



PAYSTATE UPDATE

The Latest State and Local Payroll Compliance News from the American Payroll Association

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Payroll Card Provider Challenges New York Wage Payment Regulations

Global Cash Card (GCC), a national provider of payroll debit cards, has taken the first legal steps to challenge *New York's* wage payment regulations by filing a complaint against the state Commissioner of Labor with the New York State Industrial Board of Appeals (IBA). The New York Department of Labor (DOL) recently adopted burdensome regulations, set to take effect on March 7, 2017 (see PAYSTATE UPDATE, Issue No. 19, Vol. 18). The rule covers payment of wages by direct deposit and payroll cards, and it places severe restrictions on both methods of payment. Payroll industry insiders fear these regulations will severely interfere with the ability to offer payroll cards in the state. The complaint “challenges the validity and reasonableness” of the restrictions placed on the use of payroll cards.

Complaint questions DOL's authority

In its complaint, GCC alleges that the DOL overstepped its authority by issuing rules that were originally found in a bill proposed by the New York Attorney General (AG), while ignoring provisions of other bills that were before the legislature at the same time. “Such policymaking is within the province of the legislature,” the complaint alleges.

Last April, companion bills were introduced in the New York State Assembly and Senate that would severely regulate payroll card use if enacted. The legislation was written by AG Eric Schneiderman (see PAYSTATE UPDATE, Issue No. 10, Vol. 17). In 2014, AG Schneiderman issued a report that was extremely critical of payroll cards.

Regulations are unreasonable

Further, the complaint alleges that through the regulations, the DOL is attempting to provide unbanked individuals “all of the perceived advantages of a traditional debit card linked to a bank account” but on terms far more advantageous than any basic bank account in New York. “In other words, [DOL] through its regulations is attempting to create and regulate a financial product that does not exist and may never be offered here,” GCC said.

What happens next?

The New York State IBA, according to its mission, was created by the state legislature in 1975 as an independent review agency with the primary duty of reviewing the validity and reasonableness of certain rules, regulations, or orders issued by the Commissioner of Labor. The IBA procedures are usually initiated by the filing of a petition by a concerned party with the Board within 60 days of the issuance of the commissioner's rule, regulation, or order. The IBA then conducts a formal administrative hearing. IBA decisions may be appealed to the New York State Supreme Court. Note that in New York, the Supreme Court is the trial-level court. The state's highest court is called the Court of Appeals. GCC's complaint was filed on October 21. The Commissioner of Labor has 30 days to respond.