

## Unionized Private, In-Home Child Care Providers Other States

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### Quick Facts:

- Campaign to unionize childcare providers across the nation began in 2005.
- 15 states have unionized childcare providers, BESIDES MINNESOTA.
- 7 states have repealed statues/executive orders or canceled the union contracts.
- 4 out of the remaining 8 states have unions limited to providers who accept subsidies.
- At least 12 states have taken union dues out of child care subsidies.

### 8 STATES THAT CURRENTLY HAVE UNIONS

State	When/How Formed	Who Impacted	Union dues taken from subsidy
Connecticut	2011 Exec Order 2012 Statute	Only those who receive subsidy	Yes
New Mexico	2009 Legislation	Only those who receive subsidy	Yes
Oregon	2005 Exec Order 2007 Legislation	Regardless of subsidy	Yes
New York	2007 Exec Order	Regardless of subsidy	Yes
Pennsylvania	2007 Exec Order	Regardless of subsidy	Yes
Maryland	2007 Exec Order	Only those who receive subsidy	Yes
Washington	2005 Exec Order	Regardless of subsidy	Yes
Illinois	2005 Exec Order	Only those who receive subsidy	Yes

### 7 STATES HAVE RESCINDED OR ENDED ITS CONTRACT

Wisconsin	2006 Exec Order	Regardless of subsidy	Repealed Statute in 2011
Michigan	2005 Interlocal agreement	Regardless of subsidy	<i>March 1, 2010: DHS Director in Michigan ended the contract citing "The union council has not delivered on its original goals to enhance and improve the delivery of quality care for children whose parents receive assistance from the department. That's why we will stop all funding and, because these providers are not state employees, we will also cease collecting union dues." This kind of direct end to the contract was and is only possible in Michigan because of the way the union was formed.</i>
Kansas	2007 Exec Order	Regardless of subsidy	Defunct Executive Order
Iowa	2006 Exec Order	Regardless of subsidy	Defunct Executive Order
New Jersey	2006 Exec Order	Regardless of subsidy	Defunct Executive Order
Ohio	2008 Exec Order	Regardless of subsidy	Defunct Executive Order & Repealed Statute
Maine	2008 Legislation	Regardless of subsidy	Repealed Statute

## Unionizing Private, In-Home Child Care Providers

### State by State Summary

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#### ILLINOIS:

- *Subsidy rates*- Subsidy rate increases that total 35% over four years.
- *Health insurance*- The state supplies funding for SEIU-run health insurance. The state contribution rate is set at \$364 per enrollee per month and will increase each fiscal year as needed, but no more than 9% annually.
- *Training*- The state provides up to \$7 million per fiscal year to fund QRS for the life of the contract. The contract also states that all providers are “strongly encouraged” to attend an orientation session on the child care assistance program.

#### IOWA: unionization repealed

- *Subsidy rates*- Providers offering both basic and special needs care receive an increase in reimbursement rates of 2%.
- *Health insurance*- Provides that a committee of five union representatives and five state representatives gather information on the accessibility and affordability of health insurance providers. It also specifies that the parties each contribute, matching dollar for dollar, up to \$50,000 for a study on how to improve health insurance coverage for providers.
- *Training*- The state distributes a packet of orientation materials to newly registered providers including information on the union and its role and has posted a list of approved training opportunities on its website.
- *Providers' rights*- Provisions on provider rights include the right to have state policies applied uniformly and to be treated as professionals, the right to have the confidentiality of files maintained and protected and to have access to those files, and the right to have a representative present during home visits.

#### KANSAS: unionization repealed

- *Subsidy rates*- Provides that the state and union work together to meet the goal of raising provider reimbursement rates to the 75<sup>th</sup> percentile of current market rates, including by requesting increased funding from the legislature to achieve this goal.
- *Health insurance*- The state and union will “promote the health and wellness of all providers working with young children”, including sharing information on access to public health services and connecting union representatives with representatives of the Kansas Health Policy Authority.
- *Training*- The agreement provides that the state and the union will encourage opportunities for providers to engage in professional development activities.
- *Licensing improvements*- The state includes union representatives on the Child Care Licensing Systems Improvement Best Team to advise the state on matters related to the licensing system.
- *Payment procedures*- Requires the state to complete and forward in a timely manner all paperwork necessary for providers to receive timely subsidy payment.

