

Following Appeals Court Decision, Pennsylvania Adopts New Payroll Regulations

Monday, November 28, 2016

On October 21, 2016, a **Pennsylvania** appeals court found that a group of franchisees were in violation of the state's **Wage Payment and Collection Law ("WPCL")** when they required employees to be paid with payroll debit cards. While the WPCL only permitted wage payment in cash or check, the Pennsylvania court noted that *voluntary* use of payroll debit cards may be an appropriate method payment. In this case, the court held that *mandatory* use of payroll debit cards was not lawful, as it may subject the employee to fees without his or her consent.

Two weeks later, on November 4, 2016, the Pennsylvania legislature adopted new legislation amending the WPCL and officially including payroll debit cards as a permissible form of payment by employers, provided that several conditions are met. The new law takes effect on May 5, 2017.

Under the new law, the use of payroll debit cards is permitted if, among other things:

- The payroll card account is established at a financial institution whose funds are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration;
- The employer does not make the payment of wages, salary, commissions or other compensation by means of a payroll card account a condition of employment or a condition for the receipt of any benefit for any employee;
- Prior to obtaining an employee's authorization, the employer provides the employee with clear and conspicuous notice, in writing or electronically, of all of the following: all of the employee's wage payment options, the terms and conditions of the payroll card account option, including the fees that may be deducted, a notice that third parties may assess fees in addition to the fees assessed by the card issuer, and the methods available to the employee for accessing wages without fees;
- The payroll card account provides the employee with the ability without charge to make at least one withdrawal each pay period and one in-network ATM withdrawal each pay period;
- The payroll card account provides the employee with a means of ascertaining the balance in the employee's payroll card account through an automated telephone system or other electronic means without cost to the employee; and
- An employer does not use a payroll card account that charges fees to the employee for any of the following: the application, initiation or privilege of participating in the payroll card program, the issuance of the initial payroll card, the issuance of one replacement card per calendar year upon request of the employee, the transfer of wages, salary, commissions or other compensation from the employer to the payroll card account, purchase transactions at the point of sale, and nonuse or inactivity in a payroll card account consisting of the failure to withdraw funds from an account, deposit funds into an account, transfer funds to another person or use an account for purchase transactions, if the nonuse or inactivity is less than



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12 months in duration.

Pennsylvania employers now have another option in paying employees. Payroll debit card regulations have been introduced in many states, so employers should ensure they review any applicable laws before setting up these cards.

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