Value the Care!

Minimum wage and overtime for home care aides

No. 5

Growing Home Care Industry Can Afford Basic Labor Protections for Workers

With outsized demand from a growing population of elders, the home care industry is among the fastest-growing sectors of the American economy. The industry is creating hundreds of thousands of new jobs—a plus for an American economy stuck in neutral. However, the vast majority of these jobs are not the good jobs Americans need to sustain their families. In fact, home care workers—who help elders and people with disabilities with daily tasks such as dressing, bathing, and preparing healthy meals—are among our nation's most poorly paid workers. One contributor to these low wages is that for nearly 30 years these workers have been exempt from federal minimum wage and overtime laws. The Obama administration has proposed changing this rule, and extending these basic protections to the vast majority of home care aides.

Critics of the proposed rule claim that home care providers can't absorb the added financial burden of overtime and travel time pay for their aides, arguing that home care workers should remain exempted from basic labor protections. But all indications are that the home care industry is thriving and can afford the cost of these basic workforce protections. The industry's robust financial status stands in sharp contrast to the fact that half of home care workers earn so little that they must rely on public benefits.

Value the Care is a publication of the **PHI Campaign for Fair Pay (www.PHInational.org/fairpay)**, which is calling on the DOL to extend federal wage and overtime protections to home care workers.

One of America's fastest-growing industries

The home care industry—composed of Home Health Care Services and Services for the Elderly and Persons with Disabilities (nonmedical support services)—is enormous and fast growing, even at a time when the U.S. economy is sluggish.

Home health care services[1]

• The number of establishments grew by 7 percent annually from 2001 to over 26,000 in 2010 (see Figure 1).

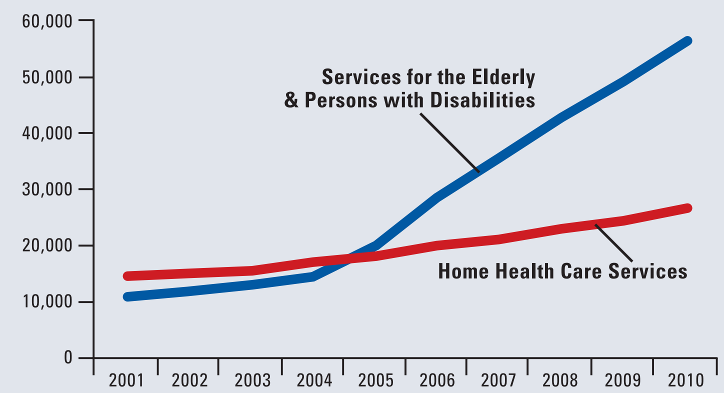
• These services are expected to be the fourth fastest-growing industry employer within the U.S. economy overall through 2018.[2]

Services for the elderly and persons with disabilities

• The number of establishments grew astronomically, at a rate of 20 percent per year between 2001 and 2010 and now totals over 56,000 (see Figure 1).

• Business analysts describe the nonmedical support services market as "virtually untapped and limitless" due to increasing demand and low barriers to entry.[3]

Figure 1: Growth in Home Care Establishments



Source: US Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

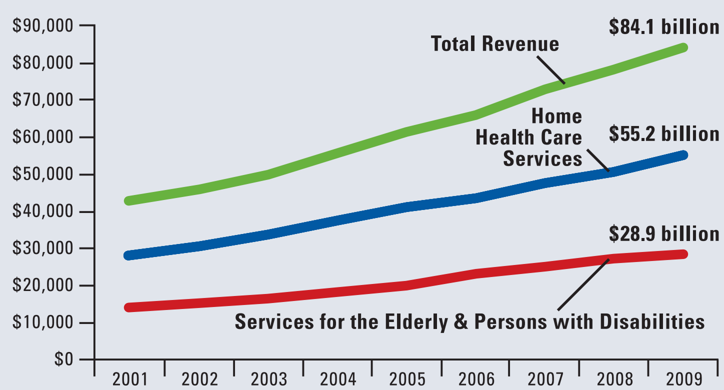
Industry revenues doubled over last decade

Though state budgets have tightened since 2008, home care industry revenues have continued to show solid growth.