### **MAINE: unionization repealed**

- *Subsidy rates*- Representatives from the union and the state agreed to form a rate structure committee for the purpose of examining the current rate structure and exploring the alternatives to the current rate structure.
- *Other provisions*- Upon receiving a request from the union, a representative of the Maine Dept. of Health and Human Services will meet with a union rep. in advance of each monthly Child Care Advisory Council meeting to discuss upcoming agenda items.

### **MARYLAND:**

- *Subsidy rate increases*- Provides that the subsidy rates for providers will receive average increases of 2.9%.
- *Health insurance*- The state and union formed a joint committee for the purpose of evaluating ways to ensure that providers covered under the agreement have access to affordable, quality health insurance.
- *Payment procedures*- The agreement requires that if an overpayment is made to a provider due to an error on the part of the state, the overpayment will be collected or recouped at no more than 5% of the provider's subsidy payment until paid in full.
- *Other provisions*- The state is required to send information concerning the state's subsidy program to providers in their orientation packets to ensure that providers understand their roles and responsibilities.

### **MICHIGAN: unionization repealed**

- *Subsidy rates*- Agreement establishes a schedule of subsidy rate increase of 13% to 35%, depending on the provider's region and licensing status. These rate increases are dependent upon appropriations from the legislature and if new funds are sufficient, the state is to find "creative solutions" to fund rate increases.
- *Providers' rights*- Providers have the right to be treated as professionals by state officials, including with courtesy, dignity, consideration and respect; to request that a new state licensing specialist consultant be assigned when a conflict cannot be resolved by discussion with a supervisor of the licensing specialist consultant.

### **NEW JERSEY: unionization repealed**

- *Subsidy rates*- Provides that reimbursement rates will increased by annual cost of living increases during the term of the contract, beginning with a 3% increase in 2008.
- *Health insurance*- Requires the state to survey providers to determine the health insurance coverage providers currently have; the number of providers and providers' dependents without insurance; and providers' current income and eligibility for the state-funded children's health insurance program.
- *Other provisions*- As an anti-poverty provision, the agreement requires that the state arrange for the annual dissemination of information on the Earned Income Tax Credit to providers.

## **NEW MEXICO:**

- The law provides that areas for negotiation include reimbursement rates, payment procedures, health and safety conditions, monitoring and evaluating homes, licensing and other fees, quality rating standards, training and certification requirements.

## **NEW YORK:**

- *Subsidy rates*- Reimbursement rates are still set at the 75<sup>th</sup> percentile with no increases since the union formed.
- *Health insurance*- Allows child care providers who are not otherwise income-eligible to access health insurance through the state's Family Health Plus program, New York's public health insurance program for low-income adults whose incomes are too high to qualify for Medicaid.
- *Training*- The state contributes \$1 million for professional development funds to help providers meet existing training requirements and to enhance their development.

## **OHIO: unionization repealed**

- *Subsidy rates*- The state agreed to propose changes to the Ohio Revised Code to eliminate a provision allowing individual county departments of job and family services to negotiate reimbursement rates with providers that are lower than providers' customary rates or the rates set by the state.
- *Provider's rights*- Includes a provider bill of rights. The list of rights includes the right to be free from discrimination, the right to review one's own provider file, the right to have a union rep. or private counsel at any appeal proceedings, and the right to receive timely notice of any changes to child care eligibility.
- *Other provisions*- The parties agreed to form a state-union committee, which meets quarterly to review current policies, rules, and regulations; identify best practices.

