



American Payroll Association

Government Relations • Washington, DC

June 30, 2008

Ms. Sandi Vito
Acting Secretary
Department of Labor and Industry
Room 1700
7th and Forster Streets
Harrisburg, PA 17120
svito@state.pa.us

Dear Secretary Vito:

In recent years, the Department of Labor and Industry has been a leader in implementing prepaid debit cards for payment of government-administered payments such as unemployment benefits and workers compensation. Pennsylvania recipients of child support payments also often receive payment amounts through a state-administered debit card program. Debit cards have been popular with cardholders due to elimination of check cashing fees, elimination of physical delivery problems (e.g., due to illness, travel, disaster conditions or even just weather conditions), and reduced risk of loss.

The Department is also responsible for administering the Pennsylvania Wage Payment and Collection Law, which does not explicitly permit payroll debit cards (paycards), or even direct deposit. This is not unusual. Many laws concerning payment of wages were written decades ago and do not reflect current payment technologies, raising questions as to whether paycards and/or direct deposit are permissible methods of wage payment under state law. Obviously, both forms of payment are in widespread use, as more than two-thirds of U.S. employees are paid electronically today.

We are writing to ask for your assistance in developing appropriate regulations or legislation that would clarify that Pennsylvania employees have the option to elect to receive their wages via paycard, in addition to direct deposit or paper checks.

The American Payroll Association is a nonprofit professional association representing more than 24,000 individuals and their companies in all 50 states and Canada. 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 many active and knowledgeable APA members

representing large and mid-size employers, payroll service providers, and other vendors specializing in the deployment of payroll debit card programs.

We have attached a background paper, which provides information about how such programs work, benefits to employees, and how other states have recognized them. We believe that the Wage Payment Law may be broad enough that the Department could, through its rulemaking authority, provide guidance clarifying the ability of employers to offer payroll debit cards. Would the Department agree that a rule change would clarify the ability of employers to offer voluntary payroll debit cards to Pennsylvania workers? If so, we would like to work with the Department to draft appropriate regulations.

Alternatively, if legislation was determined to be necessary, would the Department support (and optimally sponsor) such legislation? Presently the Wage Payment law appears to have only a minimal reference to *form of payment* (i.e., “*Regular Payday. Wages ... shall be paid in lawful money of the United States or check...*”¹). It may be that only a brief addition to statutory language is necessary. There are several examples of how other states have changed their wage payment laws to accommodate payroll card programs in the background paper. Colorado, for example, adopted the following last year:

“... nothing in this article shall prohibit an employer from depositing an employee’s wages on a paycard, so long as the employee:

- (I) Is provided free means of access to the entire amount of net pay at least once per pay period; or*
- (II) May choose to use other means for payment of wages as authorized in subsections (1) and (2) of this section.*

(b) as used in this section, “paycard” means an access device that an employee uses to receive his or her payroll funds from his or her employer.

Please let us know how you would like to proceed, or call me at (202) 232-6889 if you have any questions. Thank you.

Sincerely,



William Dunn, CPP
Manager, Government Relations

¹ WAGE PAYMENT AND COLLECTION LAW Act of 1961, P.L. 637, No. 329