

STATE HUMAN RESOURCES COMMISSION MEETING
LEARNING AND DEVELOPMENT CENTER, COMMISSION CONFERENCE ROOM
101 WEST PEACE STREET - RALEIGH, NORTH CAROLINA

MEETING MINUTES – December 6, 2018

Members Present

Members present at the Learning and Development Center for the meeting were: Chair Dekhastha Becton Rozier, Commissioner Ross Beamon, Commissioner John Eller, Commissioner Meredith Benjamin, and Commissioner Emily Jones.

Other Attendees

Other attendees present were: Barbara Gibson, Director Office of State Human Resources, Lou Ann Phillips, Deputy Director, Office of State Human Resources, and Judy Estevez Deputy Director, Office of State Human Resources; Lars Nance, Legal Division, Office of State Human Resources; Denise Mazza, State Human Resources Commission Administrator, Office of State Human Resources; Andrea Clinkscales, Pamela Taylor Shaw, Monique Cowan, Tonya Horton, Joe Marro, Vivian Jackson and Pam Bowling of the Office of State Human Resources; Dan Ripberger of RSC Advisory Group, and Steve Martin of Cardinal Innovations.

Opening

The Commission convened its open meeting at 9:05 a.m. in the Learning and Development Center Commission Conference Room.

The State Human Resources Commission (SHRC) last convened on October 4, 2018. Pursuant to North Carolina General Statutes § 136A and the North Carolina Ethics Act, Chair Dekhastha Rozier asked all Commissioners present if there were any conflicts of interest or potential conflicts of interest with respect to any matters coming before the Commission. Commissioner John Eller recused himself as to the LME/MCO agenda item.

There were no adjustments or approvals to the agenda as proposed for the December 6, 2018 meeting.

CONSENT AGENDA ITEMS

Approval of the minutes for the October 4, 2018 State Human Resources Commission Meeting.

Motion: Commissioner Beamon made a motion to recommend approval of the minutes.

Seconded: Commissioner Eller seconded the motion.

The motion carried.

Approval of the 2019 proposed calendar for State Human Resources Commission Meetings.

Motion: Commissioner Beamon made a motion to recommend approval of the minutes.

Seconded: Commissioner Jones seconded the motion.

The motion carried.

Approval of the notice of the technical changes in the University adverse weather policy.

Nancy Astrike, Diversity & Workforce Services Division Director, informed the Commissioners that at the request of the General Assembly, some minor technical corrections had been made to the University Adverse Weather Policy. The two modifications to the policy were: 1) striking reference to the executive order that would allow employees not to make up time, and 2) including multiple references to makeup provisions to help employees have a clearer understanding and try to be more transparent to employees about what their makeup obligations would be under the conditions that the University may suspend or close the operations due to adverse weather.

Business Session

Public Comment

Steve Martin, Deputy General Counsel for Cardinal Innovations, was given three minutes to address the Commission regarding the LME/MCO Area Directors/CEO salary study agenda item. He presented Cardinal's concerns with the market study put together by RSC Advisory Group as presented in a letter that was provided to the Commissioners as part of the preparation for the December 6, 2018 hearing. These concerns included the process of Medicaid transformation by the General Assembly in 2015 to a managed care platform, noting that as a result of this transformation, the LME MCOs will be transitioning to become behavioral health, IDD or intellectual and development disabilities, tailored plans beginning in July of 2021. He expressed that Cardinal believes that the SHRC should be prepared to address this change in that these are the most complex cases in the State and create more direct competition for talent with for-profit and not-for-profit commercial insurance companies who are presently bidding also in this managed care space of the Medicaid Program.

State Human Resources Director's Report

Director Gibson began by welcoming everyone and wishing best wishes to those celebrating Hanukkah, as well as those who will gather in coming weeks to observe Christmas, Kwanzaa and ring in the new year. She noted that this season should remind us of the robust diversity of our state's workforce, and the importance of ensuring that our workplaces are welcoming and respectful. She thanked the Commission for its' diligence in supporting state employees and making it possible for them to be at their best while striving to meet the continually evolving

needs of those they serve. She then gave a brief overview of the topics that would be covered at the meeting and closed by reporting that the RFP for the consultant to analysis the labor market data regarding the Classification and Compensation System had been approved and OSHR would be working to select a vendor in January 2019.

