



American Payroll Association

Government Relations • Washington, DC

August 14, 2006

George N. Copadis, Commissioner
Department of Labor
Spaulding Building
95 Pleasant Street
Concord, NH 03301

Re: Payroll Debit Cards

Dear Commissioner Copadis:

We are writing to ask for your assistance in clarifying that payroll debit cards that meet the Department's criteria are a permissible means for the payment of wages. We believe that New Hampshire workers, who today have no practical alternative to costly check cashing services, would benefit from having the option, at their voluntary election, to receive their wages via paycard, in addition to direct deposit or paper checks.

A representative of the department recently wrote that payroll debit cards are "not permissible under state labor law due to the fact that there are fees and charges connected and the employees do not receive all their wages on the designated payday." Another asked, "Can the employee get the full amount of wages that are due them, including change, on payday at no cost to them?" The American Payroll Association (APA) is pleased to report that the answer to the latter is 'yes.' Workers who elect to receive their pay via payroll debit cards can indeed receive all of their wages, including change, on payday, without fees, charges, or cost to them. We note that paycard programs vary, however, and not all programs offer features by which workers may receive all wages when due with no charges. We ask that the Department clarify that payroll debit cards that do meet these criteria are permissible under New Hampshire Labor Law.

About the American Payroll Association

The American Payroll Association is a nonprofit professional association representing over 22,000 companies and individuals in all 50 states and Canada. The APA's central mission is to educate its members and the entire payroll industry about the best practices associated with paying America's workers their wages while successfully complying with all federal, state, and local wage payment, employment tax withholding, and information reporting laws. The APA's secondary mission is to work with legislative and executive branches of all levels of government to find ways for employers to meet their requirements under law and support government objectives, while minimizing administrative burden for government, employers, and individual workers/taxpayers.

In reaction to the growing employer interest in the use of payroll debit cards in the United States, the APA's Government Affairs Task Force formed a Paycard Subcommittee to monitor the development and use of these cards within the employer community and to help educate policymakers and regulators about the benefits and uses of these cards before they issue regulations governing their use. This subcommittee is made up of 40 active and knowledgeable APA members representing large and mid-size employers, payroll service providers, and other third-party vendors specializing in the deployment of payroll debit card programs.

Serving the Unbanked Population

According to the Federal Reserve Board, more than 2.2 million workers nationwide have chosen to receive their pay via paycard; more than doubling the number of paycards in circulation since 2003. Paycards offer substantial benefits to workers, including improved security and cost savings. These benefits are explained in the attachment, which has been compiled by the APA in an effort to provide a comprehensive and balanced view of payroll debit cards for state policymakers.

The U.S. Federal Reserve Board estimates that about 13% of households do not have a bank account. These individuals often have no options other than expensive check-cashing stores. Paycards represent a particularly important benefit and alternative transaction account for the hundreds of thousands of Americans¹ who can not get a conventional bank account because of prior banking problems. Paycards eliminate check-cashing fees, which the Federal Reserve Board has reported may be as high as 20% of the amount of the check², and the cost of money orders to pay utility and other bills. They also eliminate the need to carry large amounts of cash, which can be subject to loss or theft. Lost cards are easily replaced, with remaining funds transferred to a new card. Workers who are away from the workplace on payday also appreciate the immediate access to their pay, since there is no need to pick up a paycheck and make a trip to the check cashing facility.

Paycards have functionality similar to debit cards tied to bank accounts, enabling holders to make purchases on the Internet or from catalogues, make purchases and receive cash back at retailers, and to obtain cash at ATM machines. Many card programs permit cardholders to transfer funds credited to a paycard to a bank account, or withdraw the full amount on a card from a bank teller, or to write a "convenience check" for the full amount on the card. Paycards also help workers who do not presently have bank accounts to develop financial management skills and become comfortable with the banking system, leading to the establishment of other accounts and improved long-term financial well being.

¹ National Community Reinvestment Coalition, *ChexSystems: Disenfranchisement or Risk Management Tool?* 2001 <http://www.ncrc.org>

² See *Payment Cards and the Unbanked: Prospects and Challenges*, Federal Reserve Bank of Philadelphia, July 2005. Additionally, an analysis by the Wall Street Journal (July 6, 2006) found that "check-cashing firms usually charge 2% to 3% of the check's face value".

The relevant New Hampshire law specifies that:

275:43 I. Every employer shall pay all wages ...
(a) In lawful money of the United States,
(b) By electronic fund transfer at no cost to the employee,
(c) By direct deposit with written authorization of the employee to banks of the employee's choice, or
(d) With checks on banks convenient to the place of employment where suitable arrangements are made for the cashing of such checks by employees for the full amount of the wages due; provided, however, that if an employer elects to pay employees as specified in subparagraphs (b) or (c), the employer shall offer employees the option of being paid as specified in subparagraph (d),

The APA notes that paycards are merely another form of electronic fund transfer or direct deposit, which are authorized by the law, and believes that it would be appropriate for the Department to clarify that such cards are permissible as long as the worker can receive the full amount of their wages on payday, with no cost to the employee, and with the written authorization of the employee. We agree that, under New Hampshire law, workers who elect paycards would also have the option to receive their wages via direct deposit or paper checks, and that workers are in any event free to change their election at any time.

We would like to work with you and your staff to consider any concerns that the department may have and determine the appropriate course of action. Please let us know how you would like to proceed, or call me at (202) 857-1476 if you have any questions. Thank you.

Sincerely,

William Dunn, CPP
Manager of Government Relations
American Payroll Association

Cathy Beyda, Esq.
Chair, Paycard Subcommittee
APA Government Affairs Task Force