

Comment re: Regulatory Information Number (RIN) 1235-AA51

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Daniel Navarrete
Division of Regulations, Legislation, and
Interpretation
Wage and Hour Division,
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Room S-3502
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Washington, D.C. 20210

Comments on RIN 1235-AA51: Application of the Fair Labor Standards Act to Domestic Service.

Dear Mr. Navarrete:

The Center for WorkLife Law at the University of California College of the Law, San Francisco (“WorkLife Law”) submits this comment to oppose the proposed rule, Application of the Fair Labor Standards Act to Domestic Service, by the Department of Labor (“Department” or “DOL”). WorkLife Law opposes stripping basic minimum wage protections from homecare workers – a critical segment of the workforce whose labor is already undercompensated yet critical for the overall functioning of the U.S. economy and for the basic health and safety of our children, people with disabilities, and older adults. WorkLife Law instead supports the DOL’s proposed alternative, which maintains existing regulations that ensure a \$7.25 minimum hourly wage and overtime protections for the millions of workers who provide care and services in the home.

WorkLife Law is an advocacy and research organization that advances gender and racial equity by strengthening legal rights for family caregivers nationwide.¹ Our work seeks to ensure all people have the freedom to build and maintain economic security through employment and educational opportunities, without having to sacrifice their loved ones’ care. A major focus of WorkLife Law’s work is ensuring that unpaid family caregivers – whether caring for a young child, a spouse with a disability, or an older family member – are able to meet their obligations to their family member without losing the paying job they need to survive.

¹ *Our Mission*, CTR. FOR WORKLIFE L., <https://worklifelaw.org/> (last visited Aug. 25, 2025).

WorkLife Law is deeply concerned that the proposed rule will have a disastrous effect on a care infrastructure that is already suffering from a shortage of professional care workers. By driving down wages, the proposed rule will not only have a devastating impact on care workers' ability to financially support their own families, but it will also exacerbate the existing shortage of paid care workers whose labor is necessary to ensure the health and safety of our children, older adults, and people with disabilities. Without the ability to find affordable homecare for their loved ones, unpaid family caregivers will have no choice but to themselves leave the workforce. The proposed rule perpetuates a long and troubling legacy of undervaluing care work—both paid and unpaid—a legacy deeply rooted in sexism and racism.

1) The Proposed Rule Will Have a Disastrous Impact on Paid Care Workers and Unpaid Family Caregivers.

WorkLife Law is acutely concerned that the proposed rule will make a bad situation worse for family caregivers who rely on paid homecare workers to help meet the health and safety needs of their family members while they are at work. Nearly a third of workers with family caregiving responsibilities have left their jobs at some point during their careers due to difficulty with caregiving responsibilities, including an inability to find sufficient paid support.² Demand for paid homecare workers—and by extension, difficulty finding homecare workers—is expected to increase over the next several decades due to the growing number of older adults and increased longevity.³

Despite the fact that their work is more critical than ever, professional care workers often struggle to find quality jobs, resulting in recruitment and retention difficulties. Thirty-seven percent of this workforce lives in or near poverty, and forty-nine percent rely on public assistance programs to make ends meet.⁴ Care workers' median wages are lower than those for all other occupations with similar or lower entry-level requirements across the U.S.⁵ Indeed, inadequate compensation, including wages, salary, and benefits, is consistently cited as the biggest factor causing paid care

² Debra Lerner, *Invisible Overtime: What employers need to know about caregivers*, ROSALYNN CARTER INST. FOR CAREGIVERS 6 (January 2022), <https://rosalynnncarter.org/wp-content/uploads/2022/03/Invisible-Overtime-White-Paper.pdf>.

³ “From 2022 to 2060, the population of adults age 65 and older in the U.S. is projected to increase dramatically from 57.8 million to 88.8 million, and the number of adults age 85 and older is expected to nearly triple over the same period, from 6.5 million to 17.5 million. The growing number of older adults and increased longevity are two primary factors spurring demand for long-term services and supports.” *Understanding the Direct Care Workforce*, PHI, <https://www.phinational.org/policy-research/key-facts-faq/> (last visited Aug. 25, 2025).

⁴ *Id.*

⁵ *Id.*

workers to leave the field.⁶ As a result of low base wages, job turnover is high, recruitment and retention are challenging for both families and service providers, and people often cannot get the care they need.⁷

In short, by lowering the wages for care workers, the proposed rule will cause fewer people to enter that profession at a critical time when demand is expected to increase significantly. This will result in increased struggle for unpaid family caregivers who will be unable to find care workers whom they can rely on to provide homecare for their loved ones. This will have a domino effect and put U.S. workers with family caregiving responsibilities in a more precarious position than they are already in, jeopardizing their ability to earn an income and participate in the national economy.

2) The Proposed Rule Will Disproportionately Harm Women and People of Color Who Provide Critical Yet Historically Undervalued Caregiving Services.

The care workers who will be directly impacted by the Proposed Rule are disproportionately women, people of color, and immigrants, as the DOL noted in its Proposed Rule, and unsurprisingly, working family caregivers reflect similar demographic patterns.⁸ This division of labor is by design, as caregiving has historically been devalued and performed out of obligation rather than compensated as an essential part of our economy that allows it to function.⁹ Depriving paid care workers of federal minimum wage and overtime protections reflects that historical racism and sexism, and the proposed rule will effectively turn back the clock on the progress that has been made since the 2013 Home Care Final Rule was put in place.

In short, the proposed rule will have disastrous effects on paid care workers, care recipients, unpaid family caregivers, and the care infrastructure as a whole, and it will disproportionately harm women, people of color, and immigrants. For these reasons, WorkLife Law opposes the

⁶ Courtney Roman et al., *Direct Care Workforce: Policy and Action Guide*, MILBANK MEMORIAL FUND (May 18, 2022), https://www.milbank.org/wp-content/uploads/2022/05/DirectCareWorker_Toolkit_final.pdf.

⁷ Office of the Assistant Secretary for Planning and Evaluation, *Strengthening the Entry-Level Health Care Workforce: Finding a Path*, U.S. DEP’T OF HEALTH & HUM. SERVS. (Dec. 2020), <https://aspe.hhs.gov/sites/default/files/private/pdf/264531/strengthening-the-EHCW-Report.pdf>.

⁸ Katherine Gallagher Robbins & Jessica Mason, *Americans’ Unpaid Caregiving is Worth More than \$1 Trillion Annually – and Women are Doing Two-Thirds of The Work*, NAT’L PARTNERSHIP FOR WOMEN & FAMS. (June 27, 2024), <https://nationalpartnership.org/americans-unpaid-caregiving-worth-1-trillion-annually-women-two-thirds-work/> (analyzing 2023 American Time Use Survey data, which shows that unpaid care work falls disproportionately on women and people of color).

⁹ See *Exploring Paid Leave: Policy, Practice, and Impact on the Workforce: Hearing before the S. Comm. On Finance.*, 118th Cong. 3 (Oct. 25, 2023) (statement of Jocelyn Frye, President, National Partnership for Women & Families), https://www.finance.senate.gov/imo/media/doc/10252023_frye_testimony.pdf (describing the history of discrimination and devaluing of “women’s work”).

proposed rule, and we support the proposed alternative of preserving the status quo under the current regulations that have been in effect for 13 years.

Sincerely,

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Co-Directors

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