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January 10, 2024

Representative James Comer
United States House of Representatives
1513 Longworth House Office Building
Washington, D.C. 20515

RE: Response to QFR from Workforce Protections Subcommittee Hearing on DOL's Proposed Overtime Rule

Dear Representative Comer:

I write in response to your QFR in which you inquired about whether DOL should be addressing the unique issue of Medicaid-funded providers of home and community-based services for people with disabilities in the final regulation. Let me state at the outset that I am not an expert on the funding mechanisms for this important workforce so my answer will be given with this disclaimer as context.

NELP has long been a strong advocate for home care workers knowing that we can only have the most vibrant home care workforce, and ensure the best care for their clients, when home care jobs are good jobs – ones with wages and benefits that help sustain the workers and their families.

There are many ways to help balance the need to fairly compensate home care workers with the realities of Medicaid funding and in 2016, the Department of Labor chose delayed enforcement. I am confident that the current team at DOL is well-aware of this issue and is also considering how to best accommodate the situation as it works to finalize an updated regulation. However, not being an expert in this issue, I cannot offer a more detailed answer about what NELP believes is the right balance.

I would also like to enter one addition piece of information into the record. At the hearing, one of the witnesses, upon question from the panel, stated that the Department of Labor has never given so little time for comment, 60 days, on a proposed overtime regulation, the inference being that DOL is improperly rushing this one. In fact, if you look at the record from the Trump Administration, DOL proposed its overtime regulation on March 22, 2019, and the comment period closed on May 21, 2019, 60 days later.¹

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Judith M. Conti
Government Affairs Director

¹ <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201910&RIN=1235-AA20>.

