



Understanding Earned Wage Access and Payroll

Second Edition, February 2024



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Overview

Employee Financial Stress

Research data varies on the level of employees' stress about their finances, but the numbers are significant. A July 2023 report by PYMNTS and LendingClub found that 60% of employees are living paycheck to paycheck.¹ PwC found that 60% of employees are stressed about their finances.² BrightPlan's 2023 survey determined that 92% of employees are stressed.³

PayrollOrg's (PAYO) 2023 "Getting Paid in America" Survey showed that 49.14% of respondents would find it very difficult if their pay was delayed by one week.⁴

The Federal Reserve System found that at the end of 2022, 73% of adults were doing at least okay financially, meaning they reported either "doing okay" financially (39%) or "living comfortably" (34%). The rest reported either "just getting by" (19%) or "finding it difficult to get by" (8%).⁵

Employees say that the most important employer-provided benefit is financial wellness.

Employers are offering financial wellbeing programs to increase worker satisfaction and retention. The Employee



Benefits Research Institute found that 85% of the companies it surveyed indicated that financial wellbeing initiatives had either a large impact or a small impact on employees' mental, emotional, and social wellbeing.⁶

One financial wellness benefit for employees is access to their earned wages prior to their regular payday. This benefit is known as earned wage access, early wage access, accrued wage access, on-demand pay, same-day pay, and instant pay (collectively EWA).

Culture of United States Consumers

In the United States, neither government entities nor employers control how employees spend their earned income (with some exceptions). Therefore, regardless of

which financial tools employees use or the regulations that apply to these tools, the advantages and potential disadvantages of EWA are based on employees' needs at the time wages are accessed.

In context of the U.S. culture of employee financial control, it is imperative that federal and state laws and regulations do not interfere with employees' decision-making to better manage their finances. Regulations should not unintentionally lead to more expensive outcomes for employees.

Technological Advances and Capabilities

Financial tools, like EWA, bridge the gap between pay periods to help workers meet expenses as they come due. If implementation and use of EWA become too cumbersome, the value of the benefit will diminish and could become untenable for use.

The payroll period concept began during the Industrial Revolution when factories hired workers and paid them weekly. Over time, payroll periods have been used to ensure that workers received pay at regular intervals, overtime pay could be calculated, taxes were paid, children received support, and contributions were made to healthcare insurance and retirement plans.

Today, technological advances to payroll management systems have created the capability to eliminate the pay period approach, meaning the technology would allow workers to receive their earned net pay at any time. However, payroll professionals, employers, and government agencies do not have the resources to manage the administration of this capability. The technology is available but not all employers and government agencies are able to acquire, implement, and maintain these systems or have the cash flow to fully process payroll and legal withholding at employees' demand.

Purpose

In 2023, policymakers began in earnest to consider EWA technologies and consumer financial stability, seeking to determine the role of government.

PAYO set out to understand the advantages and disadvantages of EWA technology and its potential impacts on payroll management with a first report in 2021. This report is the second edition.

PAYO is a nonprofit association representing more than 20,000 payroll professionals throughout the U.S. PAYO's Government Relations Task Force works with government to help payroll professionals with compliance, while

minimizing the administrative burden on government, employers, and individual workers.⁷

PAYO members are directly responsible for calculating wages, employment taxes, and other withholding for their employers. Therefore, this report is intended to:

1. Assist payroll professionals as they consider EWA options for their employers,
2. Best position PAYO to respond to proposed laws and regulations on behalf of its members, and
3. Provide government policymakers with background information about EWA and how it is used.

This report does not identify, nor does PAYO endorse, any technology or management approach. PAYO members are concerned about the well-being of employers and employees, but PAYO does not represent them. Therefore, PAYO is not positioning itself with any specific business, employer, or group.

PAYO does pursue information on quality innovation and execution in the financial services marketplace and payroll management space to promote the ability of payroll professionals to best serve their employers and employees.

The EWA models that are the subject of this report involve employers in the process. Other early payment models, such as direct-to-consumer options, are mentioned but do not impact payroll management. Therefore, these other models are not part of PAYO's government relations positioning on behalf of payroll professionals.

Some employers may consider offering early payment of wages to employees through internal payroll operations and not a third-party EWA provider. Considerations for these employer-provided benefits are not the subject of this report.

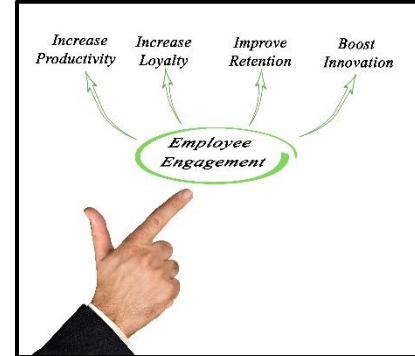


The Decision Process

Introduction

Before an employer selects an EWA service provider, it must first decide whether to offer this benefit to employees. Today, employers typically consider employee benefits as a package or holistically along with wages that make up employees' total compensation. The EWA benefit should be considered in this context. Additional considerations may include an employer's understanding of its culture and workforce, whether an EWA program will improve its employees' financial security, and the ability to offer an EWA program to its employees fairly.

When identifying employee interests in EWA, employers should consider all their employees. According to a Mercer index, financial wellness and income are not directly linked, meaning that financial difficulties can occur at any



economic level.⁸

Employers are also interested in whether employee benefits will help them attract and retain talent. There is evidence that a thoughtfully implemented EWA program can lead to a

measurable improvement in employee retention.

Employees who take advantage of EWA programs indicate that they find it helpful to meet expenses.

Financial Awareness and Wellness

A well-designed EWA program can be a successful tool to provide employees with financial awareness and wellness.

Wellness refers to the overall health of employees' financial life, meaning the ability to pay expenses and save for retirement, but also how finances intersect with employees' physical, mental, and social well-being.

The Financial Health Network states that "financial health considers whether individuals are spending, saving, borrowing, and planning in a way that will either contribute to, or detract from, their resilience in the face of unexpected events and ability to thrive in the long term."⁹

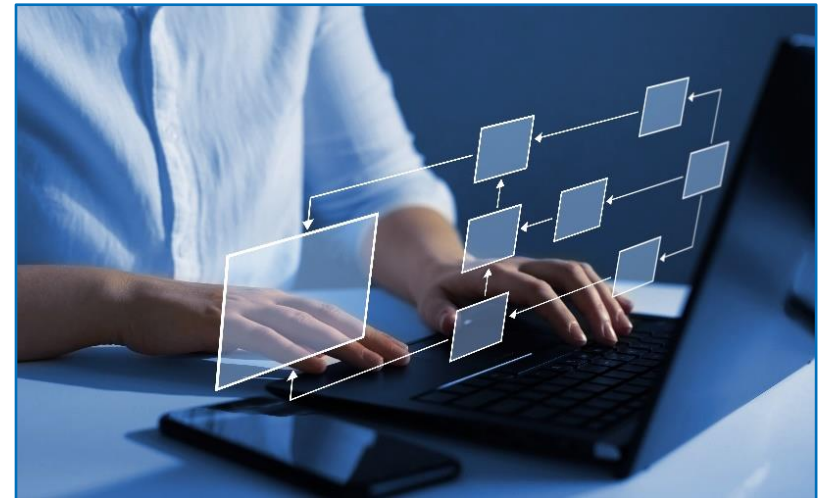
The U.S. Financial Literacy and Education Commission offers a definition of awareness: “Financial literacy describes the skills, knowledge and tools that equip people to make individual financial decisions and actions to attain their goals....”¹⁰

The federal Consumer Financial Protection Bureau (CFPB) defines financial awareness as financial security and choice. For example, control over daily and monthly finances, ability to absorb a financial shock, capability to meet financial goals, and the financial freedom to enjoy life.¹¹ Thus, financial well-being is different for everyone.

