

## COMPANY TO PAY \$1 MILLION FOR NOT PAYING EARNED VACATION TIME



Genesis Healthcare, a healthcare services company based in Kennett, PA, has agreed to pay more than one million dollars to settle allegations that it had not paid vacation wages to employees who quit or were fired. The company will be paying over 800,000 dollars to the former workers, as well as 100,000 dollars in penalties to the Commonwealth and another 100,000 dollars to generate a trust that will finance education and enforcement programs covering wage and hour laws. The Fair Labor Division of the Attorney General's Office had received a complaint from a former employee, who claimed that the company had failed to pay for vacation wages after the person was terminated from employment. An investigation was initiated in July 2010, which ultimately revealed, via payroll documents and copies of the company's vacation policies, that 1,646 former workers of the company and its affiliates had not been paid earned vacation wages upon termination or separation from October 2008 to November 2011. "Employers that choose to offer vacation time must follow the law and properly compensate employees that have been terminated or separated," said Attorney General Martha Coakley in a press release. The failure to pay the vacation wages was in direct violation with the Massachusetts vacation pay law, which requires that businesses that have chosen to offer paid vacation to employees must consider vacation pay in the same regard as other wages. In this case, the wages would entail any vacation time that a particular worker has earned, such that the employee would be compensated for earned vacation time after leaving the



position or being fired by the company.

The Massachusetts vacation pay law states that employers are under no obligation to provide paid vacation time to their employees as a benefit. However, if vacation time is a part of the benefits, former workers are entitled to any unused vacation time that they have incurred. The law further states that a discharged employee is due earned vacation pay on the day that he/she is terminated. "Wages" in reference to vacation time is defined by the Massachusetts law as including "any holiday or vacation payments due an employee under an oral or written agreement." The wording of the law also stresses that no person, even under a "special contract," is exempt. The "use it or lose it" policy that some companies adopt, with regard to vacation, is still legal, so long as employers provide adequate notice for employees that the time to use vacation will soon expire and do not interfere with employees who wish to take advantage of such time before it's gone. According to the press release, the company "fully cooperated" with the investigation and audit of its vacation pay records. To ensure that it is compliant with the Massachusetts vacation pay law, the company has agreed to pay a total of 826,072.04 dollars to the former employees and the additional monetary compensation to the Commonwealth. The Attorney General's Office enforces laws regulating the payment of wages, overtime and misclassification of employees in the Commonwealth.