

Newsday  
Opinion

## **Older Americans deserve better care**

*By Jodi M. Sturgeon  
July 10, 2015*

Aging parents, aging grandparents, aging friends and neighbors. Like other middle-aged adults, I am surrounded by family and friends who either need care, provide care, or will be providing care in the not-so-distant future. That is why this year's White House Conference on Aging on Monday -- held once a decade to assess the status of older Americans and our system of aging services -- resonates with me.

Case in point: my father-in-law. Self-employed, working as a carpenter into his 70s, Bill managed to get by in rural New England, but he never could afford health insurance. He pretty much managed on his own, sharing a house with a younger brother, who had a stroke and Bill cared for, until the day he broke his hip. Without an income, he had no choice but to apply for Medicaid benefits. Medicaid covered some occupational and physical therapy, and limited personal care services, but his recovery was complicated by the vestiges of childhood polio. With his mobility seriously impaired, he grew depressed and didn't take very good care of himself.

Here on Long Island, my partner and I worried about Bill, his eating habits, lack of exercise and depression, but it was clear he had no interest in our advice on healthy living and "recovery." Without consistent in-home care to help prepare nutritious meals and assist him with exercises to increase mobility, Bill lost part of his lower leg. He and his brother could no longer care for each other, and they were forced to move to the county nursing home.

Bill and his brother are typical of many older Americans -- living on their own, children out-of-state, unable to get adequate day-to-day support. What they and our families need is an eldercare system that makes it easier to access a robust, flexible and affordable system of long-term services and support. Improving that system is one theme of the White House conference.

But long-term services and support stand on a shaky foundation. What people who are aging need are trained and experienced home-care aides who can meet them where they are and provide support that acknowledges individual personality, health status and lifestyle. But as a nation, we have dramatically failed to invest in this workforce, which provides the vast majority of paid "hands-on" care for elders with functional limitations.

New York's home care workers earn a median wage of about \$10.50, hardly a living wage. In addition, workers receive minimal training, leaving them without the skills they need to deal with their clients' complex emotional and physical problems. Consequently,

1 in 2 home-care aides leaves the field each year. That cripples our system of long-term services and support, and leads many families to hire aides who are figuring out on-the-job how to cope with depression or overcome the fear of a client with Alzheimer's disease.

To reduce direct-care worker turnover and grow the workforce to meet exploding demand, we need to develop a new workforce model, one that invests in a stable and skilled workforce that can meet the needs of a diverse elder population. With steady, attentive home-care support, Bill might have overcome the limitations brought on by a broken hip and continued to live at home, where he and his brother could have supported one another.

The White House conference, as it explores the many issues confronting older Americans, should prioritize building a stable and skilled direct-care workforce. We need to make a national investment in jobs that pay fair wages, provide adequate training, and give workers advancement opportunities so they can make direct-care a career, not a stopover on the way to something better. Whether we are caring for family members or need care ourselves, we all deserve access to affordable, skilled aides, who are committed to delivering high-quality services.

*Jodi M. Sturgeon of Huntington is president of Paraprofessional Healthcare Institute.*

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**Source URL:**

<http://www.newsday.com/opinion/older-americans-deserve-better-care-1.10629193>

The New York Times

# U.S. Court Reinstates Home Care Pay Rules

By NOAM SCHEIBER; August 21, 2015

WASHINGTON — A federal appeals court on Friday reinstated regulations drawn up by the Obama administration to extend minimum wage and overtime protections to almost two million workers who provide home care for the elderly and disabled.

The regulations, struck down by a lower court about nine months ago, were intended to remove an exemption in federal minimum wage and overtime laws for home care workers employed by third-party staffing agencies. A three-judge appellate panel in Washington ruled Friday that the Labor Department has the authority to eliminate the exemption.

Labor law specialists, noting that Democratic administrations have been trying to eliminate the exemption since the early 1990s, called the ruling momentous. “It’s not that surprising, since it’s absolutely correct as a legal matter,” said Kate Andrias, a professor at the University of Michigan Law School. “But it has an extremely important effect on the home care industry, home care workers, which is a lot of people.”

