REPORT OF THE
SECRETARY OF HEALTH
AND HUMAN RESOURCES ON THE

Feasibility of the Department of Social Services Paying Social Security Taxes on Behalf of Companion and Family Day Care Providers

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

SENATE DOCUMENT NO. 17

COMMONWEALTH OF VIRGINIA
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EXECUTIVE SUMMARY

Introduction

> **Mrs. Samuels is happy she can stay in her own home, even though she is disabled from a stroke and arthritis. Mrs. Samuels warded off expensive nursing home placement due to the Department of Social Services' Companion Service Program. Her companion provider enables her to stay at home by preparing her meals and assisting her with household tasks she can no longer do on her own.**
>
> **Ms. Winters is a single-parent of two children juggling a full time job, college and parenthood. Quality child care has given Ms. Winters the peace of mind she needs to devote much of her time and energy to studies and employment. The child care paid for by the local department of social services is an investment in the future for Ms. Winters and her children. By paying Ms. Winter's child care costs now, the Department of Social Services is paving the way for her independence of the welfare system.**

Few Virginians realize the importance of the work performed by companion and family day care providers. The elderly and disabled adults across the Commonwealth depend on companion providers like Mrs. Davis for help with bathing, meal preparation, housekeeping, and many other essential activities of daily living. Family day care providers like Mrs. Perry care for children and enable their parents to maintain employment. Quality, affordable companion and family day care are essential services needed by the Commonwealth's most vulnerable citizens--the elderly, the disabled, and children.

Senate Joint Resolution 37 requested the Secretary of Health and Human Resources to examine the feasibility of local departments of social services paying FICA (Social Security taxes) on behalf of companion and family day care providers. This study found that payment of FICA on behalf of companion and family day care providers is not feasible. However, other options such as increasing provider wages and enhancing training are presented for consideration.

This report is very timely. The employment status of companion providers particularly and the subsequent payment of FICA has been an issue for many years. The options presented in this report present a challenge to the Commonwealth and an opportunity to enhance social services for disabled adults, the elderly and children.

I. Methodology

This report describes Virginia's companion and family day care programs and assesses the feasibility of paying FICA on behalf of those providers. Information was gathered through a variety of methods which included surveys of public and private provider agencies, roundtable discussions, personal interviews with companion and family day care clients, their respective providers and social workers, and a literature search.

II. Companion Service

A. Program Description

The term "companion service," when used in this report includes chore, companion and homemaker services provided by the local department of social services. Companion service is the primary type of home care provided by local departments of social services. Through the Companion Service Program, disabled adults and elderly persons receive help with tasks of daily living such as meal preparation, bathing and toileting. There are two criteria for eligibility for companion service -- need and income.

The typical recipient of companion service is a white, widowed female in her seventies with no more than a grade school education. Her monthly income is between $337 and $682 and she receives an average of 14 hours of companion care per week. In fiscal year 1987-88, an average of 3,758 persons received care through companion service.

The majority of companion providers are a friend or relative of the client and are between the ages of 41 to 61 years. Companion providers constitute the Department of Social Services' oldest group of individual providers. As of July 1, 1988 local departments of social services reported 4,102 approved companion providers.

Funding for companion service comes from a combination of federal, State and local dollars. With the decreasing availability of Social Services Block Grant (SSBG) funds, State appropriations and 100% local funding have maintained the existing level of services. Local departments of social services work in conjunction with other State and local agencies to design individualized plans of care with varying local resources.

The Virginia Department of Social Services, the Social Security Administration and the Internal Revenue Service interpret the employment status of companion providers differently. The Department of Social Services considers these providers to be self-employed individuals -- responsible for paying their own FICA. The Social Security Administration takes the position that companion providers are employees of the client, that is, the disabled adult or elderly person receiving care. The Internal Revenue Service takes the position that the local department of social services is the employer for purposes of withholding. Survey responses from other states demonstrate that nationally the interpretation of employment status of companion providers differs from state to state.

B. Findings

1. Feasibility of Paying FICA

Within the existing service delivery structure, it is not feasible for local departments of social services to pay FICA on behalf of companion service providers because:

- currently companion service providers are considered self-employed persons. If FICA were to be paid by local departments of social services, the current self-employed status could be jeopardized; and
- under existing budgets there are insufficient federal and State funds to pay the FICA (7.51%) taxes; additional appropriations would be required.

2. Other Related Findings

The most prevalent finding in the surveys and interviews was that provider wages are uniformly low. The average hourly rate of pay for companion providers is $2.88 per hour, with some providers paid as little as $1.25 per hour. Low wages paid to companion service providers have recruitment and quality of care implications.

The majority of local departments of social services do not provide any training to companion service providers. Survey responses document that 35% of local departments provide initial training and 17% do in-service provider training. Current policy gives local departments the flexibility to provide training according to local needs and resources.

C. Companion Service Options

Option I: Purchase Companion Service Only from Approved Agencies

Discussion -- This option would require the revision of the current service delivery system in order to utilize only provider agencies. By limiting the purchase of companion service to agency vendors, companion workers would receive at least minimum wage, employee benefits (including FICA), and training. Because this option would drastically alter the current system, further analysis is needed to determine the cost and the long-range advantages/disadvantages to both the client and the individual companion worker.

Option II: Enhance the Current System Utilizing Individual Companion Providers

Discussion -- The existing system which allows for the purchase of companion service from individual, self-employed providers can be enhanced in three ways: increase providers wages to minimum wage; provide a 2% cost of living increase to providers already receiving minimum wage; and, provide training to providers.

a. Increase Wages to Minimum Wage -- Increasing the hourly rate of the 2,708 companion providers currently working that are paid below minimum to minimum wage ($3.35 per hour) would require the following funds:

	1989-90
General Fund	$1,236,922
Non-General Fund (Local Match)	$ 309,230
Total	$1,546,152

Action by the General Assembly and the State Board of Social Services would be needed to require local departments to pay minimum wage to companion providers.

b. Provide Cost of Living Raise for Companion Providers at Minimum Wage -- Increasing the hourly rate by 2% for the remaining 938 providers now receiving minimum wage would require:

	1989-90
General Fund	$ 30,088
Non-General Fund (Local Match)	$ 7,522
Total	$ 37,610

Action by the General Assembly and the State Board of Social Services would be needed to require local departments to increase provider rates.

c. Implement Statewide Companion Provider Training -- Statewide training to ensure basic provider knowledge and skills for approximately 4,000 providers would require the following funds:

	1989-90
General Fund	$ 270,157
Non-General Fund (Local Match)	$ - 0 -
Total	$ 270,157

Action by the General Assembly and the State Board of Social Services would be needed to require locally approved companion providers to participate in this training.

Family Day Care

A. Program Description

The term "family day care," when used in this report, includes in-home and family day care services provided by local departments of social services. Family day care provides supervision and care for children for a part of a 24-hour period. Families eligible for family day care must meet established income criteria. Parents whose children receive family day care may be employed, receiving education and training leading to employment, or temporarily ill or absent from the home.

The availability of family day care varies by locality depending upon need, local priority, funding and availability of providers.

There is no one family day care client profile. Family day care serves families in a variety of circumstances -- families receiving public assistance (Aid to Dependent Children), families participating in the Employment Services Program, and working families earning 70% of the State's median income whose child care costs exceed 10% of the family's total income (Child Day Care Fee System).

Family day care providers are typically female, between the ages of 18 and 40, and a friend or relative of the client. As of July 1, 1988, there were approximately 2,095 providers approved by local departments of social services.

Both the Department of Social Services and family day care providers consider the employment status of family day care providers to be self-employed. The self-employed status of these providers is consistent with data collected from other states. As self-employed persons, family day care providers are responsible for paying their own FICA.

Local departments of social services set their own rates of pay for the family day care providers in their localities. Providers are reimbursed for their services. Family day care providers are not paid when the child is absent due to illness or other circumstances. In contrast, family day care providers in the private sector frequently require payment in advance of services to avoid reduction in pay due to circumstances such as the child's illness.

Family day care is funded by a combination of federal, State and local dollars. When the needs of the community for family day care exceed available funding, some localities provide 100% local funds to ensure that family day care is available to families in need.

B. Findings

1. Feasibility of Paying FICA

Payment of FICA by local departments of social services to family day care providers is not feasible because:

- currently family day care providers are considered self-employed persons. If FICA were to be paid by local departments of social services, their current self-employed status could be jeopardized; and
- research conducted for this report indicates that self-employed providers prefer to remain self-employed.

2. Other Related Findings

The most prevalent finding surfacing in survey and interview data is that provider wages are uniformly low. As of July 1, 1988, local departments of social services pay family day care providers hourly wages that range from $.35 to $1.75. This low rate of pay is closely related to the lack of funding and the high need for the service.

Current data from local departments of social services document the need for increased training of family day care providers. Although approximately 50% of the local departments provide in-service training, only 16% of the local departments provide any initial training. Of those local departments of social services providing training, many contract with local community colleges or other community resources to accomplish the training.

Family day care providers regard themselves as small business operators and need training in business management. Additional education in areas such as record keeping, bookkeeping and taxes would enable family day care providers to take maximum advantage of their self-employed status.

Fluctuating income is a major problem for the family day care providers utilized by local departments of social services. When a child is absent from family day care due to illness or other circumstances, the family day care providers' income is reduced. The family day care providers interviewed report that fluctuating income is always inconvenient and can cause major money management problems for their families.

C. Family Day Care Options

Option I: Increase Rate of Pay to Family Day Care Providers

Discussion -- The current average family day care provider rate of pay is $.88 per hour. This option would increase that rate to $1.00 per hour. The following funding would be required:

	1989-90
General Fund	$ 466,997
Non-General Fund (Local Match)	$ 51,889
Total	$ 518,886

Action by the General Assembly and the State Board of Social Services would be needed to require local departments to increase rates of pay.

Option II: Reimburse Family Day Care Providers Based on Enrollment

Discussion -- To reduce fluctuations in income due to circumstances beyond the control of the family day care providers, reimbursement would be made according to the planned enrollment. The following funding would be required:

	1989-90
General Fund	$ 231,110
Non-General Fund (Local Match)	$ 25,679
Total	$ 256,789

Action taken by the General Assembly and the State Board of Social Services would be required to accomplish this option.

Option III: Implement Training/Certification Program

Discussion -- Statewide training of all family day care providers would ensure minimal knowledge of child development/behavior and appropriate caregiving techniques, and business management techniques.

The following funding would be required to train the approximately 2,095 family day care providers:

	1989-90
General Fund	$ 72,397
Non-General Fund (Local Match)	$ - 0 -
Total	$ 72,397

Action by the General Assembly and the State Board of Social Services would be required to accomplish this option.

Summary

Companion and family day care providers serve two different populations with very different care needs. This study documents those differences and identifies some options for consideration that would enhance the lives of those providers and ultimately the quality of care given to disabled adults, the elderly and children across the Commonwealth.

FEASIBILITY OF LOCAL DEPARTMENTS OF SOCIAL SERVICES PAYING SOCIAL SECURITY TAXES ON BEHALF OF COMPANION AND FAMILY DAY CARE PROVIDERS

PROFILE I - MRS. SAMUELS

Mrs. Samuels is a widow in her late eighties. She has a monthly income of $352 and her children do not live close enough to assist her on a daily basis. When Mrs. Samuels began receiving companion service two years ago, she was bedridden. Lack of care had caused her physical condition to deteriorate. Now Mrs. Samuels is able to get in and out of bed and move around in her wheel chair.

Instrumental to Mrs. Samuels' improved condition is her companion provider, Mrs. Davis. An experienced homemaker with a background in food services, Mrs. Davis began working with Ms. Samuels when it appeared that she would have to move to a nursing home. With Mrs. Davis' help, Mrs. Samuels began eating meals regularly and using muscles that she thought she would never be able to use again. Today Mrs. Samuels is not in need of nursing home placement. She can remain in her home and be near her friends for a fraction of the cost of placement in a nursing home.

Mrs. Samuels is worried though that Mrs. Davis will not be willing to continue working for only $2.90 per hour which the local department of social services pays her. Mrs. Davis could get $5.00 per hour working on her own.

PROFILE II - MS. WINTERS

Ms. Winters is a 30 year old mother of two. Timmy is age 8 and Jennie is age 3. This mother receives public assistance, works full-time as a drugstore clerk, and attends computer training classes. Without a dependable child care provider, Mrs. Winters would have difficulty fulfilling her many responsibilities.

