, the California Foundation for Independent Living Centers, the Congress of California Seniors, and IHSS participants, to pursue public authority legislation. United under the slogan “Keep what works, fix what’s wrong and fund!” this coalition won passage of a law in 1992 that established county-level public authorities to oversee home health service delivery. The new law empowered counties to increase local control of IHSS, established mechanisms for consumer input into policy, and created an employer of record for workers. This in effect established a legal employment relationship between home care workers and the public authority for the purpose of collective bargaining, enabling SEIU to move forward with organizing drives (See sidebar, “Public Authorities”).

The public authority model initially spread across seven California counties, representing over 50% of California’s IHSS home care workers. Stakeholders—workers, clients, and the new authorities, along with statewide coalitions like the Public Interest Center on Long-Term Care and IHSS Agenda—kept public officials aware of the need for further improvements to the IHSS system. In 1999, SEIU Local 434B won the right to represent 74,000 home care workers in Los Angeles County. It was the biggest union victory, in terms of numbers of new members, since the 1940s. The same year,

PUBLIC AUTHORITIES

Public authorities have powerful rights to oversee and manage the delivery of local home health services. In California, their advisory boards consist primarily of consumers. The authorities set up registries of qualified workers to link long-term care consumers with home care workers. Some also operate specialized training programs.

the public authorities joined activists to advocate successfully for additional legislation that mandated what had previously been optional: designating an employer of record for all IHSS workers and establishing consumer-majority advisory committees to oversee IHSS delivery issues. Faced with these new requirements, 58 California counties have launched public authorities.

The 1999 legislation also mandated that California pay 65% of the wages and benefits of home care workers above a minimum threshold, so that total compensation could increase gradually to a maximum of \$11.50 per hour over a four-year period (up from the minimum wage of \$4.25 in 1991)—if counties funded the remaining 35%. While organized labor spearheaded this effort, these benefits could have never been won without assistance from consumers and the public authorities.

Economist Candace Howes recently evaluated the economic impact of the near doubling of IHSS workers’ wages in San Francisco County. She found that IHSS jobs represent 8% of all low-wage jobs, 16% of low-wage jobs available to women, and 25% of all low-wage jobs available to immigrant women without English language proficiency in the county. Her analysis suggests increasing wages for home care workers reduced San Francisco’s overall poverty rate by about 16%.

SPREADING THE MODEL

In November 2000, Oregon voters approved a constitutional amendment creating a statewide quality home care commission modeled after California’s reformed system. This entity became the employer of record for 13,000 independent contractors who assist nearly 20,000 long-term care consumers. “It was the first time ever that collective bargaining rights were extended through a ballot measure,” Oregon SEIU Local 503 organizing director Steven Ward told the *Northwest Labor Press*.

In December 2001, independent contractors who were previously prohibited from collective bargaining voted—92% in favor—to join Local 503. In June 2003, after more than two years of negotiation, the state approved a contract with Local 503 that, for the first time in the program’s history, offers home care workers paid health insurance, workers compensation coverage, and paid vacation, while boosting wages by \$0.70 per hour.

In November 2001, voters in Washington passed ballot initiative 775 approving a statewide home care public authority to serve as the employer of record for 26,000 home care workers. Eighty-four percent of Washington home care workers supported the call to unionize. “Every state should be doing this,” said Karen Thompson, a home care worker who is president of a sub-local, after the vote.

But one lesson from the Washington case is that in the current state fiscal environment, unionization doesn’t always guarantee better pay. In Washington, any agreement by the public authority board and the union must be approved by the legislature and the governor. The statehouse passed a raise for the home health care workers, only to see it vetoed by Gov. Gary Locke in the name of a balanced budget.

Still, the unionized public authority model has clearly



AP PHOTO / LOUIE BALUKOFF

Ana Salinas, center, joins in a rally with home care workers and their clients in Olympia, Washington, to urge lawmakers to support the House budget that honors the home care contract. Monday, May 12, 2003.

brought gains. By serving as the employer of record for individuals previously considered independent contractors, public authorities in California, Oregon, and Washington allowed almost 300,000 home care workers to unionize and collectively bargain for higher compensation and other changes. While the financial gains have been small for some workers, for many others, pay and benefits improved dramatically.

Moreover, the election victories represent an area of growth for the labor movement. David Rolf, an organizer of the Los Angeles county union drive, told the *New York Times* after the vote, "It is a campaign where we reached out to low-income, women workers, workers of color, and immigrant workers. If you look at the demographic changes in Southern California, the labor movement has to figure out how to bring these workers in because they are the backbone of the new, low-wage service-sector economy."

Nationwide, 12 million people need long-term care services and support. As the baby-boomers age, the numbers will skyrocket. Janet Heinritz-Canterbury, author of a report on IHSS Public Authorities and former director of the Congress of California Seniors, puts it this way: "The SEIU elections represented major headway not only for home care workers on the West Coast but for home care consumers and society in general. This more stable workforce will be able to provide the services that they will increasingly need over the next 20 years." ■

Stu Schneider, special projects associate for the Paraprofessional Healthcare Institute (PHI), provides assistance in business development and public contract procurement to home care cooperatives affiliated with PHI.

RESOURCES Janet Heinritz-Canterbury, "Collaborating to Improve In-Home Supportive Services," Paraprofessional Healthcare Institute, 2002; "13,000 Home Care Workers in Oregon Vote Overwhelmingly to Join SEIU," Labor Research Association online news and analysis, January 8, 2002; Northwest Labor Press <www.nwlaborpess.org>.