

# **Policy Issues In License-Exempt Child Care: Lead Paint, Wages, And Criminal Record Checks**

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## Introduction

During a home safety check with a neighbor who is caring for an infant, a home visitor discovers lead paint in the mini-blinds next to the child's crib. A member of a kith and kin caregiver support group expresses concerns about a parent who does not pay her for the 14-hour days she expects her to work. A woman who is caring for her friend's preschooler asks her home visitor what she should do when her own teen-age son returns from a stay in a psychiatric hospital where he has been treated for molesting a child.

These examples were the focus of a December, 2000 meeting of 11 organizations that worked with kith and kin caregivers in five states: California, Washington, Oregon, Colorado and Arizona. Kith and kin child care--care provided by family, friends and neighbors who are legally exempt from regulation--is the most common child care arrangement for children under five whose parents are working (Brandon, Maher, Joesch & Doyle, 2002). Care with relatives--grandmothers, aunts and other family members--accounts for the largest proportion: 30% of child care arrangements for children in this age group (Brown-Lyons, Robertson, & Layzer, 2001; Capizzano, Adams, & Sonenstein, 2000).

Kith and kin child care did not receive much attention from policy makers or service providers until federal welfare reform legislation was enacted in 1996. When it became apparent that many families who were moving from welfare to work turned to family, friends and neighbors for child care, a growing number of states and community organizations began to develop programs to serve this population of caregivers. In

general, these efforts aimed to improve the quality of care that kith and kin caregivers offered to children. They used a variety of strategies to achieve these goals (Porter & Rice, 2000). Some relied on support groups to provide information about health, safety and child development. Others provided materials and equipment through home visits. Still others offered training workshops.

Because programs for kith and kin caregivers represented new directions for many organizations that had not previously worked with this population of caregivers, the Institute for a Child Care Continuum convened a national meeting of practitioners in 1999. The agenda addressed four primary issues: recruitment and retention of caregivers; program design; collaboration; and parent/caregiver relationships. There was also a discussion of how to measure program effectiveness and impacts on kith and kin care. The result was *Lessons Learned: Strategies for Working with Kith and Kin Caregivers* (Porter & Rice, 2000), a paper that synthesized the discussion of the successes and challenges these practitioners encountered.

In the following two years, the Institute organized two meetings for a smaller number of West Coast and Southwest organizations that worked with kith and kin caregivers. At each meeting practice and policy issues were examined through the lens of case studies prepared by the participants.

The case studies discussed in this paper are real situations encountered by agency staff in their work with kith and kin caregivers. Each presents an issue that affected caregivers: lead paint, wages and working conditions, and criminal

record checks. All of them have broad implications for policies for license-exempt child care as well as providers across the child care continuum--parents, regulated family child care providers, and child care teachers.

We hope that this policy brief will encourage discussion of these issues. We do not propose specific solutions nor do we make specific recommendations for policy changes. Rather, we raise questions for consideration and suggest strategies to remedy these situations.

## **Regulating License-Exempt Child Care**

### **Policy Context**

State child care regulations generally include requirements for group size with limits on the number of children in specific age groups; ratios of adults to children; caregiver qualifications; and health and safety conditions. In all 50 states, individuals who provide child care for children related to them are exempt from regulations that apply to family child care providers or child care centers (National Child Care Information Center, 2001). In-home caregivers such as nannies and babysitters are exempt from regulation as well.

A large number of states—41—also exempt non-relative providers from licensing requirements under specific conditions. Typically, these include limits on the number of children in care or the number of families with children in care (National Child Care Information Center, 2001). Exemptions vary from state to state. In Arizona, for example, providers who care for four or fewer children who are not related to them are exempt from licensing requirements. California permits caregivers to operate as license-exempt if they provide child care to children from

the same family; there is no limit on the number. In Oregon, providers are exempt from regulation if they care for three or fewer children from different families or children from the same family regardless of number. Washington allows neighbors and friends who offer care on a nonscheduled basis to operate as legally exempt.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which encompasses both the Temporary Assistance to Needy Families (TANF) program and the Child Care Development Fund (CCDF) block grant, requires states to impose specific regulations on caregivers who are paid with public funds to provide care for eligible families. These regulations apply to license-exempt care as well as centers and family child care homes that are subject to state regulation.<sup>1</sup> CCDF regulations require states to set basic health and safety requirements (Personal Responsibility and Work Opportunity Reconciliation Act, 1998). States must ensure that infectious diseases are prevented and controlled; that the physical premises and building are safe; that children are appropriately immunized; and that caregivers receive some health and safety training (Personal Responsibility and Work Opportunity Reconciliation Act, 1998).<sup>2</sup>

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<sup>1</sup> Both the TANF and the CCDF regulations stipulate that parents who are eligible for child care subsidies be given a choice of eligible providers. The choices include center-based care, group family child care and family child care (regulated or license-exempt), in-home care, and relatives other than a parent (Personal Responsibility and Work Opportunity Reconciliation Act, 1998).