## **OREGON:**

- *Health insurance*- Although the unions were unsuccessful in securing state funds to cover health insurance, AFSCME signed a contract to with a private insurer to provide insurance for union members without state funding.
- *Providers' rights*- The agreement included a seventeen-point "Family Child Care Provider Bill of Rights." Included in this is the right to be treated as a professional, free from discrimination, receive written information in the provider's primary language, and the right to receive written notice of changes to state subsidy payments or programs.

## PENNSYLVANIA:

- On June 14, 2007, Governor Edward Rendell issued two executive orders authorizing providers to unionize and negotiate getting organized: with the state.
- The first order establishes a bargaining unit of subsidized and unsubsidized providers and requires the Department of Public Welfare to meet and confer with the providers' representative to address "issues of mutual concern on common goals such as a quality early childhood education and care program that includes availability to low-income families, professional preparation and development, health and safety regulations, reimbursement rates, payment procedures, the monitoring and evaluating of registered family child care as well as other issues that are of mutual interest for quality early education and care."
- The second order establishes a bargaining unit of subsidized providers and requires the Department of Public Welfare to meet and confer on "issues of mutual concern regarding quality early care and education that prepares children for schools." Both orders provide that any agreement reached will be memorialized in writing and is contingent upon the completion of any regulatory, statutory or budgetary actions required by the agreement. Providers in both units do not have the right to strike and are not considered state employees.
- In October 2007, CCPUnited won the right to represent the more than 3,700 subsidized and unsubsidized providers in Pennsylvania, and in May 2008, CCPUnited won the right to represent the more than 20,000 subsidized providers in the state. As of April 2013, an agreement had not been reached.
- The union lobbied with children's advocates in the state for providers who meet appropriate standards under the state's quality rating and improvement system, Keystone STARS, to be eligible for prekindergarten funding through the state's Pre-K Counts Program, and according to a union official, has generally supported increased funding from the legislature for early education programs, including child care and prekindergarten.
- As the result of these efforts, in July 2008, the legislature approved increased funding for the state's child care subsidy program. However, the increase did not benefit providers because they were not given the right to participate in the program.

## WASHINGTON:

- *Subsidy rates*- Providers receive financial incentives to provide care for infants and care during nonstandard hours. Under the contract, the rate for siblings is set at three cents per hour below that for the first child.
- *Health insurance*- Providers are eligible for health insurance if they care for at least four children receiving child care subsidies.

## WISCONSIN:

- *Subsidy rates*- Requires the state continue to complete a market rate survey annually and set basic reimbursement rates for child care providers caring for children receiving child care assistance at the 75<sup>th</sup> percentile of these market rates each year, subject to availability of funds.
- *Health insurance*- Provides that the state and the union will work together on ways to make comprehensive health insurance coverage accessible and affordable for providers.
- *Other provisions*- The agreement acknowledges that the state and the union have convened a subcommittee to address payment issues, including accuracy, notification, and termination of eligibility of a provider to participate in the subsidy program.

## **Unionizing Private, In-Home Child Care Providers Unsuccessful Efforts to Establish Statewide Bargaining Authority for Unions**

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**CALIFORNIA:** In 2007 and 2008, the California legislature, supported by the joint AFSCME–SEIU United Child Care Union, passed two bills that would have authorized statewide bargaining for home-based child care providers, but as with the 2006 legislation described in *Getting Organized*, Governor Arnold Schwarzenegger vetoed both bills, despite the fact that they included restrictions on the negotiating process that were not in the 2006 bill. The 2007–2008 bills, like the 2006 bill, would have recognized a statewide bargaining unit of subsidized and unsubsidized FCC providers and subsidized FFN providers. But under the 2007 and 2008 bills both groups of providers were authorized to organize immediately; under the 2006 bill, these providers were authorized to organize sequentially. In addition, under the 2007 and 2008 bills, the first agreement would not include negotiations over reimbursement rates in subsidy programs; the 2006 bill had no such restrictions. To the extent that negotiations over rates could occur following the first agreement, under the 2007 and 2008 bills only the state was able to negotiate rates with the union, but the 2006 bill permitted any state agency or its contractor, whether public or private, that administers child care subsidies to negotiate rates with the union. In 2011, Governor Jerry Brown lodged a veto that would have allowed the public unionization of some 40,000 child care providers throughout the state. Rather than making the private vs. public sector employee argument, Brown simply cited the state’s “huge budget challenges” as the reason for his veto. What makes this move eyebrow-raising, however, is the fact that the bill Gov. Brown vetoed was sponsored in part by the Service Employee International Union.

