



April 3, 2013

The Honorable Jeffrey Zients
Deputy Director, Office of Management and Budget
Executive Office of the President
Washington, DC 20503

Re: National Women's Law Center Supports Finalizing DOL Home Care Regulations

Dear Deputy Director Zients:

We are writing to urge the Office of Management and Budget (OMB) to act immediately to release the Department of Labor's (DOL) final regulations updating the Fair Labor Standards Act (FLSA) rules on the "companionship exemption." The current exemption inappropriately excludes over 2 million home care workers from basic minimum wage and overtime protections under federal law – protections that most other workers have depended on for decades. In December 2011, DOL proposed new rules that would end this historic injustice and prepare the industry to meet an exploding demand for services, but these rules cannot take effect without OMB's approval. The National Women's Law Center (the Center) was among the thousands of organizations and individuals that submitted comments in support of DOL's proposal, and millions of workers, home care recipients and their families are counting on the Administration to implement this long overdue reform.

Since 1972, the Center has worked to protect and advance the progress of women and their families in core aspects of their lives, with an emphasis on the needs of low-income women. About nine out of ten home care workers are women, disproportionately women of color. Many of these women are primary income earners for their families who struggle to survive on median annual wages of less than \$21,000 for full-time work, below the poverty line for a family of four. Home care workers provide a lifeline for the elderly and people with disabilities – yet for decades, their stressful and physically demanding jobs have come without the basic protections of the federal minimum wage and overtime laws. Extending the protections of the FLSA to a field heavily dominated by women will help these women lift their families out of poverty and reduce ongoing pay disparities between women and men.

DOL's proposed rule also better reflects the intent of Congress when it passed the 1974 FLSA amendments to expand coverage for domestic service employees. The goal was to provide fair treatment for the low-income women and minorities who comprised the majority of workers in the field, exempting only casual companions, and not professional caregivers, from the protections of the FLSA. Since 1974, home care has become one of the largest and fastest-growing occupations in the country, with over three-quarters of a million new jobs projected to be needed by 2018. But the low wages and high turnover rates prevalent in this industry adversely impact access and quality of care for millions of people receiving long-term services in their homes.

Our nation needs a high-quality, stable home care workforce to meet the demand that will continue to grow as the baby boomer population ages. Important provisions in the Patient Protection and Affordable Care Act aim to expand access to home- and community-based services, but poor working conditions in home care jobs may impede this transition. In light of the need to strengthen and build the workforce available to provide home and community-based services, it is counterproductive to exempt workers providing these services from the fundamental wage and hour protections provided by the FLSA.

The new rules on the companionship exemption were announced by President Obama with home care workers by his side in December 2011 as part of his “We Can’t Wait” initiative. The public comment period for the proposed regulations was extended twice, and closed over a year ago in March 2012; the vast majority of comments submitted were in support of the proposed changes. It is well past time to issue the final rules.

The overwhelmingly female home care workforce has been underpaid and undervalued for decades. Congress did not intend for the workers who provide vital long-term care for seniors and people with disabilities to be excluded from the basic protections of the FLSA. We urge you to correct this longstanding injustice by completing the rulemaking process to revise the companionship exemption in a timely manner.

Sincerely,



Joan Entmacher
Vice President, Family Economic Security



Julie Vogtman
Senior Counsel, Family Economic Security

C: Portia Wu
Brenda Aguilar
Martha Coven