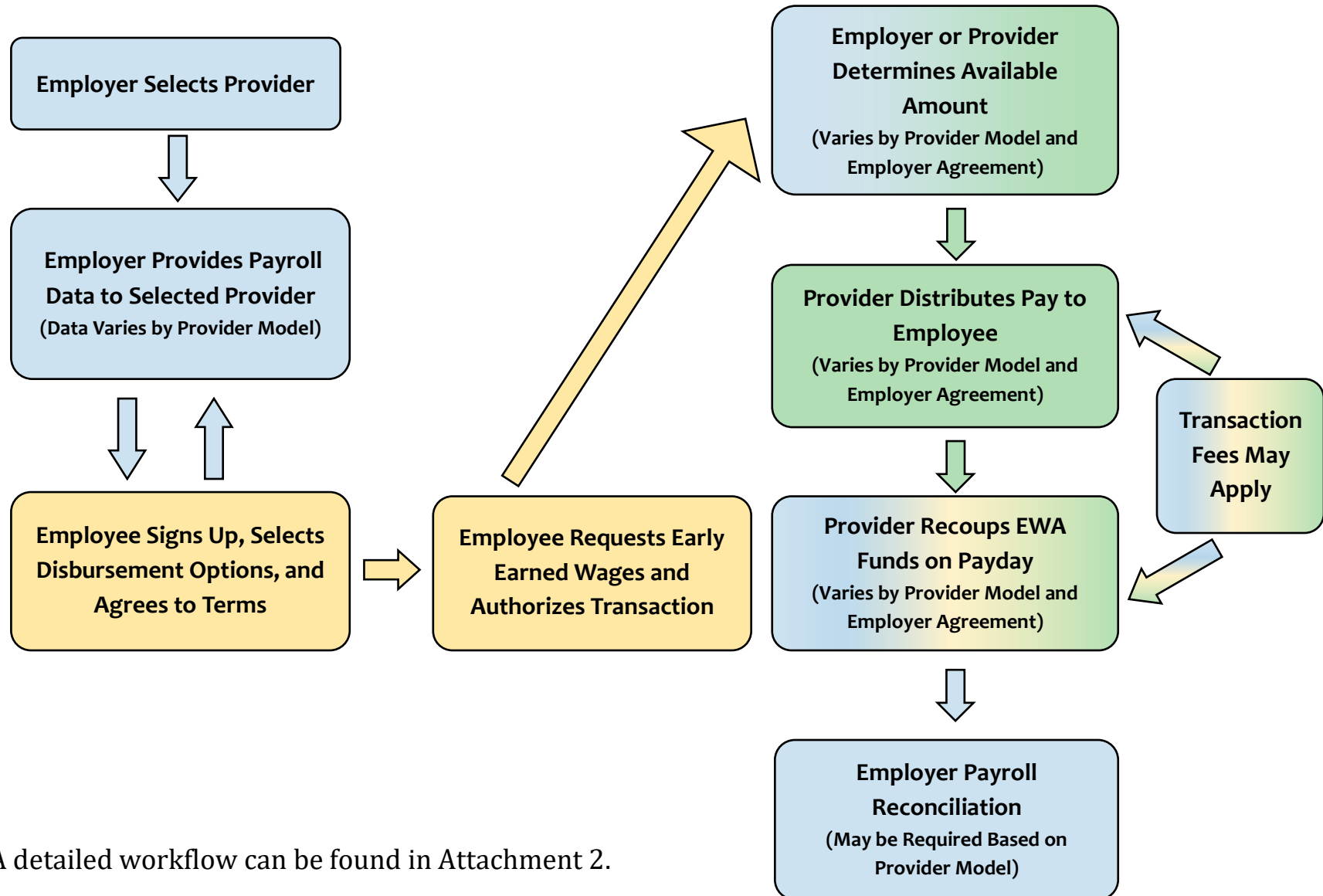
Workflow of the EWA Process

On the next page is a chart with a general workflow of the EWA decision process showing the role of the employer, employee, and EWA service provider. The workflow provides a basic understanding; however, EWA providers differ in their processes and product offerings. A more detailed explanation follows the chart.

This report describes the process in some detail. Despite the details provided, once the program is established, the process flow from the employer sharing payroll data through to payment of early wages is quick because it is managed electronically. How quick depends on the EWA model.



General Workflow of Earned Wage Access



A detailed workflow can be found in Attachment 2.

Employer Selects the EWA Provider¹²

The following are business considerations to assist payroll professionals and their employers when selecting an EWA service provider.

Account Options. Employees receiving EWA generally direct their EWA payments to their existing bank accounts but may be offered options where their deposit can be made. These include new bank accounts, prepaid debit cards, payroll cards, digital platforms, cash applications on a mobile device, and cash pickup at retail outlets. EWA providers may offer a payroll card or a traditional bank account as a part of their solution on where funds can be sent. Some providers may require use of their payroll cards and financial account services.

Employers should consider providers' available options and the percentage of employees already receiving wages through direct deposit to a bank account, payroll card, or prepaid debit card to determine the number and type of account options needed.

Funding. The funding relationship offered by EWA providers may vary. A provider is likely to use its own funds to pay employees. However, an EWA provider may require employer funds in advance of paying employees. Employers should consider the advantages and

disadvantages of these options, including cash flow, payroll administration, fraud avoidance, liability, and compliance. For example, in an unfortunate instance in which an employee receives EWA greater than net pay, does the employer or provider accept the cost, and are employees pressured to reimburse the overage? Is the EWA provider registered or licensed in a state, as applicable in state law?

Percentage of Available Pay. This refers to the percentage of earned wages the EWA program allows to be forwarded to a worker. Flexibility in establishing the percentage without the danger of creating an overpayment (i.e., allowing for tax and other required withholding) to an employee is key. Some providers approximate full net pay from existing individual elections and deductions. Others cap access at a certain percentage of gross pay to approximate net pay. An employer also may place a cap on the percentage.



Employee Support. Digital applications are a critical component for wage access adoption. EWA apps may alert employees when pay is available, how much is available, and when funds have been deposited. An EWA app should be easy for employees to understand and use. Some apps

help workers to budget their money and encourage savings. These options can be very helpful and are often in addition to financial wellness solutions offered to employees by the employer, such as retirement plans and budget support.

Provider Fee Models. An employer should be aware of all potential fees and exactly how they will be clearly communicated to employees.

There are several fee models by which EWA service providers offer the early pay, including:

- A fee is charged to the employee to allow transactions per pay period or month.
- A per-transaction fee is charged to the employee (typically, \$1 to \$5 per transaction).
- No charges are made to employees if the employer pays the fees, if the EWA provider offers a no charge option, and sometimes when EWA is arranged as part of a payroll service provider's package that includes an EWA option.

A combination of fee models may be used, such as a certain number of free EWA transactions with additional transactions that are fee-based.

Payment Options. For many employees, the option of getting their funds quickly is critical. Most EWA providers offer participating employees the option of instant access to funds for a fee and less costly next-day access to funds. These fees may be in addition to provider fees to participate. Access fees are generally modest, though they can add up, especially when combined with participation fees. Employers should consider the importance of instant or near instant payment options.

Employer Costs and Liabilities. Today, EWA providers generally do not pass the cost to integrate with an employer's payroll system or operational costs onto employers.

Some providers may charge fees to the employer for administering the EWA program or to cover the cost of a complex or customized integration process. For example, the sharing of payroll data will require integration between the employer's payroll system and the EWA provider's system. Costs also may be associated with programs requiring employer funds in advance of EWA payments to employees.



Employers may be responsible for EWA overpayments to an employee and insufficient funds on payday for withholding of garnishments and taxes. If EWA overpayments are not recovered, employers may be held accountable.

Customer Base. This refers to the number of EWA users and clients, an indicator of the EWA provider's success, and the longevity of the provider's solution. Relevant references from existing clients can be helpful, especially if at least one of the clients is in a similar situation. They may provide some insight into the practical aspects of launching and maintaining a program with a specific EWA provider. For example, they may have experience with a provider's ability to adequately fund a program.



