

March 12, 2012

Submitted via www.regulations.gov

Mary Ziegler,
Director of Regulations, Legislation, and Interpretation
Wage and Hour Division
U. S. Department of Labor
200 Constitution Avenue, NW, Room S-3502
Washington DC, 20210

RE: Comments to Proposed Revisions to the Companionship Exemption Regulations, RIN 1235-AA05

Dear Ms. Ziegler,

The American Geriatrics Society (AGS) greatly appreciates this opportunity to write in support of the Department of Labor's proposed rule (RIN) 1235-AA05 that would narrow the current exemption of home care workers from the minimum wage and overtime protections under the Fair Labor Standards Act (FLSA).

The AGS is a not-for-profit organization comprised of over 6,000 health professionals who are devoted to improving the health, independence and quality of life of all older people. The Society provides leadership to healthcare professionals, policy makers and the public by implementing and advocating for programs in patient care, research, professional and public education, and public policy. Our vision for the future is that every older American will receive high quality patient-centered care. We believe that one avenue for achieving this vision will be a stable and skilled home care workforce to meet the growing demand for this type of care.

We believe that direct care workers, including home care workers are important members of the geriatrics health care team. Since they provide the bulk of paid hands-on care to older adults, direct care workers are key in ensuring that older adults, especially those with multiple health conditions, receive high quality well-coordinated care. Amending the Fair Labor Standards Act to extend Federal minimum wage and overtime compensation protections to home care workers will help guarantee that these frontline workers receive fair compensation for the services they provide. Furthermore, this proposed rule will help ensure that these important workers are treated with the dignity and respect they deserve.

In the next two decades the number of Americans who are 65 and older – and eligible for Medicare – will nearly double and will be unlike the generations of older adults before them. They are expected to live longer than their predecessors and to have more chronic and complex health conditions. Our population demographic is changing and those 85 and older are now the fastest growing segment of our population. Many of these individuals suffer from multiple co-morbidities, often have poor quality of life, physical disability, high healthcare use, multiple medications and increased risk for adverse drug events and mortality. A vast majority of these older adults will want to remain in their homes as long as they can. As home care workers currently provide 70 to 80 percent of paid hands-on long-term care to older adults, their services will be a critical component to providing quality care.


The American Geriatrics Society supports this proposed rule for the following reasons:

- The cost of providing these labor protections for home care workers is feasible. As you know, 21 states and the District of Columbia currently guarantee minimum wage to their home care workers and 15 of these states also guarantee overtime pay for some groups of home care workers. Also, high overtime usage - the most costly piece of the proposed change--is concentrated in a small fraction of home care cases because most state programs do not pay for high-hours cases.
- Some home care employers already pay overtime despite the federal exemption. This is indicative of the home care industry working to provide better quality care and attract a skilled workforce to meet our nation's growing need for home care providers. It is also important to recognize that less than 10 percent of home care providers work overtime.
- Finally, terminating the companionship exemption will improve quality of care over time. Currently, the industry's rate of turnover is as high as 50-66%. It is estimated that this turnover costs employers on average at least \$2,500 per worker, an annual cost of somewhere between \$1.3 and \$2 billion. Implementing these basic labor protections of minimum wage and overtime will help lower turnover, reduce costs, and most importantly, improve continuity of care.

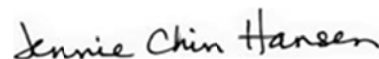
We believe that this proposed regulation is a step in the right direction toward ensuring fair pay for the two million-plus home care workers who perform the personal care and services that enable frail older adults to remain in their homes and live independently.

Thank you for this opportunity to comment. Should you have any questions, please don't hesitate to contact Alanna Goldstein, Assistant Director, Public Affairs and Advocacy, at agoldstein@americangeriatrics.org or 212-308-1414.

Sincerely,



Barbara Resnick, PhD, CRNP, FAAN, FAANP
President



Jennie Chin Hansen, RN, MS, FAAN
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