Mrs. Perry is the family day care provider who cares for Mrs. Winter's children. She keeps a total of five children in her home, and they are all from the neighborhood. Timmy and Jennie are clients of social services for whom the agency pays $.80 per hour per child. The others are not social service clients.

Mrs. Perry has provided care for neighborhood children since her adult children were young. She likes child care because it is possible to operate this business from her own home.

Because Mrs. Perry loves Timmy and Jennie, she has continued to care for them despite the low and unpredictable reimbursement from the local social services agency. If the day care and reimbursement policies are not changed soon, she may have to replace Timmy and Jennie with children whose parents can pay her rate of $1.50 per hour per child.

INTRODUCTION

Few Virginians realize the importance of the work performed by companion and family day care providers. The elderly and disabled adults across the Commonwealth depend on companion providers like Mrs. Davis for help with bathing, meal preparation, housekeeping, and many other essential activities of daily living. Family day care providers like Mrs. Perry care for children and enable their parents to maintain employment. Quality, affordable companion and family day care are essential services needed by the Commonwealth's most vulnerable citizens - the elderly, the disabled, and children.

Current trends in social services are placing increasing importance on companion and family day care providers. The "greying of America", a term used to describe the increasing elderly population, has placed greater emphasis on society to create alternatives to nursing home care. With greater numbers of women in the workforce, the middle aged daughters of today's elderly are caught in the "sandwich generation". They are expected to care for their parents as well as their own children and hold full-time jobs. These two trends alone put tremendous pressure on society to find ways to help families stay strong and self-sufficient. Companion service helps where there is no family or where families cannot provide care alone.

Increased numbers of women in the workforce also impact child day care. Working parents need reliable, quality and affordable care for their children. Child day care is a major component of the trend to move welfare recipients into the workplace. Virginia's philosophy of the past several years to focus on job training and employment as the path to self-sufficiency is now reflected in national policy on Welfare Reform.

Senate Joint Resolution 37 requests Virginia's Secretary of Health and Human Resources to study the feasibility of payment of FICA by local departments of social services on behalf of homemaker/ companion and family day care providers. This resolution is based on the premise that the payment of FICA will enhance the lives of these providers and contribute to the quality of care of Virginia's most vulnerable populations (See Appendix A).

Currently, local governments consider companion and family day care providers to be self-employed and do not make Social Security (FICA) payments or withhold FICA when payment is made to companion and family day care providers.

This study found that it is not feasible for the local department of social services to pay FICA on behalf of companion or family day care providers.

The study also showed that payment of FICA is but one of several issues related to enhancing the quality of providers' lives. Other issues discussed in this report include:

1) low wages, the primary concern of companion and family day care providers;

2) lack of provider training;

3) recruitment and retention problems;

4) lack of benefits;

5) unstable income; and

6) availability of State and local funds.

This report contains a summary of the methodology used for the feasibility study, and two sections each describing companion and family day care programs administered by local departments of social services. Each section discusses the implications of the findings for local departments of social services paying FICA, and identifies options for consideration with respective costs.

I. METHODOLOGY

A variety of methods provided data and insight on the feasibility of local departments of social services paying FICA on behalf of companion and family day care providers. The methodology also generated data on other issues such as rates of pay and the relationship between the providers' qualifications and the quality of care. The following methods were utilized:

A. **Roundtable Discussions**--Invitations were issued to companion and family day care providers, public and private agencies, and interested persons to attend and participate in two roundtable discussions. Attendees shared concerns, experiences and suggestions related to FICA coverage and other provider issues.

B. **Survey of Other States**--Twenty-five states were surveyed regarding their approaches to program administration, employment status of companion and family day care providers, and advantages/disadvantages of various methods.

C. **Survey of Local Departments of Social Services**--The 124 local departments of social services provided information on the number of companion and family day care providers, provider ages, rates of pay, training, monitoring activities, and comments regarding feasibility of paying FICA.

D. **Interviews with Clients/Providers/Workers**--A comprehensive questionnaire administered to a very small sample in each region by the Department of Social Services' regional service specialists generated information on client/provider relationships, activities performed by the provider, and client need. Extensive information was also collected regarding work history of the providers and provider opinions regarding pay, FICA, and other concerns.

E. **Survey of Home Health Agencies**--Home Health Agencies that provide personal care and are members of the Virginia Association of Home Care provided information regarding number of staff, rates charged, rate paid to employees, benefits, qualifications, training, monitoring and supervision.

F. **Literature Review**--A literature search focused on the employment status of home care providers. National organizations were contacted to obtain any available information on the study topic.

II. COMPANION SERVICE

A. Overview

There are three types of home based care--companion service, chore service and homemaker service. Companion service is the primary type of home based care provided by local departments of social services. In this document, the term "companion" includes chore and homemaker services.

1. Definition--Companion service assists disabled adults and elderly persons with tasks of daily living such as meal preparation, bathing and toileting.

   Companion service is an essential long-term care service that enables disabled adults and the elderly to remain in their homes and near familiar surroundings. The cost of companion service is low, an average of $150 per month, compared to more costly institutional care such as an average of $1,211 paid per month by Medicaid for nursing home care.

   The Code of Virginia (Section 63.1-55.01), the Social Services Block Grant (SSBG) and State Board Policy provide the authority for the provision of companion service.

2. Eligibility Criteria--In order to receive companion service, an adult must reside in his/her own home, meet income eligibility criteria, and have no one available to provide care without cost. Each local department of social services assesses client need for companion service based upon a locally designed

assessment instrument. Availability of companion service varies from locality to locality depending upon local priorities, availability of funding, and method of client assessment.

3. Client Profile--The typical recipient of companion service is a white, widowed female in her seventies with no more than a grade school education. She lives alone in a single family dwelling or apartment, and has a monthly income of between $337 and $682, and has no family close by.[1] She receives an average of 14 hours of companion care per week to assist with activities such as dressing, meal preparation, toileting and walking. In fiscal year 1987-88 an average of 3,758 persons received this help.

4. Companion Provider Profile--The majority of companion providers are between the ages of 41 to 61 years. Fourteen percent (565) are 62 years of age or older. Companion providers constitute the Department's oldest group of individual providers.

   They are approved and monitored by staff in local departments of social services. As of July 1, 1988 local departments of social services reported 4,102 approved companion providers meeting minimum standards established by the Department of Social Services.

5. Employment Status--The Virginia Department of Social Services, the Social Security Administration and the Internal Revenue Service interpret the employment status of companion providers differently. In addition, the employment status of companion providers varies among other states.

   a. Virginia Department of Social Services--Since 1974, the Department of Social Services, with the advice and support of the Attorney General's office, has considered these individual service providers to be self-employed. As a result, they are responsible for paying their own Social Security taxes (FICA).

   b. Social Security Administration--The Social Security Administration (SSA) takes the position that companion providers are employees of the social service client, that is, the disabled adult or elderly person receiving care through the auspices of local departments of social services. The SSA cites the following elements to support its conclusion:

1) the services must be provided in the client's home;

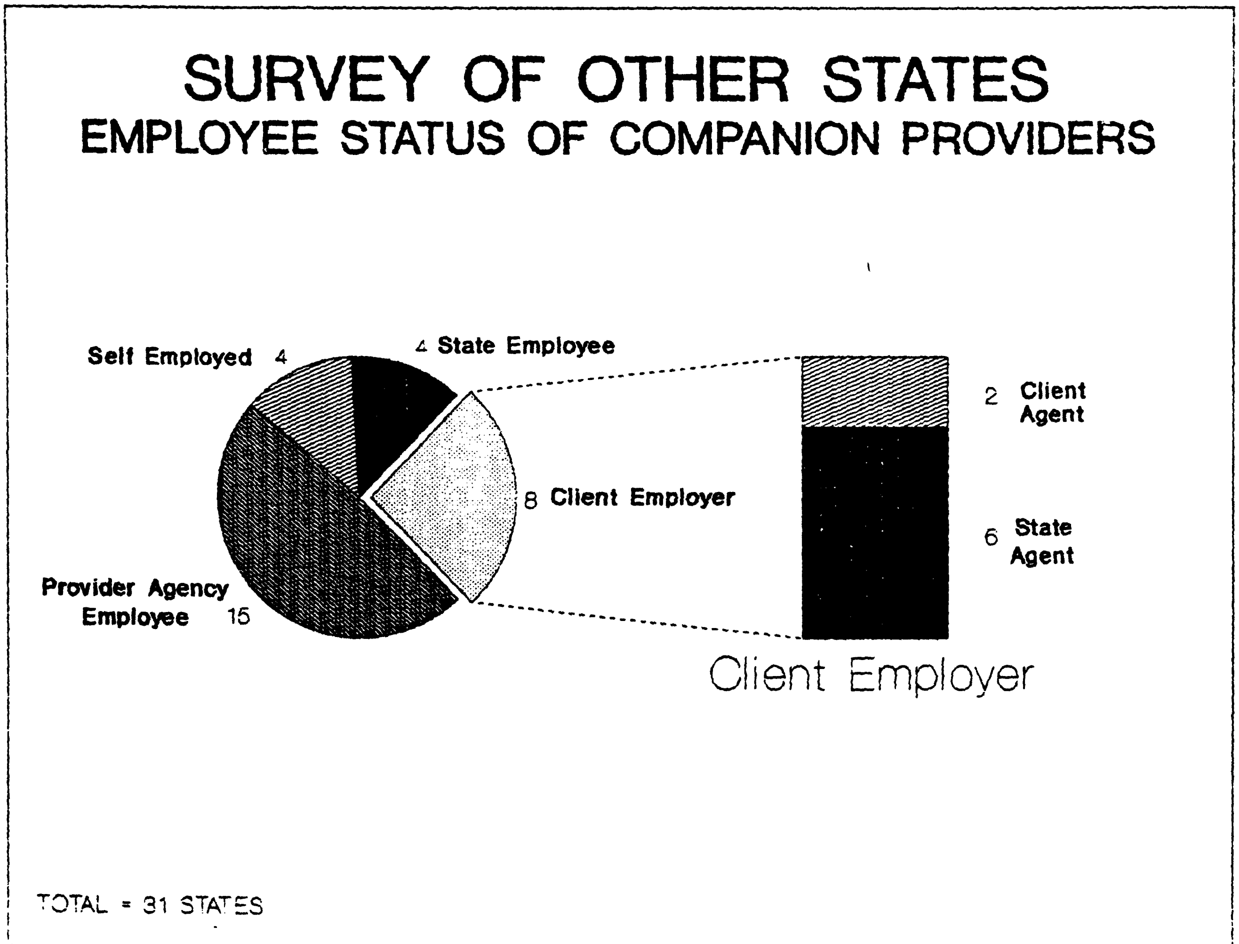
2) personal services are required; and

3) the rate of pay is on a hourly basis. SSA states that the client has the sole right to fire the provider if services are not performed to his satisfaction.

In 1976, the SSA recommended that the Department of Social Services act as agent for the social services client and assume responsibility for withholding and reporting the companion provider's FICA on behalf of the client.[2]

c. <u>Internal Revenue Service</u>--The Internal Revenue Service (IRS) takes the position that the local department of social services is the employer for purposes of withholding.

d. <u>Other States</u>--The most frequent arrangement in the 20 states surveyed was that the provider is an employee of a provider agency. In other words, the department of social services contracts with a home health type agency to provide companion service. In one-fourth of the states, the provider is the employee of the client. The social service department in most of these states acts as agent for the client and pays FICA. Some states had several different arrangements within one department as shown in the chart on the next page.



6. <u>Rate of Pay</u>--Hourly rates of pay for companion providers range from $1.25 to $5.25. The average hourly rate of pay is $2.88 which is below the $3.35 minimum wage. Policy adopted by the State Board of Social Services effective July 1, 1984 gave local departments of social services authority to set their own maximum rates of pay for companion providers.

   According to the United States Department of Labor, companion providers are exempt from the minimum wage requirement.[3]

7. <u>Funding Sources</u>--Funding for companion service comes from a combination of sources (federal, State, and local dollars), as shown below:

FUNDING SOURCE	FEDERAL	STATE	LOCAL
Social Service Block Grant	75%	5%	20%
State Supplement (General Funds)	0	80%	20%
Local Only	0	0	100%

Each local department of social services is required by Virginia Code to provide companion service to the extent that funds are available.[4] When the need in a community for companion service exceeds the available funding, some localities have provided 100% local funds in addition to the required local match to ensure that companion service continues to be available in the locality.

