Electronic Payroll and Paystubs: Recent Changes to Iowa's Wage Payment Collection Law

By Ann Holden Kendell

Electronic Payroll

On July 1, 2005, several changes to Iowa Code Chapter 91A, Iowa's Wage Payment Collection Law, went into effect. Of particular interest is the provision that allows employers to require new employees to accept their paychecks by direct deposit. There are just a few exceptions to this requirement:

1) Where the costs to the new employee of setting up and maintaining an account would reduce the employee's wages below minimum wage;
2) Where the employee would incur fees charged to the employee's account as a result of the direct deposit; and

3) Where a labor union contract between the employer and a labor union representing the employee prohibits the employer from requiring employees to sign up for direct deposit of wages.

Current employees cannot be forced to receive their paychecks via direct deposit. While the code does not define "new employees," this firm's Employment Law Practice Group interprets this to mean new hires as of the law's effective date, July 1, 2005. Similarly, "current employees" is not defined, but our interpretation is people that were already employed as of July 1, 2005. We do want to note that Iowa Workforce Development (IWD) has published an information and FAQ sheet on the new changes. This can be found at: http://www.iowaworkforce.org/labor/Directdeposit.pdf.

Our Employment Practice Group disagrees with one of the interpretations given by IWD. The question is posed, "Can an employee opt out of direct deposit?" and the FAQ sheet states, "Yes. The new law specifically provides that an employer may not require that a 'current employee' participate in a direct deposit program. Anytime a current employee wants to withdraw from direct deposit, he or she must be allowed to do so. Thus, once a 'new hire' starts working, or a current employee who has signed up for direct deposit wants out of the program, the employer **must** allow the employee to withdraw from direct deposit and be given a regular written paycheck." It seems illogical to have a law allowing employers to require direct deposit for a new employee, yet allow the new employee to be able to change their mind the second day of work as a "current employee." The only circumstance we can see where this might be true is where the employer has a policy change regarding direct deposit after the effective date of the law, July 1, 2005. For example, an employee starts on July 2, 2005, but the employer does not do direct deposit. The employer decides to set up a direct deposit system starting August 1, 2005. Subject to the exceptions listed above, an employer could force new employees starting August 1st and after to be on the direct deposit system, but the employer could not make the employee that had already started on July 2nd be on direct deposit. Despite the agency's interpretation, our Employment Practice Group feels strongly that ours is the proper and safer interpretation.

Pay Stubs

Additionally, a new subsection was added that requires employers to send each employee by mail or provide at the employee's normal place of employment during normal employment hours a statement showing the hours the employee worked, the wages earned by the employee, and the deductions made for the employee. An employer who provides each employee access to view an electronic statement of the employee's earnings and provides the employee free and unrestricted access to a printer to print the employee's statement of earnings, if the employee chooses, is in compliance with this subsection. There is no requirement that year-to-date information be given each pay period.

Penalties

Section 91A.12 provides for civil penalties of $100 for each violation of this law. IWD is the agency that enforces these violations, or an employee may hire a private attorney to sue for violations of Chapter 91A. IWD can seek the $100 fine and reimbursement of any monetary shortfall for the employee. In private litigation, the employee may recover monetary damages for any wages owed to an employee, liquidated damages based upon any wages owed and attorney fees.

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