<sup>2</sup> License-exempt care which is not subsidized is not required to meet the state child care regulatory standards and is not subject to state CCDF regulatory enforcement activities.

The CCDF legislation allows states a large amount of flexibility in interpreting and enforcing these standards for license-exempt caregivers. According to a 2000 Government Accounting Office report, some states ensure compliance with the CCDF requirements by extending health and safety requirements for regulated caregivers to license-exempt caregivers. Others use different strategies. A large number of states—28—offer caregivers packages of materials about state regulations. Twenty-one states rely on caregivers' self-certifications or attestations about the health and safety features of their homes, while six conduct inspections of caregivers' homes.

States can create additional requirements for license-exempt caregivers who receive CCDF or TANF payments for the child care they provide. Many states require license-exempt caregivers to undergo some kind of criminal history, fingerprinting, or child abuse and neglect background check (U.S. General Accounting Office, 2000). For example, Arizona requires a criminal history record check (CHR) and a fingerprint record (FR); California requires a child abuse check and fingerprinting in addition to the CHR for caregivers who are not related to the children in their care. Although Washington requires a CHR, it does not require fingerprinting. Oregon requires a CHR check for all adults 18 and over in the household, and fingerprinting is required of any caregiver who has lived in the state for less than 5 years.

A growing number of states also require health and safety training for license-exempt caregivers who provide child care for subsidized families. Massachusetts requires caregivers to attend an orientation that includes a health and safety workshop, while

Georgia requires caregivers to complete eight hours of training.

### Issues

The rationale for the regulation of child care at the state level is two-fold. On the one hand, it falls under the doctrine of "police power" which provides states with the authority to place limits on individuals and private entities. This includes legislation regulating the health, morals, safety and welfare of the community (Child Care Law Center, 1996). On the other hand, child care regulations fall under the doctrine of "parens patriae" which gives states the authority to protect children while they are in school or child care in the absence of their parents.

By creating regulations for family, friends and neighbors who care for subsidized children, states fulfill the CCDF requirements that all caregivers paid with federal dollars provide care that meets reasonable health and safety standards. These regulations do not extend to caregivers who are not publicly reimbursed to provide care, and, as a result, children in these settings are not protected by law.

### Questions

- What role does government have in regulating family members who provide child care?

Government generally limits intervention in family matters to protection of children if they are at risk of abuse or neglect. In most situations, it does not directly attempt to regulate what goes on in the home. Grandmothers, aunts or other relatives are extended family; and therefore their care can be considered an extension of the home. What is the rationale for requiring relatives who care

for subsidized children to undergo a CHR?

- How should relatives be defined for the purposes of regulation?

Under CCDF requirements, parents can use a CCDF subsidy for child care that is legal under the regulations of the state and meets the CCDF health and safety requirements (Personal Responsibility and Work Opportunity Reconciliation Act, 1998). States can choose to exempt relatives, which federal regulations define as grandparents, great grandparents, siblings (if they are living in a separate residence) and aunts and uncles if they are related by blood or marriage (Personal Responsibility and Work Opportunity Reconciliation Act, 1998). State definitions of relatives vary, but none includes new family structures such as domestic partnerships or unmarried parents who share the same household. Should regulations consider individuals in these relationships as relatives?

- What is the purpose of creating regulations unless there are provisions for monitoring or enforcement?

State and local agencies do not have sufficient staff to monitor regulated caregivers (U.S. General Accounting Office, 2000), let alone caregivers who are legally exempt. Funding the enforcement of regulations may divert limited resources from providing subsidies to eligible families or supporting initiatives to improve quality. Many states fund consumer education initiatives to inform parents about the features that constitute high quality child care. This strategy is based on the assumption that parents will choose care that meets these standards, and that they

will monitor care for deviations from them.

### **Strategies**

- Provide information about regulation to caregivers and parents.
- Develop initiatives to help caregivers comply with regulatory standards.
- Create a provisional status with time limits for caregivers who cannot comply with regulations.