8. Coordination with Other Agencies--Dependent adults of all economic and social groups utilize companion service. The public agencies providing similar services are the Departments for the Aging and the Department of Medical Assistance Services. Table I identifies the service, target population, provider activities and funding sources for each public agency delivering these services.

   Area agencies on aging employ individuals to perform home care/companion service or contract with local departments of social services. As employees of area agencies on aging, the providers' share of FICA is withheld. When funds are contracted to local departments of social services, FICA is not paid nor withheld.

   Personal care provider agencies approved by the Department of Medical Assistance Services pay FICA on behalf of their personal care aides when the aides are their employees.

The different "companion type" services do not duplicate each other but rather compliment one another to meet gaps in service availability. These services can also be combined to design individualized plans of care for disabled adult and elderly persons residing in their homes.

TABLE I

COMPARISON AMONG PUBLICLY FUNDED COMPANION TYPE SERVICES

SERVICE PROVIDED	COMPANION SERVICES	HOME CARE/ COMPANION	PERSONAL CARE SERVICES
AGENCY	Department of Social Services Via Local Departments of Social Services	Department for the Aging Via Area Agencies on Aging	Department of Medical Assistance Services Via Approved Personal Care Provider Agencies
TARGET POPULATION	SSI, Low Income Adults Age 18+ Living in Their Home Needing Care	Economically and Socially Disadvantaged Adults Age 55+ in Communities Where There is an Unmet Need	Persons Meeting Medicaid Criteria for Nursing Home Placement and Remaining in the Community
PROVIDER ACTIVITIES	Assistance With Household Tasks, Shopping, Meal Preparation, Bathing, Dressing, Supervision	Assistance With Household Tasks, Essential Shopping, Meal Preparation and Other Light Care	Assistance With Household Tasks, Meal Preparation, Bathing, Dressing, Toileting, (Emphasis on Personal Care)
FUNDING SOURCES	Social Services Block Grant, State and Local Funds	Older Americans Act, State and Local Funds	Title XIX [Medicaid Waiver] State Funds

B. **Companion Service Findings**

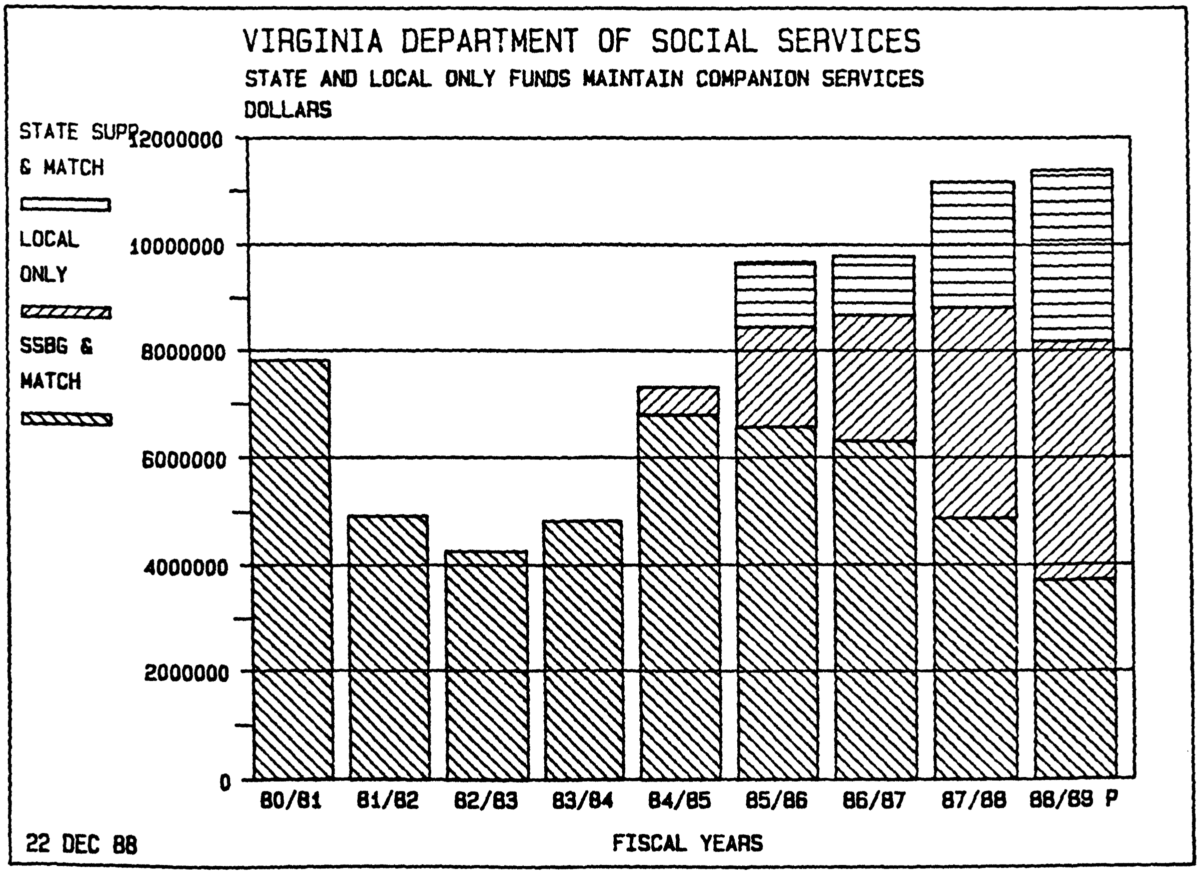
This section discusses the feasibility of paying FICA, the implications of paying FICA, and other findings relating to companion service.

1. **Feasibility of Local Departments of Social Services paying FICA--Payment of FICA on behalf of individual companion providers is not feasible within the existing service delivery structure.** Payment of FICA on behalf of companion providers could jeopardize companion providers' current self-employed status. Also, current federal and State funds are not sufficient to pay FICA and related expenses without a reduction in the current level of companion service.

   a. Jeopardizing Providers' Self-Employed Status--An employer/employee relationship would likely be determined by the Social Security Administration and the Internal Revenue Service if the Department of Social Services began to pay FICA. It is likely that either the local department of social services or the companion client, i.e., the elderly or disabled person receiving services, would be identified as the employer if FICA were paid. The changing of provider status from self-employed to an employee/employer status would carry with it significant fiscal, legal and administrative implications for the provider, client and department of social services. Implications are more fully addressed in item 2 below.

   b. Insufficient Federal and State Appropriations To Pay FICA--Payment of FICA on behalf of companion providers would require approximately $2,734,867 in Fiscal Year 1989-90. Social Services Block Grant (SSBG) funds are not available to cover this additional expense. Funds would have to be made available from the State General Fund.

      The SSBG is no longer the major source of companion service funding. As shown in the graph below, the source of funding for companion service has shifted from primarily federal to primarily State and local over the past six years. Payment of FICA--without reducing the current level of service to elderly and disabled persons--would primarily impact the Commonwealth and local governments in terms of additional funding needs.



2. **Implications of Local Departments of Social Services Paying FICA**--If the companion provider were to be either the employee of the client or the employee of the local department of social services the following would be required:

   a. Employee of the client--If the local department were to act as fiscal agent for the client and handle the administrative functions required of an employer, i.e., the client, the following would be required:

      --- paying at least minimum wage ($3.35 per hour);

      --- paying the employer's share of FICA (7.51%);

      --- paying the employer's share of Federal Unemployment Taxes (6.2%);

      --- withholding and submitting employees' FICA taxes;

--- withholding and submitting State and Federal income taxes; and,

--- filing quarterly and annual reports to IRS and SSA.

The administrative impact of requiring the local department of social services to act as agent for the client would vary from locality to locality. In all jurisdictions, local departments of social services would be responsible for additional recordkeeping which would take additional staff time.

b. <u>Employee of the Local Department of Social Services</u>--New and extensive legal, fiscal and administrative obligations would be created if the local departments of social services became the employer of companion and family day care providers. These would include:

--- paying at least minimum wage ($3.35 per hour);

--- paying the employer's share of FICA (7.51%);

--- withholding the employee's share of FICA (7.51%);

--- paying Federal Unemployment Taxes (6.2%);

--- withholding and submitting the State and Federal income taxes;

--- filing quarterly and annual reports to the IRS and SSA;

--- providing group health insurance packages;

--- providing group life and accident insurance;

--- providing liability insurance;

--- contributing to the Worker's Compensation Fund;

--- providing leave policies for sick time and vacation; and,

--- applying recruitment and employment practices.

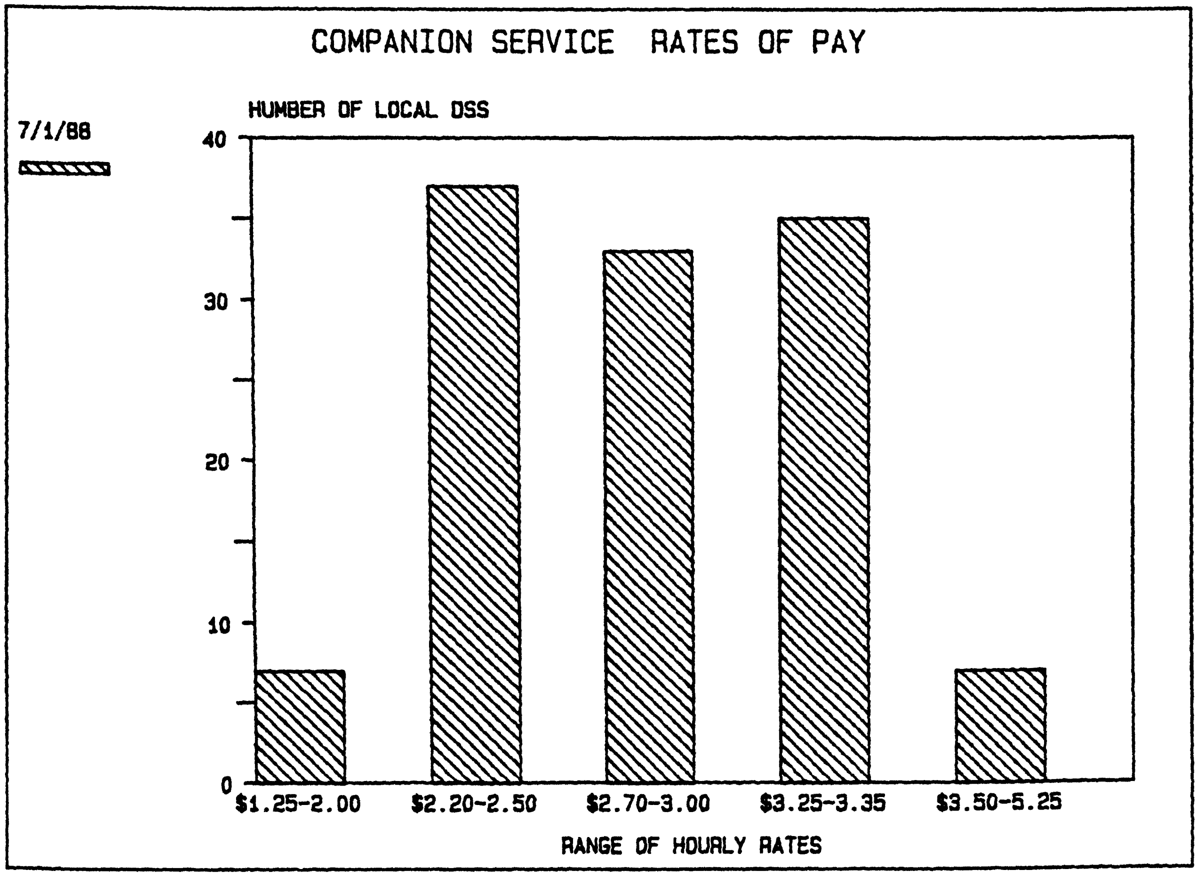
The administrative impact on local departments of social services becoming the employers of companion and family day care providers is too extensive and complex to be measured within the scope of this study. For example, local departments of social services offer different benefit packages. Some local departments have employees contribute to the Virginia Supplemental Retirement System (VSRS) while others have city or county retirement plans.

The legal implications of local departments of social services becoming employers of companion and family day care providers also need to be considered. As an employer, the local department of social services would be liable for the provider's actions as an employee.

