

MEMORANDUM OF UNDERSTANDING

between

IN-HOME SUPPORTIVE SERVICES
PUBLIC AUTHORITY OF MARIN

and

SERVICE EMPLOYEES INTERNATIONAL
UNION

LOCAL 2015

January 1, 2021 through December 31, 2023

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MEMORANDUM OF UNDERSTANDING

between

**IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY OF
MARIN**

and

SERVICE EMPLOYEES INTERNATIONAL UNION

Local 2015

January 1, 2021 through December 31, 2023

INTRODUCTION

This Memorandum of Understanding (MOU or Agreement) is entered into by the In-Home Supportive Services (IHSS) Public Authority of Marin (Authority or Public Authority) and the Service Employees International Union, Local 2015 (Union).

This Agreement formalizes the unique employer-employee relationship defined in law between the Public Authority and the Union. The Public Authority does not employ or manage the IHSS Independent Provider workforce in the role of a traditional employer. Similarly, the Union commits itself in this Agreement to some goals that not only benefit Providers but are also intended to benefit IHSS Consumers.

The Public Authority and the Union recognize that, due to the nature of the relationship between them and the role of that relationship in the IHSS program, the implementation of various provisions of this Agreement will require the assistance and cooperation of agencies that are not party to this Agreement. The Public Authority and the Union agree to work together in good faith in order to secure the assistance of the appropriate entities when required to fulfill the provisions of this Agreement.

SECTION 1: UNION RECOGNITION

The Public Authority recognizes the Union as the exclusive representative of IHSS Independent Providers (Providers) in the County of Marin. This Agreement does not apply to management, supervisory, administrative and operational staff employed by the Public Authority.

SECTION 2: NON-DISCRIMINATION CLAUSE

There shall be no discrimination in the interpretation, application, or enforcement of the terms of this Agreement because of sex, race, creed, color, national origin, sex orientation, age, and participation or non-participation in Union activities against any Provider by the Public Authority or by the Union. To the extent provided by applicable State and Federal Law, there shall be no discrimination against any disabled Provider by the Public Authority or by the Union solely because of such disability unless that

disability prevents the person from adequately performing the essential duties of the position. At the same time, the Union and the Public Authority understand that the employer of a Provider is the IHSS recipient. Neither the Union nor the Public Authority can dictate who an IHSS recipient should hire or not hire.

SECTION 3: RELATIONSHIP WITH CONSUMERS

3.1 CONSUMER RIGHTS

The parties reaffirm that under the statutes and ordinance establishing the Public Authority, IHSS Consumers have the sole and undisputed right to:

- A. hire Providers of their choice;
- B. fire Providers from their service at will;
- C. determine in advance and under all circumstances who can and cannot enter their home; and
- D. supervise and direct the work of Providers providing services to them within the scope of authorized services.

3.2 CONSUMER CONFIDENTIALITY - RIGHT TO PRIVACY

The Union will not seek information regarding the name, address, phone number or any other personal information regarding Consumers. Union representatives and Public Authority Providers shall maintain strict standards of confidentiality regarding Consumers and shall not disclose personal information obtained, from whatever source, pertaining to Consumers, unless disclosure is compelled by legal process or otherwise authorized by law.

SECTION 4: UNION RIGHTS

4.1 LISTS AND INFORMATION

The Public Authority shall, at the request of the Union, provide to the Union a list of all current Providers, including name, address, telephone number, hours worked and/or authorized hours and language (if available). The list shall be provided in an agreed upon format.

4.2 COMMUNICATIONS

The Public Authority will provide bulletin board space in a location to be determined by the Joint Labor/Management Committee for use by the Union to post communications pertaining to official Union business. The Public Authority reserves the right to remove any material posted in violation of this Section. If the Public Authority removes posted material from the Union bulletin board, it will notify the Union in writing.

4.3 *OFFICIAL REPRESENTATIVES, STEWARDS*

- A. The Union shall provide a current list of official Stewards to the Public Authority Executive Director. The Union shall notify the Public Authority Executive Director of any changes to the list.
- B. The Public Authority will recognize and cooperate with Union Stewards in the course of their duties. The rights of Stewards include but are not limited to:
 - 1) access to and communication with bargaining unit members;
 - 2) participation in Public Authority New Provider Orientations (if any) to provide information regarding the Union;
 - 3) representing Providers who have grievances or problems; and
 - 4) posting information on the Public Authority bulletin board.