Professor Andrias added that the ruling represented a major victory in the administration’s effort to revise labor regulations to reflect the economy today.

Union leaders and advocates were also quick to embrace the decision. “This is an enormous step forward for home workers and for our country,” said Mary Kay Henry, the president of the Service Employees International Union, which has pushed for the change for decades.

The Labor Department created the exemption in 1975, while carrying out a law that Congress passed the year before. But the Obama administration argued that much had changed in the industry since the mid-1970s, when most patients received professional care in institutional settings, or received less-demanding care at home, known as “companionship” services, from workers they hired directly. Today, professional home care is widespread and is typically provided by employees of staffing agencies.

Advocates and labor lawyers have long argued that Congress meant for all full-time care providers to be covered by the minimum wage and overtime provisions of federal labor law when it revised the law in 1974. The Labor Department made this argument when it issued the regulation in 2013, and on Friday the appellate panel, in the District of Columbia Circuit, agreed.

“What the court recognized is that Congress intended this exemption to apply to people who do casual work, not people doing home care work as a full-time vocation or job,” said Peter Romer-Friedman, deputy director of litigation at the Washington Lawyers’ Committee for Civil Rights and Urban Affairs.

A lawyer for the National Association for Home Care and Hospice, one of the industry groups that challenged the new regulations, indicated that the plaintiff did not consider the fight over. “We’re reviewing the decision and considering all our options, including Supreme Court review,” said the lawyer, William A. Dombi of the Center for Health Care Law, which is backed by the home care and hospice industry.

But the circuit court decision may be difficult to reverse. In its opinion, the court relied on a Supreme Court case from 2007 explicitly ruling that the 1974 law gives the Labor Department discretion over how to define the exemption, as long as the department’s interpretation is reasonable.

The Supreme Court held that “Congress had granted authority to the department to resolve the issue,” the circuit court wrote in its opinion Friday. It also said that the Labor Department interpretation in question was reasonable.

Instead of appealing directly to the Supreme Court, the plaintiffs could also file a motion with the District of Columbia Circuit for a so-called rehearing en banc, which would involve all of its active judges rather than simply a three-judge panel. But the circuit rarely grants such motions, and the unanimous ruling by the panel, which included one Republican appointee and two Democratic appointees, suggests that the full court would be unlikely to reverse it, legal specialists said.

While the decision does not directly affect the status of other administration regulations that are likely to face litigation — most prominently its recent proposed expansion of overtime benefits to millions of workers by narrowing exemptions to the law — it suggests that the legal basis for such regulations is sound.

Mr. Romer-Friedman, a former labor counsel to Senator Edward M. Kennedy of Massachusetts, said the opinion showed that the Labor Department, “when interpreting statutory provisions not specifically defined” by the Fair Labor Standards Act, “has a lot of discretion and authority.”

If anything, he said, the courts are more likely to uphold the proposed overtime rule than the Labor Department’s home care worker regulation, because the department has been issuing similar changes in the overtime exemption for professional, managerial and administrative employees for decades, whereas in this case the major previous rule cut in the opposite direction.

But more important than the narrow legal implications for other Labor Department regulations may be the way that politics and the law interact on such questions.

“For the department’s authority to interpret its own statutes to be affirmed in a highly contested case that’s one piece of a series of important moves it has made to benefit low wage workers is a big victory,” Professor Andrias said. “Politics matter a lot. Both this rule and the overtime rule are staunchly opposed by industry. That can affect the way the courts understand legal issues.”

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**Source URL:** [http://www.nytimes.com/2015/08/22/business/us-court-reinstates-home-care-pay-rules.html?\\_r=0](http://www.nytimes.com/2015/08/22/business/us-court-reinstates-home-care-pay-rules.html?_r=0)

Huffington Post: Politics

# Remember the Direct-Care Workforce This Labor Day: Our Long-Term Care Depends on It

*By Robert Espinoza | September 2, 2015*

This Labor Day, as we reflect on the contributions of workers to this country, we should focus on one of the nation's fastest-growing job sectors: direct care.

Direct-care workers—home health aides, personal care aides and nursing assistants—are a foundation of support for millions of older adults and people living with disabilities. Direct-care workers provide daily personal care and other supportive services to individuals with functional limitations. While nursing homes and long-term care facilities continue to rely on this workforce, by 2022, two in three direct-care workers will work in [home and community-based settings](#).

