



January 12, 2015

Governor Jerry Brown
c/o State Capitol, Suite 1173
Sacramento, CA 95814

Dear Governor Brown,

We write on behalf of the approximately 380,000 IHSS homecare providers across California to express our deep concern over the state's decision to delay implementation of FLSA protections – including overtime pay - for IHSS workers in California. The injunction issued by the district court in the *HCA v. Weil* litigation does not prevent and should not deter the State from moving forward with the immediate implementation of overtime, as expressly contemplated by SB 855, passed by the Legislature and signed by you last year.

The immediate implementation of overtime for homecare workers is not only just, it is required by existing law and the binding commitments made by your Administration. We note the following points:

- While the injunction in *Weil* has stayed the effectiveness of the Department of Labor's new regulations under the Fair Labor Standard Act (FLSA), nothing in the court's order prevents any state from independently implementing the overtime requirements. The states are not a party to the litigation nor subject to the court's injunctive orders.
- During the legislative process leading to the enactment of SB 855, the stakeholders specifically discussed the possibility of a delay in the implementation of all or part of the FLSA regulation. During those discussions, your administration committed to implementing the overtime requirements even in the face of such a delay. This commitment is reflected in both the statute and legislative record. As the final Assembly bill analysis notes, SB 855 "[r]equires that in the event that the federal government delays overtime requirements for a portion of providers, the state shall still implement the overtime requirements and the weekly caps for all providers for whom federal financial participation is available for overtime."
- The money to fund overtime for IHSS workers—\$172.2 million in the current budget year and \$354.4 million ongoing—has already been appropriated. Indeed, SB 855 expressly prohibits the State from spending this money outside of the IHSS program.

- Finally and most important, immediate implementation of the overtime requirement is just and necessary to the welfare of this essential workforce. IHSS homecare workers are predominantly women and people of color and make, on average, \$10 an hour. The vast majority of IHSS workers do not receive other benefits such as paid sick and vacation time, health care or retirement benefits. Payment of overtime to these workers, within the limits prescribed by SB 855, will inure to the immediate benefit of some of the neediest and hardest working Californians.

We respectfully request that you honor your Administration's commitments and move forward with providing justice and dignity to homecare workers and clients in California.

Sincerely,

Laphonza Butler, President, SEIU-United Long Term Care Workers
Doug Moore, Executive Director, UDW/AFSCME Local 3930
Ben Tracey, Homecare Director, SEIU-United Healthcare Workers
Luisa Blue, Chief Elected Officer, SEIU Local 521
Gail Ennis, President, California United Homecare Workers

Cc: Diana Dooley, Secretary, California Health and Human Services Agency
Michael Cohen, Director, California Department of Finance
Will Lightbourne, Director, California Department of Social Services
Toby Douglass, Director, California Department of Health Care Services
Kevin de León, President Pro Tempore, California State Senate
Toni Atkins, Speaker, California State Assembly