



American Payroll Association

Government Relations • Washington, DC

August 23, 2006

Mr. Larry Walker
Director, Wage & Hour Section
West Virginia Division of Labor
State Capitol Complex
Building 6, Room B749
Charleston, West Virginia 25305

Re: Paycards

Dear Mr. Walker:

We understand that the Division has taken the position that payroll debit cards ("paycards") are not permitted under the West Virginia Wage Payment and Collection Act. We are writing to offer information about paycards, specifically relating to how they benefit West Virginia workers and why we believe paycards are a permissible method of wage payment under current West Virginia law. We also are writing to respectfully request that the Division reconsider its current position on paycards.

According to the Federal Reserve Board, more than 2.2 million workers nationwide have chosen to receive their pay via paycards. Paycards offer substantial benefits to workers, including improved security and cost savings.

We would appreciate your taking the time to review the enclosed *APA State Recognition of Paycards* guide describing how paycards work, the benefits of paycards, and the federal and state legal and regulatory framework for paycards. We believe that paycards should be a permissible form of payment of wages in the state of West Virginia as is the trend in other states.

Background on the American Payroll Association

The APA is a nonprofit professional association representing more than 22,000 individuals and their companies in the United States and Canada. The APA's central mission is to educate its members about best practices associated with paying America's workers, including compliance with all relevant federal, state, and local laws. As part of this mission, the APA works with legislative and executive branches of government to find ways for employers to meet their obligations under the law and support public policy initiatives, while minimizing administrative burden.

With growing employer interest in the use of paycards in the United States, the APA formed a Paycard Subcommittee to monitor the use of these cards within the employer community and to help educate policy makers and regulators about their benefits and uses. 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 support of payroll debit card programs.

West Virginia Wage Payment Provisions

While West Virginia's Wage Payment and Collection Act does not specifically address payroll debit cards, it does permit direct deposit if agreed upon in writing by the employee and the employer. Payroll cards are an electronic form of pay just like direct deposit. As explained in the enclosed guide, the only potential difference from traditional direct deposit is the type of account. Rather than a conventional demand deposit account, the paycard account, depending on the program, may be a subaccount linked to a pooled account at the bank.

Many workers cannot obtain bank accounts. Payroll debit cards are ideal for those workers, as they provide the convenience and security afforded by a bank account.

The APA urges you to reconsider whether paycards, with appropriate disclosures and consumer protections, currently constitute a permissible method of wage payment under the Wage Payment and Collection Act. Alternatively, we request that the Division consider engaging in the rulemaking process to permit the use of paycards. We are confident that many workers, particularly those without bank accounts, would appreciate the availability of paycards as an alternative, and would appreciate the Division's concern and efforts on their behalf.

We would be happy to discuss this with you or to participate in any rulemaking process.

Sincerely,

William Dunn, CPP
Manager of Government Relations
American Payroll Association

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