

Testimony of Walter L. Glomb, Jr. to the Labor and Public Employees Committee
on Raised Bill No. 5433, AN ACT CREATING A PROCEDURE FOR PERSONAL CARE
ATTENDANTS TO COLLECTIVELY BARGAIN WITH THE STATE
March 13, 2012

Good afternoon members of the Committee.

My name is Walter Glomb. I live in Vernon. I am a parent of a young adult who lives with Down syndrome and self-directs Individualized Employment Supports from DDS. In terms of the subject bill, my son and I are consumers and private employers.

I OPPOSE Raised Bill No. 5433, AN ACT CREATING A PROCEDURE FOR PERSONAL CARE ATTENDANTS TO COLLECTIVELY BARGAIN WITH THE STATE.

Of course we all want to improve conditions for our direct-care staff. Every year we stand in front of the Appropriations Committee side by side with our workers asking for larger appropriations and higher rates for home and community based services at DDS. This bill does not help us. If the legislature wants to help us and our workers, then please pass an appropriations bill that increases the budgets and the rates for DDS services! This bill does not include any additional appropriations.

Nor is this about the right to collectively bargain. Our workers already have that right and they are already free to exercise it. In any case, there is no real difference between workers and employers on this issue. We both want more hours, higher rates and benefits for workers. If the State of Connecticut agrees, then you already have the power to appropriate additional funds.

Please send this bill to the Public Health Committee for a vote. Passage of this bill would affect DDS HCBS Waiver programs and the members of the Public Health Committee are informed about the operation of the DDS Waivers.

Please send this bill to the Appropriations Committee for a vote. This Act would require additional appropriations in order to sustain DDS services at their current levels.

Now, I would like to draw your attention to some specific problems in the bill.

1. According to Section 1(a)(1), this Act would cover all state-funded nonprofessional services provided to a person with a disability in order to provide safe access to the community. At DDS this would include a great variety of distinct services within the DDS HCBS Waivers with pay rates currently ranging from about \$16 per hour to about \$47 per hour. (In fact, DDS does not use the term "Personal Care Attendant.") I've included as Appendix A a notice from DDS that names some of these services and a list of the rates for some affected DDS Waiver services as Appendix B. The subject bill does not do justice to this breadth and variety of services.

2. According to Section 2(a), the Workforce Council would not necessarily include any consumers of DDS services and the Workforce Council would be comprised of political appointees, not members of our community.

3. Likewise, Section 2(b) would not include DDS in the work of the Council.
4. Section 2(d)(1) would give the Council authority to establish the job requirements for all these different DDS services in collective bargaining. Currently the requirements are developed in very personal relationships between consumers and their staff.
5. Section 2(d)(3) ostensibly protects the right of private employers to direct the activities of personal care staff, but Section 2(d)(1) makes job requirements a subject for collective bargaining between the Council and the union. In my opinion, this tension is begging for litigation to determine exactly which requirements can be established through collective bargaining and the scope of activities that the consumer can direct.
6. Section 2(e)(1) would extend the Act to all personal care attendants who are paid through state funded programs. Again, within DDS this would cover a great variety of services that are not addressed in the bill.
7. Section 3(a)(2) ostensibly protects the level of services, however the "level of service" at DDS is, in fact, a fixed budget allocation so higher rates established by collective bargaining would leave fewer hours of service. The current DDS Waiver service options and rates were produced by a long and sometimes tortuous process that balanced historical costs, appropriations and consumers' needs.
8. Section 3(a)(7) states that personal care attendants would not be considered state employees so the state would have no obligations incident to their state service. Here is the rub! Would the state be obligated to appropriate funds for any increase in rates?
9. Section 3(b)(1) does not require the arbitrator to have any knowledge or expertise about the DDS Waivers.
10. Section 3(b)(5) does not require the arbitrator to even consider the Waivers as a factor in a decision.
11. Under Section 3(b)(7), would approval of this unique type of collective bargaining agreement obligate the state to increase Medicaid reimbursement rates and increase Individual Budgets accordingly so that individuals don't suffer a loss of services?
12. Under Section 4, would this Act be contingent on subsequent approval by the Center for Medicaid Services? What happens if the Waiver modifications are not approved by the federal government?

Given all these problems and the possible harm to individuals with intellectual disabilities, I ask you to vote NO to this bill.

Thank you.