4.4 *NEW PROVIDER ORIENTATIONS*

- A. The Public Authority will develop schedules of group New Provider Orientations, in a location or locations to be determined by the Public Authority. Schedules will be provided to the Union, indicating the primary language or languages of each New Provider orientation. The Public Authority will provide the Union with no less than one-week's notice of any change to the schedule whenever possible.
- B. The Union will be given thirty (30) minutes at each orientation to talk to new Providers about the Union. The placement of the Union's presentation on the agenda will be set at the beginning or in the middle of the Orientation to encourage maximum Provider participation. The Public Authority and the Union will each retain a copy of the attendance list including names and contact information after each New Provider Orientation.
- C. In the event that a Union Representative or Shop Steward is not available to attend a New Provider orientation, the Public Authority agrees to distribute materials provided by the Union. The Public Authority will forward any completed Union Authorization cards to the Union along with a copy of the attendance list. The Public Authority agrees to implement this section within ninety (90) days of Union ratification and subsequent approval by the Public Authority governing body of the MOU, unless not allowed due to public health emergency.

4.5 *NOTICES ON MAILING*

The Public Authority will include, whenever possible, official Union notices in mailings to the bargaining unit from the Public Authority, if the Union provides such notices to the Public Authority three (3) days prior to the mailing date and if the Union reimburses any additional mailing costs to the Public Authority, in the event that Union documents increase these costs. The Union will similarly accommodate the Public

Authority in its mailings.

4.6 UNION MEMBERSHIP AND DUES DEDUCTION

- A. On the understanding that the Public Authority has no jurisdiction over the IHSS Payroll Department, the Public Authority shall cooperate, within its abilities, with the Union in instructing the State to commence and continue a monthly payroll deduction of Union dues and other voluntary Union deductions, including voluntary COPE contributions, from the regular pay warrants of Providers who have authorized such deduction. The Union shall instruct the State of the dollar amount to deduct for Union dues or other authorized Union deductions, specifying the purpose(s) of the deduction. Such deductions shall continue as instructed for so long as the Union provides such instruction.
- B. The Union shall defend, indemnify and hold harmless the Public Authority, its officers and employees, from any claims, demands, suits, or any other action arising from Union-related deductions.

SECTION 5: GRIEVANCE PROCEDURE

5.1 DEFINITION AND PROCEDURAL STEPS

- A. A grievance is any dispute asserted by a Provider, which involves the interpretation or application of any provision of this Agreement excluding, however, the Introduction and the provisions of Section 3 of this Agreement. The Union may represent the grievant at any stage of the process.
- B. Except as provided in Section 4.3(B)(3), Provider participation in the grievance procedure in any capacity shall be solely on the Provider's own time, and shall not be treated as being within any Consumer's allocated service hours, or as paid time.
- C. Grievances must be filed within thirty (30) days of the incident or occurrence or within thirty (30) days of when the grievant should have reasonably known of the incident or occurrence about which the grievant claims to have a grievance and shall be processed in the following manner:
- D. Step 1 (Informal): Any Provider who believes that a provision of this Agreement has been violated shall discuss the complaint with the Public Authority's Executive Director or his/her designee. A decision by the Public Authority shall be issued within ten (10) days following the discussion,
- E. Step 2 (Formal): If a grievance is not satisfactorily resolved at Step I above, the grievant or the Union may submit the grievance in writing to the Public Authority's Executive Director or his/her designee within ten (10) days of notice of the Step 1 decision. The written grievance shall state which provision of the Agreement has been violated, and the remedy sought, if any.
- F. The Public Authority's Executive Director shall have twenty (20) days in which to respond to the grievance in writing. If the Union requests a meeting

with the Public Authority's Executive Director, such a meeting will be held. If a meeting is held, the written response shall be ten (10) days following the meeting.

