

Bill 16 – Impact and Consequences within Ontario’s Home and Community Care Sector

The Issue

The province’s Public Sector Compensation Restraint to Protect Public Services Act, 2010 requires that broader public sector employers must hold employee compensation, and all of its components, at rates that were in place on March 24, 2010 unless the employees are represented by a collective agreement.¹ Increases within existing collective agreements can be honoured.²

Within the home and community sector, the result of this Act is that not-for-profit, non-unionized organizations cannot provide raises to their staff even if the funds are available through pre-existing contractual agreements with the funder (i.e. Community Care Access Centre). The Act interferes with existing contracts and directly obstructs the employer / employee relationship; and this interference can impede the ability of the affected organizations to recruit and retain staff to deliver home and community care.

Background

- Home care was formally established in Ontario in 1970 and is considered to be an evolving part of the formal health care system.
- There has been a longstanding funding and wage differential between the institutional and community sector.
- Since the establishment of the publicly funded home care system in Ontario, service provision has been based on a private sector delivery model where the corporate status of service provider agencies is varied.
- Home care provider organizations are selected through an objective, transparent procurement process which has rigorous standards by which home care providers are measured
- Separating the direct service provision from the eligibility determination and service authorization responsibilities of the Community Care Access Centres (CCAC) guards against conflict of interest and provides a system of ‘checks and balances’ for the recipients of care.
- Home care provider organizations attract high calibre staff with competitive wages, benefits and working conditions that meet their needs for balancing work and home life.
- Subsequent to the Caplan recommendations³, a number of measures were undertaken within the home and community sector to enable and ensure fair and equitable employment practices and competitive compensation.

¹ Compensation includes all aspects of an employee’s compensation - base pay, merit pay, time off such as vacation, pension, health and other benefits.

Employers whose activities are “for the purpose of gain or profit to its members or shareholders” are excluded.

Information retrieved from <http://www.fin.gov.on.ca/en/budget/ontariobudgets/2010/faq.html>

² Ibid

³ Caplan, Honourable E. (2005) Realizing the Potential of Home Care, Competing for Excellence by Rewarding Results

Current Status

- The MOHLTC is a steward, not a manager, of the health system. Local health services are planned, integrated and funded by 14 Local Health Integration Networks (LHINs). CCACs are accountable to the LHINs.
- The CCACs determine eligibility of access and authorize service provision for government-funded home and community services and long-term care homes.⁴
- Home care is vital to the transformation agenda in Ontario. People want to receive care at home for as long as possible.
- Contracts between providers and CCACs to provide home care services expressly hold provider organizations accountable for the compensation of their employees and the establishment of bill rates to enable competitive recompense.⁵
- The home care provider organization of the 21st century must be responsive, innovative and committed to service excellence.⁶

Implications

- Because the Act clearly states that increases within existing collective agreements can be honoured, and expressly disallows increase in compensation to those without a collective agreement, there is an implication that representation by a third party may be the only way to avoid government interception on the wages and benefits provided to employees by employers. This ultimately compromises employee rights by imposing a negative outcome for choosing not to be represented by a third party in favour of a direct relationship with their employer.
- Affected home and community care sector organizations may be susceptible to certification. In the case where only one or two provider locations are represented by a third party, the inequities may drive further unionization.
- Therefore, the Act directly interferes in the formal contractual agreement between the employer and its funder (i.e. CCACs); and in the informal, implicit contract between the employer and its employees.
- CCAC contractual obligations for payment of services cannot be reversed. It is the front-line employees who deliver home and community care who will be most impacted if employers are not able to offer needed increases to their staff.
- The Act disadvantages affected employers by restricting wage increases and creates the potential for clinicians to migrate from the home and community sector – the very setting where the government is working to shift care. Restricting home care employers will not increase the amount of service, but rather, simply drive health care staff away from the sector.

⁴ Ministry of Health & Long-Term Care, Ontario's New Community Care Access Centres
http://www.health.gov.on.ca/english/public/contact/ccac/ccac_mn.html

⁵ OACCAC (2010) General Conditions for Community Care Access Centre Services Agreement 3.3 Staffing – Service Provider Personnel, p16 retrieved from <http://www.ccac-ont.ca/Content.aspx?EnterpriseID=15&LanguageID=1&MenuID=1071>

⁶ OHCA (2008) Competing for quality... what does it mean?

Recommendation

Effective management of health care is vitally important to the government. Home and community care is key to the success of the health care plan. Bill 16 does little to enhance the government's agenda in health and will potentially compromise the gains realized to date.

OHCA therefore recommends that in order to respect the contractual process established for the procurement and delivery of home care services, that the Ontario government exempt home and community care service provider employers from the Public Sector Compensation Restraint to Protect Public Services Act, 2010.

About the OHCA

The Ontario Home Care Association (OHCA), *the voice of home care in Ontario™*, is an organization of home health and social care service providers. Association members deliver nursing care, home support services, personal care, physiotherapy, occupational therapy, social work, dietetics, speech language therapy and medical equipment and supplies in the home to individuals of all ages. OHCA members are contracted by all three levels of government, Community Care Access Centres, insurance companies, institutions, corporations and private individuals. OHCA members are accredited through the Accreditation Canada and/or the International Standards Association (ISO).

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