First, the good news: with 10,000 Baby Boomers turning age 65 each day, these occupations are creating more jobs than any other occupational group—more than [one million workers](#) will be needed by 2022. Growing to nearly 5 million workers, the direct-care workforce will outnumber K-12 teachers, nurses, fast-food workers and all public safety officials.

The bad news is that direct-care aides are among the nation's [most poorly paid](#) workers, which spurs dangerously high turnover rates. Nearly half of these workers live in households that [rely on some form of public benefits](#) to make ends meet. As currently structured, these jobs will not provide the economic stability that they need to ensure their loved ones can grow, learn and thrive in healthy, stable environments.

[Geraldine O'Rourke](#), an 84-year-old resident of New York City, represents a typical home care client. She has received assistance since the mid-1990s, when a double hip replacement left her unable to walk. “My aides assist me with transferring in and out of bed, toileting, showering, ambulating, food shopping, meal preparation and housekeeping,” she says.

Direct care allows people to live with independence and dignity. They are invaluable to people such as Geraldine and to family members who manage care for their loved ones. They also perform challenging work that requires a multitude of skills, significant emotional intelligence, and exceptional communication and problem-solving skills.

Unfortunately, direct care has long been categorized as “unskilled” and paid dismally. Because of this mischaracterization, for decades home care aides were not covered by the federal [Fair Labor Standards Act](#) (FLSA), which provides most American workers with minimum wage and overtime protections. On August 21, 2015, a federal appeals

court [re-instated](#) a 2013 U.S. Department of Labor rule that will finally extend these protections to the vast majority of home care aides.

This rule is an important step toward addressing poor wages among this workforce. Despite the growth in demand for direct-care workers, [real wages](#) (adjusted for inflation) for all three direct-care occupations have declined over the last decade. Today, the [median wage](#) for direct-care workers is \$10.85 per hour. Nursing assistants earn the highest wages among this workforce, at \$12.07 per hour, while personal care aides earn \$9.83 per hour.

Hourly wages tell only part of the story. Among home care aides, part-time work and unpredictable hours are the norm. Only two in five workers has full-time, year-round hours. [Annual earnings](#) for these workers averages \$13,000. For nursing assistants, annual earnings rise to about \$20,000.

Patricia Evans, a home care worker in Chicago, describes this reality: “When it comes to home care workers, you live in poverty. You work in poverty. You retire poor, hoping you will qualify for the services you have provided for so many years. Then, you die in poverty.” Patricia is right; one in four home care workers lives in a household with income below the federal poverty level. Nearly 60 percent live in households that rely on [public assistance](#).

A living wage isn't the only reform needed for direct-care workers. Because direct care is mistakenly understood as low-skilled work, many workers never receive [adequate training](#). Home health aides and nursing assistants who provide Medicare and Medicaid-funded services are required by federal law to undergo 75 hours of training, but personal care aides often receive no training at all. Individual states may set their own standards, but few states require more than 120 hours for any direct-care occupation. Compare this to [cosmetology](#), which generally requires more than 1000 hours of education.

The general lack of investment in training limits career advancement opportunities. Direct-care workers are well-positioned to play critical roles in managing chronic illness and coordinating care, but they need solid training in areas such as dementia, telehealth and critical communication skills. With adequate training, direct-care workers could also take on [advanced roles](#)—with better wages—that could ultimately reduce re-hospitalizations and overall health care costs.

Nearly all of us will either need or manage care for a loved one at some point in our lifetimes. We must rethink the value we place on this workforce. Already, long-term care providers report a steady increase in vacancy rates among their workers, struggling to find the workforce to meet growing demand. As wages increase in other industries—such as the fast food industry in New York State—will these vacancies skyrocket as direct-care workers make the switch? [Who will provide this care?](#)

As we honor the workforce during Labor Day, consider this reality: if we want a skilled and stable direct-care workforce that can offer the care we need, we must invest in

wages, training and career advancement opportunities that make this career choice more attractive. It's that clear—anything less means we'll be having grimmer conversations this time of year in the decades that follow.

