On January 14, the court in the companionship services exemption case, *Home Care Assoc. of America v. Weil,*  vacated the U.S. Department of Labor's (DOL's) new regulation narrowly defining companionship services.  The court reasoned that the Fair Labor Standards Act (FLSA) describes companionship services as services provided to individuals who are “unable to care for themselves.”  According to the court, by practically excluding "care" from the definition of companionship services, DOL violated the intent of the law and attempted to do by regulation what can only be done via legislation.

On December 31, the court had granted a temporary restraining order delaying the effectiveness of the new companionship services definition for 14 days.  The court had intended to decide this week whether to convert that temporary order into a preliminary injunction that would further delay the new regulation until a decision on the merits could be reached.  Instead, the court converted the plaintiffs' motion for a preliminary injunction into a motion for summary judgment on the merits and vacated the narrow definition of companionship services.

As a result of this decision and the court's December 22 decision, home care agencies may continue to avail themselves of the companionship services exemption from the FLSA's overtime provisions, based on the long-standing, broader definition of companionship services.   The federal government may appeal the district court's decision and may seek a stay of its order pending appeal.  Home care agencies are urged to continue to monitor the LeadingAge New York website and our emails for up to date information about the status of the case.

If you have any questions please contact Karen Lipson, Executive Vice President for Innovation Strategies at 518-867-8383, ext. 124 or me.