3. **<u>Other Provider Related Issues</u>**--In addition to the implications of paying FICA for companion providers, low wages, recruitment problems and lack of training were identified as critical issues. These concerns impact the quality of the client's life as well as the provider's life.

   a. <u>Low Wages</u>--The most prevalent finding in the surveys and interviews was low provider wages. Participants in the companion roundtable discussion voiced concern over the low rates paid by many local departments of social services. The survey of local departments of social services confirmed the inadequacy of these rates. The average rate of pay for companion providers is $2.88 per hour, well below the current minimum wage of $3.35 per hour.

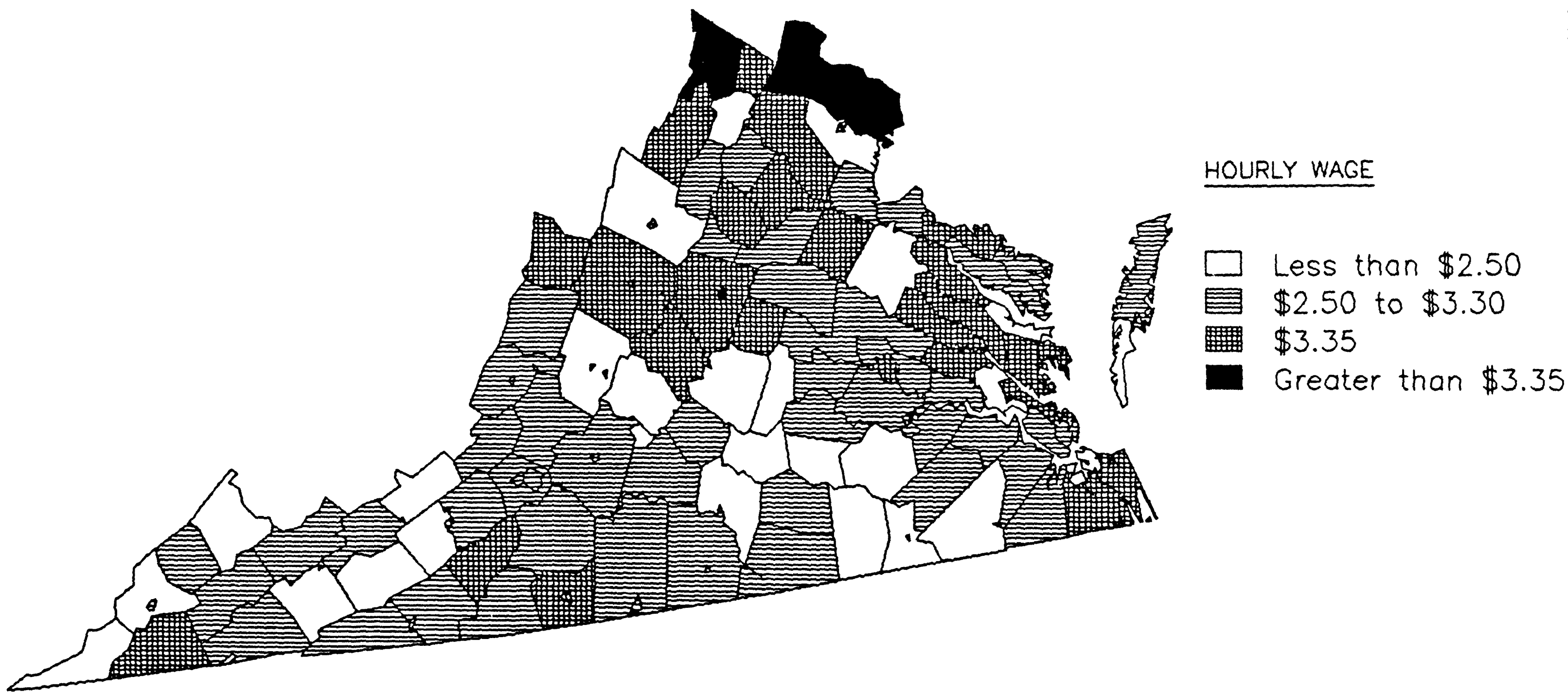
The following chart and map show the number of localities and the rates of pay which range from $1.25 per hour to $5.25 per hour.



LOCAL DEPARTMENTS OF SOCIAL SERVICES

COMPANION SERVICE RATES OF PAY

JULY 1. 1988



b. Recruitment--One of the consequences of low wages is a problem with recruitment. This was confirmed by the study research. Persons with skills and education similar to companion providers are able to earn higher wages and benefits at other jobs in the community.

c. Training/Certification--Policy gives local departments the flexibility to provide training according to local needs and resources. Data from the study documented the need for increased training and certification of providers. Local social services departments indicated that initial training is provided in only 35% of the agencies. In-service training is given to companion providers in only 17% of local departments of social services. Only 8% give companion providers both initial and in-service training.

C. Companion Service Options

OPTION 1: Purchase Companion Service Only from Approved Agencies

Discussion--This option would require the revision of the current service delivery system, utilizing only provider agencies. By limiting the purchase of companion service to agency vendors, companion workers would receive at least minimum wage, employee benefits (including FICA), and training. Because this option would drastically alter the current system, further analysis is needed to determine the cost and the long-range advantages/ disadvantages to both the client and the individual companion worker.

OPTION 2: Enhance the Current System Utilizing Individual Companion Providers

Discussion--The existing system which allows for the purchase of companion service from individual, self-employed providers can be enhanced in three ways: increase provider wages to minimum wage; provide a 2% cost of living increase to providers receiving minimum wage; and, provide training to providers.

a. Raise Wages to Minimum Wage

Discussion--This would give 2,708 companion providers who currently receive less than minimum wage a raise to minimum wage. Currently, the average wage paid to companion providers is $2.88. While eighty-four or 67% of the local departments pay below minimum wage this represents 75% of the providers. The low wage creates a problem with recruitment and retention of qualified providers. The wage increase would bring all provider's pay up to minimum wage.

Policy Changes Required--This option would require action by the General Assembly and the State Board of Social Services to require local departments to pay companion providers minimum wage. Current policy requires local departments to set their own rates of pay.

Advantages and Disadvantages--An advantage of this option is that minimum wage will increase the likelihood that more competent providers will be recruited. In addition, by maintaining the provider's self-employed status, there would be no increased burden on administration of the program.

The main disadvantage of this option is for the providers who will be responsible for paying their own FICA taxes which are currently 12.3 percent for self-employed persons compared to 7.51 percent for employees. Since providers are responsible for paying their FICA there is no assurance that it will be paid.

Costs--The following funds would be required to provide only the raise to minimum wage for companion providers:

	1989-90
General Funds	$1,236,922
Non-General Funds (Local Match)	$ 309,230
Total	$1,546,152

NOTE: These estimates are based on the assumption that the level of service provided in FY 87-88 will be provided in FY 89-90 from current funding sources. The FY 89-90 costs are based on FY 87-88 expenditures, number of clients served and rates of pay as of July 1, 1988.

b. **Provide Cost of Living Raise for Companion Providers At Minimum Wage**

Discussion--This option provides a 2% cost of living increase for 938 providers who are currently paid minimum wage and above. Forty-one or 33% percent of the local departments have rates of pay of at least $3.35 per hour for companion service. While these agencies are already paying minimum wage, they are primarily located in the urban areas of the State where the cost of living is higher and competition for providers is greater.

Policy Changes Required--This option would require action by the General Assembly and the State Board to require local departments to increase these provider rates. In addition, the feasibility of State established rates should be examined.

Advantages and Disadvantages--The advantage to this option is that it provides a raise in pay which may help attract more competent providers. In addition, the increase in pay will probably provide incentives for current providers to continue providing services.

The disadvantage to this option is that additional funds would be required for implementation. Also, these providers are not receiving a percentage increase similar to that proposed in the previous option.

Costs--The following funds would be required to provide the 2% cost of living wage increase for approximately one-fourth of the companion provider workforce.

	1989-90
General Funds	$30,088
Non-General Funds (Local Match)	$ 7,522
Total	$37,610

This estimate is based on the assumption that funds will be available to provide the level of service in 89-90 as provided in 87-88. This cost estimate is based on FY 87-88 expenditures, number of clients served, and rates of pay as of July 1, 1988.

c. **Implement Statewide Companion Provider Training**

Discussion--A training curriculum that is taught statewide would achieve consistent caregiving techniques; raise provider competence/ability; increase opportunity for quality care; and enhance providers' self-esteem.

The training curriculum would be selected and utilized from sources that are already available to prevent duplication of effort. The training curriculum (12 hours) would include instruction in caregiving such as bathing, assisting a disabled person with dressing and feeding, preparing special diets, grocery shopping, first aid, and knowledge of the aging process.

Training sessions would be held in each region in FY 89-90 at sites conveniently located for providers. The providers would be paid for their required attendance and would receive certificates once the training curriculum was successfully completed.

Policy Changes Required--This option would require action by the General Assembly and the State Board of Social Services to require that all local departments provide training for companion providers.

Advantages and Disadvantages--The advantage of requiring companion providers to receive basic training is to help ensure a minimum level of competence. The resulting impact would be improved quality of care.

Costs--Approximately 4,000 companion providers would be trained during FY 1989-90. The costs anticipated for this project allow for a part-time coordinator who would develop the training plan, train seven regional trainers and ensure consistent application of the curriculum during the first year.

	1989-90
General Funds	$270,157
Non-General Funds (Local Match)	$ - 0 -
Total	$270,157

III. FAMILY DAY CARE

A. Family Day Care Services Overview

Quality day care is available in a variety of forms, with each having its own advantages and disadvantages to the recipient and provider. Day care options for recipients include center-based care, in-home care, and family day care. This report focuses on in-home and family day care. The term family day care includes in-home day care when used in this report.

1. Definition--Family Day care is an essential service for many dependent children, whose parents are away from the home for a part of a 24-hour day. Family day care is child care provided in the home of the family day care provider. This type of care is particularly suitable for some children, as it enables them to grow and develop in a warm home environment.

   Family day care providers can either be private-for-profit, or reimbursed by local departments of social services. This report focuses on providers who are reimbursed by local departments. These providers are required to meet minimum standards established by the Virginia Department of Social Services. The Code of Virginia (Sections 63.1-55, 63.1-133.24 and 63.1-248.6), the Social Services Block Grant (SSBG) and the State Board provide authority for the provision of family day care services.

2. Eligibility Criteria--A family may be determined eligible for family day care services if:

   - the family meets established income criteria;
   - there is no one available to provide care without cost;
   - the parent is either employed or receiving education or training leading to employment;
   - the parent is either temporarily ill or absent from the home.

   The availability of family day care services varies from locality to locality as a result of:

   - local need;
   - local priorities;

- availability of funding; and,

- availability of providers.

3. Client Profile--Day care services are provided in a variety of circumstances. There is no one client profile, as client characteristics can reflect any of the following:

   a. Public assistance families--Local departments of social services are mandated to provide needed child care to families receiving Aid to Dependent Children assistance. Often the individual is a single mother, working at minimum wage with two pre-school children, both needing full-time day care. Her monthly gross income is approximately $600 a month. Her day care costs for the month range from $200 - $400 or higher. Out of her income, she must pay day care costs, rent, utilities, food, medical bills, clothing and other incidentals.

      The cost of day care can be staggering to such an individual trying to work and maintain independence. Research has suggested that when day care costs exceed 10% of a person's total net income, the cost of care becomes an affordability problem. Situations such as this prompt families into latchkey or other unacceptable arrangements.

   b. Employment Service Program participants--Local departments of social services are mandated to provide needed day care to clients on public assistance who are registered with the Employment Services Program for education and/or training leading to employment. The provision of child care is critical to any successful employment/training program; without it, those enrolled in the program would find it difficult to continue. Typically, an individual registered with the Employment Services Program is a single parent mother in training leading to employment. Her monthly income is limited to her public assistance check; her monthly day care costs of $200 to $400 are paid by the local department.

   c. Child Day Care Fee System recipients--The Child

Day Care Fee System is an optional program that provides subsidies for the payment of child care to Virginia's eligible low income working poor.

The typical Fee System family has child care costs which exceed 10% of its total income. As the family's income increases, the amount of child care subsidy decreases. The goal is to assist these families in remaining employed and independent, and deter them from becoming dependent upon public assistance.

4. Family Day Care Provider Profile--The typical provider is female, and between the ages of 18 and 40; less than 25% are age 62 and over. She is usually a neighbor, friend or relative. Her training in child behavior and development depends upon the availability of initial and in-service training by the local department of social services. Training varies greatly from locality to locality. As of July 1988, 121 local departments of social services reported having approximately 2095 providers.

