



*National Payroll Reporting Consortium*

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PO Box 850 ★ Henrietta, NY 14467-0850 ★ [www.NPRC-Inc.org](http://www.NPRC-Inc.org)

July 13, 2016

Michael Paglialonga  
New York State Department of Labor, Building 12  
State Office Campus, Room 509  
Albany, New York 12240

Re: Proposed Rule Making, Methods of Payment of Wages, I.D. No. LAB-21-15-00009-RP

Dear Mr. Paglialonga,

The National Payroll Reporting Consortium (NPRC) appreciates the opportunity to submit comments in response to the New York Department of Labor's June 15, 2016 revised rulemaking regarding permissible methods of wage payment. We support the DOL's efforts to educate employees on their pay options and protect them from excessive fees; however we believe the revised rule is overly burdensome to employers and imposes several onerous restrictions that could limit wage payment options for employees in the State of New York.

The NPRC is a non-profit trade association whose member organizations provide payroll processing and related services to over 1.5 million employers nationwide, covering one-third of the private sector work force. Payroll service providers have long served important roles in assisting businesses to pay their workers, and as a conduit between employers and government authorities for our nation's tax collection system.

#### Direct Deposit

According to NACHA, The Electronic Payments Association that manages the development, administration and rules for the ACH payment network, 82% of American workers utilize direct deposit to receive their pay. The NPRC is extremely concerned with the Department's indication that current employee direct deposit consents will not be valid after the effective date if they do not comply with the requirements of the proposed rule. The notice and consent requirements are very complex, making it unlikely that current direct deposit consents for any affected employees would prove acceptable. The administrative burden on employers to track down new consents for affected employees is enormous. The Department should also consider the adverse impact to employees. In addition to the burden placed on employees by having to provide consent they previously specified, if they do not re-consent and are reverted back to being paid by paper check, they may experience financial issues since many workers use preauthorized debits to pay bills from their bank accounts. Workers depend on the reliability of direct deposit to their checking and savings accounts.

#### Payroll Cards

In addition to traditional paper payroll checks and direct deposit, many NPRC members provide their clients with the ability to offer payroll cards to their employees as a third option for wage payment.

*Automatic Data Processing ★ BenefitMall/CompuPay ★ Ceridian ★ Empower Software Solutions  
Fidelity Employer Services Company LLC ★ Intuit ★ Paychex ★ Paycor  
Paylocity ★ Payroll People ★ PrimePay ★ Ultimate Software*



The proposed seven business day waiting period to pay wages by payroll card after employee consent has been provided disrupts the onboarding process, interfering with well-established business practices when adding new employees to payroll or making changes requested by current employees. While burdensome to employers, the waiting period is perhaps most harmful to employees. If employees elect to be paid via a payroll card after reviewing the payroll card material, they should not be forced to accept a paper check during the mandatory waiting period, which can result in fees when presented at a check cashing store. The waiting period is also unnecessary given that employees can switch to direct deposit or paper checks at any time.

Payroll cards provide an opportunity for unbanked employees to enjoy the benefits of electronic pay, including the ability to make purchases at retailers, pay bills online, receive cash back at retail terminals, and access thousands of ATMs – similar to those services provided by a debit card linked to a traditional checking or savings account. Furthermore, with a network branded debit card (such as those cards with a Visa or MasterCard logo), employees are able to take their card to any Visa or MasterCard member bank and retrieve their full net wages for that pay period, at no cost.

Employees who use payroll cards have many opportunities to access their wages without incurring any fees. However, certain services, especially those related to ATM use, are costly for payroll card providers since they must rely on third-party ATM networks to ensure that cardholders are provided an additional convenient way to access funds. We believe that the fee prohibitions in the proposed rules go well beyond the noted intent and ask that they be reconsidered when issuing a final rule. We suggest that the rules be modified to require at least one free ATM withdrawal per pay period rather than unlimited withdrawals.

#### Conclusion

In summary, we are concerned that the newly revised rules are overly burdensome and costly to employers and payroll card providers, and will adversely impact payroll card availability in New York. We continue to urge the Department of Labor to work with all stakeholders to modify the new revised rule in order to ensure employees maintain the ability to select the most appropriate method of wage payment.

Sincerely,

A handwritten signature in black ink, appearing to be "M. J. [unclear]", written over a horizontal line.

National Payroll Reporting Consortium, Inc.