

Why the Fair Labor Standards Act Matters to Homecare Workers

On December 15, 2011, President Obama announced a proposal to give homecare workers minimum wage and overtime rights under federal law. SEIU has been fighting for this change for years, and one of our members was even on hand at the White House for the President's announcement.

However, the regulations are not yet final, and homecare workers and our allies spoke out to let the Department of Labor (DOL) know how important this rule change is to the people who actually do this work. Homecare workers from across the country submitted comments in favor of the proposed change to the Fair Labor Standards Act (FLSA) and some members from New York and California even traveled to Washington D.C. for a key hearing on the rule change.

Background:

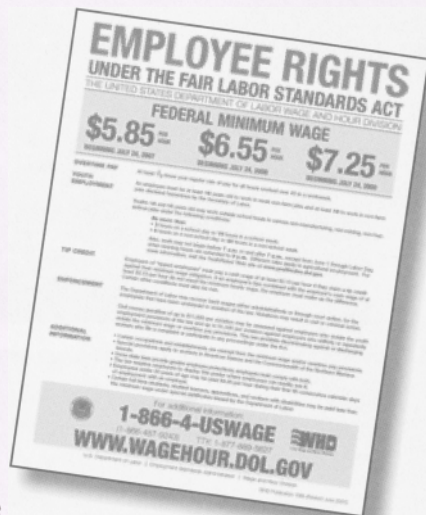
- The FLSA is the basic federal law providing minimum wage and overtime protection to most American workers.
- Currently, the FLSA does not apply to most homecare workers. Some homecare workers are protected by state laws, but many are not.

The proposed regulations would provide:

Fairness for workers: The FLSA provides basic minimum wage and overtime protections to nearly every other American worker, including workers providing identical personal care assistance services in nursing homes.

Dignity for homecare as an occupation: Homecare work is how our members support themselves and their families and is critical to helping consumers stay in their homes instead of being forced into institutions. Our members provide much more than informal or casual companionship. Treating them as companions under the existing exemption robs them of dignity and respect merited by this legitimate and important occupation.

- **Quality care for consumers:** Many homecare consumers struggle to obtain continuity of care in an occupation plagued by high worker turnover that often leaves consumers with inexperienced or untrained replacements. FLSA coverage is an important step toward addressing the low pay and uncompensated work and travel time that give experienced caregivers little incentive to remain in the occupation.
- **Workforce development:** The rapidly aging population and a shift toward home- and community-based services has created an unmet demand for homecare services. Individual consumers—particularly those who lack pre-existing relationships with caregivers—are simply unable to recruit the needed workers into an occupation that pays near-poverty wages, and homecare agencies that wish to do the right thing face significant competitive pressure from those that exploit the current loophole. FLSA coverage will help attract workers to this occupation in order to meet the growing demand for homecare services.
- **Congressional intent:** Congress



extended the FLSA to domestic service employment in 1974 because it recognized the exploitative conditions faced by the largely female and minority domestic workforce including low wages, irregular hours, and few non-wage benefits. Many homecare workers today face similarly difficult conditions. The narrow exemption Congress carved out for “companionship” was intended to exclude casual or irregular work performed by friends and neighbors, not work done as a regular vocation such as is performed by our members working in state Medicaid programs.

- **Good jobs:** In a struggling economy, it simply does not make sense to let such a significant and rapidly expanding occupation develop as a grey-market industry not covered by basic employment laws. Rather, FLSA coverage will mark a significant step toward creating the type of good jobs needed to attract people into an occupation so critical to our nation's rapidly expanding elderly population.