Defining Bonus Requirements: Essential to Keeping the Bonus Outside the Massachusetts Wage Act

By Michelle De Oliveira on June 19, 2026



Failing to clearly define a bonus's measurable and objective requirements can have significant consequences for employers. This article examines a recent court decision in which an employee successfully argued that a quarterly bonus constituted "wages" under the Massachusetts Wage Act, underscoring the importance of understanding what qualifies as "wages" under the Act, and importantly, why that distinction matters.

What are "wages" under the Massachusetts Wage Act?

Under the Massachusetts Wage Act (M.G.L. c. 149, § 148), the term "wages" includes compensation that is earned by an employee for labor or services performed. This includes, without limitation, salary, holiday and vacation pay, and commissions that are definitely determined and due.

Although it is important to understand what is a "wage" under the Wage Act, it is equally important to understand what is not a "wage." The following are examples of what are not considered "wages": sick time pay, severance pay, and profit-sharing payments. Contingent compensation, such as a bonus where the "contingency at issue imposed some requirement beyond the services or labor an employee provides in exchange for his or her compensation[ ]" is also not a wage—and this includes discretionary compensation, a form of contingent compensation (i.e., bonuses).

Accordingly, the manner in which an employer defines a bonus and the contingencies that must be met for the employee to receive the bonus are essential to determining whether a bonus is, in fact, discretionary and contingent—or whether it is an earned wage under the Wage Act's purview.

Why This Matters for Employers?

Whether a form of compensation is a "wage" is critically important for Massachusetts employers. Here is why:

- The Wage Act imposes strict requirements with respect to the timing of payments both during the employment relationship and when the employment relationship ends.
- If an employer violates the Wage Act, the employer will generally be liable for treble damages (e.g., three times the amount of the late-paid or unpaid wage), plus attorney's fees and costs—and therefore, it can be costly to litigate, defend, and settle any such claim.
- The Wage Act is a strict liability statute, meaning liability may attach when an employer fails to meet these requirements.

PROFESSIONALS

Michelle De Oliveira

Riley Grinkis Tully

PRACTICES

Employment Law

© 2026 Ruberto, Israel & Weiner, P.C. | 255 State Street, 7th Floor Boston, MA 02109 | p 617.742.4200 | f 617.742.2355 | info@riw.com

Based on the above, employers should proactively: (a) train their management teams with respect to wage and hour policies and procedures, as well as best practices; and (b) ensure that wage and hour workplace policies and practices are legally compliant.

Employee Bonuses and the Importance of Defining Measured Objectives

Illustrated below is a recent court decision, highlighting the importance of defining employee bonuses and measured objectives.

In *Pamela Pres v. Sensys Gatso USA, Inc.*, the employer defined quarterly bonuses in the employee's offer letter as "four bonus payments totaling $9,000, against measured objectives." The purported "measured objectives" were not defined, and no additional clarification regarding bonus eligibility or objectives was provided.

The issue in the case was whether this language qualified the quarterly bonuses as contingent compensation, or whether it was a wage under the Wage Act. For both the employee and the employer, the court's conclusion with respect to whether the quarterly bonus constituted wages was significant. For the employee, a win would mean that the employee was entitled to receive treble damages (e.g., three times the quarterly bonus amount), plus attorney's fees and costs. For the employer, if the quarterly bonus was deemed a wage, it would be strictly liable—but if it was not a wage, then it had the ultimate discretion as to whether to pay (or not pay) the bonus.

In assessing whether the quarterly bonuses were "wages" under the Wage Act, the court relied on the Merriam-Webster Online Dictionary's definition of "contingent" as "dependent on or conditioned by something else." Using the dictionary definition, the court noted that without "something else," the offer letter did not include a contingency. Although the offer letter provided that the bonuses would be offered "against measured objectives," the employer failed to define what those measured objectives would be. Without a definition setting forth what objectives the employee would be measured against to be eligible for the quarterly bonuses, the quarterly bonuses were "akin to ordinary payment from an employer to an employee in exchange for labor or services." As a result, the court held in favor of the employee, holding that the quarterly bonus payments constituted wages under the Wage Act—which in turn triggered employer liability for treble damages, attorneys' fees, and costs.

Employers should carefully structure bonus structures and related language to establish clear, measurable criteria to help ensure a bonus remains discretionary and outside the scope of the Massachusetts Wage Act. Labels alone, without more, will not suffice—and employers must pay close attention to drafting details to include specific criteria demonstrating that payment is contingent on factors beyond the employee's services or labor. Otherwise, failure to do so may not keep the bonus outside the Wage Act, which may inevitably result in significant consequences for employers. Employers with questions should contact an RIW employment attorney for additional information.

(*This alert is for informational purposes only and may be considered advertising. It does not constitute the rendering of legal, tax, or professional advice or services. You should seek specific, detailed legal advice prior to taking any definitive actions.)*

Michelle De Oliveira *is a shareholder of the firm and a member of the* ***Employment Law Group****, where she focuses her practice on employment law, providing counseling and legal representation in both litigation and pre-litigation disputes. Michelle advises businesses on a wide range of matters, including wage and hour compliance, hiring and termination practices, leaves of absence, discrimination and harassment, reasonable accommodations, restrictive covenants, and employment-related agreements. You can reach Michelle*

*at **mmd@riw.com** or **(617) 570-3533**.*

***Riley Grinkis Tully** is a member of the firm's **Litigation Department** where she assists clients with commercial disputes, negligence claims, and construction cases. You can reach Riley at rgt@riw.com or **(617) 570-3593**.*

POSTED IN: **EMPLOYMENT LAW**