*Robert Espinoza is the Vice President of Policy at PHI: Quality Care for Quality Jobs, the nation's leading authority on the direct care workforce.*

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**Source URL:** [http://www.huffingtonpost.com/robert-espinoza/remember-the-direct-care\\_b\\_8076180.html](http://www.huffingtonpost.com/robert-espinoza/remember-the-direct-care_b_8076180.html)

The Nation

# Why We Need to Take Care of the Workers Behind Home Healthcare

***Turnover in the home-based healthcare industry is as high as 60 percent. We need to change that.***

Oct 19, 2015 · by [Michelle Chen](#)



*Home health aide Maria Fernandez, left, pours cereal for Herminia Vega, 83. (AP Photo / Lynne Sladky)*

In the debate over modernizing the healthcare system, the realm of home-based healthcare services seems mired in the last century. Long dismissed as unskilled “senior sitters,” home care aides have only recently been officially [included under minimum wage](#) and overtime protections. Yet even as they’re just catching up to last century’s labor laws, home care is quickly adapting to 21st-century medical standards—creating the double challenge of shaping dignified careers out of a traditionally thankless job.

Since home-based healthcare services is one of the fastest growing sectors, home care jobs are being redefined largely by market trends. But [a program developed through the](#)

[SEIU home care union in Washington](#) sees the sector's expansion as a platform to systematically transform one of the lowest-paid jobs into a career of the future.

The SEIU Healthcare Northwest Training Partnership's [apprenticeship program](#), an initiative administered through a nonprofit founded by the union in partnership with employers and the state, [takes a two-pronged approach](#): first, equipping aides to “keep people healthy and out of emergency rooms and hospital beds” by delivering preventive senior and disability care; second, to help union members “reap a fair share of the financial benefits that accrue to the system,” primarily by avoiding more expensive emergency and hospital care. The broader goal is boosting job quality for the workforce, [comprised of mostly working-poor women](#), by reducing extremely high turnover rates (currently [exceeding 60 percent annually](#)) and building [equitable career pathways](#) for future workers.

The apprenticeship program, which just graduated its third class, with [plans to expand to 3,000 trainees](#) eventually, focuses on core medical skills along with social aspects of the job, like dealing with trauma and mental-health issues, as well as self-care to help workers manage the extreme stresses of the work.

Clara Aiken, a recent apprenticeship graduate, says the program has helped her develop a way to “speak” with a client who has been nonverbal since suffering a stroke. To understand her needs, she says, “it was very important for me to watch her body language, her hand signals, as well as her facial expressions.... For instance, when I come in, I always talk to her, although she cannot talk to me.... It made her feel like although she couldn't speak, she was able to communicate with me with body language, and let me know some of the things that she wanted.”



*Clara Aiken, a recent graduate of the SEIU home care program, speaks at her graduation ceremony. (SEIU 775 Benefits Group)*

The scene contrasts sharply with her previous experience working as a nursing assistant in a group home, where she had to manage more than 20 patients simultaneously—a high-stress, frustrating environment for both residents and staff. “I just always felt like I didn't have enough time that I should have with each person,” she recalls.

With her current client, she says, “as a home care provider...I was able to just focus totally on her, and it was personal.” Aiken in turn is supported by her union contract, which guarantees a stable career and opportunities to keep learning on the job.

Another critical component of the changing home care landscape is technology. The union works with the tech firms serving hospitals and physicians to connect home care aides directly to providers' expanding health monitoring systems. Charissa Raynor, executive director of the Training Partnership, says that while home care aides have critical insight into a patient's condition, from weight changes to medication routines, currently, a typical home-based aide "doesn't have a structural, systematic way to report that information to the [primary] care team. And if she wants to call up the care team...she would probably be dismissed."

If channeling real-time advice via mobile technology to a front-line doctor spares a senior an expensive ER visit, overall costs are reduced. Eventually, Raynor hopes, "some savings can be reallocated back into their wages."

But there's still the [perennial labor-management bottleneck besetting many workforce-development programs](#); they might train people well, but that doesn't always lead to better long-term job prospects.

