

Ain't I a Woman!?



Ain't I a Woman Campaign: "Let's Stop the 24-Hour Workday!"

For 8 years, Lai Yee Chan worked 24 hours a day, four to five days a week as a home attendant. Her agency is called Chinese-American Planning Council (CPC). She took her patient to the park, to the doctor and to church; she cleaned and prepared meals. She did not sleep at night. She helped him eat and drink, turned him over in bed, and took him to the bathroom. She listened to make sure he was breathing easily. She dared not sleep. 24 hours, no rest.

Lai Yee is not alone. Among the hundreds of thousands of home attendants in New York State, many are forced to work 24 hours by

home care agencies that don't pay them for the eleven hours during the night. The pay comes out to \$5 to \$7/hour, way below the minimum wage.

Home attendants of different agencies began challenging the 24-hour shifts and non-payment. Their organizing soon saw victories when in 2017, three separate New York State (NYS) courts concluded that home attendants must be paid for every hour they work. Just a few weeks later, the NYS Department of Labor (DOL) issued emergency regulations to reverse the court decisions in order to protect the agencies who continued to reap the benefits of exploited labor. After the promulgation of the Emergency Rule, home care workers assigned

July 11, at the Department of Labor's Public Hearing on the Emergency Regulation.

to 24-hour shifts reported receiving instructions from their employers to ignore those they care for at night.

Chinese Staff & Workers' Association and National Mobilization Against Sweatshops joined individual home attendants to sue the NYS DOL. This fall, Judge Eileen Rakower of the NYS Supreme Court ordered that the NYS DOL's Emergency Ruling be declared null.

This victory is a step forward. Home attendants say it's not enough. They call on Cuomo to declare illegal a 24-hour workday and call for 12 hour split shifts for home attendants, for the health of ALL who give and receive care!

Women Speak Out Against Long Hours

On July 11th, the Dep't of Labor held a hearing where many home attendants and some patient families testified to the detrimental effects of 24-hour shifts.

Xiao Huan Yu: I've done 24-hour work as a home attendant... for 10 years. Every day I have to move [my patient] several times to sit in the wheelchair. I have to use all my strength to move the patient, [so] my waist, hand and shoulders are often strained. The company commanded the home attendants that every two hours, we must turn over the patient's body and change their diaper. For a long time, in order to make a living, many 24-hour workers and I dealt with fatigue, lack of sleep and pain. What's even more ridiculous is that there is no pay for hours we work at night! It's like being a slave.

Since 2015, the company and the union demanded home attendants who work at night to fill in a work record form and report it to the company. I filled in the work record form every night. ...

DID YOU KNOW?

93% of home attendants are women. Most are immigrants and women of color.

365,000 patients receive home care in NY State and the numbers are increasing.

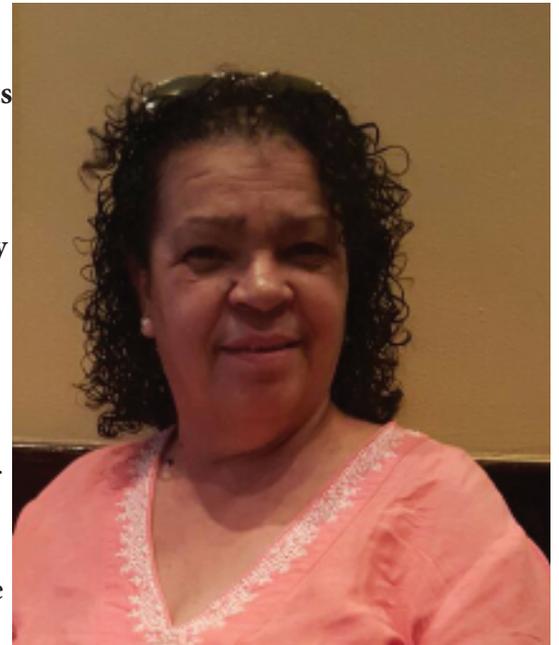
In 2018, the average pay for union workers was \$13/hour (up to 13 hours for 24 hours of work).

There are approximately 80,000 unionized home attendants in New York City and 70,000 non-union.



Top: HL Chen and XH Yu, photo by Pat Lin. Bottom: S. Rosario, photo by SR

In February of 2018, they fired me! **CPC's head nurse even said you home attendants don't need to care for the patient after 8pm, unless the patient falls, then you need to call 911! The fact the company said something this heartless scared me.** [The union rep said to me], if you didn't fill in the work record form for the night-hours wages, then you wouldn't get fired! The 24-hour work day system is inhumane for both the patients and the home attendants. Eliminate the 24-hour work day system!



Seferina Rosario: I worked for United Jewish Council for 28 years. No responsible home attendant will sleep if you have a patient that needs 24-hour care. Why would you be in someone's home all night if you're not working? That's illogical. Taking care of patients with Alzheimer's, you need patience, understanding, and much, much love.

A split shift of 12 hours and 12 hours is better than 24 hours. It would help prevent more injuries and disabilities of home attendants,

and give more space for us home attendants to be human beings.

Shirley, patient's daughter: My mother had Alzheimer's disease for 12 years. As the disease progressed, she was reassessed and qualified for 24-hour coverage. However when I learned that the attendant would only be paid for 13 hours of a 24-hour shift, I could only wonder who would be willing to work a shift at half the minimum wage? I also wondered how could an attendant, who might be awakened several times a night, to administer

to her patient, could work consecutive 24 hour shifts and still be alert?

I feared for my parent's safety and did not want to be a party to what was clearly exploitation of mostly immigrant women, so I declined the additional hours. I could do so because my brother was willing to sleep at my parents' home.



