

POLICY FOCUS

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An American Caregiver Program

By Carrie Lukas, IWF President and Heather Madden, IWF Policy Staff Director

HIGHLIGHT

Policy leaders should make it easier for families and the elderly to engage live-in caregiving help. The State Department's au pair program is a model that should be replicated so that people can host not only *foreign* au pairs to provide child care, but also engage qualified, vetted *American* citizens and residents of all ages for live-in positions, including for senior care.

BACKGROUND

The United States faces a series of serious challenges when it comes to caregiving and affordability. These include:

- For millions of families with children, child care is expensive, hard to find, and too inflexible to meet their specific needs.
- As detailed in [this recent Policy Focus](#), by IWF's Kristin Shapiro, millions of seniors need additional support and assistance so they can age in place, but it's hard to find qualified and affordable help.
- For millions of Americans and people living in the United States, housing is

expensive and scarce. Rent has gone up [more than 20 percent](#) since the Biden-Harris administration began in 2021.

Policymakers can help address all of these issues by making it easier for families and seniors to offer live-in caregiving roles, through the creation of an American Caregiver Program.

The American Caregiver Program would:

- Give American citizens and residents similar work opportunities to those currently provided to young foreigners through the State Department's au pair program.
- Create a new opportunity for Americans to engage live-in caregivers—outside the existing, often unworkably complex, regulatory framework.
- Increase the supply of caregivers, and make it easier for people to get the help they need.

Families with a spare room could provide housing, board, and financial support to vetted workers in exchange for a set number of hours worked, which could include anything from child care to shopping, driving, and light housework.

In [Au Pairs for Senior Care](#), IWF's Kristin Shapiro made the case to expand the scope of the State Department's existing au pair program to enable senior citizens to engage au pairs to provide caregiving and household help. Yet additional expansions of this successful program should be explored.

Currently, the State Department facilitates caregiving arrangements solely for people coming from outside of the country, who are between the ages of 18 and 26, as a cultural exchange program. However, a similar program established under the

Department of Labor could enable American citizens and residents—at any age, there is no reason to limit these opportunities solely to people aged 26 and under—under similar terms. Domestic caregivers could undergo similar vetting procedures to ensure they are suitable and can safely live with families or the elderly. Host families or individuals could be expected to provide similar payments and in-kind support (such as room and board), and follow similar rules for working with an oversight entity to document hours worked and to ensure caregivers are treated fairly.

EXISTING DOMESTIC WORK ARRANGEMENTS FAIL WORKERS AND FAMILIES

According to the [Department of Labor's Women's Bureau](#), more than 600,000 domestic workers—including care aides, nannies, and housekeepers—are employed by households in the U.S. The vast majority of these domestic workers are women.

Domestic work is a unique and particularly challenging sector of the economy, suffering from both over- and under-regulation. Government regulators and officials struggle to balance the competing need to ensure that workers are treated fairly (and particularly aren't abused and subjugated) and the reality that domestic work can blur the lines of what constitutes work. For example, a mother paying a neighbor—either a teenager or a retiree—to play with her kids while she runs errands shouldn't need to worry about minimum wage laws. Yet someone providing care for a child and running a house in excess of 40 hours per week deserves to be fairly compensated, to have access to time off and other workplace protections.

Reports like “[HomeEconomics: The Invisible and Unregulated World of Domestic Work](#)” provide a window into the wide variety of abusive, exploitative relationships that can exist between domestic workers and their employers. Policymakers hearing of live-in caregivers who are routinely abused, denied promised payments, and faced with long work hours and no breaks undoubtedly want to prevent such exploitative relationships.

Yet a challenge is that regulations that aim to prevent such relationships and ensure fair treatment of domestic workers can backfire in terms of encouraging people to operate outside of the regulatory framework entirely or pricing families out of the market for help altogether.

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Regulations governing domestic workers in the Fair Labor Standards Act (FLSA) show this tension. In 1974, [Congress amended the FLSA](#) and extended its federal minimum wage and overtime pay provisions [to include “domestic service” workers](#). However, certain domestic service workers, casual babysitters, and workers who provide “companionship services” to elderly persons or persons with illnesses, injuries, or disabilities, [were exempted](#) from these requirements. For live-in domestic workers who did not fall into one of those two categories, Congress created an [exemption from overtime](#) but not from the minimum wage.

In 2013, the Department of Labor, under President Obama, revised its guidance on domestic service employment under the FLSA. The final rule, known as the

“[Home Care Final Rule](#),” went into effect in 2015 and restricted who could qualify for “companionship services.” To qualify for the companionship exemption from the minimum wage and overtime requirements, the services provided to an elderly person or person with illness, injury, or disability must be completely focused on providing “[fellowship](#)” (e.g., engaging in conversation, reading, playing cards) or “protection” (e.g., accompanying the person to appointments, monitoring the person in his or her home). If the worker spends more than 20 percent of the workweek performing “care” services (e.g., dressing, feeding, meal preparation) then the companionship exemption cannot be claimed.

The new guidance also added onerous [recordkeeping requirements](#) for households that employ [live-in domestic service workers](#). For workers who do not meet the criteria for the companionship exemption, employers are required to maintain records for the exact number of all hours worked, as well as a copy of any employee agreements. Failure to do this can result in back wage liability.