Employer Provides Payroll Data

Payroll data is provided following an employer's selection of an EWA provider or after an employee signs-up to participate. Thus, there are two opposing arrows on the flow chart regarding payroll data.

Employers should consider data sharing integration at the beginning of the process. How an EWA provider collects payroll data to determine the amount of pay available to an employee is important for data security and to prevent fraud. This includes the level of digital integration the provider will conduct into the payroll platform, time and attendance system, payment networks, and other related information.

Employers may be asked to provide payroll data files with information on all employees or just participating employees. The EWA provider may require the employer to provide requested payroll data each pay period or to enable secure electronic access (i.e., to verify earned wages upon request).

An employer that outsources some or all of its payroll operations should determine potential integration issues if the EWA provider is different than the payroll service provider. The greater the electronic integration, the more accurate the pay data.

Employee Signs-Up and Agrees to Terms

Typically, an employer will notify employees about its selected EWA benefit, including information about the program and how an employee can sign up.

EWA providers often develop their own employee information that should include:

- Descriptions about all fees,
- Program opportunities and limits,
- Time parameters between when an employee requests EWA and receipt of payment,
- How and when the EWA will be paid back, and
- Privacy policies.

Some programs offer employees additional program features that can help with budgeting and saving.

Generally, to participate employees must agree to the terms of the EWA program. Some EWA providers will require an employee to sign a legally binding contract to participate.¹³ Others may require employees to acknowledge that they have read the terms. The agreement to terms may be viewed as a type of contract between the employee and EWA provider in addition to the relationship between the provider and the employer.

Employee Requests EWA

In general, employees can request EWA through an employee portal with the employer, payroll service provider, or EWA provider, depending on program design.

Provider/Employer Determines Available Amount

The EWA provider may determine the amount of pay available to each participating employee by verifying actual wages earned to date in the current payroll period and projected withholding. Employers may place restrictions or limits on the amounts available to employees. For example, the amount may be limited to a percentage of net earnings to allow for tax and other withholding, which occurs with the next regularly scheduled payroll.

Provider Distributes Pay to Employee and Employee Repays Provider

There are two basic approaches to the employer-integrated EWA process:

1. **Payroll Deduction Approach – Employer Payroll Managed.** The EWA provider distributes available and requested amounts of earned pay to an employee's account (i.e., bank account, payroll card) and on the next payday, the employer deducts the early pay amount from the employee's payday amount and distributes it to the EWA provider.¹⁴ This may be managed through a split deposit by the employee.

2. Payroll Settlement Approach – Provider Managed.

The EWA provider may require a participating employee to have a settlement account with the provider or to use a provider's payroll card. Any wages accessed early are deposited by the provider to the employee's existing personal bank account or card. On the next regularly scheduled payday, the employee's wages are directly deposited to the employee's settlement account by the employer and the provider then deducts any early wage amount already paid to the employee, and instantly credits the balance to the employee's existing personal bank account or card.

Employer Payroll Reconciliation

Depending on the approach of the EWA program, an employer or employer's payroll service provider should reconcile pay records. Reconciliation is the process of making sure that the employer's records match what has been distributed to employees.

Reconciliation also is used to verify that the correct amount was provided to employees in every paycheck, including but not limited to satisfying deductions for federal, state, and local income taxes, social security and Medicare taxes, healthcare benefit insurance, retirement plan benefits, and wage garnishments.

The Law and Compliance

Regulatory considerations may differ depending on the EWA model. These considerations are in some instances unresolved and evolving because EWA technology and services are relatively new and existing financial and consumer protection laws and regulations have yet to fully address EWA programs.

The primary question regarding the regulatory impacts for payroll professionals is: What role do payroll professionals play in their employers' EWA decision-making process?

- Are payroll managers part of employer teams to investigate EWA options?
- Are payroll professionals asked by their employers to examine consumer opportunities and protections for employees?
- What payroll processes are involved in EWA, and can potential burdens be minimized, whether payroll operations are managed internally or outsourced?

- What should payroll professionals consider for payroll operations to maintain full compliance when an EWA benefit is provided to employees?

Wage and Hour Requirements



When the EWA decision model is based on a three-way relationship among employers, EWA providers, and employees, and is based on wages employees have already

earned, employers remain responsible for compliance with wage and hour laws and regulations. These include, but are not limited to, minimum wage and overtime requirements, reporting, and recordkeeping. These requirements do not change in an EWA program but can impact the amount of earned employee wages.

The federal Fair Labor Standards Act (FLSA)¹⁵ classifies the time worked by nonexempt employees for the benefit of their employer as hours worked for the purpose of minimum wage and overtime compliance. An employer is required to pay its employees for all hours worked, including “work not requested but suffered or permitted.”¹⁶ State and local wage and hour laws also apply. Employers must ensure that the combination of EWA payments and

pay period wages equals the full amount of employees’ earned wages.

Pay Statements

The FLSA requires employers to keep records on how many hours employees have worked and the amount of money they were paid. Federal law does not require that this information be provided to employees.



Pay statement requirements differ among states ranging from no requirements to very detailed information about employees’ pay. Common elements include gross and net pay, and a list of all applicable deductions for taxes, healthcare benefits, retirement contributions, and garnishments.

Existing laws and regulations do not specify requirements for records or pay statements specific to EWA. However, pay statement requirements are based on transparency for employees to understand their pay. At minimum, the EWA provider should offer participating employees a complete record of payments and all fees and costs.

Credit or Non-Credit Product

Consumer Financial Protection Bureau (CFPB). The CFPB issued an advisory opinion¹⁷ and compliance assistance sandbox (CAS) approval order¹⁸ that identified certain characteristics for EWA that impact a credit determination under the Truth in Lending Act (TILA). The CAS was later rescinded.¹⁹ The advisory opinion was issued strictly as a response to the facts presented as to the applicability of TILA (Regulation Z), but, when issued, the CFPB appeared to favorably recognize the consumer protections offered by certain employer-integrated EWA programs.

In addition, the CFPB issued a final rule, *Payday, Vehicle Title, and Certain High-Cost Installment Loans* rule.²⁰ In the rule, the CFPB said:

The Bureau notes that some efforts to give consumers access to accrued wages may not be credit at all. For instance, when an employer allows an employee to draw accrued wages ahead of a scheduled payday and then later reduces the employee's paycheck by the amount drawn, there is a quite plausible argument that the transaction does not involve "credit" because the employee may not be incurring a debt at all. This is especially likely where the employer does not reserve any recourse upon the payment made to the employee

other than the corresponding reduction in the employee's paycheck.²¹

The CFPB excluded certain EWA models from the rule and acknowledged that EWA does not trigger the same high-level risks that payday loans involve.²²

Since issuing the final rule and the advisory opinion, the CFPB's determination on the applicability of TILA and other federal financial laws has become less clear.²³ In a November 2023 letter to the California Department of Financial Protection and Innovation, CFPB General Counsel and Senior Advisor to the Director Seth Frotman, Esq., stated that Regulation Z, "generally applies to extensions of consumer credit and provides that a finance charge includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit."²⁴

Credit is defined in Regulation Z as "the right to defer payment of debt or to incur debt and defer its payment."²⁵ While "debt" is not defined in Regulation Z, it usually entails the repayment of a principal amount plus interest. The agency said that it plans on issuing further guidance but has not set a date.²⁶

State Legislation and Policy on EWA

States have split between considering EWA benefits as a credit or loan product and regulating EWA as a separate financial health tool. Much of the debate centers around how close an EWA provider's method looks like a payday loan, the differences between employer-integrated programs and direct-to-consumer options, and who pays for program costs.



Nevada. On June 15, 2023, Nevada Governor Joe Lombardo signed S.B. 290 into law.²⁷ This was the first state to enact an EWA law. S.B. 290 defines terms, requires EWA providers to be licensed in the state, and sets requirements for EWA services. EWA services, provided by a licensee in compliance with the law, are not considered loans. See Attachment 3 for more details.

