

**New York State Department of Labor Public Hearing on Employee Scheduling
Tuesday, October 17, 2017 - Adam Clayton Powell, Jr. State Office Building**
Testimony by Maria Figueroa, Cornell ILR Worker Institute

My name is Maria Figueroa and I am Director of Labor and Policy Research at the Worker Institute of Cornell University in the School of Industrial and Labor Relations. The Worker Institute conducts research, training, and advocacy in partnership with a wide variety of organizations including unions, worker centers and other groups assisting low-wage workers such as day laborers, restaurant workers, and domestic workers. My testimony is based on research that The Worker Institute conducted on the impact of unpredictable scheduling and minimal work hours in selected occupational sector of the New York workforce.

Irregular scheduling and minimal work hours are a growing challenge for millions of workers in the U.S. economy. Common scheduling issues include unpredictable and unstable work schedules, minimal work-hours, on-call work, and rotating shifts. National data revealed that occupational sectors most vulnerable to unstable scheduling practices include workers in food service, retail, janitorial/housekeeping, and home health-care sectors. In New York, a 2016 survey showed that about 20 percent of workers across the economy received notice of their schedules less than a day in advance (Mehrotra & Rankin, 2016).

Our research focused on three of the most vulnerable occupational sectors, comprising seven focus group sessions with 132 workers from across home-health care, cleaning service, and food service sectors in New York City. My testimony today highlights the findings relevant to workers in the home-health care and the cleaning service industries.

Our research findings indicate that unpredictable schedules and minimal work hours are prevalent issues in home-health care and cleaning industries. In addition to the negative impact on worker incomes, other consequences of these scheduling practices include the inability to maintain adequate work-life balance, and limited or no coverage under health plans.

Home-care Attendants/Health Aides

The home health aides or personal care attendants who participated in our study work for agencies, which assign them to individual clients. Several workers reported that their agency would engage in scheduling practices that prevented workers from making overtime wages. Such practices include assigning work for no more than 20 hours a week, and replacing workers with another home-health aide as she approached 40 hours per week. Workers agreed that this scheduling

practice left their patients disoriented, and significantly reduced workers' earnings. Most of the workers described their jobs as unstable, given that the assignment to permanent cases with more than 12 hours per week was highly uncommon. Some participants reported receiving work assignments as little as one hour in length.

The short duration of their work assignments also contributed to workers feeling stuck without means of earning additional income, since the hours are determined by the needs of the patient. As a result, workers often feel forced to "either have two cases or work for two agencies" to maintain a semblance of steady income. The scheduling of jobs occurs one to two days prior to an assignment. Home-health aids who participated in our study reported acute fluctuations in the number of working hours due to cases being 'closed' (e.g. when patients are hospitalized, or pass away). Workers could remain jobless for approximately one month at a time, increasing the likelihood to accept on-call work.

Home care workers also reported that early dismissal usually occurs when patients undergo a hospital procedure. Workers would then be instructed to "walk along, go shopping, and then come back." Study participants also reported experiencing compensation issues, such as not being paid overnight rates, and not receiving extra pay for assignments that involve more than one patient.

Workers in the Cleaning Industry

Cleaning workers who participated in our study included non-union workers performing work in commercial or office buildings, as well as women workers who perform cleaning services in private households. The latter included women day laborers seeking employment as domestic workers. Cleaning workers across these sectors reported experiencing unstable and minimal work hours. Cleaning workers in office and commercial buildings reported that contractors would consistently offer a maximum of 20 hours of work per week, and that they would assign work disproportionate to the worktime, refusing to pay for work done after 20 hours. Another worker explained that it was commonplace for her agency to rotate workers to avoid paying overtime wages.

Employment in the housekeeping industry is highly contingent, leading to low and unstable incomes, and contributing to lack of legal protections. Domestic workers in the housecleaning industry are de-facto excluded from protections such as unemployment insurance, workers compensation, New York City paid sick leave, FMLA, and anti-discrimination laws either because they don't work enough hours during the year to qualify, or because they work for small private household employers (with fewer than four employees). Some of the workers interviewed under our study reported that "if they got sick, they lost their jobs automatically." Workers who were members of a cooperative reported having more structured schedules and higher pay than workers who were not members.

Policy Implications

The unique vulnerabilities that workers in the home-care and cleaning industries experience are associated with the contingent nature of their employment. Unstable scheduling and the minimal number of work hours associated with contingent and part-time work adversely affect workers' ability to get coverage under our labor and employment laws. Contingent and casual work are fast spreading trends in the New York labor market and nationally, and they need to be addressed by strengthening our labor policies and enforcement systems.

We commend the New York State Department of Labor for focusing its attention on this critical issue.

Thank you for the opportunity to offer this testimony.

The research report on women day laborers in the housekeeping industry can be accessed here: <https://www.ilr.cornell.edu/worker-institute/new-york-state-projects/standing-dignity-women-day-laborers-brooklyn-ny>