To demonstrate minimum wage compliance, employers who have live-in domestic workers may account for room and board but are [responsible for](#) maintaining records regarding the cost of the lodging as well as documentation showing their calculations. To calculate the worker’s hourly rate, the estimated cost of lodging is added to cash wages and divided by the number of hours worked that particular week. Then, the credit

can be applied to the employer's minimum wage requirement when determining the worker's pay. For example, if a person earns \$450 for a 30-hour workweek and receives \$100 worth of room and board, the employer would need to calculate the hourly rate for hours worked (\$15) and add the \$100 credit for a total of \$550 received for that particular week, which amounts to \$18.33 (\$550 / 30) per hour.

Hiring help, and filing the necessary taxes and paperwork, is always complicated, but it is made more so by the intermittent nature of "caregiving" responsibilities. Guidance from the Department of Labor under FLSA doesn't address these ambiguities: It stipulates that they should accept "reasonable" agreements

seek out caregiving relationships that are outside of the law are not only vulnerable to enforcement for failure to comply with tax and labor laws but are also left vulnerable to exploitation and other negative outcomes.

Policymakers should consider how to create a better regulatory framework to encourage more of these caregiving relationships to take place legally. This includes rescinding the 2015 Home Care Final Rule and reviewing how the FLSA treats caregiving work. All states and federal agencies should work to ensure that there are opportunities for domestic workers—or any worker—who are being abused to obtain legal help. This is particularly important with the increase in the population of those living

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between the employer and caregiver, but then insists that records of all work must be maintained. This means that employers are still struggling with questions like, if a child requires 10 minutes of soothing in the middle of the night, how much time is this considered as "time worked"? If an older child is playing by herself and the caregiver is free to use her time as she sees fit—but must remain in the house—does that constitute time worked? What if the caregiver is given time off, but a child talks to her during that time?

The process one would need to undertake to calculate how to properly pay a live-in caregiver, and ensure that one complies with FLSA and other legal requirements, reveals why relatively few such relationships exist—at least relationships that are "on the books." Families and workers who

illegally throughout the country, including those who have been victims of human trafficking, who are particularly vulnerable to exploitative relationships.

In addition to reforming these regulations, however, federal policymakers should explore replicating the existing, successful program within the State Department that provides a paradigm for live-in caregiving relationships that can be a win-win for workers and employers.

A NEW PROGRAM FOR AMERICAN CAREGIVERS

As detailed in [this Policy Focus](#), the State Department created the au pair program in the 1980s, when many mothers entered the workforce, to allow young foreign nationals to come to the United States for one or two

years as an au pair, live with an American family, and provide that family with up to 45 hours of child care per week. This Policy Focus made the case that expanding the scope of this program could help more senior citizens get the support they need, allowing them to age at home.

This Policy Focus detailed the central role that sponsor organizations play in the operation of the State Department's au pair program. These entities help identify and vet potential au pairs for suitability and workplace qualifications. Critically, they also vet and provide oversight of host families as employers to ensure that host families are providing promised support and payment and treating the worker fairly. By requiring regular follow up, and having a relationship with both the employer and the employee, these sponsor organizations also create a mechanism for reporting abusive relationships. In short, they provide oversight which makes it possible to exempt these work relationships from other regulatory frameworks that are ill-suited to the nature of live-in caregiving employment.

Congress should create a new American Caregivers Program, housed within the Department of Labor, replicating the State Department's structure overseeing caregivers and host families. In this new program, private sponsor organizations would oversee these work/host relationships and Congress would expressly preempt certain existing federal and state requirements—including those governing wages, record-keeping, and the landlord/tenant relationship—that would complicate or impede successful implementation. As with the current au pair program, employers would need to pay the sponsor organization for their service in

identifying and vetting a domestic caregiver and for overseeing the relationship.

While this arrangement may initially sound like it would be practical solely for very high-income families or seniors, however, even with the need for payment to the sponsoring organization (which could be structured so that it could be paid over time rather than as an upfront fee), this relationship would still be a relatively affordable option for families that have the space for live-in help, compared to other caregiving options that currently exist. The current out-of-pocket cost of hosting an au pair is about **\$1,800 per month** (in addition to room and board). Particularly in high-cost living areas and for families with multiple children, this is relatively affordable compared to standard day care.

This program would also offer new work opportunities for communities that need it. This could provide opportunities for recent immigrants in a way that is similar to the current au pair program, enabling them to find housing and integrate into the country and American culture. It could also provide opportunities for students in higher education programs to obtain housing and provide for themselves while working toward educational and other goals. Finally, it can provide an opportunity for the growing share of Americans—particularly older women—who are approaching retirement but feel financially insecure: they could save on housing costs, while working and saving for retirement.

In short, Congress has an opportunity to create a new paradigm for employment that will cost taxpayers close to nothing and create new, better, safer work opportunities for caregivers, while making it easier for families and seniors to get the help they need.

WHAT YOU CAN DO

Get Informed

Learn more about improving the caregiving economy, visit

- [Au Pairs for Senior Care](#), IWF's Kristin Shapiro
- IWF's [Working for Women Report](#)
- Cato Institute, [Freeing American Families](#)

Talk to Your Friends

Help your friends and family understand these important issues. Share this information, tell them about what's going on, and encourage them to join you in getting involved.

Become a Leader in the Community

Start an Independent Women's Network chapter group so you can get together with friends each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

Remain Engaged Politically

Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

Connect with IWF! Follow us on:

WE RELY ON THE SUPPORT OF PEOPLE LIKE YOU!

Please visit us on our website iwf.org to get more information and consider making a donation to IWF.

ABOUT INDEPENDENT WOMEN'S FORUM

Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility. IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.