- G. Step 3 (Mediation): If the grievance is not resolved at Step 2, either the Union or the Public Authority may, within ten (10) days of receipt of the written Step 2 response, file written notification with the other party that the grievance is being advanced to Step 3, Mediation. Within twenty (20) days of the request for mediation, the parties shall mutually agree to a Mediator.
1. In the event the parties are unable to agree on a mediator within the twenty (20) days, the parties shall request that the State Mediation and Conciliation Service assign a mediator to assist with the processing of the grievance.
 2. The fees and expenses of the mediator, if any, shall be shared equally by the Union and the Public Authority.
 3. The mediator shall have no authority to impose a settlement of the grievance. The mediator's comments, suggestions and recommendations, if any, shall be kept confidential. If mutually agreed by the parties, the mediator may be requested to prepare a written report of the mediation.
- H. Step 4 (Arbitration): If the grievance is not resolved at Step 3, either the Union or the Public Authority may within twenty (20) days of the conclusion of mediation, file a written notification with the other party that the grievance is being advanced to Step 4, Arbitration.

Within twenty (20) days of the request for arbitration, the parties shall mutually select an arbitrator.

- I. In the event the parties are unable to agree on an arbitrator within the twenty (20) days, the parties shall solicit from the State Mediation and Conciliation Service a list of seven (7) arbitrators, The parties shall alternately strike names from the list until one (1) arbitrator's name remains, the first person to strike shall be determined by lot, If an arbitrator selected declines appointment or is otherwise unavailable, a new list shall be requested, and the selection shall be made as above, unless an arbitrator can be mutually agreed upon.
- J. The fees and expenses of the arbitrator and of the court reporter, if required, shall be shared equally by the Union and the Public Authority, Each party, however, shall bear the costs of its own representation, including preparation and post hearing briefs, if any.

5.2 *SCOPE OF ARBITRATION*

- A. The decision of the arbitrator shall be final and binding.

- B. The arbitrator shall have no authority to add to, delete, or alter any provisions of this Agreement. The arbitrator shall limit his/her decision to the application and interpretation of the provisions of this Agreement.

5.3 *TIME LIMITS*

- A. Each party involved in a grievance shall act quickly so that the grievance may be resolved promptly. Every effort should be made to complete action within the time limits contained in the grievance procedure. If the grievant or the Union fails to file or advance a grievance within the above-specified time limits, the grievance shall be forfeited. If the Public Authority fails to respond within above specified time limits, the grievant or the Union, whichever is appropriate, may advance the grievance to the next Step.
- B. With written consent of all parties, the time limits for any step may be extended.

5.4 *UNION NOTIFICATION*

If a member of the bargaining unit files a grievance without Union representation, the Public Authority shall give the Union a copy of the grievance and all grievance materials within a reasonable time.

SECTION 6: WAGES AND BENEFITS

6.1 *WAGES*

- A. Living Wage Ordinance

The Parties acknowledge that Providers continue to be covered by the County of Marin Living Wage Ordinance as they have been since its inception in 2002.

- B. Base Wage Rate

Effective upon Union ratification and subsequent governing body approval of this MOU, the base hourly wage rate for Providers shall be fifteen dollars and forty cents (\$15.40), the State Minimum Wage, or the Federal Minimum Wage, whichever is higher. This provision is contingent upon securing State approval prior to January 1, 2022.

- C. Total Effective Wage Rate

Effective January 1, 2022, or as soon as practicable thereafter, the Provider hourly wage rate shall be increased by a one dollar and forty-five cents (\$1.45) wage supplement for a Total Effective Wage rate of sixteen dollars and eighty-five cents (\$16.85) per hour. This provision is contingent upon Union ratification and subsequent governing body approval of this MOU, the County of Marin's certification of available funds, and State approval.

In the event the base wage exceeds \$15.40 during the term of this MOU, the Total Effective Wage rate will equal the new base wage plus the one dollar and forty-five cents (\$1.45) wage supplement, as long as this change results in no increased cost to the County. If an increase to the base wage results in a Total Effective Wage that increases the cost to the County, the Authority's wage supplement will be decreased such that the Total Effective Wage will not result in the County incurring additional cost.

D. No Obligation to Pursue Particular Non-Local Participation

Nothing in this Agreement obligates the Public Authority to pursue any particular form of non-local participation in Provider wages.