Top: Shirley (speaking), photo by Pat Lin.
Bottom: Cheryl, photo by Zishun Ning.

Cheryl, patient's niece: I find it shameful that these companies who are making a significant amount that the government is paying these agencies for this home care that the



aides are getting so little of it...I can't imagine how someone can work effectively if they haven't had their full rest...**I think it's really important for the patients and the aides to stand united.** It's in everyone's best interest that this issue is properly addressed.

(For more voices, go to aintiawoman.org)

No Money for Proper Care but Huge Profits for Insurance Companies?

In NYS, when it comes to the care of people with disabilities and the elderly, there never seems to be enough money. The health care industry and Gov. Cuomo's administration both argue paying workers for all the hours they work will be a disaster and cause the system to collapse. But is this true? And if so, how did we get to this point?

In 2011, Governor Cuomo rolled out an overhaul of the state Medicaid system. He introduced Managed Long Term Care (MLTC), insurance companies into the Medicaid and Medicare system and changed how

reimbursements for care would be calculated. MLTC's would receive a set amount so the less care they provide, the more profit they make. According to a lawsuit filed in 2011 on behalf of patients who had been receiving around the clock care, this change caused a rash of conversions from split shifts (two 12-hour shifts provided by two different workers) into 'live-in' (where one worker provides all 24 hours of care), or the number of hours the patient received were dramatically cut.¹

Meanwhile, the insurance companies that now determine how much care one needs are increasingly being sued for cutting the hours of homecare for their clients. According to a 2017 CNBC article, "the nation's top 6 health insurers reported \$6 billion in adjusted profits for the...quarter". Where are these profits being made? Our tax dollars- "the Medicaid and Medicare markets are increasingly driving insurer topline growth, and that is where the plans are setting their sights on expansion. Aetna now derives more than half of its revenue from government plans..."² The new trend nationwide is turning our tax dollars into insurance company profits, while using insurance companies to cut down Medicaid costs, i.e. desperately needed care for people requiring it.

Insurance companies, home care agencies, NYS Dep't of Health, and Dep't of Labor coordinate to continue the practice of paying only 13 hours for a 24-hour shift and are well aware of the high level of care the patients require. Will people with illnesses and disabilities and home care workers be forced to bear the burden again of the Governor's callous disregard for our health? Not if we come together and reject the idea that we must choose between institutionalizing those with disabilities and the elderly or forcing women to work without pay through the night. NYS can do better. We won't stand by and allow insurance companies to profit while many go without quality care.

1. <https://www.nylag.org/wp-content/uploads/2012/03/JOHN-SHON-v-SHAH-PRESS-RELEASE-4.29.11.pdf>

2. <https://www.cnbc.com/2017/08/05/top-health-insurers-profit-surge-29-percent-to-6-billion-dollars.html>

*The nation's top 6
health insurers reported
\$6 billion in profits in one
quarter. - CNBC, 2017*

News from Western NY

The Department of Labor claimed that ending the “13-hr rule” would cause a collapse of the industry. However, in Western New York, split shifts (24 hour care carried out by multiple workers) are already the norm. Home care shifts where workers do 12, 8, or even 4 hours are common, whereas 24-hour shifts are the exception to the rule. Home care workers and consumers alike are determined to keep it that way. The Disability Education & Advocacy Network of WNY is joining with other sponsors of the Ain't I A Woman?! Campaign to ensure that quality home care remains a right in Western New York, and that others throughout the state can gain the right to split shifts as well.

Chefs in CT Refuse 36-hour Shifts and Win!

Workers from Matsu Sushi in Westport, Connecticut, came together to fight forced overtime. To complete large catering orders, the chefs were forced to work throughout the night, in addition to their regular day shifts that were 12 hours long. The workers complained that these shifts took a big toll on their health. When the workers decided to stop working the inhumane 36-hour shifts, the bosses fired them in retaliation.

With the help of Flushing Workers Center, the workers filed a charge against the employers with the National Labor Relations Board. On October 26, a judge ruled the employers must rehire and compensate the workers.

From restaurants to the home care industry, workers are standing up against 24-hour shifts!

Timeline of the Home Care Campaign

March 2015 – Despite being told by their union 1199SEIU and the DOL that CPC is not required to pay overtime as a non-profit organization, Lai Yee Chan and 2 other home attendants who worked 24-hour shifts persist and file a class action lawsuit against CPC.

October 2015 – A federal court finds home attendants are entitled to overtime pay based on the Obama administration's interpretation of the law.

December 2015 – CPC and 1199SEIU amend the collective bargaining agreement to force

workers to arbitrate all wage and overtime claims and to cut wages of those working a 24-hour shift. This results in Lai Yee Chan and CPC workers' case to be stopped and moved to arbitration in Feb 2016. More than two years later, the arbitration still hasn't happened.

April and May 2016 – Hundreds of home attendants from First Chinese Presbyterian Community Affairs Home Attendant Corp., United Jewish Council, Alternate Staffing, and other agencies begin to organize against the 24-hour workday and for their stolen wages and overtime pay.

(Read the rest of the timeline on aintiawoman.org)



Alvaro Ramirez and Ignacia Reyes urge NYS gubernatorial candidates to abolish the 24-hour workday. Photo by NMASS.

What is the Ain't I a Woman Campaign?

The “Ain't I a Woman?!” campaign grew from a small group of garment workers who successfully held DKNY accountable for sweatshop conditions. This became a call for a new women's movement fighting for control over our time, health, respect and payment for caregiving work.

For more information contact us at:

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