Missouri. On July 6, 2023, Missouri Governor Mike Parson signed S.B. 103 into law.²⁸ The law is similar to Nevada S.B. 290 with definitions, EWA provider requirements, and recognition that EWA services are non-credit products. See Attachment 4 for more details.

California. In 2021, the California Department of Financial Protection and Innovation (DFPI) collected information about EWA through a Memorandum of Understanding with EWA providers.²⁹ The DFPI believes it has authority to regulate EWA as part of the state's financial services licensing law.³⁰ The proposed regulations define EWA as a loan because the funds are provided to employees in advance of a regularly scheduled payday. A modified rulemaking did not change this interpretation.³¹

In 2024, legislation was introduced in Arizona, Connecticut, Florida, Hawaii, Kentucky, Maryland, Washington, and Wisconsin.

Payroll Cards

A payroll card is a prepaid card arranged by an employer through a third party (financial entity) for the purpose of paying its employees' wages or salaries. An employee's net pay is loaded



by the third party directly onto the payroll card rather than directly deposited into an employee's bank account or paid by paper check.

Employees using payroll cards may use their cards for EWA payments. Some EWA providers offer or require the use of the provider's payroll card to participate. Some EWA providers offer reduced or even zero fees if employees use the providers' payroll cards.

Under state wage payment laws, an employer cannot mandate the method of wage payments. Generally, state laws require an employer to offer at least one alternative to a payroll card. Several states restrict permissible methods of wage payments. Most states allow the use of payroll cards with appropriate disclosure, consent, and other employee protections.

If EWA is offered via a payroll card, state laws on payroll cards may apply, for example, fee restrictions, disclosures, consent forms, and a minimum number of free ATM withdrawals per pay period. Some states (e.g., New York, Connecticut, and Illinois) prohibit payroll cards from being linked to any form of credit, including advances on future earnings. Depending on whether EWA is defined by law as credit, state laws may or may not restrict use of payroll cards for EWA payments.

Employment Tax Withholding and Remittance



Employee Withholding. Normally, employers withhold taxes from employees' earnings at the end of each pay period when net wages are distributed to employees.

Withholding includes income taxes, social security and Medicare taxes, as well as state and local taxes.

An open question is whether for EWA methods in which employers are not involved in employee EWA requests and fulfillment, are such payments still considered a payment of wages by the employer (i.e., the employer is unaware of employee decisions and early payments are not from the employers funds)? If not, tax withholding by the employer at the time of an employee's request would not be required. Currently, employer-integrated EWA models generally handle all taxes during regularly scheduled payroll processing.

Conversely, if an employer is involved in EWA requests and fulfillment and is aware of them, such payments could be considered a payment of wages by the employer and tax withholding would be required.

Constructive Receipt. A significant question regarding federal taxes is the rule of “constructive receipt” and whether the rule gives rise to tax withholding and remittance when employees request EWA or EWA payments are distributed to employees. Consistent with the longstanding position of the Internal Revenue Service (IRS), absent statutory authority, an employer may not simply delegate or contract away its taxing responsibilities. The IRS considers employment tax withholding obligations to attach when wages are actually paid or “constructively paid” to the employee.³²

The general rule on constructive receipt says:

Income although not actually reduced to a taxpayer’s possession is constructively received by him in the taxable year during which it is credited to his account, set apart for him, or otherwise made available so that he may draw upon it at any time, or so that he could have drawn upon it during the taxable year if notice of intention to withdraw had been given. However, income is not constructively received if the taxpayer’s control of its receipt is subject to substantial limitations or restrictions.³³

The U.S. Department of the Treasury included the following in its 2023 revenue proposals to Congress (referred to as a Greenbook):³⁴

Employers that offer on-demand pay [EWA] arrangements should maintain either a daily or a miscellaneous payroll period and should withhold and pay employment taxes on employees’ earned wages on a daily basis. It is unlikely that many, if any, employers or third-party payors treat employees with access to on-demand pay arrangements as being in constructive receipt of their wages because it would be a significant financial and administrative burden on the employers or third-party payors to configure their payroll systems and make payroll deposits on a daily basis.... The result ... is that wages are treated as paid on the regularly scheduled pay dates, rather than when the wages are constructively received by the employees.



Among the recommendations is a proposal to amend IRC § 3401(b) to require a weekly payroll period for EWA arrangements, even if employees have access to their wages during the week. The proposal also asks Congress to amend IRC §§ 3102, 3111, and 3301 to clarify that EWA benefits are not loans for federal tax purposes.

Secretary Yellen stated in the Greenbook that the proposals on EWA would not impact revenue received

by the IRS. The changes, if adopted, would only impact the timing of employment tax payments.

Child Support and Garnishments



EWA benefits may pose employer concerns for employees who owe child support, back taxes, student loans, and creditor garnishments for which a

withholding order requires the employer to withhold and remit payments.

An EWA model may account for such amounts before distributing payments to employees to ensure sufficient funds on payday. However, if an EWA model does not account for garnishments or an error is made and funds are insufficient, an employer may find itself liable for the payments even if the EWA provider funds the program.

The U.S. Department of Labor's Wage and Hour Division says that garnishments should be computed based on disposable earnings on a pay period basis. Wages paid through EWA programs are considered earned and should be included in the garnishment computations for the pay period in which the wages were earned. This should not

change the regular garnishment amount for each pay period.³⁵

In EWA methods that do not provide employers with real-time information about when an employee requests early wages or the amount requested, payroll departments would not have necessary information to report or remit child support payments at the same time as early wage distribution. In addition, state child support disbursement units are currently not prepared to accept payments based on EWA programs.

Consumer Protections

Early access to earned wages may help consumers to successfully meet emergencies and unexpected fluctuations in expenses without adding to debt or paying the high costs of bank overdrafts, late payment fees, or payday loans.



In general, state legislatures have put forth laws to prohibit predatory practices, encourage savings, and place restrictions on financial institutions and offerings, such as payday lending laws that control fees, rate limits, and require appropriate disclosures.

Consumer perspectives on EWA and measures, if any, that would protect employees are divergent. There are some basic consumer concepts regarding wages that payroll professionals and their employers may wish to consider:

- Ensure that employees are paid a “living wage.”³⁶
- Create regular employee work schedules well in advance and minimize changes.
- Offer employees professional assistance with financial management and budgeting.

Consumer and benefits groups have raised several issues:

- If employee access to EWA is unlimited or allowed frequently, the fees charged could become significant over time. For example, the National Consumer Law Center says, “Data confirming the average 330% APR cost of fintech cash advances shows the need for the same interest rate limits and cost caps as other forms of credit to prevent a debt trap.”³⁷
- Costs expressed as an apparently high annual percentage may raise concerns. On the other hand, employees may view a fee approximately equal to an ATM fee to be very advantageous, especially if the

alternative is a \$20 to \$35 bank non-sufficient funds (NSF) fee or even higher costs of a payday loan.

- If EWA providers do not have information about all deductions from an employee’s paycheck, such as retirement, healthcare, and garnishments, the result could be insufficient wages to pay all deductions on the regularly scheduled payday.³⁸

An October 2023 issue brief by the National Consumer Law Center and Center for Responsible Lending³⁹ offered key recommendations for state policymakers, including:

- States should enforce existing credit laws and, if necessary, clarify that they cover fintech cash advances.
- If a separate regulatory regime specific to fintech cash advances is considered, it should:
 - Be only for employer-integrated earned wage advances,
 - Cap the total costs lenders can collect at a nominal fee of a few dollars per month, and expressly state that all payments are charges that count toward this cost cap, including so-called “tips,”

- Require that the “voluntary” payments like “tips” default to \$0; and
- Permit advances to be repaid only through payroll deduction or another method that is direct from the employer, and expressly bar repayment through debiting a user’s bank account, which can trigger overdraft and nonsufficient funds fees.

EWA Provider Perspectives

Comparing a flat dollar and per transaction fee charged by EWA providers to fees collected by payday lenders and the pay back consequences for failure to pay back the payday loan with added interest is unreasonable, say EWA providers.