## Lead Paint

### Issue

A home visitor finds blinds with lead-based paint hanging in the caregiver's windows near the baby's crib. This situation, while dangerous, is not as common as lead-based dust from deteriorating lead-based paint.

Through hand-to-mouth activity children are exposed to lead dust on their hands and toys. Lead poisoning is also a consequence of exposure to lead in soil or of consumption of water from lead-based pipes. Consumption of chipped paint is a more concentrated source of lead poisoning, but it is rare (Alliance for Healthy Homes, 2004).

Lead paint is a serious health hazard for young children. At low-level exposure, lead poisoning can result in reduced IQ and attention span, hyperactivity, impaired growth, reading and learning disabilities, hearing loss, insomnia, and a range of other health, cognitive, and behavioral effects.

Approximately 434,000 children between the ages of one and five have blood lead levels above the Center for Disease Control's minimum standard of 10 micrograms of lead per deciliter of blood (Meyer, Pivetz, Dignam, Homa, Schoonover, & Brody, 2003). Lead poisoning is a particularly severe problem for low-income children who are eight times more likely to be poisoned than children from high-income families (Alliance For Healthy Homes, 2004). The situation is also serious for children of color. African American children are at greater risk of lead poisoning than Latino and white children (Alliance for Healthy Homes, 2004).

Recent research shows that the risk of lead poisoning is declining. Lead reduction activities at the federal, state and local level, private renovation work and Environmental Protection Agency (EPA) education campaigns have decreased the number of housing units with lead-based paint from 64 million (or 80% of the pre-1980 housing stock) to 38 million (Jacobs, Clickner, Zhou, Viet, Marker, Rogers, Zeldin, Broene, & Friedman, 2002). Less is known about what effects these activities and regulations have had on children's blood lead levels.<sup>3</sup>

According to the American Academy of Pediatrics (1998), lead poisoning "remains a common, preventable, environmental health threat." The only effective means of addressing lead poisoning is to eliminate children's exposure to it.

There are no specific federal regulations regarding lead-based paint in child care centers, family child care homes or other child care settings, whether they are regulated or license-exempt.

### Policy Context

Federal regulation requires property owners of pre-1978 dwellings to disclose known lead-based paint and lead-based hazards to prospective buyers<sup>4</sup> and, in the case of rentals, to current and future tenants. Property owners are not required to document the actual existence of lead-based paint or lead

<sup>3</sup> While data collected by the National Health and Nutrition Examination Survey (Centers for Disease Control and Prevention, 2000) showed a decline from a mean of a 12.8 blood lead level to a 2.3, this has mainly been attributed to the banning of lead from gasoline, paint and food cans.

<sup>4</sup> Buyers have ten days to perform a lead-based inspection or risk assessment, the cost of which they are responsible for.

hazards; nor are they responsible for its removal or liable for subsequent exposure.

Property owners are required to *inform* current and future occupants of possible lead-based paint and lead-based hazards, and must provide the pamphlet “Protect Your Family From Lead in Your Home.” They can be held liable if they do not.

The Department of Housing and Urban Development (HUD) issued regulations in late 1999 regarding lead-based paint hazards in federally owned residential property or housing receiving federal assistance (Department of Housing and Urban Development, 2002).<sup>5</sup> Depending on the type of HUD assistance, the regulations delineate: when and what kind of evaluation and reduction activities must be done; how to conduct hazard evaluation and abatement work; and how to ensure occupants are protected from hazards during renovation work. If a child who lives in any of these housing programs has an elevated blood level, the owner is responsible for performing a risk assessment and controlling all the identified lead-based hazards.

All types of federal housing assistance are subject to the following regulations: distribution of the EPA lead hazard information pamphlet; notification to occupants of evaluation or hazard control activities; visual evaluation of lead-based hazards; limited or full paint inspection; risk assessment; hazard reduction clean-up, clearance and monitoring. There are three categories of assistance: units receiving less than

\$5,000; units receiving between \$5,000 and \$25,000; units receiving more than \$25,000. All of the requirements apply to the highest category. For any unit that receives more than \$2,000 there must be an inspection, risk assessment, and abatement of certain hazards.

The property owner has the right to adjust the rent to cover the expense of reducing lead hazards, although these changes must first be approved by the Department of Housing and Urban Development (HUD). All risk assessors, inspectors, abatement supervisors and abatement workers must be EPA-certified, which requires completion of a four- to five-day course. There is a shortage of certified trainers across the country.

