



August 2015

## U.S. Court of Appeals Reinstates Labor Department's Wage Rule for Home Care Workers

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On August 21, 2015, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) [reinstated](#) Department of Labor (DOL) regulations that require home care agencies and other third-party employers of domestic service workers to provide minimum wage and overtime pay protections to employees who provide “companionship services.” The case, *Home Care Association of America et al. v. Weil*, arises from the DOL’s appeal of two lower court rulings that had invalidated the DOL’s regulations, as previously reported in Robinson+Cole’s *Health Law Pulse* [here](#) and [here](#). Citing U.S. Supreme Court precedent, the DC Circuit disagreed with the lower court rulings, holding that the DOL properly exercised its authority in issuing the regulations.

The DC Circuit emphasized the significant changes in the home health industry since the companionship services exemption was first enacted as an amendment to the Fair Labor Standards Act in 1974. At that time, most home health workers were employed by the individual receiving care and did not provide many skilled services. Today, the court noted, many home health care providers are employed by third parties and provide a variety of skilled-care services to their patients. According to the DC Circuit, the DOL’s regulations are consistent with Congress’s intent that the exemption be inapplicable to companionship services workers whose “vocation” is domestic service. The court also found that the DOL reasonably concluded that the regulations would not harm consumers and would potentially improve patient care due to lower turnover and attraction of higher-quality candidates for domestic service work.

Given the significance of this issue to the home care industry, the Home Care Association of America may pursue further judicial review. The DOL regulations are not immediately effective, as the case has been remanded to the lower court for entry of a judgment.

Robinson+Cole will continue to monitor developments in this case and the DOL regulations.

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