**MASSACHUSETTS:** Then-Governor Mitt Romney in 2006 vetoed legislation supported by SEIU that would have authorized subsidized FCC providers in Massachusetts to organize and engage in collective bargaining with the state, and a ballot initiative campaign organized and supported by the union to secure similar legislation failed later that year. Nonetheless, efforts to win collective bargaining rights for home-based child care providers have continued. In 2007 and 2008, bills that would have authorized subsidized FCC and FFN providers to engage in collective bargaining and negotiate with the state were never voted upon. SEIU reports that the current governor, Deval Patrick, did not take a position on these bills. Massachusetts legislators introduced collective bargaining bills again in January 2009.

**MICHIGAN:** This issue first started in 2006 when the Department of Human Services, DHS, and the unions joined forces and created a government “shell corporation” designed to cleverly bypass possible political and constitutional obstruction. Then in December, 2008, the CCPTM - Child Care Providers Together Michigan and MHBCCC - Michigan Home Based Child Care Council entered into what they called “a collective bargaining agreement” with the convenient intention of increasing state union control with a lofty Democrat Power grab. MERC – Michigan Employment Relations Commission conducted a vote by mail in October and November, 2006. Of the 40,500 home day care providers who would be effected by this decision, only 6,396 voted. The outcome was 5,921 in favor of the union and 475 opposed. Neither Loar, Silverson, or Berry believes they were aware of or voted in that election. Many questions remain regarding proper notification of the controversial vote due to the paltry turnout.

The plaintiffs were then notified by mail that they were dues-paying members of the newly formed union, a joint enterprise of the United Auto Workers and American Federation of State, County and Municipal Employees. 40,000 home-based day care providers in Michigan are now experiencing a total of \$3.7 million annually taken from their paychecks by the Michigan Department of Human Services and allocated directly to the union.

In September, 2009, the MCLF - Mackinac Center Legal Foundation's public-interest law firm brought suit against the Michigan Department of Human Services on behalf of home-based day care providers who were forced into a government employees union and had dues withheld from state subsidy payments provided to low-income families. In late December, 2009, the Michigan Court of Appeals dismissed the case without explanation. In March, 2011, the Michigan Supreme Court ruled that the case was moot due to Governor Rick Snyder and the state Department of Human Services announcing an end to the unionization of home childcare providers.

**RHODE ISLAND:** Former Governor Donald Carcieri vetoed a bill in June 2005 that would have authorized subsidized FCC and FFN providers, represented by SEIU, to organize and collectively bargain with the state. Later that year, a state court overturned a State Labor Relations Board decision holding that FCC providers are state employees. As of March 2010, no further legislation has been introduced that would give home-based providers the legal authority to unionize, nor have other efforts been advanced to win collective bargaining rights for subsidized FCC and FFN providers.

A lawsuit in Rhode Island was also issued, with the state courts ruling that "a provider's work is done at the provider's home with the provider's furnishings. The provider furnishes its own instrumentalities and tools. All of the work is performed at the provider's private residence, and the State does not have the right to assign any children to the provider. The provider unilaterally controls the hours and days of operation and may unilaterally change them at any time. The provider unilaterally decides when to take vacation, how much vacation time to take, and how often to take vacation. The provider decides whom to hire and how to pay assistants . . . Finally, the State is not in business with home day care providers, and there is no tax involvement by the State other than its duty to report to the IRS any funding forwarded to a provider through DHS."