Nine states have enacted lead paint legislation. Massachusetts was one of the first. The 1971 regulations hold landlords responsible for permanently controlling lead-based paint hazards in any housing in which there is a child under the age of six (National Center for Healthy Housing, 2004). Amendments to the legislation provide financial assistance to landlords to complete abatement work as well as for relocation of occupants during the lead abatement process and certification of lead abatement contractors.

In 1996, Vermont passed Act 165, legislation that was designed to reduce lead poisoning of children in rental housing and child care facilities (National Center for Healthy Housing, 2004). It requires landlords to conduct a series of evaluations and tests; to provide documentation, including visual on-site inspections, for lead paint; to use wall treatments for peeling paint as well as appropriate practices for renovation work; and to ensure that units have been thoroughly cleaned following it. A landlord or member of the building

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<sup>5</sup> The regulations apply to all federally owned or assisted housing built before 1978 including Community Development Block Grants, HOME, Section 8 (resident and project based), HOPE, Shelter Plus, FHA-insured programs, and property sold by the Federal government.

maintenance staff must complete a training offered by the Vermont Department of Health on lead hazards. Since the regulations took effect, 7,000 individuals have completed the training, and 7,000 landlords have submitted documentation of meeting the criteria.

Some localities have also passed legislation to address lead poisoning issues. San Francisco has created specific regulations about the renovation of external surfaces, and New York City has gone even farther. New legislation passed in 1999 (New York City Local Law 38) requires annual inspection by landlords of homes in which a child under six is a resident. If chipping paint is discovered, it must be controlled.

Many states support blood screening and/or require labs and physicians to report children with elevated blood levels. All five of our case study states maintain databases on childhood lead poisoning in their state. California and Colorado also conduct follow-up tracking on children with elevated blood levels. Arizona, Colorado and Washington conduct assessments of settings in which children or adults have elevated blood levels. All five states also offer resources and information on lead poisoning, abatement activities and health care.

## Questions

The prevalence of lead-based paint and lead hazards in low-income homes and the high incidence of lead poisoning among low-income children pose grave policy concerns for license-exempt care. How can children in home-based child care be protected from lead exposure?

- How effective are federal and state regulations designed to reduce lead poisoning in children?

The federal government and most states do not mandate specific strategies for reducing lead paint hazards for children. The Center for Disease Control (2000) has recommended that all children enrolled in Medicaid should be screened for elevated blood lead levels at 12 and 24 months.

- What regulations should apply to license-exempt caregivers and regulated family child care providers if they are home owners?

Of the five study states, only Washington and Colorado address lead-based paint in their child care regulations. Both specify that painted surfaces in regulated family child care homes must be maintained to prevent exposure to lead-based paint. Neither state prohibits family child care providers from operating in homes with lead-based paint.

- What are policy remedies for addressing lead hazards in the homes of license-exempt caregivers or regulated family child care providers if they are renters?

Research shows that rental properties are more likely to have lead-based paint hazards than housing occupied by owners: 30% of rental properties contain lead-based paint or other lead-based hazards compared to 23% of owner-occupied units (Jacobs et al, 2002).

- What is the extent of the threat to childhood lead poisoning posed by mini-blinds?

Mini-blinds, which are being imported from China and South America, are not covered by the federal and state regulations.

## Strategies

Some states and localities are pursuing class action lawsuits against paint companies in an attempt to hold private industry responsible for lead-based paint hazard clean-up as well as to recover the public health costs of lead poisoning. In addition, families of children with lead poisoning have pursued law suits against paint companies (Alliance for Healthy Homes, 2004).

- Provide information about lead-based paint hazards and lead-poisoning prevention to parents and caregivers.
- Include information about lead hazards in required health and safety training for caregivers.
- Require landlords to inform tenants about the specific presence of lead paint in the rental unit. States should enact strict penalties for landlords who do not comply with this requirement. More stringent penalties could be required for failure to comply if there are children under six.
- Provide grants for abatement to license-exempt and regulated family child care providers.
- Provide grants for evaluation and/or abatement to not-for-profit housing organizations.
- Offer tax credits to caregivers, landlords and other housing developers for abatement and renovation that reduces or prevents lead exposure in child care settings.

## Wages and Working Conditions

### Issue

A caregiver agrees to watch a neighbor's young infant when she goes back to work. Several weeks later, the parent starts working overtime and often picks up the baby late. She does not pay the caregiver for the extra hours.

Payment and long hours are difficult issues for license-exempt caregivers. They often feel uncomfortable about raising these questions about payment and hours with parents, because they are relatives or close friends. Low wages and poor working conditions are also issues for caregivers in family child care and center-based care.

