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Court: Home-care workers due \$80M in back pay from DSHS

A divided Supreme Court on Thursday ordered the Department of Social and Health Services to pay \$80 million to 22,000 in-home health-care workers who were shortchanged in decade-old budget cuts.

By [Brian M. Rosenthal](#)

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A divided Supreme Court on Thursday ordered the Department of Social and Health Services (DSHS) to pay nearly \$80 million to 22,000 in-home health-care workers who were shortchanged in decade-old budget cuts.

The 5-4 ruling, which upheld a trial-court finding, will allow the workers to receive an average of about \$3,500 in back pay for services performed between 2003 and 2007.

“After a lengthy trial, a jury found that DSHS violated its duty of good faith and fair dealing in the performance of a specific term of its contracts with providers,” Justice Susan Owens wrote in the lead opinion. “This verdict accords with relevant law and we affirm it.”

The state claimed a partial victory because the justices voided a lower-court order that the department pay millions of dollars in interest accrued before the trial-court verdict.

But an attorney representing the workers said the state could have saved even more if it had agreed to a settlement.

“These guys could have settled for much, much less early in the game, and were offered much, much less,” Kirkland attorney Greg McBroom said.

The case dates to a 2003 DSHS decision to cut payments by 15 percent to Medicaid beneficiaries who had caregivers living in their home.

The idea, the state argued, was that taxpayers shouldn’t have to pay the caregivers — many of whom were relatives — for tasks they would perform for their own household regardless of whether they were caring for a Medicaid client.

“When dealing with limited funds, it is critical to do everything possible to stretch and leverage funds to sustain services and to care for the greatest number of folks with personal care needs,” said Bill Moss, assistant secretary with the DSHS Aging and Long-Term Support Administration, in a news release Thursday.

But the workers objected, arguing that the cut violated their contract and hurt needy residents.

In 2007, the state Supreme Court ruled that the cuts had violated federal Medicaid law requiring that all beneficiaries be treated equitably; DSHS abandoned the cuts but did not reimburse the workers for the four years of lost payments.

A jury found that the state should restore \$57 million of those payments, and a Thurston County judge ordered officials to add more than \$37 million in interest garnered before the judgment.

On Thursday, the justices voided that prejudgment interest “because the damages could not be determined with certainty,” but did allow for the workers to receive a collective \$23 million in interest accrued after the decision.

McBroom, the attorney, said the high-court decision will bring closure to the workers.

“It’s important for our clients and the state,” he said.

Information from The Seattle Times archives is included in this report.

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