

United States Senate

WASHINGTON, DC 20510-2602

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April 19, 2012

Mary Ziegler
Director, Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
US Department of Labor
200 Constitution Ave., NW
Washington, D.C. 20210

Re: Comment on Notice of Proposed Rulemaking, "Application of the Fair Labor Standards Act to Domestic Service," RIN 1235-AA05

Dear Ms. Ziegler:

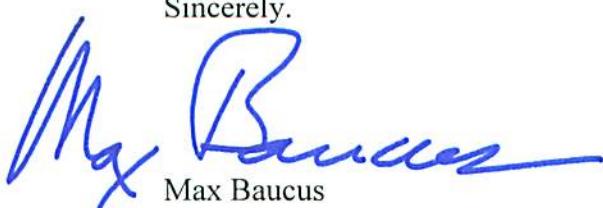
I write in support of the Department of Labor's Notice of Proposed Rulemaking, "Application of the Fair Labor Standards Act to Domestic Service." I hope the Department will promulgate a final rule ensuring protections under the Fair Labor Standards Act (FLSA) for home care and domestic live-in workers. Doing so is both consistent with legislative intent at the time of the 1974 FLSA amendments and within the Department's delegated authority according to the U.S. Supreme Court in *Long Island Care at Home v. Coke*. In the 2007 decision, the Court showed administrative deference to the Department's interpretation of the FLSA exemption for "companions."

In limiting the definition of "companionship services" to fellowship and protection, the proposed rule extends FLSA coverage to the home care workforce, a rapidly-growing industry employing millions of Americans who provide vital daily services to the elderly or disabled who wish to continue to live in their own homes. This service will continue to be critical as our population ages and as we rethink institutional care.

According to the Department's estimates, this rule can be applied at a limited cost. In light of the reality that Medicare and Medicaid serve as the principal funding sources for home care services, this rule will provide lasting benefit to these workers and greater stability for our national long-term care system. Applicability of FLSA is appropriate for third-party employers in a multi-billion dollar industry of trained workers, just as it is appropriate to apply the exemption to a different series of individuals who serve as babysitters and companions.

I hope that the Department will quickly complete the Notice and Comment process and issue a final rule that addresses needs as noted above.

Sincerely,



Max Baucus
U.S. Senator