



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

January 15, 2010

[REDACTED]

[REDACTED]

Re: Request for Opinion
Paycards/Debit Cards
RO-09-0158

Dear [REDACTED],

This letter is written in response to your follow-up inquiries regarding the Department's October 29, 2009 opinion letter regarding the use of payroll/debit cards ("debit cards") for the payment of wages under the New York State Labor Law. Both of your inquiries asked, in essence, whether employers were required to provide a minimum number of free ATM or bank withdrawals when wages are paid via debit card.

As stated in the Department's previous letter, the payment of wages via debit cards is governed by Sections 191, 192, and 193 of the Labor Law. As relevant to this follow-up inquiry, Section 191 requires the timely payment in full of an employee's agreed upon wages without encumbrances. In this regard, the Department interprets that Section to require that employees paid via debit card be provided with an effective means by which to make an unlimited number of withdrawals on that card without incurring fees. Such withdrawals may be provided by a bank teller and/or through the use of ATMs. For example, if employees are able to make withdrawals from a bank teller, the employer is not required to ensure any free ATM transactions. However, please be advised that the location at which free withdrawals may be made must be located within a reasonable distance of the employee's worksite so that the employee may make withdrawals without difficulty since the employee cannot be said to be given access to free withdrawals at a bank with few or no branches or ATMs in geographical proximity to the place of employment.

Phone: (518) 457-4380 Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel

By:



Jeffrey G. Shapiro
Associate Attorney

cc: M. Patricia Smith
Carmine Ruberto
Terri Gerstein
Jennifer Brand
Mario Musolino
Colleen Gardner

JGS:mp