Harvard researchers found stories of workers who used EWA to get a tire fixed in an emergency or to pay for a medical procedure and determined that having money when it’s needed is very meaningful to employees.⁴⁰

Employer adoption of EWA benefits is employee driven; thus, it is a retention tool for employers. Because employers are pressured to offer the benefit, EWA could become a “cost-to-play” for employers who want to stay in business. EWA providers afford employers with a means to offer the benefit with little administrative burden.

Payroll Administration

The administrative burden on payroll will largely be determined by the program the employer chooses to implement. For example, the greater the employer



involvement in the program, the greater the administrative burden (e.g., if the employer includes early pay amounts on pay statements). The burden may be reduced if the involvement helps the employer comply with applicable laws and regulations.

EWA programs may take advantage of other tools available to payroll to provide faster payments to employees, such as off-cycle payments. These tools are already used by employers to make payments before the next regularly scheduled payday, including termination pay, severance pay, or correcting errors from a previous payroll.

Three tools for faster payments are Same Day ACH (Automated Clearing House), RTP (Real-Time Payments), and FedNow[®].⁴¹

Same Day ACH. In 2016, Nacha⁴² began implementing a new rule to allow for same-day settlement of ACH transactions, which include payroll direct deposits. The rule was implemented in three phases and, as the need for enhanced capabilities became clear, has already been expanded. Currently, there are three submission windows with same-day settlement times. They are:

- A morning submission deadline at 10:30 a.m. ET, with settlement occurring at 1:00 p.m. Funds must be available to customers by 1:30 p.m. (local time).
- An afternoon submission deadline at 2:45 p.m. ET, with settlement occurring at 5:00 p.m. Funds must be available to customers by 5:00 p.m. (local time).
- A later afternoon submission deadline at 4:45 p.m. ET, with settlement occurring at 6:00 p.m. Funds must be available to customers by the end of the banking day.

Note: Originating Depository Financial Institutions and payroll service providers may have earlier deadlines for their customers so they can submit files timely.⁴³

Real-Time Payments (RTP® Network). The RTP Network was launched by The Clearing House Payments Co. LLC in 2017 and is designed to allow consumers and businesses to send and receive payments from accounts at federally insured depository institutions immediately.

The network operates 24 hours a day and 7 days a week. According to The Clearing House, the network is currently accessible to financial institutions that hold 90% of U.S. demand deposit accounts, and the network currently reaches 65% of those accounts.⁴⁴

FedNow. The FedNow® Service launched in 2023 as a new instant payment opportunity developed by the Federal Reserve Bank. The service operates 24 hours a day, 7 days a week, and allows businesses and individuals to send and receive funds instantaneously through banks that participate in the network in amounts up to \$100,000.⁴⁵



Attachment 1 – History of Pay Advances

Employer Pay Advances. Employers have responded to employee requests for advances for hundreds of years; often informally, although many employers have set up more formal systems including promissory notes and request forms. Employers have typically not charged for such advances but tended to discourage them because of the administrative cost.

Payday Loans. Payday loans are usually short-term, high-cost advances to employees by third parties, generally for \$500 or less. Arrangements between payday lenders and employees typically provide that loan amounts are due to be paid back on the next payday following loan distribution.

Payday lenders usually charge interest of \$15 to \$20 for every \$100 borrowed. The finance charges are calculated on an Annual Percentage Rate (APR) basis, explained as the sum of the interest rate plus extra fees — the same as is used for credit cards, mortgages, and auto loans. For payday loans, the APR ranges from 391% to over 521%.⁴⁶

Depending on state law, payday loans may be available through storefront payday lenders (physical locations) or online (website). Currently, 12 states — Arizona, Arkansas,

Georgia, Maryland, Massachusetts, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Vermont, and West Virginia — ban payday loans.

Among states that allow payday lending, 16 states and the District of Columbia have implemented provisions capping interest rates at 36%, while other states have put various lending restrictions on payday loans. Currently, 32 states allow small dollar lending without major restrictions.

Recent studies⁴⁷ show the following:

- 12 million Americans use payday loans each year.
- The typical payday borrower is in debt five months out of the year.
- 7 in 10 borrowers use payday loans for regular recurring expenses such as utility bills and rent.
- The average loan size of a payday loan is \$375.
- On average, payday borrowers pay \$520 in principle, interest, and fees to borrow \$375.
- Each year, \$9 billion is paid in payday loan fees.
- 80% of payday loans are obtained within 2 weeks of paying off a previous payday loan.

Example: A borrower accepts a two-week payday loan in the amount of \$300. The lender charges a \$45 fee. The APR is calculated as follows:

- $\$45/\$300 = 0.15$
- $0.15 \times 365 \text{ (days in a year)} = 54.75$
- $54.75/14 \text{ days} = 3.91$
- Move the decimal two places to the right and add the percent sign: 391% APR on this loan.

Overdraft Protection. Overdraft protection is an option offered by financial institutions to their customers that prevents check, ATM, or debit card transactions, as well as wire and electronic transfers, from causing an account's balance to fall below zero and trigger an overdraft fee or an NSF fee. With overdraft protection, the institution covers the shortfall and charges an overdraft fee to ensure that the transaction goes through successfully.

Generally, overdraft protection is offered to customers with two accounts at a financial institution (e.g., a checking and savings account) and the fee is triggered by the transfer between accounts to cover the shortfall. Overdraft protection lines of credit range from \$250 to \$5,000, and sometimes more.

Bank Insufficient Funds Fees. NSF transactions are not automatically covered by financial institutions and can be

expensive and disruptive. When not preauthorized or protected, NSF transactions are returned unpaid, referred to as bouncing. Financial institutions charge significant overdraft and NSF fees, usually between \$20 and \$35 per transaction, for accounts with insufficient funds. These fees can be charged for each transaction each day a customer's account remains in shortfall. In addition, the financial institution may refuse payment and still charge the account holder an NSF fee. A penalty or fee is generally also charged by the merchant for the failed transaction.⁴⁸

In 2023, the average overdraft fee was \$26.61, a drop from the 2021 average of \$33.58, according to research by Statista. Up until 2021, bank overdraft fees rose steadily. The 1998 average fee was \$21.57.⁴⁹ Charges for NSF transactions in 2022 amounted to \$9.9 billion, a drop of 6% from 2021.⁵⁰

