

August 12, 2011

The Honorable Hilda L. Solis  
Secretary  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

Dear Secretary Solis:

Our nation's estimated 1.7 million home care workers are excluded from the federal minimum wage and overtime protections of the Fair Labor Standards Act (FLSA) because of overly broad Department of Labor regulations. The regulations expanded what Congress had intended as a very narrow and limited exemption from wage-and-hour laws for workers providing certain "companionship services." The wholesale regulatory exclusion of all home care workers has suppressed wages and relegated millions of caregivers – the majority of them women – to poverty. This archaic exemption was established decades before the home care industry burgeoned into a rapidly growing and profitable industry that employs a vital workforce that helps millions of Americans live in their homes independently. This regulatory exemption has created harmful working conditions and undermined the quality of care consumers receive. **As state legislators, we urge you to use your authority and promptly extend minimum wage and overtime protections to most home care workers by restoring the FLSA companionship exemption to its appropriate limited scope.**

These workers provide essential services to Americans living with functional limitations and needs due to chronic disease, age-related impairments and other disabilities. And, our nation is on the verge of an era which will be defined in many ways by the needs of a rapidly growing population of aging Americans. A stable and competent direct care workforce is the key to ensuring that they get the help they need to live at home in dignity.

We urge that the revised regulation include two important reforms. First, it should provide that workers employed by a home care agency or other intermediary are not exempt from the FLSA. Second, it should narrow the definition of "companionship" to include just fellowship and protection, not workers who perform other types of duties including providing assistance with activities of daily living or instrumental activities of daily living.

As legislators from many of the 21 states that already provide some coverage of home care workers under state minimum wage and overtime laws, we expect that the cost of applying these protections to this important workforce will be moderate and manageable. Some home care employers, including one of the nation's largest for-profit agencies, are already paying overtime despite the federal exemption. Moreover, the costs associated with this transition are minimal in comparison to overall spending on long-term care.

Extending basic minimum wage and overtime protections to most home care workers is essential to achieving the FLSA's goals of fighting poverty, spreading work and creating jobs in this industry. Ensuring that most of the home care workforce is covered by basic wage-and-hour rules will also promote quality care by helping employers retain and recruit a skilled workforce to meet our nation's growing needs for home care.

Representative Roberto R. Alonzo  
Texas House of Representatives, 104<sup>th</sup> District

Representative Sharon Beasley-Teague  
Georgia House of Representatives, 65<sup>th</sup> District

Representative Lon Burnam  
Texas House of Representatives, 90<sup>th</sup> District

Representative Barbara W. Ballard  
Kansas House of Representatives, 44<sup>th</sup> District

Senator Betty Boyd  
Colorado State Senate, 21<sup>st</sup> District

Representative Tom Burch  
Kentucky House of Representatives, 30<sup>th</sup> District

Representative Ted Celeste  
Ohio House of Representatives, 24<sup>th</sup> District

Representative Upendra Chivukula  
New Jersey General Assembly, 17<sup>th</sup> District

Senator Spencer Clogg  
Wisconsin State Senate, 6<sup>th</sup> District

Representative Chip Conquest  
Vermont House of Representatives, Orange-Caledonia 1<sup>st</sup> District

Senator Gene Davis  
Utah State Senate, 3<sup>rd</sup> District

Representative Berta Gardner  
Alaska House of Representatives, 24<sup>th</sup> District

Senator Stan J. Gerzofsky  
Maine State Senate, 10<sup>th</sup> District

Representative Gordon Hintz  
Wisconsin State Assembly, 54<sup>th</sup> District

Senator Karen Keiser  
Washington State Senate, 33<sup>rd</sup> District

Representative John Kowalko Jr.  
Delaware House of Representatives, 25<sup>th</sup> District

Representative Sara Lampe  
Missouri House of Representatives, 138<sup>th</sup> District

Representative Patrick Long  
New Hampshire House of Representatives, 10<sup>th</sup> District

Senator Benjamin M. McAdams  
Utah State Senate, 2<sup>nd</sup> District

Representative Corey R. Mock  
North Dakota House of Representatives, 42<sup>nd</sup> District

Representative Rick Moye  
West Virginia House of Delegates, 27<sup>th</sup> District

