



October 23, 2023

The Honorable Bryan G. Steil
United States House of Representatives (WI-01)
1526 Longworth House Office Building
Washington, DC 20515

Re: Discussion Draft on Federal Earned Wage Access Legislation

Dear Representative Steil:

PayrollOrg (PAYO), formally the American Payroll Association,¹ submits comments about the Earned Wage Access (EWA) legislation that your office is writing. As a non-profit organization representing payroll professionals, PAYO provides a unique perspective on EWA programs and the effects these programs have on payroll processing.

PAYO appreciates the following provisions:

Clear definitions under section 2.06 and 2.03/2.09. The definition of “earned but unpaid income” is extremely important because it distinguishes EWA benefits from other financial wellness tools and payday lending. This definition justifies, for payroll professionals, the need to share employees’ personally identifiable information with EWA providers pursuant to an EWA agreement with employers, and it is consistent with other states’ definitions. In addition, it is helpful that the definition of “employer” excludes third-party payroll service providers that support payroll professionals and their employers.

Furthermore, the definitions of “Consumer-Directed Wage Access Services” and “Employer-Integrated Wage Access Services” are extremely important because they distinguish the difference between a consumer-based program providing “earned wage access services directly to consumers based on the consumer’s representations” and an employer integrated program providing “access to earned but unpaid income that is based on employment, income, or attendance data obtained directly or indirectly from an employer.”

Support for section 3. PAYO supports the section 3 nondiscrimination provisions. EWA is a financial wellness benefit for employees, who should not be discriminated against while using EWA programs.

¹ Established in 1982, PAYO is a non-profit organization serving the interests of more than 20,000 payroll professionals nationwide. One of PAYO’s core missions is providing representation for payroll professionals at the federal, state, and local levels. This is done primarily through PAYO’s Government Relations Task Force in which members educate government and community leaders about the payroll industry and the best practices associated with paying America’s workers.



Provider limitations under section 03.12(1). PAYO agrees that EWA providers should not share with employers “any fees, voluntary tips, gratuities, or other donations that were received from or charged to a consumer” for benefits. Sharing this revenue would create an unwanted incentive for employers and providers, at the expense of consumers.

Other considerations. PAYO requests that Congress consider “constructive receipt” of federal taxes found in the Internal Revenue Code (IRC). On March 9, 2023, Treasury Secretary Janet Yellen provided to Congress, “General Explanations of the Administration’s FY 2023 Revenue Proposals.” To protect the principle of “constructive receipt” in the IRC, the Treasury Department’s proposal is for tax deposits from EWA distributions be made on a weekly basis. This position does not account for those employer-integrated EWA methods in which employers and payroll departments do not know which employees are using EWA and how much they have withdrawn. Payroll departments may share real-time payroll data with EWA providers and have no further involvement. For those methods where payroll departments receive information on participants and distribution amounts from EWA vendors, payroll departments will not have this information until the next pay period. In both instances, federal employment tax reporting and payments occur through the normal payroll period process. Forcing employers to use a one-week tax payment process may place an unreasonable administrative burden on employers.

For PAYO members, EWA is a financial wellness tool that is beneficial to employers to retain talent and for employees to better manage their financial resources. EWA is not a loan because the wages are already earned. PAYO fully supports congressional action to protect employees from predatory practices such as repayment pressure, predatory fees, and other practices.

PAYO looks forward to working with you as this legislation progresses. We would be pleased to provide additional insight about EWA and payroll processing. Thank you for your consideration of these comments. PAYO can be reached through me at 516-761-2919 or aprinzo@payroll.org.

Sincerely,



Adam Prinzo
Assistant Manager, Government Relations

For: Government Relations Task Force
Electronic Payments Subcommittee
Cochairs Nancy Fletcher, CPP, Ronald Gilson, CPP, and Kristine Willson, CPP

Federal Issues Subcommittee
Cochairs Rebecca Harshberger, CPP, and Jon Schausten, CPP

Cc: David Goldfarb, Chief of Staff, – david.goldfarb@email.house.gov