

News Release



U.S. Department of Labor
Office of Public Affairs
New York, N.Y.
Release Number: 05-199-NEW

For Immediate Release
Date: Feb. 28, 2005
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U.S. Labor Department Seeks Independent Fiduciary For Abandoned New Jersey 401(k) Savings & Profit Sharing Plan

NEWARK, N. J. --The U.S. Department of Labor filed a lawsuit to appoint an independent fiduciary for Paramus, N.J.-based Medserv Corporation's 401(k) Savings & Profit Sharing Plan after the plan was abandoned by its trustee. The independent fiduciary will terminate the plan and distribute the plan's assets to participants.

"Plan fiduciaries have a responsibility to make sure there is someone managing the plan and protecting the plan's assets," said Jonathan Kay, acting director of the New York regional office of the department's Employee Benefits Security Administration (EBSA), which investigated the case.

The suit alleges that trustee and corporate president Richard Millman abandoned the plan when the company ceased doing business in March 2001. There was no plan fiduciary to manage the plan, including terminating the plan and distributing the plan's assets to participants and beneficiaries in violation of the Employee Retirement Income Security Act. The suit was filed in federal district court in Newark, N.J.

Plans become orphan plans when they are abandoned by all fiduciaries designated to manage and operate them and their assets, leaving participants and beneficiaries without a way to transact business and communicate with the plan.

Medserv Corporation was a distributor of medical equipment. The plan had 31 participants and held \$315,306.00 in assets as of April 16, 2004.

In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can reach EBSA's New York regional office at (212) 607-8600 or through EBSA's toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

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(Chao v. Medserv Corporation 401(k) Savings & Profit Sharing Plan)
Civil Action No. 2:05-cv-1029