Diversity and Workforce Services – Local Government
LME/MCO Area Directors/CEO – Results of Consultant’s Salary Study

Nancy Astrike, Diversity & Workforce Services Division Director, reviewed the events of this matter up to August 2018 and then updated the Commission on events occurring thereafter including the hiring of an independent vendor to study the original report for presentation at this December Commission meeting pursuant to the mandate of the General Legislature. RSC Advisory Group was chosen and Dan Ripberger was on hand to answer any questions. RSC’s initial report was provided to all 7 of the LME/MCOs in early November and three provided comments. The majority of those were editing and technical in nature. One notable change was the adjustment to the CEO salary during this review – to the maximum of the salary range, \$369,071. Also, Cardinal’s CEO submitted correspondence discussing concerns about the salary study which had also been provided to the Commissioners for this meeting. In follow up, OSHR found that the position in the correspondence was pending approval by Cardinal’s Board based on scheduling conflicts. Based on the work that RSC has done independent of OSHR, the range had been revised with a new minimum of \$208,400 and a new maximum of \$375,100 - very slight adjustment upward to the range that the SHRC approved in August.

Commissioners questions included:

What were the ranges that Cardinal had proposed? Cardinal answered that they had not proposed a range but had hired Sullivan Cotter to do a market executive compensation study independent of this matter and they had indicated that the currently salary range, the maximum current salary range \$369 was 26% of the 25th percentile.

Did Cardinal first approve the original range and then rescind its approval? The OSHR Office answered that it was only aware of an email received on November 29th from Angela, Cardinal HR Director, stating the numbers for total Medicaid Eligible are inconsistent across the LME/MCOs and that the 850 thousand number for Cardinal is the approximately total number for “covered lives.” There was also a clarification that the Cardinal Board in October 2018 increased the CEO’s compensation to the maximum and provided a \$30,000 bonus.

Did OSHR know, given the possibility of Medical transformation, the ability to recruit, hire, and retain in quasi-State or local government entities competing with the private sector and the for-profit sector as it relates to health care and if it might hamper their ability to make sure that our citizens have the highest quality of behavioral health and integrated care services that we can provide? RSC answered that while that is part of the challenge, RSC had really only looked at the top executive pay. Noting typically top executive pay is governed by that board of directors and its’ philosophy. Here RSC tried to combine 7 boards to come up with one overarching

approach. Cardinal is different than others but frankly each one is slightly different. There is nothing permanent in a pay range.

Was there any consideration given to any adjustment factors - mentioned the differences between those MCOs and understanding those boards have a lot of flexibility on how they set those structures up historically, but any consideration for an adjustment factors based on size or population served? RSC answered that the real charge as a firm was the market information and making sure it fit the group as it was portrayed though it certainly would be possible if it were the goal of the Commission to look at adjustments to the range based on where in the market you would want to compete. RSC's recommendation assumes the 50% percentile because it is common, but it certainly is not required in terms of where you want to be and certainly there could be some adjustments for size. OSHR added that looking at Exhibit 2, a list of salaries of the CEOs within the existing range, that there is a significant differential between the salaries which is an attempt to allow the flexibilities that the boards need to address the size and composition and uniqueness of that entity, but that that is a decision made by their board. OSHR just simply sets the minimum to ensure people are paid at the minimum and the maximum to make sure people are not paid over that.

Do the boards have flexibility to set above that maximum salary level at all? Will they? OSHR answered no explaining that OSHR is trying to establish a range that is equitable and reasonable and allows the work that needs to be done while considering the public funding component. RSC offered that typically, with executive compensation and dealing with a board, a pay range is not produced. Instead how much that specific executive is paid relative to the market and then individual differences is reviewed. So trying to put a range around some of the disparities is a challenge.

An explanation of this range? OSHR answered that this study, by General Statute, was looking solely at the salary range, and as a point of clarification, there are other mechanisms for compensation for the CEOs that were not within the scope of OSHR's consideration.

Cardinal's concerns the study did not consider specific criteria? Cardinal offered that the specific criteria it was concerned with was the number of "covered lives" or uninsured not included in this study in Exhibit 1. RSC stated it didn't hear similar feedback from any of the other MCOs on this but admitted because of the limited timing data collection was difficult and the numbers don't reflect people actually serviced but rather broadly all Medicaid Eligible people and not just those within the behavior health visibility sector. The reason RSC took this approach is because these organizations are individually unique relative to some of the larger organization. The minimum levels of service they are going to do are Medicare and then they will also have/do a Medicare supplemental of some sort so they do dual eligibles.

Did this study meet the requirements of the General Assembly? RSC answered, in their professional opinion, it did. Cardinal restated its concerns about the number used and said it did not.

In summary, it was concluded that MCO boards can bring in their executives within that range however they see fit and the MCOs can't issue salaries above the maximum range, however,

there are other forms of benefits other than salary that can be considered as part of that total cash compensation for which boards can enter into an agreement with that executive. Cardinal agreed that there are incentives other than salary range.

As additional information, it was established that Cardinal has been in existence in some form since 1974 - In its current form serving 20 counties that has been since July 2016 and prior to that in 16 counties for 8 years. It is growing as an organization. OSHR added that the delivery of these services has been evolving with the State and continues to evolve from the best model to do that. So there has been a lot of changes in the environment and everybody is working hard to keep up with all of this and probably more to come. Cardinal added that 10 years ago there were 25 of these organizations today there are 7 because of consolidation and the State.

