

Value the Care!

Minimum wage and overtime for home care aides

No. 2

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Revised “companionship exemption” strengthens jobs and care...

On October 1, 2013, the U.S. Department of Labor (DOL) published its final rule narrowing the “companionship exemption” under the Fair Labor Standards Act (FLSA). As a result, beginning January 1, 2015, most home care workers will be guaranteed federal minimum wage and overtime protections for the first time. In addition, because they are newly covered under federal wage and hour laws, home care workers will now be eligible for compensation when traveling between clients, and will be protected by federal law when challenging employers in wage and hour disputes.



➔ **Growing the workforce...** Though the worst of the recession may have ended, millions of Americans still struggle to find good jobs. The nation’s fastest-growing jobs—personal care aides and home health aides—which pay, on average, less than \$10 per hour, don’t provide sufficient wages to lift families out of poverty.

That’s why narrowing the “companionship exemption”—and providing wage and hour protections for home care workers under the FLSA—is good for the economy. Implementing the revised rule will make America’s fastest-growing jobs more attractive to workers and give them more money to spend on goods and services, thereby growing the economy.

We can’t send home care jobs overseas, so in the coming decade we will need to recruit more than one million new workers to fill these positions. Rising demand, however, does not ensure workers will take these jobs or keep them. Better wages and working conditions do.

Guaranteeing home care workers FLSA protections is an important step toward growing the workforce, and ensuring that elders and people with disabilities can access home care services when they need them.

➔ **Increasing need...** Currently, 10,000 baby boomers turn 65 every day. As these baby boomers age, demographic changes will create a surge in demand that will build over the next 20 years.

As Americans, we believe that everyone—young, old, able-bodied, or disabled—deserves to live with dignity, and with as much independence as possible. As we age or become disabled, most of us want to remain at home—or in a homelike environment in the community—where we can maintain our routines and our relationships. We want to have a choice, and for many aging Americans and individuals with disabilities having a choice requires the assistance of a home care worker.

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Improving quality... The home care workforce is one of the largest in the nation—numbering nearly 2.5 million workers. The demand for home care workers is expected to increase by nearly 70 percent between 2010 and 2020 while at the same time, the number of women age 25–54, the traditional population from which care workers come, is barely growing at all.

Low pay communicates to workers across America that caregiving is not valued. That perception has been reinforced by the companionship exemption, which for decades denied basic labor rights to these workers. The result has been high turnover and poor continuity of care. Nearly three out of four home care workers have been in their jobs for less than one year. Without experienced caregivers who stick with this work, consumers cannot receive the quality care we all want and deserve.

Extending FLSA protections shows respect for caregivers, resulting in more experienced caregivers remaining on the job and new workers joining one of the highest-demand professions in our economy. FLSA protections are a win-win for America, helping millions of workers struggling in today's economy while also ensuring quality support services to elders and people with disabilities in the years ahead.

For more information on the revised companionship exemption, go to www.companionshipexemption.com and www.dol.gov/whd/homecare/

To learn more about the home care workforce, visit www.PHInational.org/homecarefacts

Questions? Contact PHI's Government Affairs staff at 202-888-1972.

The FLSA "companionship exemption" timeline

1938 – The federal Fair Labor Standards Act (FLSA) is enacted to ensure a minimum standard of living for workers through the provision of a minimum wage, overtime pay, and other protections— *but domestic workers are excluded*.

1974 – The FLSA is amended to include domestic employees such as housekeepers, full-time nannies, chauffeurs, and cleaners. However, persons employed as "companions to the elderly or infirm" *remain excluded from the law*.

1975 – The Department of Labor interprets the "companionship exemption" as including all direct-care workers in the home, *even those employed by third parties* such as home care agencies.

2001 – The Clinton DOL finds that "*significant changes in the home care industry*" have occurred and issues a "notice of proposed rulemaking" that would have made important changes to the exemption. The revision process is terminated, however, by the incoming Bush Administration.

2007 – The U.S. Supreme Court, in a case brought by New York home care aide *Evelyn Coke*, upholds the *DOL's authority to define exceptions* to FLSA.

2011 – President Obama announces a Notice of Proposed Rulemaking (NPRM) that, if enacted, will *finally extend minimum wage and overtime protections to the vast majority of home care workers*.

2012 – During the three-month public comment period, the *U.S. Department of Labor receives about 26,000 comments*, with more than 75 percent in favor of the rule change.

2013 – After extensive review by the Office of Management and Budget, on October 1, the *U.S. Department of Labor publishes the revised companionship rule* in the Federal Register.



PHI (www.PHInational.org) works to improve the lives of people who need home and residential care—and the lives of the workers who provide that care.

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