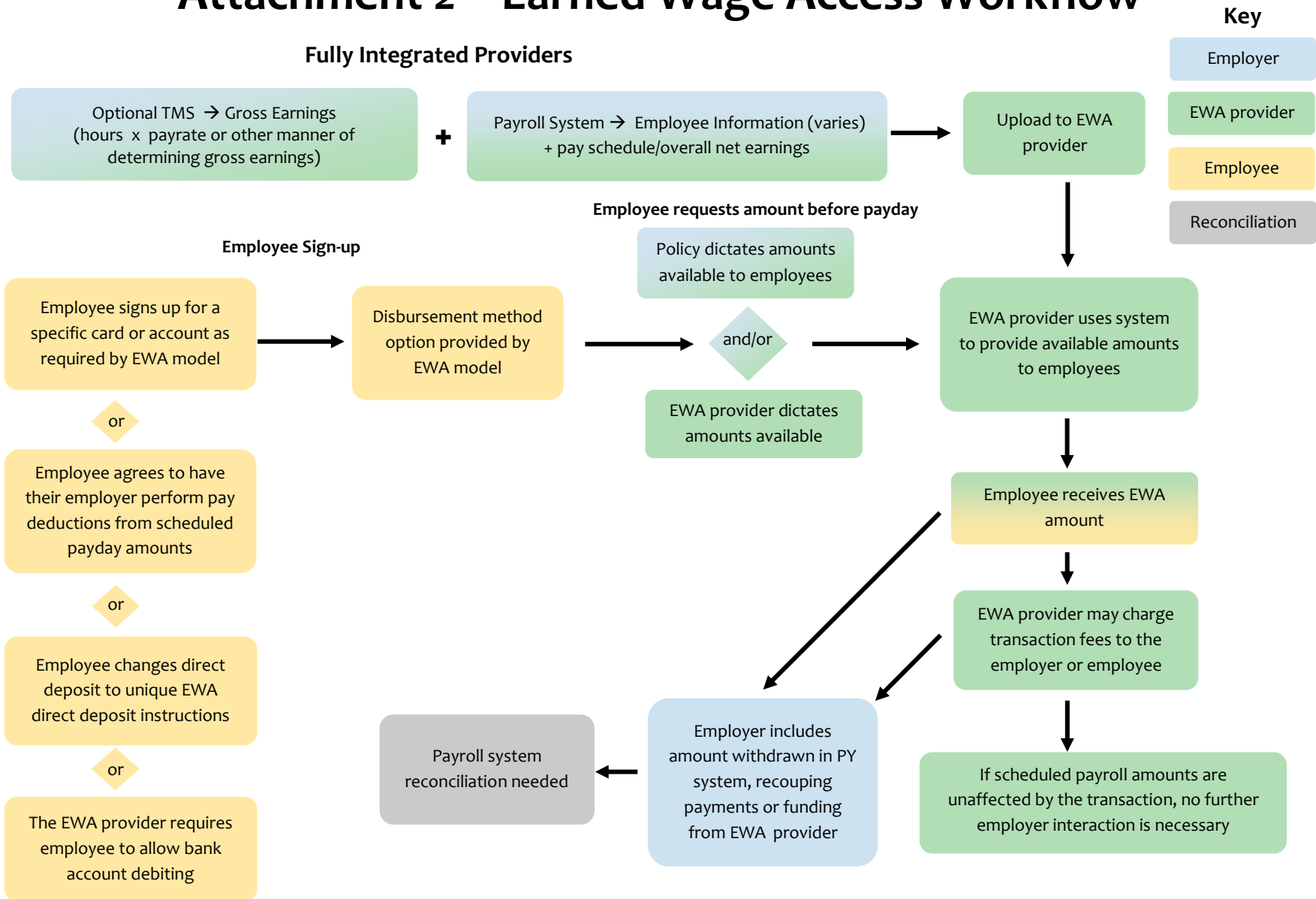
Title Loans. A title loan is a loan that requires an asset as collateral. They are popular with consumers because they do not require a credit review and amounts can be as little as \$100. On average, these loans range from \$100 to \$5,500, but they can be for \$10,000 or more. The cost of a title loan is extremely high with APRs as much as 300% and usually above 100%.⁵¹ Because of the high rate, a consumer who is in financial difficulty can end up in a never-ending repayment cycle on a loan's principal.

The most common title loan uses a car as collateral. According to the Federal Trade Commission, a car title loan is a loan for a small amount of money and for a short time.⁵² This requires the consumer to own the car free of liens and to turn the car title over to the lender pending full repayment of the loan. The consumer also pays the lender a fee to borrow the money. Interest rates on these types of loans are very high and can average 25% or more. The average repayment period is 30 days. The CFPB reports that 20% of consumers who take out a short-term, single-payment car title loan will have their cars repossessed.⁵³

Pawn Shops. A pawn shop loan is seen as a quick way to get money because it does not involve credit. Instead, a pawn shop (pawnbroker) takes possession of a borrower's valuable item, giving cash for the appraised value of the item.⁵⁴ Borrowers can get their valuable item back from the pawnbroker if they pay back the loan plus interest charges. Interest rates can vary depending on the amount and item used as collateral. The interest rates can be as high as 200%.⁵⁵ The Pawn Brokers Association reports that the national average loan amount is \$150 with 30 million unbanked and underbanked consumers accepting pawn loans. In 85% of pawn loans, consumers redeem their collateral.⁵⁶



Attachment 2 – Earned Wage Access Workflow



Earned Wage Access Workflow

Key

Employer

EWA provider

Employee

All Providers and Employers



Earned Wage Access Workflow

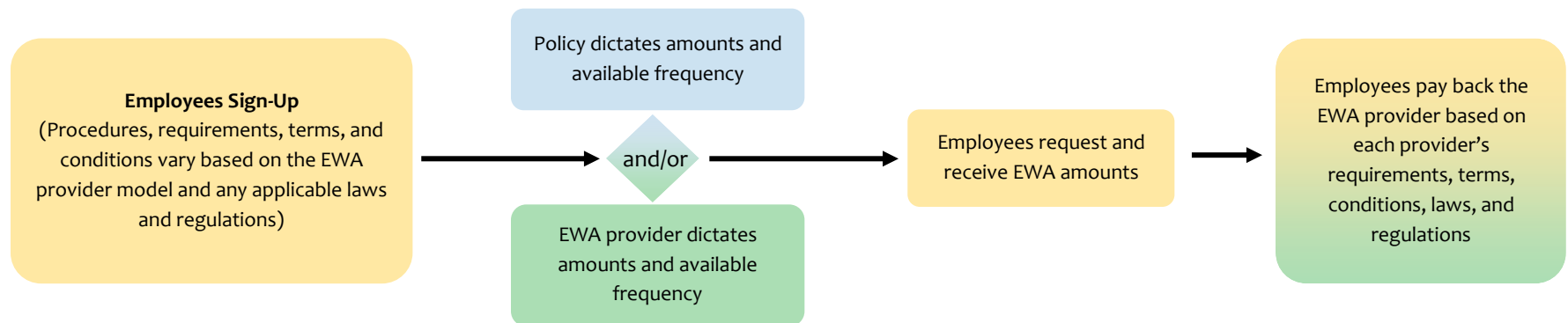
Key

Employer

EWA provider

Employee

All Providers and Employees



Attachment 3 – Nevada EWA Law (S.B. 290)

Most provisions of Nevada S.B. 290 will take effect on July 1, 2024. The law became effective June 13, 2023, for the purpose of adopting regulations and performing other administrative tasks necessary to implement the act.⁵⁷

Definitions

Earned but unpaid income is defined as:

1. A user or employer has represented, and a provider has reasonably determined, that the income has been earned or accrued to the benefit of the user in exchange for the user's having provided services to the employer or on behalf of the employer and
2. Income that has not been paid to the user by the employer at the time a provider delivers payment of the proceeds to a user.

EWA services are the delivery of money to a user that is earned but unpaid income. It includes both employer-integrated and direct-to-consumer EWA services.

Employer-integrated EWA services means the delivery to a user access to earned, but unpaid income determined

based on employment, income, or attendance data obtained directly or indirectly from an employer, including an employer's payroll service provider.

Payroll service providers (PSPs) are excluded from the definition of EWA provider. PSPs may verify the available earnings but are not contractually obligated to fund EWA service proceeds to a user.

EWA Provider Requirements

An EWA provider is required to develop and implement policies and procedures to respond to questions raised by users and address complaints from users in a timely manner. Before entering into an agreement with a user for EWA services, the provider must inform the user of their rights under the agreement and fully and clearly disclose all fees associated with the EWA services. A provider must allow a user to cancel participation in an agreement for EWA services at any time without incurring a fee. In addition, EWA providers must comply with all local, state, and federal privacy and information security laws.

If an EWA provider charges or receives a tip, gratuity, or donation from a user, the provider must conspicuously

disclose to the user that any tip paid by the user does not provide a direct benefit to any specific employee of the provider or any other person. The provider must also offer an option for the user to select zero as an amount for a tip.

If an EWA provider seeks payment of outstanding proceeds, fees, or other payments, including voluntary tips, from a user's bank account (including through a preauthorized electronic funds transfer), the provider must comply with applicable federal laws. The provider must also reimburse the user for the full amount of any overdraft fees imposed by the user's bank, if the fees were caused by the provider attempting to seek payment of outstanding proceeds on a date before, or in an incorrect amount from the information disclosed to the user. This does not apply to payments incurred by a user through fraudulent means.

EWA providers are prohibited from sharing fees, voluntary tips, gratuities, or other donations received from or charged to a user for EWA services with an employer.

