

AWARD OF IMPARTIAL CHAIRMAN

----- X
In the Matter of the Arbitration X
-between- X
GREATER NEW YORK HEALTH CARE FACILITIES X
ASSOCIATION, INC., EMPIRE STATE LABOR X
GROUP, SOUTHERN NEW YORK ASSOCIATES, X
UNITED HEALTH CARE ASSOCIATION, LONG X
ISLAND HEALTH CARE ASSOCIATION, AND X
INDEPENDENT EMPLOYERS, X
"Homes" X
-and- X
1199SEIU UNITED HEALTHCARE WORKERS EAST, X
"Union" X
----- X

Re: July 1, 2023
7% Wage Increase
and October 2023
NBF Contributions

APPEARANCES

FOR THE HOMES

JACKSON LEWIS, P.C.

Michael R. Hekle, Esq.

Eric P. Simon, Esq.

Christopher M. Valentino, Esq.

GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION, INC.

Michael A.L. Balboni, Esq., Executive Director

Robin C. Rosen, Esq., General Counsel

MORRIS TUCHMAN, L.L.C.

J. Ari Weiss, Esq.

SOUTHERN NEW YORK ASSOCIATES, L.L.C.

Neil J. Heyman, President

FOR THE UNION

LEVY RATNER, P.C.

Pamela Jeffrey, Esq.

Daniel J. Ratner, Esq.

Linda E. Rodd, Esq.

David M. Slutsky, Esq.

1199SEIU UNITED HEALTHCARE WORKERS EAST

Yvonne Armstrong, Senior Executive Vice-President

Daine Williams, Executive Vice-President

BEFORE: Martin F. Scheinman, Esq., Impartial Chairman

BACKGROUND

This Award memorializes an oral ruling I issued at a hearing on September 29, 2023, with representatives of 1199SEIU United Healthcare Workers East ("Union") and the Greater New York Health Care Facilities Association, Inc., Empire State Labor Group, Southern New York Associates, United Health Care Association, Long Island Health Care Association, and independent employers (collectively "Homes").

The Memorandum of Agreement ("MOA") between the Union and the Homes for the period July 1, 2023, through September 30, 2026 ("2023-26 MOAs") provide in relevant part as follows:

- 3a. Increase base weekly rates, minimum rates and steps as follows:
 1. July 1, 2023 - 7%. Notwithstanding the foregoing, the wage increase shall be paid in the first payroll period following 10/1/23 retroactive to 7/1/23. (For the avoidance of doubt, the 12/1/23 wage increase of 3% agreed to in the 2021-24 MOAs shall no longer be in effect, and shall be replaced by the July 1, 2023, 7% wage increase).
 2. December 1, 2024 - 6%.
 3. December 1, 2025 - 5%.
 4. The retroactive portion of the July 1, 2023, wage increase shall be paid in a lump sum payment in the first payroll period following October 1, 2023. The lump sum payment shall be in a separate payment. Withholding shall be based on the most favorable tax treatment for the Employees permitted by law. Employees who have left employment prior to the retroactive payment shall be entitled to the retroactive payment for all hours paid between July 1, 2023, and the effective date of the separation.

I convened the hearing to address the Homes' concerns about cash flow difficulties they may face in paying the seven (7%) percent wage increase in October retroactive to July 1, 2023, as a result of a delay in the implementation of a seven-and-one-half (7.5%) percent increase in the Medicaid reimbursement rate which had been expected on or around October 1, 2023. The parties mutually recognized the critical importance for the sustained viability of the industry to continue to support the morale of nursing home staff, including wage increases they are expecting, payment of which they had already agreed to defer for three (3) months.

At the hearing on September 29, 2023, the parties reported, based on various sources, the Medicaid rate increase is going through final approval stages at State and Federal levels, and is expected to be implemented within the next four (4) to six (6) weeks. In order to relieve cash flow pressures some Homes may face and facilitate timely payment of the seven (7%) percent wage increase in October as required by the MOAs, the Homes proposed they be permitted to defer payment of one (1) month of contributions to the 1199/SEIU Greater New York Benefit Fund ("Benefit Fund" or "Fund") they would otherwise pay in October until such time as the Medicaid rate increase is implemented. I stated I would grant such a request, subject to the Benefit Fund confirming a four (4) to six (6) week deferral of one (1) month's contribution in October would not adversely impact the Fund's ability to pay expenses in October.

Subsequent to the hearing, Fund staff confirmed the Fund's cash flow could withstand such a temporary deferral based on reserve assets. Fund staff explained the deferral would be operationalized as follows: once payroll for September is submitted, the Fund's electronic portal will show contributions due on September payroll in the October contribution month as it would normally, but September payroll contributions will not be considered delinquent as long as such contributions are paid in accordance with my ruling.

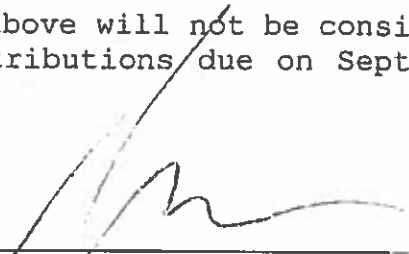
If there is a further delay in implementation of the Medicaid rate increase beyond four (4) to six (6) weeks from the date of this Award, I shall address the deferral of the October contribution month at such time.

Accordingly, this Award memorializes my oral direction at the September 29, 2023, hearing as follows:

AWARD

1. As a temporary accommodation for possible cash flow issues, Homes which sign the 2023-26 MOA - and pay the seven (7%) percent wage increase in October prospectively and retroactively to July 1, 2023, in accordance with the MOA - may opt to defer payment of one (1) month of Benefit Fund contributions which would otherwise be paid in October.
2. Immediately upon receipt of the Medicaid rate increase, Homes which deferred contributions must pay the Benefit Fund the contribution month they deferred in October.
3. Payroll reports must continue to be timely submitted.
4. The deferral is limited to one (1) month of Benefit Fund contributions which would have been paid in October; contributions to be paid in November and subsequent months must be timely paid.
5. Pension and "little funds" contributions may not be deferred and must be timely paid.
6. Homes fully complying with the above will not be considered delinquent with respect to contributions due on September payroll.

October 24, 2023.

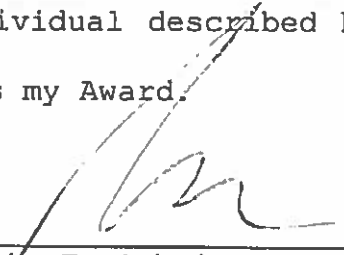


Martin F. Scheinman, Esq.
Impartial Chairman

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

I, MARTIN F. SCHEINMAN, Esq. do hereby affirm upon my oath as Impartial Chairman that I am the individual described herein and who executed this instrument, which is my Award.

October 24, 2023.



Martin F. Scheinman, Esq.