5. Employment Status--The Department of Social Services considers family day care providers to be self-employed, independent contractors. The Department has no control over the provider's work schedule, or over the provider's ability to offer her services to others as long as mandated adult-child ratios are adhered to. In addition, providers are not afforded employee benefits, such as retirement, annual or sick leave, medical insurance, or merit raises.

   Family day care providers consider themselves self-employed. Consistent with their self-employed status, they are responsible for paying their own FICA taxes. They furnish the facility where child care takes place; hire and pay assistants; receive no employee benefits; and furnish their own materials and supplies.

6. Rate of Pay and Method of Payment--Rates of pay for family day care range from $.35/hour to $1.75/hour when providers are paid by local departments of social services. The average hourly rate of pay is $.88. Local departments are permitted by State policy to establish their own rates of pay for locally approved family day care providers. Local departments are encouraged to pay for child care based on local prevailing rates and

care as determined by provider experience, education, and training. Limited funds, however, often prevent agencies from paying competitive rates.

Local departments reimburse providers after child care services have been rendered, and then only for the actual hours of care provided. Providers are not paid when a child is absent; they are reimbursed based on attendance.

7. Funding Sources--Family day care service paid for by local departments of social services, is currently funded with a combination of federal, State, and local dollars. Each local department provides child care to the extent funds are available. Family day care service is, however, mandated for public assistance families when the parent is employed or active in the Employment Services Program.

   When the needs of the community exceed available funding, some local departments provide 100% local funds in addition to the required local match to ensure that family day care service continues to be available in the locality.

   The following chart identifies family day care funding sources used by local departments.

Funding Source	Federal	State	Local
Aid to Dependent Children Child Care (ADC)	75%	15%	10%
Employment Services Program (ESP)* ESP/ADC	90%	0%	10%
Employment Services Program (ESP)* ESP/GR	0	90%	10%
Fee System Child Care	0	90%	10%

*Employment Services may be offered to General Relief recipients as well as to Aid to Dependent Children recipients. Agencies are not mandated to provide this service to General Relief recipients.

B. Family Day Care Findings

1. **Feasibility of Local Departments of Social Services Paying FICA--Payment of FICA on behalf of family day care providers is not feasible.**

Family day care providers do not consider themselves employees of local departments of social services. Family day care is a business and providers do not see FICA being paid on their behalf as a benefit.

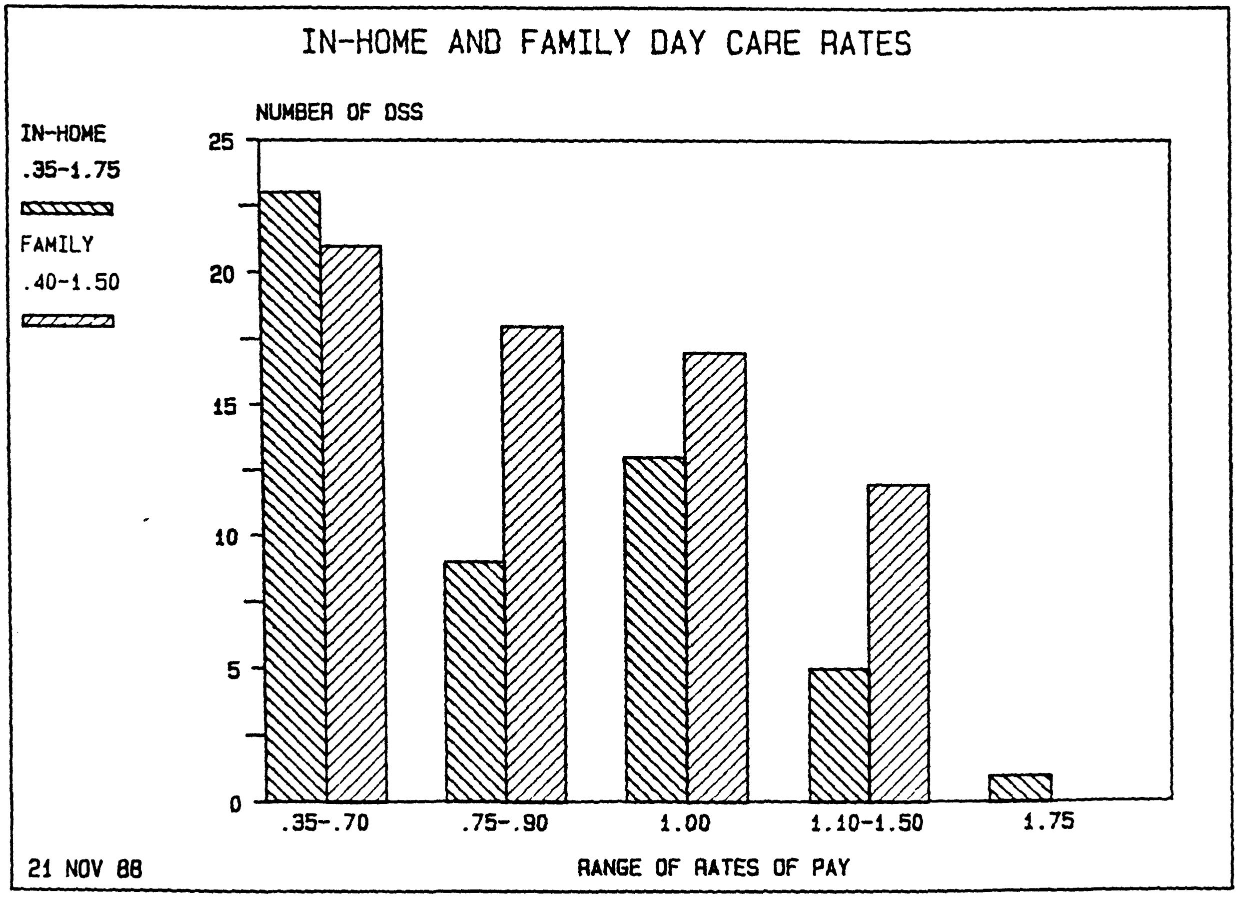
In 1986, the Norfolk Planning Council, with family day care providers in both the Tidewater and Northern Virginia regions, attempted to establish an employer-employee relationship with the 150 providers in their Family Day Care Systems operation. The Council offered benefits to providers which included FICA, health and life insurance, retirement benefits and Worker's Compensation. The Council had assumed that day care providers wanted the same benefits afforded employees of the Council. Not <u>any</u> of the 150 family day care providers, however, were interested in relinquishing their self-employed status to receive these benefits. Providers preferred to remain self-employed small business owners.

A survey was conducted during the month of July, 1988 from a sample of states nationwide. Twenty states were surveyed, and all purchased child care for their eligible clients. None of the twenty states classify family day care providers as employees of the state agency and providers are responsible for paying their own FICA.

2. **<u>Other Provider Related Issues</u>**

Findings from the study and roundtable discussions indicate that there are several issues more important to family day care providers than FICA. These issues include low wages, method of reimbursement, and lack of provider training.

a. <u>Low Wages</u>--The most prevalent finding surfacing in the family day care surveys and interviews was low reimbursement rates for providers. The survey of local departments documented that the range of pay for family day care providers is from $.35 per hour to $1.75 per hour as shown below. Based on a nine hour day, a local agency provider may receive only $15.75 per week per child without considering absenteeism. This compares with statewide private family day care provider rates of $20 to $90.00 per week per child.



In Virginia, the issue of low rates for family day care providers is closely tied to the issue of funding.

The Department cannot assume that it can continue to purchase adequate day care services for its clients at such low rates of pay. Increasingly, local agencies are having serious problems finding qualified providers in the community who will accept the established rates paid by the local departments of social services.

b. Payment for Enrollment--Providers are concerned with regulations which require local departments to reimburse them based on attendance of the children they care for rather than for an agreed upon enrollment period. Payment by enrollment is the method most often used in the private sector. This method stabilizes the family day care provider's income and allows her to project from one enrollment period to the next what income to expect.

Many private providers request payment one week in advance. This assures them of being paid for an agreed upon period; including days the child is absent. The current reimbursement method of paying for attendance should be examined. Payment methods used in the private sector should be evaluated for use in the public sector.

Family Day Care providers who are not reimbursed sufficiently by local departments may choose to work with the private sector, leaving less qualified providers to care for children in need of quality care during the primary and developmental years.

c. Need for Training/Certification--Limited federal funding in recent years has greatly curtailed much of the child care training once provided to family day care providers by local departments of social services. Social Service Block Grant funding for the regular day care program has not reached the level of service that was being offered in 1980/81.

Current data from local departments indicates that initial training is provided in only 16% of local departments, while 50% provide in-service training for family day care providers. Local departments of social services who do offer training programs are having to rely more on resources in their communities.

Studies nationwide stress the relationship between high quality child care and provider training. Education or training relevant to young children tends to enhance the provider's ability to stimulate and motivate children to learn about their environment. It was estimated nationally, in 1986, that as many as 80% to 90% of all infants receiving child care were being cared for in family day care homes.[5]

Equally as important to family day care providers is the need for training seminars on business and management techniques. Tax and financial information is indispensable for small business owners.

C. Family Day Care Options

OPTION I: Increase Rate of Pay to Family Day Care Providers

Discussion--This option would increase the family day care provider rate of pay to at least $1.00 per hour, thus creating some equity between rates paid to public and private family day care providers. Currently, the average rate paid providers is $.88 per hour. While fifty-nine percent of the rates paid by local departments are less than one dollar per hour, we see that one dollar per hour is the rate paid most frequently. This low rate creates a problem with recruitment and retention of qualified providers.

Policy Change Required--This option would require action by the General Assembly and the State Board of Social Services to require local departments to increase family day care provider rates. Current policy permits local departments to set their own rates.

Advantages and Disadvantages--An advantage of this option is that higher rates will attract quality providers. In addition, rates paid by local departments will be closer to those received by family day care providers in the private sector.

The main disadvantage of increasing family day care provider rates is the additional financial burden for the State and local departments of social services. In addition, all providers will not receive an increase. Providers who are currently reimbursed less than $1.00 per hour will receive the rate increase. Those who already receive at least $1.00 per hour will not be affected.

Costs

	1989-90
General Funds	$466,997
Non-General Funds (Local Match)	$ 51,889
Total	$518,886

NOTE: The cost is for the raise only and is estimated based on FY 87-88 expenditures, number of day care clients served and rates of pay as of July 1, 1988.These costs are based on the assumption that the level of service provided in FY 87-88 will be provided in FY 89-90.

OPTION 2: Reimburse Family Day Care Providers Based on Enrollment

Discussion--This option would pay family day care providers for an agreed upon enrollment period. Currently, providers are paid based on actual attendance and are not reimbursed when a child is absent. This creates a problem with recruitment and retention of qualified providers.

Policy Change Required--This option would require action by the General Assembly and the State Board of Social Services to require local departments to pay family day care providers based on an agreed upon enrollment period.

Advantages and Disadvantages--The advantage of this option is that it will help stabilize the income of locally approved family day care providers. Private provider incomes are already stabilized in this way. In addition, this change would be an advantage to local departments who must recruit and retain family day care providers.

The main disadvantage of this option is the financial burden for State and local government.

Costs

	1989-90
General Fund	$231,110
Non-General Fund (Local Match)	$ 25,679
Total	$256,789

OPTION 3: Implement Training/Certification Program

Discussion--A training curriculum that is taught statewide would achieve consistent caregiving techniques; raise provider competence/ability; increase opportunity for quality care; and enhance providers' self-esteem.

The training curriculum would be selected and utilized from sources that are already available, to prevent duplication of effort. The eight hour training curriculum would enhance provider skills in the nurturing, educational and safety aspects of child care, also in business and management techniques necessary for operating a business.

Training sessions would be held in each region in FY 89-90 at sites conveniently located for providers. Providers would receive certificates once the training curriculum described above had been successfully completed.

Policy Changes Required--This option would require action by the General Assembly and the State Board of Social Services to require that all local department provide training for family day care providers.

Advantages and Disadvantages--The advantage of requiring that locally approved family day care providers receive basic training is that it would help ensure a minimum level of competence. The resulting impact would be improved quality of care.

Costs--Approximately 2,095 family day care providers would be trained during FY 1989-90. The costs anticipated for this project would allow for two training coordinators to develop the training plan, conduct the training sessions, and ensure consistent application of the curriculum.