E. Reopeners

- 1) During the term of this Agreement, if the State of California or the Federal Government reduces or modifies their percentage of participation resulting in an increased net County cost, and notice is received by the Public Authority from the County of Marin that there are or will be insufficient budgeted finds to support the Provider wage and benefit rates in the Agreement, the Agreement will be re-opened, at the written request of the Public Authority, for the purpose of negotiating reductions in wages, health and/or dental benefits.
- 2) During the term of this Agreement., if the State of California or the Federal Government increase their participation resulting in an increase in the State or Federal match available for Provider wages and/or benefits, the Agreement will be re-opened, at the written request of the Union or the Public Authority, for the purpose of negotiating potential increases in wages, health and/or dental benefits.
- 3) If the Agreement is re-opened, the parties shall commence good faith negotiations within fourteen (14) days of receipt of the written request and shall be concluded within sixty (60) days after written notice has been received.

6.2 *HEALTH PROGRAM*

The Public Authority shall provide Health Insurance to eligible Providers subject to the following:

A. Health Program Parameters

1. The Public Authority shall contribute \$0.82 per IHSS paid hour in Marin County for Health and Dental coverage on behalf of each eligible Provider, who enrolls in the Health and/or Dental Insurance Program.
2. The Health and Dental budget, and therefore the total number of

Providers able to be enrolled in health benefits, will be determined at the rate of \$0.82 per IHSS paid hour.

3. Providers submitting timesheets late to the State, and therefore not having their share of premium costs deducted from their paycheck, will be cause for immediate termination from their health insurance coverage.
4. If the Union has reason to believe there are unfilled health care slots or additional funds for health benefits based on the \$.82 per IHSS paid hour, upon the Union's request annually during the term of this MOU, the Public Authority and the Union shall meet to discuss a potential change in the Provider share of premium cost.

B. Medical Insurance

1. The Public Authority shall provide a Kaiser Permanente Medical Insurance Plan at the employee-only level to eligible Providers, as defined in subparagraph 3 below.
2. Effective January 1, 2022, the Provider contribution for medical insurance will be \$130.00 per month. The Provider contribution will be made through payroll deduction.
3. Providers who have worked a minimum of sixty-five (65) hours for three consecutive qualification periods (qualification period shall be from the 16th of the month to the 15th of the next month or a calendar month as determined by the Public Authority Executive Director) shall be eligible for medical insurance pursuant to this Section.

C. Dental Insurance

1. The Public Authority shall provide a Delta Dental Insurance Plan to eligible Providers.
2. The Public Authority shall contribute up to \$24.00 per month for employee only coverage on behalf of each eligible Provider, as defined in subparagraph 4 below.
3. The Provider contribution for dental insurance shall be \$18.62 per month, through payroll deduction. Eligible Providers shall pay any additional monthly premium costs, through payroll deduction, in excess of \$24.00.
4. Providers who have worked a minimum of eighty-five (85) hours for three consecutive qualification periods shall be eligible for Dental Insurance contributions pursuant to this Section.
5. Providers who do not meet the eligibility requirements described in paragraph 4 above may enroll in the dental program at their own expense, subject to the rules of Delta Dental and the program administrator(s).

6.3 *ELIGIBILITY DETERMINATION*

The eligibility requirements contained in Section 6.2.B.3 and Section 6.2.C.4 above shall be determined solely by information provided by the Case Management Information and Payroll System (CMIPS). Late timesheets will automatically make the provider ineligible due to the inability to determine consecutive hours worked.

6.4 *NATIONAL HEALTH CARE REFORM*

In the event the United States or the State of California moves to a Universal Healthcare program, either party during the term of the Agreement may make a written request to the other party to discuss other health plan options. The discussions should conclude in a timely manner.

SECTION 7: REGISTRY

7.1 *REGISTRY SERVICES*

- A. The Public Authority agrees to provide registry services to facilitate the referral of Providers for Consumers to consider for hiring.
- B. The Public Authority and the Union agree to meet and confer regarding those registry matters, if any, that impact the terms and conditions of employment which are controlled by the Public Authority.