Executive Order 10

Information for People who Contact DDS

On September 21st, 2011, Governor Malloy signed Executive Order No. 10 that sets up a process for staff who are hired directly by consumers supported by DDS and their families to vote on whether or not they would like a union to represent them in talks with the state regarding rates and methods of payment for their services under the Medicaid waiver programs. The order also impacts people who hire Personal Care Assistants through DSS. DDS and DSS are responsible for meeting the applicable requirements of the Executive Order. As part of the order, DDS and DSS were required to create a list of the names and addresses of all direct hire staff. This list has been created and is a record available to the public under the Freedom of Information Act. The Service Employees Union International, among others, has asked for and been provided the list. For DDS purposes, the following direct hire staff were included on the list: Personal Support, Individual Home Supports, Individual Day Supports, Respite, Adult Companion, and Transportation.

The Executive Order also created a Personal Care Attendant Quality Home Care Workforce Council. This council provides an opportunity for you to express your viewpoint. Interested people may speak during the public comment period at Council meetings, currently scheduled on the first Wednesday of the month. The council will also accept written comments if you are unable to attend the meeting. Written Comments should be submitted electronically to: Barbara.Swenson@ct.gov or Barbara Swenson, Department of Social Services, 25 Sigoumey Street, Hartford, CT 06106

Information may also be found on the Governor's web site in the priority area, at: <http://www.governor.ct.gov/malloy/cwp/view.asp?a=3997&q=489750>

To maximize transparency, an e-mail list for people who would like to receive additional information on Executive Order 10 is being created by DSS. If you would like to be included please provide your name and e-mail address to Barbara.Swenson@ct.gov or call (860) - 424-5396.

There is also a Personal Care Attendant Working Group. This group is to make recommendations on the best way to structure collective bargaining rights. Information is available on the Governor's website at the address listed above.

Written information for this group should be sent to: aaron.frankel@ct.gov

It is likely that there will be some legislation considered this session that pertains to the issues addressed in Executive Order 10, which could provide another opportunity for concerned citizens to express their views.

Glomb Appendix B.

Waiver Services
Codes Units and Rates

Service	Procedure Codes	Units/ Smallest unit increment	Provider Rate
Adult Companion	S 5135	Hour / 15 minutes	16.94/hour
Adult Day Health- non-Medical	1200Z	Per Diem/Daily	62.18/day
Adult Day Health- Medical	1201Z	Per Diem/Daily	66.22/day
Adult Day Health- Half Day	1202Z	Per Diem/Daily	40.54/day
Individualized Home Supports	97535	Hour / 15 minutes	32.20/hour
Group Day – Day Support Option (DSO)	T 2021	Hour / 15 minutes	15.88/hour
Group Day – Shelter Workshop (SHE)	T2021	Hour / 15 minutes	7.72/hour
Group Day – SHE w/B	T2021B	Hour / 15 minutes	8.07/hour
Individualized Day Supports	97537	Hour / 15 minutes	Negotiated (Cap of 32.20/hour)
Intensive Staffing Support (Group Day & 2 person Only)	Group Day Procedure Code + "Sup"	Hour / 15 minutes	11.41/hour
Personal Support	T 1019	Hour / 15 minutes	26.82/hour
Supported Employment Individual	T 2019	Hour / 15 minutes	58.11/hour
Supported Employment Group	T 2019	Hour / 15 minutes	10.90/hour
Supported Employment Group w/B	T2019B	Hour / 15 minutes	11.41/hour
Transportation	S 0215	1 mile	.43/mile
Transportation - Handicapped Accessible	S 0209	1 mile	.85/mile
Transportation – one way trip	T2003	Trip	
Respite Individual (in home) Daily	S 5151	1 day	299.07/day
Respite Individual (in home) Hourly	S 5150	Hour / 15 minutes	24.92/hour
Respite Individual (out of home) Daily	S 5151	1 day	326.18/day
Respite Individual (out of home) Hourly	S 5150	Hour / 15 minutes	26.05/hour
Respite 2 person (in home) Daily	S 5151	1 day	186.92/day
Respite 2 person(in home) Hourly	S 5150	Hour / 15 minutes	15.58/hour
Respite 2 person (out of home) Daily	S 5151	1 day	214.03/day
Respite 2 person(out of home) Hourly	S 5150	Hour / 15 minutes	16.71/hour
Respite Group (in / out of home) Daily- minimum LON support needs	S 5151	1 day	126.80/day
Respite Group (Out of home) Hourly- minimum LON support needs	S 5150	Hour / 15 minutes	9.44/hour
Respite Group (Out of home) Daily Moderate LON support needs	S 5151	1 day	161.07/day
Respite Group (Out of home) Hourly Moderate LON support needs	S 5150	Hour / 15 minutes	12.29/hour
Respite Group (Out of home) Daily Comprehensive LON support needs	S 5151	1 day	218.09/day

Effective
7-01-10

