

News Release



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Labor Department Sues to Appoint Independent Fiduciary for Abandoned Gainesville, Fla., Profit Sharing Plan

ATLANTA -- The U.S. Department of Labor has sued to appoint a successor fiduciary to manage a defunct Gainesville, Ga., company's employee profit sharing plan. Primecare of North Florida's plan has been without oversight since the company ceased doing business in 2002.

"This action demonstrates our commitment to protect the hard-earned benefits of American workers," said Howard Marsh, director of the Atlanta regional office of the department's Employee Benefits Security Administration (EBSA), which investigated the case.

The suit alleges a violation of the Employee Retirement Income Security Act (ERISA) occurred when the profit sharing plan was left without a fiduciary after the death April 6, 2003, of its only named trustee, Ralph Hartke Jr. According to the suit, the plan was abandoned after Hartke's death and was not properly terminated.

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

The suit, filed in federal district court in Gainesville, seeks an order appointing an independent fiduciary to administer the plan and assure distribution of its assets to participants and beneficiaries. The court is also asked to order that the plan be formally terminated.

Primecare, a medical provider, was dissolved Jan. 17, 2002. The employee profit sharing plan had 10 participants and assets of \$85,000 as of September 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 Atlanta regional office at (404) 562-2156 or can contact 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. Primecare of North Florida, PA)
Civil Action No. 1:05 CV 107

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