7.2 *REMOVAL FROM THE REGISTRY*

- A. The Public Authority retains the exclusive right to list, refer with or without comment, suspend, or remove an individual Provider from the Registry.
- B. The Public Authority will give written notice to any individual Provider of any adverse decision affecting the Provider. Such notice shall inform the affected Provider of his/her right to file an appeal pursuant to paragraph C, below, his/her right to union representation and the union telephone number. A copy of the written notice will be sent to the Union. The Public Authority also shall forward to the Provider a copy of all materials, to the extent allowable by law, that were relied upon by the Public Authority when making its decision.
- C. Either the Union or the Provider may file a written appeal (Step 2) in accordance with Section 5: Grievance and Arbitration of the MOU within fifteen (15) days after notice of the decision.
- D. The Union may appeal through Step 2 of the grievance procedure of the MOU. The Step 2 decision will be final and binding. The Union shall not have the right to refer the matter to mediation or binding arbitration.

7.3 APPLICATION

This Section only applies to Public Authority Providers seeking employment through the Public Authority's registry, and is not intended to abrogate in any way the rights of Consumers as set forth in Section 3 of this Agreement.

7.4 TRANSIT SUBSIDY PILOT PROGRAM

- A. Beginning as soon as practicable in 2022, and for the term of this MOU only, the Authority may spend up to thirty-thousand dollars (\$30,000) per calendar year to subsidize travel expenses for registry providers who are required to travel to reach their client.
- B. This pilot program will expire upon expiration of this MOU. The Authority has no obligation to continue the program after the expiration of this MOU.
- C. The Parties agree that the transit subsidy will be paid to registry providers who care for clients outside the Provider's home and who must travel to reach the client, such as clients that live in remote areas.
- D. No later than November 5, 2021, the Authority Executive Director or designee will reach out to the Union to schedule a meeting to discuss further parameters of the Transit Subsidy Pilot Program. The Union may select up to four individuals to attend the meeting. After the meeting, the Authority will finalize the terms of the program and send the finalized terms to SEIU 2015 no later than November 30, 2021. If the Union wishes to provide further feedback, it must do so no later than December 15, 2021.
- E. Upon the Union's request, the Parties will meet in November 2022 for the Union to provide feedback on the Pilot Program in advance of 2023.
- F. The Pilot Program and its implementation are not subject to grievance, appeal or challenge under any Authority policy, resolution, or MOU provision.

SECTION 8: HEALTH AND SAFETY

8.1 WORKERS COMPENSATION

The Public Authority will provide all current and new Providers information in writing describing the Providers' rights regarding Workers' Compensation. If the State of California publication number PUB 104 (7/92) (Individual Provider Benefits and Services Information) is modified then the Public Authority will contact the County of Marin Department of Health and Human Services and request distribution of the modified publication to all Providers.

8.2 EQUIPMENT AND SUPPLIES

Subject to the availability of funds, the Public Authority shall provide up to one hundred (100) sterile gloves per three (3) month period per Provider.

Requests for other equipment or supplies shall be made in person at the Public Authority Offices in San Rafael. Providers making such requests will be required to sign an acknowledgement or receipt for any equipment or supplies so furnished.

SECTION 9: TRAINING AND EDUCATION

Consistent with California Welfare and Institutions Code Section 12301.6, the Public Authority shall offer training for homecare Providers and Consumers as funding and fiscal budget allows. The Public Authority will develop and implement a training plan with input from the Union in the Labor-Management Committee.

SECTION 10: LABOR-MANAGEMENT COMMITTEE

10.1 LABOR-MANAGEMENT COMMITTEE

- A. In order to encourage open communication, promote harmonious relations and resolve matters of mutual concern, the parties agree to create a Labor-Management Committee.
- B. The Committee will be composed of three (3) representatives appointed by the Public Authority and three (3) representatives appointed by the Union. Observers and guests may be invited by either party when their presence will be helpful in the resolution of specific issues.
- C. The Committee will meet as mutually agreed by the committee.

10.2 TOPICS

The topics for the Labor-Management Committee meetings may include, but are not limited to:

- A. **Mutual Respect.** All Providers and administrators involved in the IHSS program, regardless of position, profession or rank, should be treated with courtesy, dignity and respect.
- B. **Payroll.** Timely and accurate Provider payroll is essential to the efficient management of the IHSS program. The Union and the Public Authority recognize that the Public Authority does not have Provider payroll responsibilities and cannot be held accountable for delays caused by agencies outside its control.
- C. **Health and Safety.** The Union and the Public Authority are committed to protecting the health and safety of Providers and Consumers.
- D. **Training.** The Union and the Public Authority will work together to develop a training plan for Providers and Consumers.
- E. **Communication.** Many problems can be prevented or solved by improved communications.

