

Restore Companionship Services Exemptions

BACKGROUND

In 1974, Congress approved an exemption to the Fair Labor Standards Act (FLSA) designed to balance the need for workers rights and to ensure that working families could still afford needed home care services. This exemption applied to companionship services from the Minimum Wage and Overtime Requirements of the Fair Labor Standards Act. In 2015, the Department of Labor finalized a rule restricting the companionship services exemption, making it inapplicable to workers employed by home care agencies.

In practice, some home care recipients require a caregiver to be present 24 hours a day. In these instances a caregiver will “live-in” with their patient. Compensation for overtime hours becomes impractical with current Medicaid reimbursement rates. This forces home care agencies to cap employee hours at 40 per week, limiting their career opportunities, and increasing expenses for patients and their families.

The end result of the Department of Labor’s 2015 rule has produced two common outcomes, 1.) Home care aides receive lower wages from hour restrictions, and/or 2.) Patients and families paying out of pocket have seen a dramatic increase in expense due to the new demands to cover overtime hours worked.

What Congress Can Do:

1. Reverse the Department of Labor’s 2015 rule.
2. Alternatively, Congress should ensure government-funded home care programs adequately reimburse employers for the added cost of overtime compensation and provide support for families paying privately for care, such as through a tax credit.

Minimum Wage

BACKGROUND

Legislation has been introduced in the Senate and House of Representatives that would raise the minimum wage to \$15 per hour incrementally over a 5-year period. Such a policy would have significant impact on home care and hospice providers. In some states, the reimbursement rate for personal care services is less than \$15 per hour, meaning agencies would be losing money by providing services. Providing a living wage is essential to maintaining a staff, yet government-funded programs limit what an agency can provide in compensation.

What Congress Can Do:

1. Should Congress opt to approve legislation increasing the minimum wage, it should also concurrently require an increased reimbursement rate from any government funding source to cover agencies’ increased wage expense.
2. In situations of private pay, Congress should create a tax credit for the purchaser of services so that they may maintain the level of care they need.



For More Information

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