Yet as the sector expands rapidly—with overall [job growth for home-based aides](#) reaching about 50 percent from 2012 to 2022—SEIU's program centers on the idea that union labor is uniquely positioned for a leading role in shaping that growth. Still, the wage boost that apprenticeship graduates experience has been relatively modest so far—a raise of only about 50 cents an hour; more is needed to stave off turnover.

Raynor noted that the program is being revised to focus more on improving compensation, which could require "structural change" in state or federal labor policy. Improving workforce conditions might also hinge on labor's ability to demand employers simply pay more. Cultivating that ability requires yet another kind of connection—solidarity between workers.

Fortunately, union-based workforce development can foster these links. While home care aides typically work alone, Aiken recalls, in her apprenticeship she could exchange stories, experiences, and guidance with fellow union members: "We were able to connect with each other.... we really learned a lot from our course as well as from each other, which bonded us together."

Could bonds between workers translate into union power? As the industry moves toward [more cost-efficient](#), community-based care, jobs are increasingly oriented toward social support and human relationships, which are ultimately mediated through front-line workers. Labor can raise a voice in shaping how care is delivered, prioritizing worker empowerment and social equity, rather than the industry's bottom line.

Even without support from a union-affiliated training organization, workers are creating different workforce-development models with a community-driven ethos. [Cooperative Home Care Associates](#), a worker-run co-op based in the Bronx, [runs a career-](#)

development system that provides comprehensive training across the workers' career and guarantees a stable work week with steady pay. While the organization aims to "give workers opportunities to learn and grow as members of a health care team," clients receive support from caregivers who are economically secure, and so will likely stick around much longer than someone earning minimum wage.

A responsive health system is about more than cutting-edge medicine: It requires a workforce that cares about the people they serve, their profession, and fellow workers. Developing that community of support involves building workers' craft holistically, and giving them a lead role in shaping the future of the profession. When their care is empowering, everyone rediscovers why their work matters.

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**Source URL:** <http://www.thenation.com/article/why-we-need-to-take-care-of-the-workers-behind-home-healthcare/>

McKnight's

## Invest in quality jobs to improve care

By Susan Misiorski | January 28, 2016

Last November, the Massachusetts Senior Care Association launched a quality jobs initiative. The campaign is a response to a trend that is impacting long-term care providers in many parts of the country: a dramatic rise in staffing shortages. Not only is it difficult to recruit new workers to frontline CNA positions, good people are leaving for “better” jobs. Massachusetts nursing homes are experiencing average turnover rates of 30% among full-time staff employed longer than one year; one in 10 CNA positions in the state is vacant. These high rates of turnover and vacancy inevitably undermine the ability of long-term care organizations to deliver quality care.



*Susan Misiorski*

I had the privilege to address the association's annual meeting, where the leadership announced its Quality Jobs for Quality Care campaign. In my remarks, I addressed the vital importance of quality frontline jobs to ensuring quality care in our nation's nursing homes. That's a theme that has been at the center of my work for the national nonprofit PHI for the last fifteen years.

PHI, through its training and consulting work in cities and towns across the country, has helped hundreds of providers improve recruitment and retention of CNAs and home care aides by focusing on the key elements of a quality job.

What are these elements? PHI [has identified nine](#) that we believe are essential to making direct-care work in nursing homes and home care settings viable career opportunities. These nine elements center on three basic themes: Compensation, opportunity, and support.

**Compensation** is straightforward, though sometimes one of the most challenging elements on which to make real progress. To attract workers to direct-care positions, these positions need to pay a family-sustaining wage and provide basic quality-of-life benefits, including affordable health coverage and paid time off. CNAs and home care aides cannot be left behind as retailers like Walmart and fast-food chains like McDonald's raise wages to \$15 per hour.

While better wages are essential to creating better jobs, higher wages alone are not sufficient. Quality jobs must also give workers meaningful **opportunities** to advance in their careers, to participate in decision-making processes, and to receive the training necessary to perform their jobs with confidence and success. PHI advocates not only for

enhanced training standards, but for [training methods](#) that support adult learners to become skilled in communication and managing sometimes challenging caregiving relationships.