EWA providers cannot take advantage of a user's credit report or credit score to determine access to EWA services. They may not charge a late fee, deferral fee, interest, or any other penalty for failure to pay outstanding proceeds, fees, voluntary tips, gratuities, or other donations, nor report any information about the user regarding the inability of the provider to be repaid outstanding proceeds, fees,

voluntary tips, gratuities, or other donations to a consumer agency or debt collector.

EWA providers are also prohibited from requiring a user to pay outstanding proceeds to the provider through any of the following means: a civil action use of a third-party debt collector or sale of outstanding amounts to a third-party debt collector.

EWA Provider Licensing requirements

EWA providers must be issued a license by the Nevada Commissioner of Financial Institutions (CFI) to engage in business in the state. The CFI will set an application fee of not more than \$1,000 and will develop an application form. Annual renewal will be required. The CFI can examine the records of any licensee or provider.

The form must contain the following information:

- Name and address of the applicant;
- A copy of the proposed terms and conditions of use that will govern EWA services, including a statement that the applicant will provide the services in accordance with the applicable provisions of the federal Electronic Funds Transfer Act;

- A copy of the applicant's privacy policy;
- A schedule of fees to be charged to a user or employer, which must include one option for a user to obtain EWA services at no cost to the user a statement that the applicant is applying to be licensed as an employer-integrated or direct- to-consumer EWA provider (or both);
- Financial statements for the preceding year that have been audited by an independent certified public accountant; and

- Any additional information required by forthcoming regulations.

If the application is approved, a unique license number will be issued. The provider must prominently display the license on the provider's website. Each licensee must have a surety bond of \$35,000 payable to the state of Nevada.



Attachment 4 – Missouri EWA Law (S.B. 103)

Like the Nevada law, the Missouri EWA law applies to both direct-to-consumer and employer-integrated models. The law took effect on August 28, 2023. Under the law, EWA services are not considered a loan or other form of credit and the provider is not considered a creditor or lender.

The Missouri law defines earned but unpaid income as salary, wages, compensation, or other income that has been earned or accrued to the benefit of the consumer (i.e., employee or worker) in exchange for services provided by the employer but has not been paid to the consumer by the employer.

The consumer or employer must represent the amount, and the EWA provider must reasonably verify the early wage amount for each participating individual. The wages include compensation that is provided on an hourly,

project-based, piecework, or other basis and where the consumer is acting as an independent contractor.

EWA providers offering services to Missouri residents must register and provide certain information about their business and their officers, directors, principals, or partners to the state. A registration fee of \$1,000 from each registered provider is due annually.

The Missouri law specifies requirements and prohibitions that are substantially similar to those in the Nevada law. One addition in the Missouri law, which is not in the Nevada law, is the prohibition on accepting payment from consumers via credit card or charge card. Another important difference is that the Missouri law does not require an EWA provider to offer a no-cost option to consumers.

End Notes

¹ *New Reality Check: The Paycheck-to-Paycheck Report*, PYMNTS and Lending Club (July 2023): <https://content.pymnts.com/wp-content/uploads/2023/07/PYMNTS-New-Reality-Check-July-2023.pdf>.

² *2023 Employee Financial Wellness Survey*, Survey conducted in Jan. 2023, PwC:

<https://www.pwc.com/us/en/services/consulting/business-transformation/library/employee-financial-wellness-survey.html>.

³ *2023 Wellness Barometer Survey* (3rd ed.); BrightPlan (May 2023). Survey of more than 1,000 employees in the U.S. Feb.-Mar. 2023. <https://www.brightplan.com/2023-wellness-barometer-survey>.

⁴ *2023 Getting Paid in America Survey*, PayrollOrg: <https://www.nationalpayrollweek.com/npw-survey/>. Data was collected during National Payroll Week (Sept. 2023).

⁵ *Economic Well-Being of U.S. Households in 2022*, Board of Governor of the Federal Reserve Systems (May 2023):

<https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf>.

⁶ Copeland, Craig Jake Spiegel, and Bridget Bearden; *2023 Financial Wellbeing Employer Survey* (6th ed.); Employee Benefits Research Institute (EBRI) (Oct. 2023): <https://www.ebri.org/financial-wellbeing/publications/issue-briefs/content/2023-ebri-financial-wellbeing-employer-survey-employers-see-financial-wellness-benefits-as-a-tool-to-improve-worker-satisfaction-and-productivity>.

⁷ This report was prepared by PAYO's Government Relations Task Force that advocates for U.S.-based payroll professionals only. The larger PAYO organization is the payroll industry leader in education, publications, and networking, helping its constituents grow their leadership practices and stay on the cutting edge of payroll industry standards. Each year, PAYO enrolls more than 100,000 participants from more than 100 countries in its training programs, and provides publications, newsletters, and resources to help payroll professionals maintain compliance.

⁸ *Inside Employees' Minds™ —Financial Wellness*, Mercer, LLC (2017): <https://www.me.mercer.com/content/dam/mercer/attachments/middle-east-and-africa/inside-employees-minds-financial-wellness.pdf>.

⁹ "FinHealth Score® Methodology," Financial Health Network (July 2020): <https://finhealthnetwork.org/score/score-methodology/>.

¹⁰ *U.S. National Strategy for Financial Literacy 2020*, U.S. Financial Literacy and Education Commission (FLEC): <https://home.treasury.gov/system/files/136/US-National-Strategy-Financial-Literacy-2020.pdf>. The FLEC was established under the Fair and Accurate Credit Transactions Act of 2003 and consists of 24 federal agencies. The U.S. Department of the Treasury chairs the FLEC.

¹¹ *Financial Well-Being: The Goal of Financial Education*, Consumer Financial Protection Bureau, Pub. 201501 (Apr. 2015).

¹² Information collected from APA members and through a discussion between Sarah Grotta, Director, Debit and Alternative Products Advisory Service, Mercator Advisory Group, and Alice P. Jacobsohn, Esq., Director of Government Relations, American Payroll Association (July 21, 2020). Recently Mercator Advisory Group conducted a review of several on-demand wage access providers in the U.S. The capabilities that were measured in the review can be a guide for processors and employers to consider when looking for the right partner with differentiating features to meet an employer's environment.

¹³ An agreement to participate may be considered a contract or legally-binding agreement under state law.

¹⁴ A provider may access an employee's bank account on payday to recuperate the early pay amount instead of through payroll management. However, states may have laws that do not allow this type of process.

¹⁵ 29 USC § 203 *et seq.*

¹⁶ See 29 CFR § 785.11-12. The term "suffered or permitted" covers all types of work whether voluntary or assigned. The reason is not relevant.

¹⁷ 85 *Fed. Reg.* 79404 (Dec. 10, 2020).

¹⁸ Payactiv, Inc. submitted to the CFPB a formal application for an approval, pursuant to section 130(f) of the Truth in Lending Act (TILA), under the Policy on the Compliance Assistance Sandbox (CAS Policy): https://files.consumerfinance.gov/f/documents/cfpb_payactiv_approval-order_2020-12.pdf (Dec. 30, 2020).

¹⁹ “Order to Terminate Sandbox Approval Order,” Consumer Financial Protection Bureau (June 30, 2022): https://files.consumerfinance.gov/f/documents/cfpb_payactiv_termination-order_2022-06.pdf.

²⁰ 82 *Fed. Reg.* 54472 (Nov. 17, 2017).

²¹ 82 *Fed. Reg.* 54472 at 54547 (Nov. 17, 2017).

²² Employers and EWA providers should review the CFPB’s Payday Loan Rule carefully because the excluded models are identified by specific characteristics.

²³ See CFPB Acting General Council Seth Frotman’s letter to consumer advocacy groups (Jan. 18, 2022): <https://www.consumerfinancemonitor.com/wp-content/uploads/sites/14/2022/01/1456000-1456884-letter-from-s.-frotman-to-b.-ruggia-et-al-re-ewa-ao-1.18.22.pdf>.