Representative Jim Nickels  
Arkansas House of Representatives, 43<sup>rd</sup> District

Senator Nan Orrock  
Georgia State Senate, 36<sup>th</sup> District

Representative Tony J. Payton Jr  
Pennsylvania House of Representatives, 179<sup>th</sup> District

Representative Jeanne Richardson  
Tennessee House of Representatives, 89<sup>th</sup> District

Senator Maralyn Chase  
Washington State Senate, 32<sup>nd</sup> District

Senator Carlos R. Cisneros  
New Mexico State Senate, 6<sup>th</sup> District

Representative Herb Conaway Jr.  
New Jersey General Assembly, 7<sup>th</sup> District

Senator Brenda J. Council  
Nebraska State Senate, 11<sup>th</sup> District

Senator D. Scott Dibble  
Minnesota State Senate, 60<sup>th</sup> District

Representative Pat Gardner  
Georgia House of Representatives, 57<sup>th</sup> District

Senator Michael E. Gronstal  
Iowa State Senate, 50<sup>th</sup> District

Representative Scott Kawasaki  
Alaska House of Representatives, 9<sup>th</sup> District

Representative Nick Kotik  
Pennsylvania House of Representatives, 45<sup>th</sup> District

Representative Deberah Kula  
Pennsylvania House of Representatives, 52<sup>nd</sup> District

Representative Lesia Liss  
Michigan House of Representatives, 28<sup>th</sup> District

Representative Karen Mayne,  
Utah State Senate, 5<sup>th</sup> District

Senator Cisco McSorley  
New Mexico State Senate, 16<sup>th</sup> District

Representative Dee Morikawa  
Hawaii House of Representatives, 16<sup>th</sup> District

Representative Elliott Naishtat  
Texas House of Representatives, 49<sup>th</sup> District

Senator Jeremiah Nordquist  
Nebraska State Senate, 7<sup>th</sup> District

Representative Eddie Day Pashinski  
Pennsylvania House of Representatives, 121<sup>st</sup> District

Representative Cherrish Pryor  
Indiana House of Representatives, 94<sup>th</sup> District

Representative Elizabeth B. Ritter  
Connecticut House of Representatives, 38<sup>th</sup> District

Representative Henry Kiki Saavedra  
New Mexico House of Representatives, 10<sup>th</sup> District

Representative Clem Smith  
Missouri House of Representatives, 71<sup>st</sup> District

Representative Jay Swearingen  
Missouri House of Representatives, 31<sup>st</sup> District

Representative Diana Urban  
Connecticut House of Representatives, 43<sup>rd</sup> District

Representative Danny Wells  
West Virginia House of Delegates, 30<sup>th</sup> District

Representative Sam Young  
Vermont House of Representatives, Orleans-Caledonia-1<sup>st</sup> District

Representative Jennifer Seelig  
Utah House of Representatives, 23<sup>rd</sup> District

Representative Dale Stephens  
West Virginia House of Delegates, 16<sup>th</sup> District

Senator Brian Taniguchi  
Hawaii State Senate, 10<sup>th</sup> District

Representative Ronald G. Waters  
Pennsylvania House of Representatives, 191<sup>st</sup> District

Senator Mary Margaret Whipple  
Virginia State Senate, 31<sup>st</sup> District

August 12, 2011

The Honorable Hilda L. Solis  
Secretary  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

Dear Secretary Solis:

Our nation's estimated 1.7 million home care workers are excluded from the federal minimum wage and overtime protections of the Fair Labor Standards Act (FLSA) because of overly broad Department of Labor regulations. The regulations expanded what Congress had intended as a very narrow and limited exemption from wage-and-hour laws for workers providing certain "companionship services." The wholesale regulatory exclusion of all home care workers has suppressed wages and relegated millions of caregivers – the majority of them women – to poverty. This archaic exemption was established decades before the home care industry burgeoned into a rapidly growing and profitable industry that employs a vital workforce that helps millions of Americans live in their homes independently. This regulatory exemption has created harmful working conditions and undermined the quality of care consumers receive. **As state legislators, we urge you to use your authority and promptly extend minimum wage and overtime protections to most home care workers by restoring the FLSA companionship exemption to its appropriate limited scope.**

These workers provide essential services to Americans living with functional limitations and needs due to chronic disease, age-related impairments and other disabilities. And, our nation is on the verge of an era which will be defined in many ways by the needs of a rapidly growing population of aging Americans. A stable and competent direct care workforce is the key to ensuring that they get the help they need to live at home in dignity.

