



the work and family legal center

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March 6, 2012

Mary Ziegler
Director
Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor, Room S-3502
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Proposed Rule on Application of the Fair Labor Standards Act to Domestic Service (RIN 1235-AA05)

Dear Ms. Ziegler,

We are writing to support the Department of Labor's proposed rule to end the "companionship exemption" and extend minimum wage and overtime protections to home care workers under the Fair Labor Standards Act (RIN 1235-AA05). We thank you for the opportunity to comment on this proposed rule.

A Better Balance: The Work and Family Legal Center is a non-profit legal advocacy organization dedicated to empowering individuals to meet the conflicting demands of work and family without sacrificing their economic security. We believe that workers should not have to face impossible choices between earning a paycheck and caring for themselves or their loved ones. The founders of A Better Balance are a group of lawyers who have successfully worked together on a variety of women's rights and economic justice issues. We employ a range of legal strategies to promote flexible workplace policies, end discrimination against caregivers, and value the work of caring for families. As experts on paid and unpaid caregiver work, we know that home care workers and others doing traditional "women's work," are often undervalued, underpaid, and subject to exploitation.

Minimum wage and overtime protections are basic labor rights that have been in place for almost all wage workers in the United States for decades. But home care workers, people who provide essential care for elderly and disabled individuals, have not had those protections because of the exclusion in the law for "companions." According to the National Employment Law Project, when Congress first extended the Fair Labor Standards Act to cooks, child care workers, house cleaners, and other domestic workers in 1974 and exempted "companions" for the disabled and elderly, they were not thinking of the modern home care worker whose primary income is derived from backbreaking work in another's home.¹ Duties often include meal preparation, assisting with dressing, bathing, toileting, and monitoring vital signs. These workers deserve to be paid fairly and to be given other protections. The individuals they care for will benefit by having an alert, rested worker instead of an exhausted, disgruntled one. Opponents cry that these measures are too expensive, but 21 states and Washington, D.C. already require minimum wage protections for this group and fifteen of those states (including New York) also require overtime pay. Treating care workers fairly is the right thing to do for them and for those that receive their care.

Thank you for the Department of Labor's work fighting to ensure fair treatment of workers. If you have any questions, please contact us at 212-430-5982.

Sincerely,

Dina Bakst & Sherry Leiwant
Co-Presidents & Co-Founders

¹ <http://www.nelp.org/page/-/Justice/2011/FairPayforHomeCareWorkers.pdf?nocdn=1>