	1989-90
General Fund	$72,397
Non-General Fund (Local Match)	$ -0-
Total	$72,397

IV. SUMMARY

Findings from this study provide important data in three major areas: employer/employee relationship; funding; and quality.

1. Employer/Employee Relationship

If local departments of social services were to pay FICA on behalf of companion and family day care workers, it is likely that an employer/employee relationship would be found to exist. Currently the Virginia Department of Social Services considers companion and family day care providers to be self-employed. Changing provider status from self-employment to an employer/employee relationship would carry with it significant fiscal, legal and administrative implications for the provider, the client and local departments of social services.

2. Funding

Payment of FICA on behalf of companion and family day care providers cannot be done with existing funds unless an equivalent amount of services are reduced to disabled adults, the elderly and children. Additional State dollars would be needed to pay FICA on behalf of companion and family day care providers in order to ensure persons currently receiving companion and family day care services would continue to receive those services.

In addition to the cost of paying FICA, accompanying costs and activities such as payment of minimum wage, withholding and submitting State and federal income taxes, payment of Federal Unemployment Taxes (FUTA) and contributing to the Worker's Compensation Fund would bring costs in addition to the employer's share of FICA.

3. Quality

The quality of care and the quality of providers lives are dependent upon many factors: wages, benefits, and training. Both companion and family day care providers utilized by local departments of social services are paid well below the minimum wage. The average rate of pay for companion providers is $2.88 per hour. Family day care providers pay ranges from $.35 to $1.75 per hour. Both types of providers are responsible for their own benefits such as health and life insurance.

Training, a critical component for assuring quality of care, is provided to varying degrees by local departments of social services. Policy gives local departments the flexibility to provide training according to local needs and availability of resources. Generally, both companion and family day care providers receive minimal or no training.

In summary, the continuing growth of the elderly population and the increasing utilization of substitute child care require development of companion and family day care providers as resources for the Commonwealth. This study documents the importance of the work done by companion and family day care providers presents options for enhancing many aspects of those providers' lives and the services they perform.

APPENDIX A

SENATE JOINT RESOLUTION 37

SENATE JOINT RESOLUTION NO. 37

Requesting the Secretary of Human Resources to study the feasibility of payment of Social Security taxes by local social service agencies on behalf of homemaker/companion workers.

Agreed to by the Senate, February 10, 1988

Agreed to by the House of Delegates, March 9, 1988

WHEREAS, many private agencies providing home care make Social Security payments and withhold FICA for their employees; and

WHEREAS, local governments which compensate homemaker/companions and family day care providers using Social Services Block Grant moneys do not make Social Security payments and do not withhold FICA; and

WHEREAS, local governments base this action on their belief that the workers are independent contractors who are responsible for paying their own Social Security taxes; and

WHEREAS, the Social Security tax payments for self-employed workers are almost double the amount the worker would pay if FICA were being withheld and matched by the employer; and

WHEREAS, many home care workers are lower income women who can ill afford the extra payment, and often do not pay into the system, thereby denying themselves later participation in Social Security benefits; and

WHEREAS, because of the lack of benefits, some home care workers may become dependent on government welfare systems in their retirement years; and

WHEREAS, this continues the cycle of poverty and costs governments substantial sums of money; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Secretary of Human Resources is requested to study the feasibility of payment of Social Security taxes by local service agencies on behalf of homemaker/companion workers and family day care providers. In evaluating the feasibility the Secretary of Human Resources shall undertake a cost benefit analysis focusing on the impact on social services block grant moneys, the quality of home care for dependent populations, the lives of the home care workers, and the welfare system that would have to support the workers absent sufficient Social Security benefits.

Upon completion of this study the Secretary of Human Resources shall submit a written report to the Clerk of the Senate and the Clerk of the House of Delegates.

A True Copy, Teste:

J. T. Shropshire

Clerk of the Senate

APPENDIX B

CHART OF OPTIONS FOR CONSIDERATION

COMPANION SERVICE OPTIONS

	OPTION 1	OPTION 2a	OPTION 2b	OPTION 2c
Option	Purchase Companion Services Only From Approved Agencies	Increase Companion Provider Wages To Minimum Wage	Cost of Living Raise For Companion Providers At Minimum Wage	Conduct Statewide Companion Provider Training
Cost	To be determined by further study	89-90 Minimum Wage $1,546,152 General Fund 1,236,922 Non-Gen. Fund 309,230	88-89 Cost of Living $ 37,610 General Funds $ 30,088 Non-General Funds $ 7,522	Training Project $270,157 General Funds $270,157 Non-General Funds $ -0-
What Funds Will Buy	o Revise current service delivery system o Purchase companion services only from approved agencies o Companion workers would be employees of approved agency	o Wage increases to at least minimum wage for 3,758 providers	o 2 percent raise for 938 providers currently paid $3.35 or more per hour	o Initial training for 4,000 companion providers o Certification of providers completing the 12-hour course o Part-time project Coordinator for 1 year o 7 part-time trainers for for 1 year
Advantages	Companions would receive benefits associated with being employees of an agency. The Department of Social Services would contract out service delivery, supervision and training of the worker and would concentrate on monitoring the provider agency.	Wage increases for all companion providers Incentive of minimum wage will attract more competent providers Less administrative burden on local department of social services as provider is responsible for own payment of FICA Greater assurance of quality care with consistent training and certification opportunities	o Incentive to retain current providers o Attracts more competent providers o Greater assurance of quality care with more qualified providers	o Ensures minimum level of provider competency o Should result in increased quality care
Disadvantages	Loss of ability to contract with neighbors or relatives of the provider agencies Need to have provider agencies located in every locality to cover current caseload	Payment of self-employed FICA taxes (12.3%) is greater than employee share (7.51%) No assurance that provider will have payments made into Social Security Increased liability on provided as self-employed person	o None	o Training 4,000 persons is complex undertaking o Requires local departments to carry on training after first year

FAMILY DAY CARE OPTIONS

	OPTION 1	OPTION 2	OPTION 3
Option	Increase Rate of Pay to Family Day Care Providers	Pay Based on Enrollment	Implement Training Certification Program
Cost	FY 89-90 Rate Increase $518,886 General Fund 466,997 Non-General Fund 51,889	FY 89-90 Pay Based on Enrollment $256,789 General Fund 231,110 Non-General Fund 25,679	FY 88-89 Training Project $ 72,397 General Fund 72,397 Non-General Funds - 0 -
What Funds Will Buy	o Rate increase to family day care providers which is at least $1 per hour or $8 per day	o Child care on a weekly or monthly basis, as agreed upon o Less paperwork for local departments in determining child care rates to be paid o Consistency for family day care providers in projecting what income they are entitled to	o Minimal initial training for 2,095 current family care providers o Initial training to all new family day care providers o Certificates for family day care providers who - complete training training o Wages, and expenses of two Statewide trainers
Advantages	A rate increase will be an incentive to prospective providers, and will be greater assurance of quality child care. Rates paid by local departments will be closer to those paid by the private sector	This will hopefully assist local departments with recruitment and retention of quality providers	Training will help assure quality child care Consistent application of training curriculum
Disadvantages	Increased financial burden on State and local departments	This will hopefully assist local departments with recruitment and retention of quality providers	Training 2,095 persons is complex Requires local departments to carry on training after first year

APPENDIX C

SUMMARY OF COMMENTS FROM ROUNDTABLE DISCUSSIONS

COMPANION SERVICE ROUNDTABLE DISCUSSION
SUMMARY OF COMMENTS

PROBLEMS WITH FICA NOT BEING PAID ON BEHALF OF PROVIDER	SOLUTIONS TO PROBLEM

Related to Quality Care

Problems with FICA not being paid on behalf of provider

1. Insufficient workforce is due to Workers being recruited with low wages.
2. No benefits result in low competency level which results in low assurance of quality.
3. Insufficient workforce perpetuates institutional/bias: unable to maintain people in own home if there are provider recruitment problems.

Solutions to problem

1. Require training/certification/licensing of all providers.
2. Increase funding to increase wages.
3. Consumer Education.
4. Institute provider recruitment procedures i.e. screening, assessment, matching.
5. Implement statewide standard, client assessment process.
6. Get more physicians to make house calls.

Related to Provider's Life

Problems with FICA not being paid on behalf of provider

1. Devaluation of provider.
2. Retirement in poverty.
3. No other benefits if self-employed.
4. Lack of knowledge of legal requirements for the self-employed.
5. Insufficient wages to pay self-employed FICA rate.

Solutions to problem

1. Provide training on financial self-employed business and recordkeeping.
2. Become State employee.
3. License provider.
4. Opportunity for provider to choose whether or not FICA is paid.

Other Areas

Problems with FICA not being paid on behalf of provider

1. Lack of sufficient funding resources.
2. Aids population will put more strain on resources.
3. Liability.
4. Fragmentation of services, assessment, definitions and training.
5. Monthly payment system.

Solutions to problem

1. Mandate Companion Services and make adequate funding available.
2. Establish uniform service titles.
3. Purchase from agencies at a lower rate than community.
4. Purchase only from an especially created non-profit agency.
5. Advocate for long-term care insurance.
6. Promote local taxing authority.
7. Have an ADC recipient/companion provider demonstration project.
8. Have a three tiered approach: volunteers, local DSS employee providers and agency vendors.
9. Pay providers bi-weekly.

APPENDIX C

FAMILY DAY CARE ROUNDTABLE DISCUSSION
SUMMARY OF COMMENTS

PROBLEMS WITH FICA <u>NOT</u> BEING PAID ON BEHALF OF PROVIDER	SOLUTIONS TO PROBLEM
Related to Quality Care	
1. Low wages, no raise. 2. Day care providers underestimate themselves (professionalism). 3. No benefits or insurance. 4. Unstable income. 5. Need financial planning. 6. High turnover rate. 7. Isolation. 8. Bureaucracy. 9. Lack of community awareness.	1. Training on business management, budgeting, self-esteem, assertiveness, early childhood development. 2. Increase wages. 3. Create network for information sharing. 4. License all providers. 5. Advocate for General Assembly Proclamation regarding day care providers.
Administrative	
1. Monthly vendor payment. 2. Differences in State and local laws. 3. Payment does not mirror going rate in private sector 4. Perceived lack of State commitment. 5. Liability 6. Lack of adequate funding. 7. Social workers are caught in middle - children needing care and insufficient number of providers.	1. Pay bi-weekly. 2. Pay by enrollment versus attendance. 3. Increase wages. 4. Raise income eligibility to 60-70 percent of State's median income scale. 5. Explore pension plan, health coverage. 6. Increase local staff in DSS for recruitment and monitoring.

APPENDIX C

COMPANION AND FAMILY DAY CARE ROUNDTABLE DISCUSSIONS

PROBLEMS WITH FICA BEING PAID ON BEHALF OF PROVIDER

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1. Impact on retired providers drawing Social Security.
2. Impact on relative/friend providers.
3. Impact on recruitment with current wages: providers would quit.
4. Impact on part-time/temporary status of providers.
5. Dollars would go to administration and not services.
6. FICA deductions would substantially reduce take home pay.
7. At current funding level, services would be reduced if FICA had to be paid.

APPENDIX D

SUMMARY OF SURVEY OF OTHER STATES:

COMPANION SERVICE

SJR 37

SUMMARY OF STATE SURVEYS: COMPANION SERVICE

States Surveyed:

Arkansas, California, Colorado, Florida, Georgia, Illinois, Kentucky, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Washington, and West Virginia.

BACKGROUND

This survey was conducted during the month of July 1988 from a sample of states nationwide. The questionnaire went through several revisions before and during the survey to refine and clarify the questions in order to elicit the specific information necessitated by the language in the bill. The purpose of this survey was to gather information about how other states defined the relationship between the state and the individual home care provider. For the purpose of gauging what effect each type of relationship had on the administrative details of each program, additional information was gathered about minimum employment standards, level of training required or provided, monitoring practices and rates of pay. Finally, the survey requested general information about legal rulings or opinions, especially from the Internal Revenue Service, regarding home care programs in each state. What follows is a summary of the responses to each survey question, an overall summary of the trends in home care programs nationwide, and an evaluation of the survey instrument.

Question 1: Does your Department of Social Services provide in-home services to elderly and disabled clients?