### Policy Context

The federal minimum wage, which is regulated by the Fair Labor Standards Act (FLSA), is currently set at \$5.15 an hour. It applies to full-time and part-time employees in the public and private sector. The FLSA also mandates that employees who work more than 40 hours must be paid time-and-a-half their regular pay rate for the additional hours (Department of Labor, 2004).

States pay caregivers on a 40-hour work week schedule. Payment does not cover overtime. Some states and localities do not cover payment for some holidays or school vacation days.

Payment rates for license-exempt caregivers, like those for regulated child care providers, vary from state to state. In Kern County, California, license-exempt caregivers are paid \$400 a month, or \$1.25 an hour for full-time care of a 2-year-old. The rate in Illinois is lower: caregivers are paid \$9.48 a day for full-time care, which works out to

\$1.18 an hour (Lesser, Carlson, Branch, & Leiwant, 2002). These hourly wages are significantly lower than the federal minimum wage, let alone the state minimum wages of California and Illinois, which are set at \$6.75 and \$6.50 an hour respectively.

### Questions

- Should publicly-funded child care payment rates correspond to the minimum wage?

There are many living wage movements across the country. They advocate wage levels of approximately \$18,000 annually, equivalent to the federal poverty level for a family of four. Nationwide, the living wage movement has produced ordinances in more than 80 communities. Boston, Baltimore, Chicago, and Detroit have all passed living wage laws requiring government contractors and some companies that receive tax benefits or public funds to pay workers more than the federal minimum wage. The Center for the Child Care Workforce has played a prominent role in advocating for living wages for professional child care providers.

- How is child care that is paid with government subsidies defined as work?

Is providing full-time child care that is paid with government funding considered full-time employment, and therefore subject to the FLSA? Are license-exempt caregivers who are paid with public funds considered government contractors?

- To what extent do caregivers who are paid with public funds work more than a 40-hour week?

**How can states ensure that caregivers are not forced to work overtime? Do states provide payments to cover overtime work schedules?**

**Strategies**

- Increase child care payment rates to the federal minimum wage.
- Pay caregivers who work more than 40 hours a week for the additional hours that they provide child care.
- Require caregivers to submit attendance sheets, signed by parents, to receive reimbursement. This will ensure that caregivers are paid for the number of hours that they provide care. This strategy offers the added benefit to states of documenting actual hours of care.
- Provide caregivers with a school calendar so that they are fully aware of the days the state does not pay for child care. This would eliminate misunderstandings between parents and caregivers about hours that are not covered by state payments.
- Require contracts between caregivers and parents who receive subsidies for child care. Caregivers and parents would have to sign an agreement and submit it to participate in the subsidy program.

## **Criminal History Record (CHR) Checks and Fingerprinting Records (FR) for License-Exempt Providers**

### **Issue**

A caregiver's adult son is returning home after a stay in a psychiatric hospital where he has undergone therapy after a conviction of child molestation. Another caregiver is refused a license because her husband was convicted of an illegal weapons possession charge nearly two decades earlier. Since then, he has been a leader in the anti-gang movement.

These represent different situations: the former, potentially threatening the child; the latter, apparently posing no present danger. CHR checks, like other health and safety regulations, are intended to protect children from harm. Both cases raise questions about the purpose and effects of CHRs for caregivers and their families.

### **Policy Context**

There are no federal regulations stipulating that states require criminal history and child abuse checks or fingerprinting for any caregiver who is reimbursed with public child care funds. As we indicated earlier, state regulations for CHRs and FRs for license-exempt caregivers who receive public child care payments vary from state to state.<sup>6</sup> Regulations for criminal history checks for other members of the household also vary. Half of the states require CHRs for all members of the caregiver's household who are 18-years of age or older. Several states require CHRs for household members who are juveniles—children under 16.

<sup>6</sup> In some states--Florida, Vermont, Texas, Missouri, Rhode Island, Kentucky, and Washington for example--all license-exempt providers (relatives and non-relatives) must complete a CHR to receive subsidies.

### **Questions**

- What crimes should disqualify caregivers from caring for children or from receiving public child care payments?

The types of crimes which disqualify license-exempt caregivers from receiving public child care payments vary. They range from felony convictions for crimes against persons to misdemeanors for crimes against property. For example, Oregon disqualifies license-exempt caregivers for crimes that range from arson and drug-related crimes to animal abuse and writing bad checks, while Arizona only disqualifies license-exempt caregivers if they are awaiting trial or have been convicted of felony crimes against persons or drug-related crimes.