**Support** is needed from supervisors, managers, and administrators. This is the final piece of the quality-jobs puzzle. The vast majority of CNAs and home care aides truly love what they do, but unless they feel respected and supported in their jobs, they won't stick around very long. (As we say at PHI: Workers don't leave their jobs; they leave their supervisors.) Unfortunately, only a small percentage of the RNs and LPNs tasked with supervising direct-care staff have received adequate supervisory training. And when supervisors do not have the skills to support employees in building strong caregiving relationships and solving problems, turnover is high – and care outcomes are diminished.

For two decades, PHI has been teaching an [approach to supervision](#) that strengthens key skills so that supervisors are able to build strong relationships, reduce disciplinary action, and focus on helping direct-care staff to learn and grow on the job. [The results](#): higher job satisfaction among both supervisors and direct-care staff, less turnover, and better clinical outcomes.

Our experience parallels that of the renowned long-term care expert Nicholas Castle, Ph.D. Castle's [research](#) shows that nursing home staff that have a high level of job satisfaction produce better outcomes for residents – everything from fewer pressure ulcers to reduced catheter use.

These strategies to improve job quality require varying degrees of investment in terms of both time and money. But we've found that investing in the direct-care workforce is always worthwhile. Direct-care staff who are well-compensated, have the chance to learn and grow on the job, and feel respected and supported will inevitably produce better care outcomes than staff who are undervalued and poorly paid. Unfortunately, the latter scenario remains much too common. But PHI, which introduced the Quality Care through Quality approach to transforming long-term care 25 years ago, and the Massachusetts Senior Care Association, with its new quality jobs initiative, are trying to change that. Direct-care workers – and the people for whom they care – deserve nothing less.

*Susan Misiorski is the National Director of Coaching and Consulting Services for [PHI](#).*

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**Source URL:** <http://www.mcknights.com/marketplace/invest-in-quality-jobs-to-improve-care/article/469223/>



# Documentary Film on Home Care to Premiere in June

May 19, 2016

*CARE*, a feature-length documentary about home care workers and the people they care for, will premiere at two documentary film festivals in June.

*CARE's* world premiere will be held June 13 at the **Sheffield Doc Fest** in England. Then, on June 23, the film's North American premiere will take place during the **AFI DOCS** festival in Washington, D.C.

Tickets for the latter showing are [available online](#).

Directed by **Deidre Fishel**, *CARE* looks at the complex and emotionally intimate relationships between home care workers and their consumers. "At their best," Fishel said in an [interview with PHI](#) last year, "these are the most poignant relationships I've ever seen."

The film also takes an unflinching look at the poverty conditions that home care workers find themselves in, despite having such a hard and important job. And from a consumer perspective, *CARE* looks at the difficulty Americans have in securing affordable, high-quality home care.

Fishel and producer **Tony Heriza** received backing from **The John D. and Catherine T. MacArthur Foundation** and **The Ford Foundation** early on in the film's production. They also were backed by a [successful Kickstarter campaign](#) to help put the finishing touches on the movie.

During production, PHI Policy Research Director **Abby Marquand** served as a policy advisor to the documentary team.

[CARE \(Trailer\)](#) from [Deirdre Fishel](#) on [Vimeo](#).

-- by [Matthew Ozga](#)



## [UPDATED] Supreme Court Refuses to Take Home Care Minimum Wage Case

By Tim Mullaney | June 27, 2016

The U.S. Supreme Court has declined to hear *Home Care Association of America v. Weil*, ending a long-running legal saga and putting to rest any question of whether home care workers will be afforded minimum wage and overtime protections.

At issue is the Fair Labor Standards Act's so-called companionship exemption. Home care workers were for decades considered "companion" workers and so were exempt from overtime and minimum wage rules that applied to most other domestic workers. This changed when the Department of Labor published a new rule in October 2013.

Home care industry associations pushed back against the new rule in court, winning at the Federal District Court level before the U.S. Court of Appeals for the District of Columbia Circuit [affirmed](#) the DOL's move; the new rule took effect in October 2015, though [full enforcement](#) was delayed.

