

Value the Care!

Minimum wage and overtime for home care aides

No. 6

Home Care Jobs: The Straight Facts on Hours Worked



On October 1, 2013, the U.S. Department of Labor (DOL) published its final rule narrowing the “companionship exemption” under the Fair Labor Standards Act (FLSA). As a result, beginning January 1, 2015, most home care workers will be guaranteed federal minimum wage and overtime protections for the first time. In addition, because they are newly covered under federal wage and hour laws, home care workers will now be eligible for compensation when driving between clients, and will be protected by federal law when challenging employers in wage and hour disputes.

Critics claim that the revised rule will make home care services unaffordable for elders and persons with disabilities because it requires overtime

hours worked by aides to be compensated at time and a half. In light of such assertions, PHI has prepared this brief regarding hours worked by home health aides and personal assistance workers.¹ We draw on findings from several nationally representative, statistically valid sample surveys conducted by the federal government.²

The available evidence conclusively shows that only a small percentage of home care workers consistently work overtime. Instead, a far more pressing issue is how to increase the workloads of part-time aides who would like to work more hours.

Hours worked

On average, home care workers work between 31 and 33 hours per week.

- **By occupation:** Personal care aides work an average of 33 hours per week, and home health aides work 31 hours per week.³

	Home Health Care Services	Individual & Family Services	Nursing Care Facilities	Residential Care (no nursing)	Hospitals
Mean hours worked per week	34	30	36.8	38.6	37.2

Table 1: Average hours worked by direct-care workers, in each industry setting, 2011

Source: PHI analysis of U.S. Census Bureau, Current Population Survey, 2012 Annual Social and Economic (ASEC) Supplement.

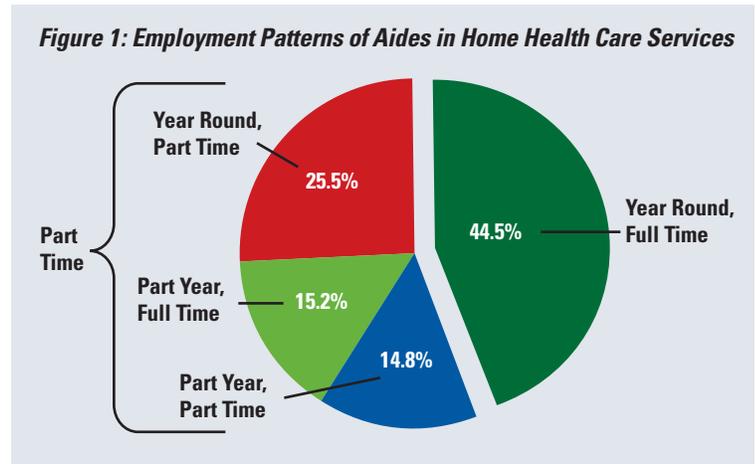
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- **By industry setting:** Aides employed in Home Health Care Services and Individual & Family Services—the two main industries in which home care services are provided—work fewer hours per week, on average, than aides in facility-based settings such as nursing care facilities and hospitals (Table 1).⁴

High incidence of part-time work

Four in ten home care aides (44.5 percent) report working full time, year round.

- More than half (55.5 percent) of aides working in the Home Health Care Services industry reported working part time or working full time for only part of the year in 2011 (Figure 1).
- Approximately a quarter of aides (25.5 percent) report working part time all year round and three in ten (30 percent) report working only part of the year, either full time or part time (Figure 1).



Source: PHI analysis of U.S. Census Bureau, Current Population Survey, 2012 Annual Social and Economic (ASEC) Supplement.

Few overtime hours across industry

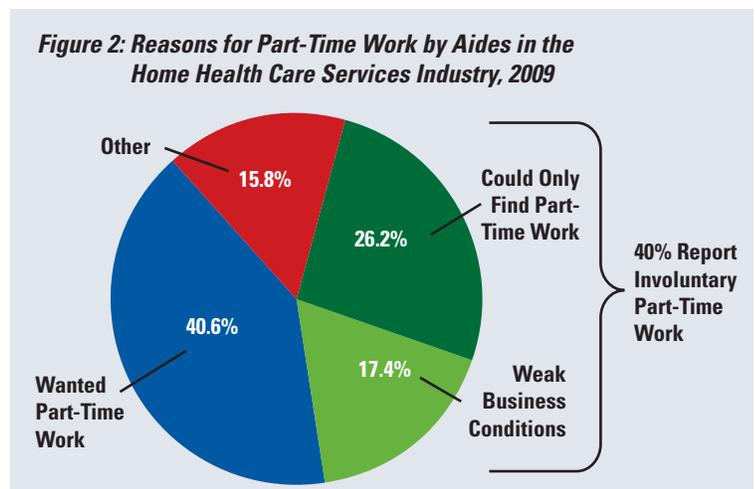
Overall, national surveys show that less than 10 percent of home care workers report working more than 40 hours per week.

- Of all personal care aides, 88 percent reported working 40 hours or less in 2011.
- Of the 12 percent of personal care aides who reported working more than 40 hours per week, one in four reported working part time, indicating that overtime hours were incurred on an occasional basis.
- Of home health aides, 92 percent reported working 40 hours or less in an average week in their primary job. This means that just 8 percent of these aides worked more than 40 hours for their primary employer. Nearly all of these aides (98 percent) worked 50 hours or less.