We urge that the revised regulation include two important reforms. First, it should provide that workers employed by a home care agency or other intermediary are not exempt from the FLSA. Second, it should narrow the definition of "companionship" to include just fellowship and protection, not workers who perform other types of duties including providing assistance with activities of daily living or instrumental activities of daily living.

As legislators from many of the 21 states that already provide some coverage of home care workers under state minimum wage and overtime laws, we expect that the cost of applying these protections to this important workforce will be moderate and manageable. Some home care employers, including one of the nation's largest for-profit agencies, are already paying overtime despite the federal exemption. Moreover, the costs associated with this transition are minimal in comparison to overall spending on long-term care.

Extending basic minimum wage and overtime protections to most home care workers is essential to achieving the FLSA's goals of fighting poverty, spreading work and creating jobs in this industry. Ensuring that most of the home care workforce is covered by basic wage-and-hour rules will also promote quality care by helping employers retain and recruit a skilled workforce to meet our nation's growing needs for home care.

Rep. James Richardson

Rep. Diana Urbau

Assemblyman Upendra Chivukula

James Richardson

Diana Urbau

by PJP PA

Seating Chart -

Karen Maege

Lon Burnam

Mary Margaret Whipple

Rep PAT LONG NH

Rep HENRY KIK SAKRADA

Rep John Kowallo

Bruce J. Ludwig

JAY SWEARINGEN

Clem Smith

BRENDA J. COUNCIL

Rep Beasley - League

Sen Spencer Coggs

Barbara W. Ballard

Sara Lampe

Michael E. Gronstal

Gordon N. Hutz

Pat Gardner

Gene Davis

Karen Mayne

Lon Burnam

MARY MARGARET WHIPPLE

John Kowallo

John Kowallo

BRUCE J. LUDWIG

Jay Swearingen

Clem Smith

Rep Sharon Beasley - League

SEN. SPENCER COGGS

Barbara W. Ballard (KS)

Sara.lampe@house.mo.gov

Michael E. Gronstal

Gordon N. Hutz

Pat Gardner

Sen. Cisco McSorley

Carlos A. Cisneros

Charles Hogue

Rep. Berta Gardner

Rep. Scott Kawasaki

Rep. Lesia Liss (MI)

Rep. Ted Celeste

Rep. Tom Burch

Danny Wells

Frick Moyer

Dale Stephens

Senator Tom Lewis

Asm. John Cox

Roberto R. Alonso

Carl Yunker

Marylyn Chase In 32  
only R. Moe

Sen. Ben McAdams

Sen. Cisco McSorley

Carlos A. Cisneros

Charles Hogue

Berta Gardner

~~Handwritten signature~~

Lesia Liss

Ted Celeste

Tom Burch

Danny Wells ut Rep Sec 10

~~Handwritten signature~~

Sen. Karen Keiser

Asm Herb Conway

ROBERTO R. ALONSO

Jeremiah Nordquist - Neb.

Marylyn Chase In 32 wa. gov - Wash.

Corey R. Moe, Dist. 42 (ND) Rep.

~~Handwritten signature~~

Rep. Cherrick Payne

*Cherrick Payne*

Rep. Jim Nickels

*Jim Nickels*

Rep. Elliott Nashat

*Elliott Nashat*

Sen Stan Gerzotky

*Stan Gerzotky MAINE*

Rep. Ronald G. Waters

*Ronald G. Waters*

Sen Brian Taniguchi

*Brian Taniguchi*

Rep. Dee Monikawa

*Dee Monikawa*

Rep. Tom Feltz

*Tom Feltz (CT)*

Sen Nan Orrock (GA)

*Nan Orrock - MN*

Rep. Eddie Day Kishinski (PA)

*Rep Sam Young (VT)*

Rep. Rick Feltz (PA)

*Rep M. Gagnon (VT)*

Rep. Robert H. Jones (PA)

Sen Ben Boyd (CO)