Industry groups took their arguments against the rule to the Supreme Court, [arguing](#) in part that extending the overtime and minimum wage protections to the nation's 2 million home care workers would strap states with new and unaffordable costs. Home care agencies themselves have reported that [complying](#) with the rule has put pressure on profits and staffing.

The Supreme Court's decision may not completely end the fight against the DOL rule extension, but it concludes the legal battle and puts the focus more definitively on how providers and other stakeholders will adapt to the new requirements.

### Mixed Reactions

Advocates for the rule have said that it not only is a question of basic justice and fairness to workers, but that paying higher wages could help the home care industry in the long-term, such as by reducing the [currently high rates](#) of staff turnover. These advocates applauded the Supreme Court's decision Monday.

"Home care is difficult work, and has long been undervalued," stated Jodi M. Sturgeon, president of the Paraprofessional Healthcare Institute (PHI), in a prepared statement issued Monday. "Following today's decision, we hope that state legislatures will move swiftly to ensure home care providers have the necessary funds to comply with the rule and avoid any disruption of services to consumers."

Leaders of some home care agencies also are among the rule's supporters. One of the most high-profile is Karen Kulp, president and CEO of Home Care Associates in Philadelphia. Her agency has been paying overtime and transportation costs since its inception 23 years ago.

"The DOL home care rule has helped even the playing field," she said Monday afternoon on a call with reporters. "Now, with employers having to pay overtime to all workers, it helps us compete in the marketplace."

Turning over a staff member costs her company an estimated \$2,500 for expenses such as re-training, she said. Paying more competitive wages should help the industry control these costs and ultimately provider higher quality care, she believes.

Kulp and other industry leaders who support the rule are at odds with two of the largest home care provider associations, the National Association for Home Care & Hospice (NAHC) and the Home Care Association of America (HCAOA), which filed the petition for writ of certiorari with the Supreme Court.

The effects of the DOL rule so far have not been positive, NAHC said in a website [post](#) following the Supreme Court's decision.

"Following the institution of the new rules on October 13, 2015, home care companies have adjusted operations through increased use of part time workers, restrictions on work hours to avoid overtime costs, and increased staff recruitment," the post reads. "However, these are costly changes that do not provide the optimum options for care delivery and management."

### **Next Stage for Implementation, Enforcement**

The legal battle may be over, but that does not mean that NAHC and HCAOA are conceding quite yet.

"Our efforts to ensure that the elderly and persons with disabilities have full access to home care will continue," stated Val J. Halamandaris, president of NAHC.

Specifically, the focus now may shift back to Congress, where there is [legislation](#) pending to reinstate the companionship exemption. The timeline for these bills is uncertain, however. Their sponsors were awaiting the Supreme Court's decision before moving forward with the legislative process, and given that the Congressional session is short this year, the bills may not advance until after the elections this fall, NAHC Vice President for Law William A. Dombi told HHCN.

As for implementation and enforcement of the rule, one pressing issue is whether states will [increase funding](#) to Medicaid and other programs that reimburse home care. Pennsylvania, New York, California, Massachusetts, Florida, Oregon, and Washington are among the states that have increased budgets in light of the new rule, according to Caitlin Connolly, home care fair pay campaign coordinator with the National Employment Law Project, who also spoke on Monday's call with reporters.

Other states have not responded with alacrity to the new labor requirements, with [Minnesota](#) among the places where caregiver shortages have been reported as a result.

There may also be challenges with implementation and enforcement considering that some home care employees work in relative isolation and they have not been under federal wage and overtime protections in the past, said Connolly's colleague Sarah Leberstein, senior staff attorney at NELP. There has been some record of violations in states that have had protections on the books already, she noted.

She is optimistic that the new rule will be well-enforced, considering there is a coalition of groups working on it and the DOL itself has been putting forth efforts to "make the rules stick."

The federal agency recommitted to that effort in the wake of the Supreme Court ruling.

"We have worked closely with a wide range of stakeholders, including state officials, providers of home care services, advocates representing people with disabilities and worker advocates, to encourage thoughtful implementation of the rule," said Secretary of Labor Thomas E. Perez, in a prepared statement. "We continue to stand ready to provide all stakeholders with the technical assistance necessary to help them comply with the rule."

**Written by** [Tim Mullaney](#)