²⁴ Frotman, Seth (CFPB); “Comment on Proposed Rule Addressing ‘Income-Based Advances’ and Related Charges;” Sent to the California Department of Financial Protection and Innovation (Nov. 27, 2023): <https://www.consumerfinance.gov/about-us/blog/state-regulatory-developments-on-income-based-advances>.

²⁵ 12 CFR § 1026.2(a)(14).

²⁶ See *Financial Technology: Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity Is Needed*, Government Accountability Office (Mar. 2023), GAO-23-105536: <https://www.gao.gov/assets/gao-23-105536.pdf>.

²⁷ Nevada S.B. 290 (June 15, 2023), “An Act relating to financial services; requiring a person who provides earned wage access services to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; authorizing the commissioner, in furtherance of his or her duties with respect to the issuance and renewal of certain licenses, to participate in the Nationwide Multistate Licensing System and Registry; authorizing the commissioner to take certain actions relating to participation in the registry; and providing other matters properly relating thereto:” www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/10146/Text.

²⁸ Missouri S.B. 103 (July 6, 2023), modifies provisions related to judicial proceedings, including earned wage access: www.senate.mo.gov/23info/BTS_Web/BillText.aspx?SessionType=R&BillID=44662.

²⁹ California Department Financial of Financial Protection and Innovation, 2021 Earned Wage Access Data Findings (Analysis completed in the first quarter of 20230; <https://dfpi.ca.gov/wp-content/uploads/sites/337/2023/03/2021-Earned-Wage-Access-Data-Findings-Cited-in-ISOR.pdf?emrc=08148f>.

³⁰ See California DFPI Initial Statement of Reasons, Mar. 7, 2023: <https://dfpi.ca.gov/wp-content/uploads/sites/337/2023/03/PRO-01-21-ISOR.pdf>.

³¹ Proposed rules were issued by the California DFPI on Mar. 7, 2023 (Pro 01-21): <https://dfpi.ca.gov/california-consumer-financial-protection-law-regulations-legislation-opinions-and-releases>. On Nov. 5, 2023, the DFPI issued a “Notice of Modification to Proposed Rulemaking Under the California Consumer Financial Protection Law, California Financing Law, California Deferred Deposit Transaction Law, and California Student Loan Servicing Act:” <https://dfpi.ca.gov/wp-content/uploads/sites/337/2023/11/Rulemaking-PRO-01-21.pdf>.

³² IRS Reg. §§ 31.3402(a)-1(b), 31.3121(a)-2), and 31.3301-4.

³³ 26 CFR § 1.451-2(a), Constructive Receipt of Income – General Rule.

³⁴ *General Explanations of the Administration’s Fiscal Year 2024 Revenue Proposals*, U.S. Department of the Treasury (Mar. 9, 2023), pages 207-208: <https://home.treasury.gov/policy-issues/tax-policy/revenue-proposals>.

³⁵ American Payroll Association, Congress Xstream 2020, Forum on Federal Payroll Issues session with speaker Robert Vaden, Community Outreach and Resource Planning Specialist, U.S. Department of Labor, Wage and Hour Division.

³⁶ “A living wage refers to a theoretical income level that allows an individual or family to afford adequate shelter, food, and the other basic necessities. The goal of a living wage is to allow employees to earn enough income for a satisfactory standard of living and to prevent them from falling into poverty.” Kagan, Julia, *Living Wage*, Investopedia (Oct. 2, 2019): https://www.investopedia.com/terms/l/living_wage.asp.

³⁷ Quote by Lauren Saunders, Associate Director at the National Consumer Law Center, in a news release on *State Recommendations for Earned Wage Advances and Other Fintech Cash Advances*, National Consumer Law Center and Center for Responsible Lending (Oct. 11, 2023): <https://www.nclc.org/consumers-need-strong-protecti->

from-fintech-cash-advances-that-create-debt-traps/. *Data on Earned Wage Advances and Fintech Payday Loan “Tips” Show High Costs for Low-Wage Workers*, National Consumer Law Center (Apr. 10, 2023): <https://www.nclc.org/resources/data-on-earned-wage-advances-and-fintech-payday-loan-tips-show-high-costs-for-low-wage-workers/>.

³⁸ Alcazar, Julian, and Bradford, Terri, “In the Nick of Time: The Rise of Earned Wage Access, Payments System Research Briefing,” Federal Reserve Bank of Kansas City (Sept. 23, 2020).

³⁹ *State Recommendations for Earned Wage Advances and Other Fintech Cash Advances*, National Consumer Law Center and Center for Responsible Lending (Oct. 11, 2023):

<https://www.nclc.org/resources/state-recommendations-for-earned-wage-advances-and-other-fintech-cash-advances/>

⁴⁰ Lux, Marshall, Cherie Chung, *Earned Wage Access: An Innovation in Financial Inclusion?* (June 2023), Harvard Kennedy School: https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/214_AWP_final_2.pdf.

⁴¹ Two other options that are available for electronic money transfers are VISA Direct® and MasterCard Send®. Because PAYO does not endorse vendor options, they are not described in this report.

⁴² Nacha governs the ACH Network: www.nacha.org.

⁴³ For more information, see Nacha’s Same Day ACH Resource Center: www.nacha.org/resource-landing/same-day-ach-resource-center.

⁴⁴ The Clearing House, The RTP® Network: For All Financial Institutions: www.theclearinghouse.org/payment-systems/rtp/institution.

⁴⁵ For more information, see the Federal Reserve’s *About the FedNowSM Service* webpage at www.frb services.org/financial-services/fednow/about.html.

⁴⁶ “The True Cost of Payday Loans—And Some Borrowing Alternatives,” *Forbes* (Oct. 27, 2019); “What are the Costs and Fees for a Payday Loan?,” Consumer Financial Protection Bureau (June 5, 2017); “Payday Loan Consumer Information,” Consumer Federation of America - <https://paydayloaninfo.org>.

⁴⁷ “Fast Cash and Payday Loans,” Page One Economics, Federal Reserve Bank of St. Louis (Apr. 2019); “What are the Costs and Fees for a Payday Loan?,” Consumer Financial Protection Bureau (June 5, 2017);

“What is a Payday Loan?,” Consumer Financial Protection Bureau (June 2, 2017).

⁴⁸ “Overdraft Protection,” Investopedia (May 27, 2020).

⁴⁹ “Average Bank Overdraft Fee in the United States from 1998 to 2023,” Statista (Aug. 31, 2023):

<https://www.statista.com/statistics/325565/average-bank-overdraft-fee-usa/>.

⁵⁰ “Overdraft Trends Amid Historic Policy Shifts,” Financial Health Network (June 1, 2023):

<https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts/>.

⁵¹ “Title Loan,” Investopedia, May 6, 2020; *Written Testimony by the University of Utah, S.J. Quinney College of Law, and Consumer Federation of America*, United States House of Representatives, Committee on Financial Services, Subcommittee on Consumer Protection and Financial Institutions Hearing, “Ending Debt Traps in the Payday and Small Dollar Credit Industry” (Apr. 30, 2019).

⁵² “Car Title Loans,” Federal Trade Commission – www.consumer.gov.

⁵³ “CFPB Finds One-in-Five Auto Title Loan Borrowers Have Vehicle Seized for Failing to Repay Debt,” Consumer Financial Protection Bureau (May 18, 2016).

⁵⁴ “Is a Pawn Shop Loan a Good Idea for Quick Cash?,” Credit Karma (July 16, 2020).

⁵⁵ “Is a Pawnshop Loan Ever a Good Idea?,” Nerdwallet (June 8, 2018).

⁵⁶ *Pawn Industry Statistics*, Pawn Brokers Association - <https://nationalpawnbrokers.org/pawn-industry-faqs>.

⁵⁷ Information on S.B. 290 is from “Nevada First State to Enact Earned Wage Access Law,” *PayState Update*, PayrollOrg, Vol. 25, Issue 13 (June 26, 2023).