Motion: Due to the abstention of Commissioners Eller and Benjamin, leaving only 2 commissioners on the board eligible to vote, Commissioner Beamon moved the Commission table the matter for now until more commissioners were able to vote and have more of a majority vote.

Second: Commissioner Jones second the motion

Motion carried.

General Counsel Lars Nance noted that tabling the vote now meant that the current range remained in effect. As an aside, he stated that while he would never say that if people felt like they should recuse themselves they should not, there probably is not an actual conflict in this issue.

Legal, Commission and Policy: Motion to Adopt Rules Pending Before the Rules Review Commission - 25 NCAC 01D .0913 – Salary Rate and 25 NCAC 01H .0631-Posting and Announcement of Vacancies (Continuous Posting)

General Counsel Lars Nance gave a brief overview of the history of these rules before the SHRC and then explained they were back as part of the rulemaking process for submission as permanent rules. He summarized the rules and stated that no public comments had been received on either rule at public hearings or during public comments periods.

Motion: Commissioner Beamon made a motion to recommend approval of the two rules going on to the Rules Review Commission for permanent submission.

Second: Commissioner Benjamin seconded the motion.

Motion carried.

Diversity and Workforce Services: Local Government - Annual Salary Plan Approval

Dominick D’Erasmus, Manager, Local Government, presented the Local Annual Salary Plans as required by the State Human Resources Act and the Administrative Code, for the SHRC’s approval. The salary plan packages provided to the Commissioners’ contained a Word document, called the Reporting Form, which contains a lot of the county information and the population numbers, certifying questions and phone numbers, and a very lengthy spreadsheet with the salary grade and salary range associated with it. These items are used to determine if that local entity is in compliance with the various administrative requirements. The Local Government Program team – D’Erasmus, James Harris and Monique Cowan - reviewed every single one of the salary plans according to those Administrative Rules and recommend approval of those salary plans.

Commissioner John Eller and Meredith Benjamin recused themselves as to their counties’ local salary plans.

Chair: Noted that due to the recusals, two votes would be held on this item.

Motion: Commissioner Beamon made a motion to recommend approval of all the counties except Davie County at this time.

Second: Commissioner Jones seconded the motion.

Motion carried.

Motion: Commissioner Beamon made a motion to recommend approval of all the counties except Buncombe County at this time.

Second: Commissioner Eller seconded the motion.

Motion carried.

Diversity and Workforce Services: Local Government -Vaya Health – Petition for Substantial Equivalency

Dominick D’Erasmus, Manager, Local Government, then presented Vaya Health, a Health LME/MCO organization, requests to be substantially equivalent in two program areas - Recruitment Selection and Classification and Compensation. He reported that the request submitted by Vaya had been reviewed and Vaya Health was found to operate a sound HR system for those two areas and is in compliance with the Administrative Rules for those sections. Based on that review, Local Government recommended that the Commission approve the Vaya Health petition to be substantially equivalent in those two program areas – Recruitment Selection and Classification and Compensation.

At the Commission’s questioning, D’Erasmus clarified that item IB, special emphasis being placed on efforts to attract minorities, women and disabled and other groups, was designed to mirror the

requirements of the federal merit system in form and as far as the State he didn't know if special emphasis was needed.

Motion: Commissioner Eller made a motion to recommend approval of the substantial equivalent request for Vaya Health in the two program areas presented.

Second: Commissioner Beamon seconded the motion.

Motion carried.

Classification and Compensation -2 New and 6 Revised Classification Specs for New Class & Compensation System

Joe Marro, Classification and Compensation Manager, presented the 2 new and 6 revised classification specifications to the Commission - the first two are for OSHA Safety Consultant and six revised classification specifications that have minor revisions to the E and E proposed by the Department of Public Safety. This request has been approved by OSHR.

In response to the Commission's questions, Marro clarified that as it relates to the consultant, health and safety specification, there are multiple positions in each of those classifications but no salary range had been established yet.

Motion: Commissioner Beamon made a motion to recommend approval of the 2 New and 6 Revised Classification Specs for New Classification and Compensation System.

Second: Commissioner Benjamin seconded the motion.

Motion carried.

Total Rewards – Annual Compensation and Benefit Report - Preview of 2018 Annual Report

Joe Marro, Classification and Compensation Manager, presented as information the outline of the Annual Compensation and Benefit Report.

Motion: Commissioner Beamon made a motion to adjourn the meeting.

Second: Commission Rozier seconded the motion.

The State Human Resources Commission meeting was Adjourned at 10:12 a.m.

Executive Session

The State Human Resources Commission did not have an executive session at its December 6, 2018 meeting.

Minutes submitted by:

Denise H. Mazza, State Human Resources Commission Administrator