



HEALTH SERVICE UNION

Clinpath EBA Update

Thank you to everyone for your patience regarding the EB negotiations and registration. As you know management has made an application to the Fair Work Commission to register the Clinpath Laboratories Enterprise Agreement 2017 on 11th January 2018. The Health Services Union opposed the Enterprise Agreement and presented the Industrial Commission with reasons for our opposition (please see copy attached).

We have now received advice that the application for approval will be progressed on 21st May 2018. This means that the Fair Work Commission EB Team will be reviewing the Enterprise Agreement considering the HSU's submission of opposition to that agreement and the most recent submission made by Clinpath Laboratories made in support of their registration on the agreement (copy attached).

The Health Services Union will be making further opposing submissions to the registration in response to the submission made by Clinpath Laboratories dated 18th May 2018. We will also be meeting with the EB delegates at Clinpath and calling for further meetings with our members.

Some of the reasons for HSU's opposition to register the Agreement are as followed:

1. The Notice of Employee Representational Rights (NERR) was not correctly completed.

The notice Clinpath provided states:

Clinpath Laboratories Pty. Ltd. gives notice that it is bargaining in relation to an enterprise agreement (Clinpath Laboratories Enterprise Agreement 2017) which is proposed to cover employees that are currently covered by the Clinpath Laboratories Enterprise Agreement 2015 and the Clinpath Laboratories Nursing Employees Enterprise Agreement 2013.

However, this is different to the coverage of the proposed Enterprise Agreement that Clinpath indicates in its Form F17. In paragraph 2.2 of the Form F17, Clinpath states that:

The groups covered were the groups covered by the previous Clinpath Laboratories Enterprise Agreement and warehouse staff previously covered by the HPSS Award.

The groups not covered were nurses, who are covered by the Nurses Award and senior management.

2. Ballot Process

We understand that employees were sent their ballot papers by mail on the 11 December 2017, but did not receive access to the proposed agreement until 14 December 2017. We believe this is in breach of s 180(1) of the *Fair Work Act 2009*, which provides:

Before an employer requests under subsection 181(1) that employees approve a proposed enterprise agreement by voting for the agreement, the employer must comply with the requirements set out in this section.

3. Misleading information provided to employees

The HSU SA/NT maintains that Clinpath misled employees in its communication on 1 December 2017, as indicated in our letter dated 13 December 2017, to which Clinpath responded on 13 December 2017. Further, the letter Clinpath provided to employees dated 11 December 2017 contained contradictory information about what was and was not changing in the proposed agreement.

For example, Clinpath stated in their agreement summary titled '*Changes to the agreement are,*' that the '*increment increases occur at 1950 hours for all staff*', but also said in the '*Many clauses remain unchanged in the agreement*' summary that there will be '*no change to increment increases*'. The increment increases were a major point of difference in negotiations and a point the parties did not reach an in principle agreement on.

We will forward on to you our response application and you will be informed of the hearing date once it is confirmed.

Any queries, please contact either Jorge Navas on 0419 036 615 or Zerebar Karimi on 0499 047 277

Regards

Your HSU Team