Involuntary part-time work more significant than overtime

For many home care aides, the biggest challenge is finding full-time work.

- In 2011, 44 percent of workers in the Home Health Care Services industry who worked part time did so for “involuntary” reasons such as not being able to find full-time hours or weak business conditions (Figure 2).



Source: PHI analysis of U.S. Census Bureau, Current Population Survey, 2012 Annual Social and Economic (ASEC) Supplement.

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- In the Home Health Care Services industry, the number of aides reporting that they worked part time *but would have liked to work more hours* is nearly two and a half times greater than those who reported that they *worked overtime*.

Home care structured around poor quality jobs

Part-time hours combined with generally low hourly wages result in very low annual earnings for many home care workers. In 2012, the average median wage received by aides in the home care industry was just \$9.51 per hour; mean annual earnings totaled only \$16,794. As a result of these low earnings, 55 percent of aides in the home care industry lived in households that relied on one or more public assistance programs such as Medicaid and food stamps.

Basic workforce facts for home care workers

- Among the country's **lowest paying** jobs
- **Unpredictable** hours, often **part time**
- High **injury** rates
- Inconsistent training requirements **poorly aligned with wages**
- Inadequate **health care** coverage
- Heavy reliance on **public benefits**
- High **turnover**

The staffing and scheduling practices of home care companies make it difficult for many aides to amass the hours they would like to work on a regular basis. In addition, the structure of home care work hinders the ability of aides to obtain stable income and dependable work schedules and assignments. Frontline aides typically bear the entire risk of lost hours and

income due to changes in client status resulting from events such as hospitalization, death, or a reduction in care hours. A health crisis for a client becomes an income crisis for an aide, with reduced hours resulting in lost wages and benefits.

One consequence of narrowing the companionship exemption could be more balanced workloads across the workforce. Greater numbers of workers may be able to achieve the full-time hours they seek as companies more proactively manage staffing hours to limit overtime.

Conclusion

The claim that the added cost of paying overtime to home care workers will result in significantly increased costs to employers and/or consumers is not supported by the available statistical evidence. Instead, national survey data show that few home care workers work more than 40 hours per week, and the vast majority of those that do, work between 40 and 50 hours. Furthermore, the majority of home care workers work part time, and 44 percent of those workers would like to work more hours.

Current employment patterns for home care aides suggest that considerable capacity exists for rebalancing workloads across existing workers. Creating more balanced workloads will not only limit any increases in overtime costs for home care companies but will also minimize any recruitment costs associated with hiring new workers. In line with these facts, the U.S. Department of Labor has concluded that the overtime-related costs of the proposed regulations area likely to be small—less than one-tenth of one percent of both industry revenue and public expenditures on in-home services and supports under Medicaid and Medicare.⁵

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For more information on the revised companionship exemption, go to www.companionshipexemption.com and www.dol.gov/whd/homecare/

To learn more about the home care workforce, visit www.PHInational.org/homecarefacts

Questions? Contact PHI's Government Affairs staff at 202-888-1972.

For more information on how home care agencies that do not take advantage of the companionship exemption are currently managing overtime hours, see *Can Home Care Companies Manage Overtime Hours? Three Successful Models*, available at www.PHInational.org/fairpay.

References

1. See in-depth information presented in Section 8 of D. Seavey and A. Marquand (December 2011) *Caring in America*, Bronx, NY: Paraprofessional Healthcare Institute, available at: <http://www.PHInational.org/homecarefacts>.
2. The statistics presented in this brief are drawn from 2 sources: 1) U.S. Census Bureau, Current Population Survey, 2012 Annual Social and Economic (ASEC) Supplement; 2) U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, 2007 National Home Health Aide Survey.
3. Home health aides (HHAs) and personal care aides (PCAs) refer to two occupations defined by the Standard Occupational Classification system (SOC 31-1011 and 39-9021, respectively). The SOC system is used by federal and state statistical agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data. The term "home care aides" is used to refer to HHAs and PCAs taken together.
4. Industry settings are defined by the North American Industrial Classification System (NAICS). For more information on the industries making up the home care sector, see *Value the Care* No. 5, and Section 3 of *Caring in America*, both available at www.PHInational.org/fairpay. **Note:** The industry Individual & Family Services contains a sub-industry called Services for the Elderly and Persons with Disabilities that in turn captures companies that provide non-medical in-home services and supports.
5. "Application of the Fair Labor Standards Act to Domestic Service: Notice of proposed rulemaking," 76 Federal Register 248 (27 December 2011), pp. 81190-81245.

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.

2012 – During the three-month public comment period, the US Department of Labor received about 26,000 comments, with more than 75 percent in favor of the rule change.

2013 – After extensive review by the Office of Management and Budget, on October 1, the U.S. Department of Labor published the revised companionship rule in the Federal Register.



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.

National Headquarters: 400 East Fordham Rd, 11th floor, Bronx, NY 10458
Phone: 718.402.7766 • E-mail: info@PHInational.org

Washington DC Office: 1620 Eye Street, NW 2nd Floor
Washington, DC 20006 • Phone: 202.888.1972