Each state surveyed has in-home care for the elderly and disabled; in fact, most states have several similar programs administered by different state agencies. For example, a state may have in-home care for the elderly administered from its Department for the Aging, as well as attendant care for the families administered by the family services unit of its Department of Social Services. In **Georgia** the relationship between the state and the individual home care provider differed among departments: the child protective services homemakers are state merit system employees, while the homemakers for the elderly are employees of a home care agency or of the Area Agency on Aging. Attendant care programs for the disabled in **Kentucky** consider the provider an employee of the client for the purpose of fostering a greater sense of independence and control over the kind of care received. This inconsistency of relationship between the state and the provider across programs within a state points out that the nature of this relationship does affect other aspects of program administration, especially the relationship between the client and the provider (as with the attendant care program). It is not surprising, then, that programs targeted at different populations would have different administrative and supervisory relationships between the provider and the state.

Question 2: What is the individual provider's relationship with the state?

- **4** Provider is employee of a state agency
- **4** Provider is self-employed
- **8** Provider is an employee of the client
  - **6** State pays FICA on behalf of client
  - **2** State pays client lump sum and expects client to deduct taxes
- **15** Provider is an employee of an agency (state contracts with agency)
- **0** Other

(20) states surveyed, total adds up to 31 because some states maintain several different relationships with providers which vary across programs or localities)

SPECIAL NOTES:

- Many states use their Area Agencies on Aging (AAAs) or community action agencies as buffer agencies to eliminate the need for the state to contract directly with providers or provider agencies. The state simply contracts with the buffer agencies who then subcontract with provider agencies or hire their own providers as employees. With this arrangement, the buffer agencies handle most of the administrative paperwork, payroll, and details of contract administration. In addition, these agencies are closer to the communities who will be receiving the services and can thus tailor the services they provide to the actual needs of the community. Since the state is removed from the role of monitoring the provider directly, monitoring of the buffer agencies becomes more important in order to regulate and assure quality care. (AR, FL, GA, KY, MD, NY, NC, WA)

- **California** has a statewide network of 20,000 individual providers and plays FICA on behalf of the client.

- **Colorado** pays the client, who is then responsible for paying the provider. It is unclear whether the clients actually deduct taxes or whether the provider is considered self-employed in terms of the client. Regardless, the state considers the client the employer.

- **Georgia** uses state employees to provide the child protective services homemaker services.

- **Maryland** requires individual providers to sign a waiver stating that they are not employees of the state and that they are responsible for their own FICA, benefits and taxes.

- **Oregon** passed a law in 1983 which specifically stated that home care workers were not employees of the state. Oregon currently deducts the employer's and employee's share of FICA on behalf of the client.

- Because both **Minnesota** and **North Carolina** have urban and rural areas with different service requirements, localities in both states have the option to choose the kind of state/provider relationship and reimbursement system which works best in each area. While this policy complicates administration of local programs at the state level, it also gives flexibility to the localities to choose a system which best fits the provider and client pools in each region.

- **West Virginia** has no professional home care provider agencies and utilizes solely individual neighbors and relatives to provide care. West Virginia pays no FICA or minimum wage.

Question 3: **Are providers paid any of the following benefits? If so, by whom?**

	State	Client	Vendor	Provider
Social Security (FICA)	8	2	16	4
Unemployment Compensation*				
Minimum Wage*				
Workers' Compensation*				
Health Insurance/Other* Benefits				

SPECIAL NOTES:

* States paying FICA on behalf of the client rarely pay unemployment benefits or workers' compensation for providers because workers are part-time. In fact, those benefits are only paid by states in this survey which consider providers to be merit employees of the state. However, in many states providers have tried to apply for these benefits. When such applications have ended up in litigation, this situation has often been the catalyst for the state re-examining its relationship to the provider. Arkansas, for example, has such a tight unemployment compensation law that upon review, the state moved from contracting with individual providers to contracting solely with home care agencies.

* Vendors are usually required by law to pay unemployment and workers' compensation. States which contract with vendors assume that such benefits are written into the unit price of the service and may or may not monitor the vendors to ensure payment of these benefits to providers. Minimum wage is also the responsibility of vendors. Like Virginia, some states exempt home care from minimum wage laws.

* Any other benefits, such as sick leave, health insurance or vacation time are the responsibility of the vendors or of the state if the provider is a merit system employee. FICA is usually the only benefit which the state pays on behalf of the client.

Question 4: Are there minimum standards or employment criteria which providers must meet? If so, what are they?

- All vendors who provide homemaker services under a Medicaid waiver must meet the Medicaid certification requirements for a home care agency.

- **Florida, New York** and **Texas** require provider agencies to be licensed. Minnesota is moving towards licensing.

- **Massachusetts, New Jersey** and **North Carolina** require provider agencies to be accredited. **Ohio** requires agencies to be accredited but has no requirements for its individual providers.

- **Texas** and **Colorado** only require providers to be competent to perform the services required by the specific client served.

- Other states have various requirements including positive identification, age requirements, finger printing, a criminal registry or child protective services check, a physical exam, education, experience, and training minimums.

- **Washington State, Illinois** and **Oregon** have no standards or criteria for providers because the client is considered the employer and is therefore responsible for hiring and firing the provider. **Maryland** and **Pennsylvania** simply have no standards.

Question 5: Are the providers trained? How much and by whom?

- For those states which use buffer agencies, it is the responsibility of those agencies to train providers.

- Most states which contract all their services out to vendor agencies write pre-service and in-service training requirements into contract specifications.

Requirements are usually specified for supervisors of the providers but rarely for the providers themselves.

- Local departments of social services provide some of the training in **Minnesota** and **West Virginia**.

- Many states utilize their community college systems for training needs.

- No effort is made on the part of the state to train or require training of providers in **California** or **Colorado**.

Question 6: Are the providers monitored? By whom? How Often?

- States which use buffer agencies require those agencies to draw up care plans and monitor the providers, unless the supervisory component is subcontracted to a provider agency.

- **California, Washington**, and **Oregon**, providers are monitored by the client and investigated by the local department which handles the casework upon complaint.

- In **Illinois, Massachusetts, Minnesota, New Jersey, Ohio** and **West Virginia**, caseworkers do most of the supervising.

- In **Pennsylvania**, the supervisory component is contracted to vendors as well and the local department monitors only for contract compliance.

- In **Texas**, both the caseworker and the vendor agency draw up care plans and then the final care plan is negotiated between both parties.

- In **Tennessee**, local advisory boards to departments of social services approve home care contracts, since all home care in this state is bought through vendor agencies.

Question 7: Is there a standard rate of payment? If so, what is it? Who sets the rate of payment and how is it determined?

Method of rate determination	# of states using method
Medicaid reimbursement only	1
State-set standard rate	4
State merit system	1
State-set range (minimum to maximum)	1
State-set maximum, local negotiation	5
Pure local negotiation	9

(20 states surveyed, 20+ programs reported)

SPECIAL NOTES:

- Many states provide homemaker services under a Medicaid waiver and thus pay their homemakers the standard $7.00/hour which Medicaid will reimburse.

- **Florida** pays a small stipend from the state's general fund to family members to encourage them to provide care for elderly relatives.

Question 8: **What do you perceive to be the advantages and disadvantages of your current home care program? What works well and what would you like to change?**

(This is a sample of the comments gathered from the program administrators in the 20 states. Most of these comments were echoed by representatives from other states as well.)

Arkansas: The AAAs do most of the administration - an advantage because they tend to be in touch with local needs and because the state is saved from the bureaucratic details of running a home care program directly. However, there are more levels of supervision between the state and the home care provider, a potential disadvantage from a standpoint of monitoring adherence to state-set quality standards.

Georgia: As merit system employees, the child protective services homemakers can work more closely with the caseworkers.

The home care program administered by the Office of Aging contracts for homemaker services solely with vendor agencies. A disadvantage to this program is that the state is losing the services of the relatives and neighbors who formerly performed services for elderly persons in the community. The Office of Aging is searching for a way to continue to use these local providers without encountering the liability problems associated with employing individual providers.

Florida: As the system is currently set up, the state is paying for a needs assessment performed by the vendor agency which duplicates that done by the caseworker. This brings up the issue of to what degree the state can or should contract with vendor agencies for the supervision of providers and the case management functions associated with a home care program.

Illinois: When this state had individual providers, the state perceived more control over the management of individual client/worker problems because of the direct supervision of the caseworker. Under the current system where the state buys most of its home care services from vendor agencies, the caseworker has less direct influence over the provider and problem resolution is complicated. Overall, however, the service from agencies has been quality and the monitoring has been very good. In Illinois, the providers liked working for the state better because their take-home pay was greater ($5.00 - $9.00/hour). Now their paychecks look smaller because the agency deducts for benefits and taxes.

Kentucky: Kentucky also contracts out all of its home care services. The most important advantage for the state is that the burden of liability has been shifted to a private agency. Since under the old system providers were employees of the state, this move to using vendors streamlined the state system by transferring an entire category of employees to the private sector.

Maryland: One problem that Maryland has experienced with individual providers has been that there is pervasive confusion between the client and provider as to for whom the provider is working (client or state?). The provider remains confused about from who she should take instructions with regard to the kinds of tasks performed. Often, then, the provider performs tasks for the client for which the state is unable to reimburse.

Minnesota: Minnesota's localities use a number of different systems. The program administrator suggested that the advantages of a flexible system which served the needs of a diverse population far outweigh the administrative inefficiencies of dealing with several different local procedures. (This comment was echoed by the North Carolina).

New Jersey: New Jersey has had problems with some agencies with whom the state contracts not paying benefits to their workers. The program representative also cited problems with providers meeting the day care and transportation expenses at the current rate of payment offered by the vendor agencies.

Oregon: Oregon considers the client to be the employer for the purpose of granting the client the authority to hire, supervise and fire her own provider.

Pennsylvania: Pennsylvania has experienced a high turnover of providers and cites the difficulties which vendor agencies have had recruiting and retaining providers.

__Texas__: Texas cites the most obvious advantage to buying services from vendor agencies: the workers are now paid a variety of benefits which they did not previously receive.

__Washington__: Washington uses individual providers but considers them employees of the client and pays FICA to them on behalf of the client. An advantage to this system is that more people are served by use of individual providers because their rates are lower, but a disadvantage is that there is more opportunity for exploitation of frail clients when the client is solely in charge of monitoring the provider on a regular basis.

Question 9: **Has the IRS raised the relationship between the provider and the state as an issue? What is your state's position? Also, please comment on any other legal difficulties you may have recently experienced with respect to your home care programs.**

__California__: California has a legal opinion on file rendering the state as employer of home care workers, but the IRS has not pursued this point as yet. However, California is currently in litigation with provider unions who want higher wages and additional benefits. The state maintains that the provider is the employee of the client and thus any change in wages or benefits must be negotiated with the client and not with the state.

__Kentucky__: Kentucky has been paying FICA since 1972.

__Maryland__: Maryland was recently beset with a legal problem when a home care provider filed a worker's compensation claim after being injured on the job. The court ruled that the state was not the employer of the provider because the amount of supervision of the provider by the state was insufficient to prove that the state was the employer. Ironically, the regulations for supervision actually mandated more supervision by the state than was in fact being performed in this particular case. Thus, it was only by __non-performance__ of the stated regulations that the state was relieved of liability in this suit.

__North Carolina__: The IRS wants North Carolina to begin paying unemployment and worker's compensation to its "cash-pay" providers, those to whom it currently pays only FICA.

New York: A court ruled in 1977 that given the amount of supervision which New York gave to home care providers, such providers could not be considered independent contractors. State law now mandates that if localities still want to use independent providers, they must pay benefits and provide staff to supervise and train those individuals. Therefore, it is now cheaper for localities to contract for services with vendor agencies or hire providers as state employees.

Ohio: Ohio has had legal problems as recently as 1986-1987, but the representative could not give details of the cases.

Tennessee: In 1980, Tennessee considered home care workers employees of the state; by 1982, the state had implemented a total contract system.

Texas: Texas began buying services from agencies when the IRS and Social Security Administration ruled in 1978 that individual providers were employees of the state.

Washington: Washington has been paying FICA and FUTA on behalf of the client since 1981. Prior to 1981, the state only paid the employer share for the client and the provider was expected to pay the employee share. After IRS inquiries, the state began to deduct the employee share as well.

West Virginia: Inquiries about the current system have surfaced recently, but nothing formal has transpired.

None of the other states surveyed were aware of any previous or current legal problems with their home care programs.

APPENDIX E

SUMMARY OF SURVEY OF OTHER STATES: FAMILY DAY CARE SERVICE

SJR 37

SUMMARY OF STATE SURVEYS: FAMILY DAY CARE SERVICE

States Surveyed:

Alaska, Arizona, Arkansas, California, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, and Wisconsin.