• Revenue for the home care industry grew at an average rate of 9 percent per year from 2001 to 2009. Revenue continued to climb, even during the recession (see Figure 2).

• In 2009, the combined revenues of the two key industries providing home care and personal assistance totaled over $84 billion!

Figure 2: Expanding industry revenue in millions of dollars



Source: U.S. Census Bureau, Health Care and Social Assistance, 2009 Service Annual Survey Data for Health Care and Social Assistance.

A flourishing industry, especially for-profit franchises

For-profit home care franchise chains are one of the fastest-growing players in the in-home care sector.

• Currently, over 35 different franchise brands[4] are capitalizing on the growing demand for these services.

• Even during the recession, from 2007 to 2009, the number of franchise locations increased 9.4 percent annually and corporate revenues increased by 11.6 percent per year.[5]

Biggest franchise players are some of the largest employers of home care aides in country

• Two of the largest and most well-known home care franchises, Home Instead and Comfort Keepers, rank in the top 100 fastest-growing franchises, according to *Entrepreneur*.[6]

Home Care Franchise	# of Domestic Locations	# of Aides Employed
Interim HealthCare	324	75,000
Home Instead	600	65,000
Comfort Keepers	623	25,000

Table 1: Largest For-Profit Franchises

• Home Instead was ranked #56 in the Franchise 500 (2012) and employs nearly 65,000 caregivers.[7]

• In 2011, Comfort Keepers made it onto the Inc. 5000 list of the top 5000 fastest-growing companies in the U.S. with a three-year sales growth of 37 percent. It employs 25,000 aides.[8]

Low and stagnant wages fuel agency profits

• The median hourly wage for home care workers in 2010 was $9.40. Adjusted for inflation, home care workers earn less today than they did a decade ago.[9]

• Approximately 50 percent of home care workers rely on some form of public assistance to supplement their low wages.

• In the private pay market, agencies charge consumers approximately twice the hourly rate paid to caregivers (see Table 2).

• Artificially low wages resulting in part from the companionship exemption are underwriting the 30 to 40 percent profit margins of the for-profit franchises delivering personal care services.[10]

Type of Service	National Average Cost of Services (Per Hour)	National Average Starting Pay for Caregivers (Per Hour)
Companionship	$18.75	$8.92
Homemaker Services	$18.90	$9.10
Personal Care	$19.82	$9.69
Home Health Services	$22.37	$11.78

Table 2: Agencies Charge Twice What Caregivers Are Paid

Source: National Private Duty Association (2009) State of Caregiving Industry Survey, Executive Summary.

America's home care industry is thriving, but its labor force is not

The companionship exemption was never intended to bar 2 million workers from receiving basic federal labor protections. It is time to right that wrong. Otherwise our nation will be unable to build the stable, skilled workforce we need to provide support and assistance to our rapidly aging population.

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Take Action: The Department of Labor is currently accepting public comments on their proposed revision to the companionship exemption (RIN 1235-AA05).

Visit **www.PHInational.org/fairpay** for instructions on supporting the rule change.

Act Now, before the comment period ends on February 27th!

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 US 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.

References

1. Beyond home care and personal assistance, Home Health Care Services may also include: skilled nursing, physical therapy, occupational therapy, speech therapy, audiology, occupational therapy, medical social services, dietary and nutritional services, and bereavement counseling. In addition, some providers derive revenue from the provision of durable medical equipment, infusion services and equipment, and telehealth equipment.
2. R.A. Woods (2009) "Industry output and employment projections to 2018," Monthly Labor Review, Table 3. Available at: **http://bls.gov/opub/mlr/2009/11/art4full.pdf**
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4. *Franchise Business Review* (December 2010) *Senior Care and Home Healthcare Franchises, Special Report*. Available at: **http://www.franchisebusinessreview.com/content/files/FBR_Senior_Care_Report2010.pdf**
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10. Ibid. **http://www.franchisebusinessreview.com/content/files/FBR_Senior_Care_Report2010.pdf**

PHI Quality Care THROUGH Quality Jobs

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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