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NYSDOL Appeals Decision to Overturn Electronic Wage Payment Regs

As expected, the New York State Department of Labor (NYSDOL) appealed a decision revoking the wage payment regulations that were scheduled to go into effect on March 7 (see "Inside Washington" for March). The New York Industrial Board of Appeals (Board), an independent review agency responsible for reviewing the validity of certain rules, regulations, and orders of the NYSDOL, revoked the regulations after considering a complaint brought by Global Cash Card (GCC), a national provider of payroll debit cards. The appeal was filed with the New York State Supreme Court in Albany County.

APA had also opposed the regulations, which would have imposed severe restrictions on the terms and conditions under which employers might use payroll cards to pay wages. Among the provisions were a seven-day cooling off period after consent was obtained, notice and consent forms issued in multiple languages, and assurance that employees have access to ATMs providing free withdrawals within a reasonable distance from home or work. Note: APA's comment letters on the proposed regulations are available at www.americanpayroll.org/government/government-007/.

The Board determined that the NYSDOL overstepped its authority by extending its regulations beyond employers and applying them to financial institutions. In its appeal, the NYSDOL claims that the Board's decision "is contrary to law and arbitrary and capricious" because: (1) GCC should not have been allowed to challenge the rule, (2) the NYSDOL did not overstep its authority, and (3) the revocation should not have been applied to the rules in their entirety. GCC has until May 29 to respond. A decision is not expected for many months.