Federal regulations for prospective foster or adoptive parents who receive public subsidies to provide care 24 hours a day, 7 days a week, limit disqualification to felony convictions for child abuse and neglect, spousal abuse or a violent crime and convictions for physical assault, battery or a drug-related offense within a specific period. Should disqualifications for child care be broader than those for foster care? What is the rationale for excluding relative caregivers on the basis of criminal record checks if the parent knows the criminal history?

- What kinds of crimes most commonly exclude caregivers?

Typically the "hit" rate, a CHR or fingerprint check that indicates a conviction, is 10% for license-exempt caregivers. Little is known about the types of crimes that are identified.

- How do states define "extenuating circumstances" that might enable

caregivers to qualify for public child care payments if they have been convicted?

How do states ensure these situations are treated equitably? How do states inform caregivers about the option of appealing under these circumstances?

- Should states establish statutes of limitations for certain crimes that would enable caregivers to qualify if they have not been convicted of a second crime of the same nature within a specific time period?

The federal regulations for foster and adoptive parent disqualifications for assault, battery and drug-related convictions only apply if there has been a conviction in the past five years. Should the same kind of limitations apply to disqualifying caregivers? Oregon, for example, has five-year and ten-year statutes of limitations depending on the crime, but other states have none.

- To what extent, if any, are policies of conducting CHRs on members of the household under 18 consistent with the policy of sealing juvenile crime records?

### **Strategies**

- Review “hit” records to determine those crimes that occur with greatest frequency.
- Develop consistent and explicit policies for situations that involve extenuating circumstances. Inform caregivers about these policies.
- Require parents’ sign-off on criminal histories with extenuating circumstances for caregivers and members of the household.

- Create probationary periods for caregivers and members of the household who have criminal records with extenuating circumstances.
- Provide fee waivers for criminal history record checks as well as fingerprinting.

## Discussion

When we asked practitioners to prepare case studies from their work with kith and kin caregivers, we had no preconceived notions of the kinds of policy issues that would emerge. We did not expect that they would raise complicated questions about lead paint and wages, although we suspected that background checks might represent a problem.<sup>7</sup>

Nor did we expect that the issues faced by license-exempt caregivers would apply to other caregivers across the child care continuum. Lead paint is a problem in any child care setting: in the child's home; in the caregiver's home, whether she is regulated or exempt from licensing; and in a child care center. Wage and labor issues are a concern for anyone who receives payment to care for other people's children. Background checks for caregivers have implications for all types of child care.

Regulation seems to be the most feasible approach for remedying the lead paint issue, because it will protect all children. New requirements may, however, have a negative effect on the child care supply if home-based providers cannot comply and centers are forced to close. In addition, the resources that will be needed to redress this situation will be enormous.

Wages and working conditions raise different kinds of questions. On the one hand, it seems clear that fair payment and working conditions should apply to all child care providers. If child care is

considered employment in one setting, it should be considered employment in all settings. As workers, caregivers should be protected by the FLSA. Compliance with its minimum wage and time-and-a-half protections, however, would require a tremendous increase in funding for providers who care for publicly subsidized children. It might also create significant financial burdens for parents who pay caregivers out of their own pockets.

Criminal background checks for providers who are reimbursed with public funds to provide child care present other problems. One question is related to the kinds of crimes that disqualify caregivers. It does not seem to make sense to include crimes for which there is no evidence of harm to children. Another question is related to fairness--whether the crimes should apply to caregivers across the child care continuum (excluding parents) or whether different sets of crimes should apply to caregivers who offer care in different settings.

Clearly, all of these issues call for specific solutions, each with a different approach. Remedying the health problems posed by lead paint may require a combination of regulation and policy changes. Resolving wages and labor issues may involve legal redress and change in subsidy policies. Addressing the issue of criminal history and child abuse checks may require regulatory change and additional support for procedural changes. Whatever the strategies, they will need thoughtful consideration of the positive and negative consequences for children, on the one hand, and the child care system on the other. At the same time, they will need to encompass the entire child care continuum: license-exempt care as well as care in other settings. All caregivers deserve to be

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<sup>7</sup> An unpublished study of license-exempt caregivers' reactions to the attestation proposed for caregivers who receive public child care payments in New York had revealed several problems related to this issue (Institute for a Child Care Continuum, 2000.)

treated fairly and equitably; kith and kin  
caregivers deserve no less.

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