

JURY AWARDS \$57 MILLION VERDICT AGAINST STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
Largest award ever against State

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FOR IMMEDIATE RELEASE

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Olympia, Washington, December 20, 2010 - A Thurston County jury today found that Department of Social and Health Services (DSHS) short-changed about 22,000 home healthcare workers, and awarded the group \$57 million in damages. The verdict followed a three week trial. DSHS underpaid the workers over a four year period. The workers filed a class action suit against DSHS in 2007, seeking payment of amounts DSHS wrongfully withheld. Today's verdict represents the largest damage award ever against the State.

"The jury, after hearing from both the workers and Medicaid beneficiaries, and from DSHS personnel who implemented the pay reduction, found that DSHS breached its duty of good faith and fair dealing with the workers. This case has always been about whether DSHS should pay for work it required these folks to do," said Greg McBroom of Livengood, Fitzgerald & Alskog, the lead law firm representing the plaintiffs. McBroom also represented the plaintiffs in one of the earlier cases striking down the DSHS rule. *Jenkins v. DSHS*, 160 Wn.2d 287, 157 P.2d 388 (2007)

"The jury's decision means that 22,000 people, working from 2004-2008, for a little more than minimum wage, will be paid for all the hours DSHS required them to work," said Darrell Cochran, of the Tacoma firm Pfau Cochran Vertetis Kosnoff, one of the attorneys representing the plaintiffs. "While the total recovery is very large, the award to the workers amounts to about \$2,500, on average. That \$2,500 is a very large sum to someone making the minimum wage."

DSHS administers Medicaid programs in Washington. In 2004, DSHS adopted a regulation that reduced pay for workers in the program by 15% if the worker lived with the person they were caring for. Workers who lived outside the home, performing the same services, received full pay for the services provided. Two trial courts struck down the DSHS rule shortly after it implemented the reduction. Even after the state Supreme Court also ruled against DSHS, the agency continued to underpay some workers for almost a year more.

The State will probably appeal the jury's verdict said an attorney familiar with the case. If the State appeals, a final decision may be a year or two away. The Thurston county case is *Rekhter v. DSHS*, Docket no. 07-2-00895-8.