- F. Cooperation. The Union and the Public Authority are committed to improvements in the IHSS program for both Consumers and Providers. Areas of cooperation may include advocacy for state and federal long-term care program improvements.
- G. For the term of this MOU only, the Transit Subsidy Pilot Program.

SECTION 11: NO STRIKE/NO LOCKOUT

During the term of this Agreement, the Union, its members and representatives, agree not to engage in, authorize, sanction or support any strike, slowdown, stoppage of work, curtailment of production, or refusal to perform customary duties. The Public Authority agrees not to lockout members during the term of this Agreement.

SECTION 12: SEPARABILITY OF PROVISIONS/SAVINGS CLAUSE

Should any section, clause or provision of this Agreement be declared illegal, unlawful or unenforceable by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Agreement. Should any provision of this Agreement be invalidated as described above, the Public Authority and the Union agree to meet and confer for the sole purpose of developing a mutually agreeable replacement provision.

SECTION 13: TERM

The term of this Agreement is January 1, 2021 through December 31, 2023.

SECTION 14: SIGNATURES

In witness whereof, the parties hereto, by their duly authorized representatives, have executed this Memorandum of Understanding.

<p>_____ Michael Harris Date President IHSS Public Authority of Marin</p>	<p><i>Arnulfo De La Cruz</i> 10/25/2021 Arnulfo De La Cruz Date Executive Vice President SEIU 2105</p>
<p><i>[Signature]</i> 10/26/21 _____ Lisa S. Charbonneau Date Chief Negotiator</p>	<p><i>[Signature]</i> 10/25/21 _____ Cindie Fonseca Date Chief Negotiator</p>

**SEIU 2015
BARGAINING TEAM MEMBERS
IHSS OF MARIN**

Connie Barker

Peter Tiernan



OFFICE OF THE
COUNTY ADMINISTRATOR

October 26, 2021

Matthew H. Hymel
COUNTY ADMINISTRATOR

Daniel Eilerman
ASSISTANT COUNTY
ADMINISTRATOR

Angela Nicholson
ASSISTANT COUNTY
ADMINISTRATOR

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Mr. Dario Santiago,
Executive Director
IHSS Public Authority of Marin
10 North San Pedro Rd, Suite 1016
San Rafael, CA 94903

Dear Mr. Santiago:

The interagency agreement between the County and the IHSS Public Authority requires the County to certify that funds are available before the Authority can enter into any labor agreement. Our office has reviewed the proposed tentative agreement through December 31, 2023 with Service Employees International Union (SEIU), Local 2015. Please consider this letter a certification that the County's FY 2021-22 budget contains sufficient funding for this agreement. We will also ensure the FY 2022-23 budget includes required funding to support the agreement through December 31, 2023.

The agreement calls for an increase in IHSS provider wages from \$15.40 per hour today to \$16.85 effective January 1, 2022 – a \$1.45 hourly or 9.4 percent increase. The new \$16.85 hourly wage will remain in effect for two fiscal years through December 31, 2023. Benefit contributions will remain at \$0.82 per hour through the contract period, though the Authority and SEIU Local 2015 agree on strategies to ensure providers may fully utilize the benefit allowance. Finally, both parties agree on a pilot transit subsidy program capped at \$30,000 for IHSS registry providers who must travel to reach non-family member clients in less populated/distant locations such as Western Marin County.

The County's budget contains funds to provide continued support for the IHSS program under current state and federal reimbursement rates for IHSS provider salary and benefits. Should there be a reduction in state or federal reimbursement rates, we would not have sufficient County funds to support the proposed agreement and we would likely notice the Authority that the agreement would need to be re-opened according to Section 6.1 of the MOU.

Based on this understanding, we will recommend that Director of Health and Human Services Benita McLarin grant clearance so that you can enter into this proposed agreement. On a personal note, I wish to relay that I appreciate your cooperation and the professional manner in which our negotiations were conducted – in particular the collaboration between County staff and the Authority's negotiator, Ms. Lisa Charbonneau.

Sincerely,

Matthew Hymel
County Administrator

Cc: Benita McLarin, Director, Health and Human Services