

Report: Excluding Home Care Workers from Minimum Wage & Overtime Pay Harms Caregivers & Undermines Quality of Care

Obama Administration to Hold Public “Listening Session” 4-5pm Eastern Today
on Reform of Rapidly Growing Industry

NEW YORK. The exclusion of an estimated 1.7-million home care workers from federal minimum wage and overtime protections has depressed wages, created harmful working conditions, and undermined the quality of care consumers receive, a new [study](#) by the National Employment Law Project finds. Public meetings by the Obama administration this week could lead to an overhaul of the workplace rules that govern one of the nation’s fastest-growing occupations.

“The millions of home care workers who provide vital services to our nation’s elderly and individuals with disabilities are not covered by fundamental minimum wage and overtime pay protections most of us take for granted,” said **Sarah Leberstein, staff attorney with the National Employment Law Project** and one of the authors of the report. “The archaic ‘companionship exemption’ in federal regulations shuts out home care workers from essential workplace protections, and fixing it is long overdue.”

This afternoon, the U.S. Department of Labor will conduct the second of two “listening sessions” to solicit public comments on whether and how it should modify the exemption to extend federal minimum wage and overtime protections to more workers. (See final paragraph for call-in details.) The meeting follows an announcement last spring when the Labor Department said it would issue proposed revisions to the exemption in late 2011.

The exclusion of home care workers from wage-and-hour laws dates back to Labor Department regulations written in 1974, which expanded what Congress had intended to be a very limited exemption for workers providing certain “companionship” services into their wholesale exclusion from wage-and-hour protections. Since that time, the home care industry has undergone a major transformation, and today is dominated by large home care corporations and funded primarily by Medicaid and Medicare.

NELP’s new report, “[Fair Pay for Home Care Workers](#),” highlights the damaging impact this exclusion has had on the workers. The average national wage for home care workers is just \$9.34 per hour. One in five workers lives below the poverty line, and in 29 states the average hourly wages are low enough to qualify workers for public assistance, according to PHI, a national advocacy group for the

direct care workforce. The work is both emotionally and physically demanding, and morale among today's home care workers is low and workplace injuries are common.

Low wages, long hours, and poor working conditions also threaten the future of the home care industry, according to the report. Demand for caregiving is expected to grow significantly in coming years. The U.S. population over age 65 will grow to more than 70 million in the next two decades. An estimated 27 million Americans will need direct care by 2050, according to the Department of Health and Human Services. Although home health care occupations are projected to grow more than any others through 2018, the industry faces serious employee recruitment and retention problems, and growth could be hampered if conditions do not improve.

The report urges the U.S. Labor Department to make two important reforms: (1) it should provide that workers employed by a home care agency or other intermediary are not exempt from minimum wage and overtime coverage under the Fair Labor Standards Act; and (2) it should limit the definition of "companionship" to encompass only fellowship and protection—thereby removing from the exemption workers who perform duties such as providing "assistance with activities of daily living" or "instrumental activities of daily living." Reforms that do not include both of these elements will be ineffective and will leave the fastest-growing segments of the home care industry uncovered, argues the report.

The cost of implementing the reforms is likely to be limited and manageable. Twenty-one states and the District of Columbia already provide some coverage of home care workers under state minimum wage and overtime laws. And some home care employers, including one of the nation's largest for-profit home care agencies—Addus HealthCare—are already paying overtime despite the federal exemption. They keep overtime costs low by spreading caseloads more equally across a larger workforce with the help of modern scheduling and management systems, and with no impact on quality of care. Other employers should follow suit and extend coverage to this important workforce, says the report.

"Extending minimum wage and overtime coverage to home care workers is an important step towards fulfilling the Fair Labor Standards Act's goal of fighting poverty, spreading work and creating jobs in this vital industry," said **Christine Owens, executive director of the National Employment Law Project**. "Guaranteeing this most basic of protections—minimum wage and overtime pay—for the workers we entrust to care for our nation's elderly and disabled is the least we can do to improve the jobs and the quality of care. We must raise standards for this vital sector of our workforce, if we want to ensure it meets the nation's growing need for home care services."

Today's Labor Department "listening session" will take place from 4 to 5 p.m. EST. Those interested in participating should call (888) 730-9140 and enter the passcode 34478.

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