BACKGROUND

This survey was conducted during the month of July 1988 from a sample of states nationwide. The questionnaire went through several revisions before and during the survey to refine and clarify the questions in order to elicit the specific information necessitated by the language in the bill. The purpose of this survey was to gather information about how other states defined the relationship between the state and the individual family day care provider. For the purpose of gauging what affect each type of relationship had on the administrative details of each program, additional information was gathered about minimum employment standards, levels of training required or provided, monitoring practices and rates of pay. Finally, the survey requested general information about legal rulings or opinions, especially from the Internal Revenue Service, which would have an effect on family day care programs in each state. What follows is a summary of the responses to each survey question, an overall summary of the trends in family day care programs nationwide, and an evaluation of the survey instrument.

Question 1: **Does your state have family day care homes from which your local departments of social services purchase services?**

All states surveyed purchased family day care for their eligible clients.

- **New Jersey** currently uses family day care only for child protective services clients.
- Twenty percent (20%) of **Pennsylvania's** subsidized day care is in family day care homes.
- In general, states purchase subsidized care from only ten percent (10%) of the family day care homes which exist in their states.

Question 2: **What is the provider's relationship with the state or its local counterpart?**

0 **Provider is employee of a state agency**

17 **Provider is self-employed**

0 **Provider is an employee of the client**

2 **Provider is an employee of a family day care system (state contracts with system)**

1 **Other ***

(20 states surveyed)

SPECIAL NOTES:

* **Indiana** has ten (10) umbrella organizations which serve as brokers for family day care homes. These agencies subcontract with family day care homes for service to the state. These brokers are not necessarily family day care associations; many are other non-profit organizations which contract with family day care homes primarily for infant care.

- **Maine** contracts with family day care associations, networks, and on/off site day care centers with family day care homes affiliated. Maine only contracts with non-profit centers and associations and pays an administrative fee for the service as well as a fee for the number of units of care provided. The providers, however, are considered by the agency to be self-employed.

- **Massachusetts** also contracts with the family day care associations, which in turn pay providers as either independent contractors or as employees of the family day care system.

- **Texas** contracts both directly with providers and with family day care associations.

Question 3: **Are providers paid any of the following benefits? If so, by whom?**

	State	Client	Vendor	Provider
Social Security (FICA)	0	0	1	20
Unemployment Compensation	0	0	1	20
Minimum Wage	0	0	0	0
Workers' Compensation	0	0	1	20
Health Insurance/Benefits	0	0	1	20

SPECIAL NOTES:

- In nearly all contracting arrangements, the family day care provider is considered to be self-employed and responsible for paying her own taxes and benefits. Only when that provider is actually an employee of a family day care system is that system responsible for those same costs on the provider's behalf.

- Although providers are responsible for paying their own taxes, rarely are they instructed by the local departments as to how to go about filing. Family day care systems, however, usually provide training which includes tax information.

- Carlton County in **Minnesota** pays a flat subsidy to parents who then pay the provider. The program administrator discourages this practice because then the parent could be considered the employer and responsible for taxes and insurance for the provider.

Question 4: **How is the provider paid?**

<u>12</u> **Directly by the local department of social services**

<u>1</u> **To the client who then pays the provider**

<u>7</u> **Through a voucher system**

<u>6</u> **Other**

(20 states surveyed; some states have more than one program)

SPECIAL NOTES:

- **Alaska's** program is a modified voucher system run totally with the state funds. Parental choice is a crucial element in this program.

- **Arkansas** also runs a voucher program solely with state funds.

- Family day care under **Indiana's** broker system is more costly for the state than center care. In fact, up to fifteen percent (15%) of the cost of care under this system can be administrative dollars paid to the broker. This cost is returned to the state in the form of higher quality care because systems often invest administrative dollars in training and other services offered to providers.

Question 5: **Is there a standard rate of payment? If so, what is it? Who sets the rate of payment and how is it determined?**

<u>Method of payment</u> **<u>Number of states using this method</u>**

State-set flat rate	2
State-set maximum	4
State-set rate by zone	3
State-set max/sliding scale	4
State max/locally negotiated	4
Centralized state contracting	1
Market rates	2
Other *	1

SPECIAL NOTES:

* In **Minnesota**, the county must pay family day care providers wages which are between 110% - 125% of the median rate per unit in that county.

- Maximum rates hover generally between ten to fifteen dollars ($10-$15) per day. **Massachusetts** pays up to $42.00/day for infant care and up to $55.00/day for child care for teenage mothers (social service component included as part of the day care fee).

- **New York State** is studying the feasibility of setting rates for child care in combination with all early childhood development services.

- **Ohio** pays more to family day care providers based on their experience.

Question 6: Are there minimum standards or employment criteria which providers must meet? If so, what are they?

- **Alaska** licenses homes where four or more unrelated children are cared for.

- In **Arizona** and **Ohio**, all family day care providers must be certified.

- In **Arkansas**, a FDC provider must be licensed if caring for six or more children or for children from four or more different families.

- In **Illinois**, a family day home can have up to eight children and must be licensed.

- General licensing is required for FDC homes in **Indiana, Kentucky, Massachusetts** and **Texas**.

- In **Maine**, only FDC homes which care for subsidized children must be licensed or registered.

- In **Maryland**, FDC homes must be registered.

- FDC homes in **Minnesota** must be licensed unless they only care for children from one other family.

- Voluntary registry for FDC homes exists in **New Jersey** and **Pennsylvania**.

- In **Tennessee**, FDC homes caring for 5-7 children must be certified and group homes caring for 8-12 children must be licensed.

- In **North Carolina**, FDC homes caring for 3-5 children must be registered; homes caring for 6-12 children must be licensed.

- In **Wisconsin**, certification is available on a voluntary basis for homes with less than four children. Homes with 4-8 children must be licensed. Day care under AFDC employment and training programs does not need to be certified or licensed.

Question 7: Are the providers trained? How much and by whom?

- Providers in **Arizona** receive training in fire safety and CPR; they receive nutrition training from the Child Care Food Program; general training is provided by the Department of Economic Security under contract with an advocacy organization in Tucson.

- Providers in **Arkansas** are required to have six (6) hours of training per year, some of which is contracted out and some of which is conducted by the Department of Children and Family Services.

- Providers in **Illinois** are not required to have any training at all, but opportunities are provided free of charge with state general funds.

- **Indiana** has no training requirements.

- **Kentucky** requires twelve (12) hours of child development training for FDC providers.

- Universities in **Maine** provide training free of charge to providers who care for subsidized children and the same training at a nominal fee for all others.

- Providers in **Maryland** are required to attend an orientation session conducted by the Department of Social Services. Although no on-going training is required, the state contracts with an advocacy group to offer training at a nominal fee to providers.

- Training in **Massachusetts** is offered by FDC systems and the Office of Children with specially designated state day care training dollars.

- Training in **Minnesota** is offered by community colleges and partially subsidized by grants.

- In **Ohio**, counties provide and pay for training. No training is required before certification, but providers are required to have six months experience caring for children. Thereafter, to remain certified, providers must have twenty (20) hours of training per year.

- All FDC providers in **Tennessee** must have 7-9 hours of training annually, which is provided by the Day Care Services Unit and by the Association ior the Education of Young Children.

- Training is provided by broker organizations in **Texas** and is written into their contracts. The agricultural extension service has developed a self-training program for independent FDC providers.

- **Wisconsin** requires ten (10) hours of training for certification and forty (40) hours of training prior to licensing plus fifteen (15) hours annually for licensed providers.

Question 8: Are the providers monitored? By whom? How Often?

- In **Arizona**, licensed facilities are visited quarterly.

- in **Ohio, New York**, and **Kentucky**, providers are monitored by local departments of social services.

- In **Texas**, licensing staff monitor 25-40 homes each. Brokers are monitored by taking a sampling of FDC homes.

- In **Arkansas**, providers are visited by licensing staff three times per year unannounced and once by appointment for renewal of the license.

- The licensing staff performs a 20% random sample of family day care homes annually in **Pennsylvania**. Pennsylvania currently has 5000 FDC homes statewide.

- In **Massachusetts** and **Maine**, FDC systems under contract are required to visit homes which they use. The Office for Children in Massachusetts also monitors the homes.

- **Maryland** has a strong system of family day care association which serve as professional associations for providers. Providers monitor one another and frequently report the existence of unlicensed day care homes to the state.

- In **Tennessee** and **Minnesota**, homes are monitored by licensing staff.

Question 9: What do you perceive to be the advantage and disadvantage of your program of buying care from family day care homes? What works well, and what would you like to change?

Alaska: Alaska is most proud of the parental choice it has built in with a modified voucher system.

Arkansas: Arkansas ran into problems with the Health Department because the Department was enforcing food service standards which were unreasonable for family day care homes.

Illinois: Illinois would like to find a way to register its large percentage of underground day care. It currently has licensing requirements for homes of up to eight children.

Indiana: Indiana contracts with family day care homes because it is easier for the state to deal with one organization than with fifty or more family day care homes in a locality. Conversely, it is easier for the FDC homes to deal with a liaison to the state than it is for each provider to deal with the state directly. Agencies cross county lines, and a locally-based agency tends to be better in touch with the needs of the community.

Kentucky: Kentucky pays less for day care now that the state replaced its system of contracted slots with a method of reimbursement which pays only for the time which the child is actually in day care.

Maryland: Maryland's new voucher system works well for all but the very poor who cannot pay the difference between the voucher amount and the fee of a quality private provider and therefore must settle for fewer choices of care than the voucher system might offer to those who earn more money.

Massachusetts: The voucher system used in Massachusetts is only available to those AFDC clients who are involved in the employment and training programs. Its main advantage is its immediate accessibility to clients who may be moving frequently or changing jobs. For all other subsidized care, a contract system is in place. The disadvantages are that the system is less flexible, involves a lot of paperwork, and offers little client choice. An advantage to the contract system, however, is that the provider has a stable funding base which serves to help steady the overall supply of day care slots in the state.

New Jersey and

Minnesota: The voucher programs in both of these states are suffering from a narrow supply of spaces available for use with the vouchers. Minnesota mentioned that the positive effect of increasing parental choice is compromised when the supply of care is minimal.

Ohio: Ohio's regulations surrounding family day care are difficult to understand and in need of simplification. Moreover, the regulations are unnecessarily restrictive of family day care homes and as such fail to recognize the unique potential of these homes as an integral part of the solution to accessible child care.

Pennsylvania: Pennsylvania sees a real need to tighten its existing rules about family day care to provide more accountability on the part of the state for monitoring the quality of day care. Moreover, the state is looking for ways to reduce turnover and increase training opportunities for providers.

Texas: Texas would like to increase the number of licensed family day care homes, but because it is very staff-intensive for the state to license and monitor the homes, progress has been slow.

Wisconsin: Wisconsin is looking into a system whereby the state would pay a higher rate of family day care providers who are certified. In addition, Wisconsin is implementing a registration system for those homes which are not large enough to warrant certification.

Question 10: **Has the IRS raised the relationship between the provider and the state as an issue? What is your state's position? Also, please comment on any other legal difficulties you may have recently experienced with respect to your family day care program.**

- Providers in **Maryland** and in other states are very concerned about rising costs of liability insurance and the ability to obtain it.

- A court in **California** ruled that providers in FDC systems are not considered to be self-employed.

- Also in **California**, the Department of Education underwrites liability insurance for day care centers, FDC homes, and smaller school districts.

- Some of **California's** contract employees are eligible for benefits under the Public Employees Retirement System.

They suspect that this may apply to family day care providers, but they are uncertain at this time.

- **New York** does not reimburse for in-home day care because the state would then be considered the employer.

- Two counties in **Ohio** have been audited and have received two rulings which maintain that the FDC providers are employees of the county. These rulings have not been appealed.

- In **Wisconsin**, the state has lost unemployment compensation cases even under the voucher system where the parent selects the care.

Footnotes

[1]Adult Services in Virginia: Findings from the April 1986 Adult Services Study (Richmond, VA, 1986) p. 5-12.

[2]C. A. Archileti, "Letter to William L. Lukhard", March 23, 1976.

[3]Gilbert C. Parker "Letter to Virginia Department of Welfare," July 1, 1985.

[4]Code of Virginia, Section 63.1-55.01.

[5]Family Day Care Bulletin, (Washington, 1986) p. 3.

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