National Consumer Law Center

Early Wage Access: A Good Option for Workers or a Fintech Payday Loan?

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Early wage access programs—which allow workers to access wages they have already earned ahead of the regular payday—are booming. The programs are touted as a great option to help workers with unexpected expenses and avoid high-cost payday loans.

Free early wage options are becoming more common, but policymakers and employers should think carefully before embracing services that charge workers or effectively result in repeated balloon-payment loans. Early wage access might be helpful for occasional use, but programs should operate directly through employers, have strict limits on fees, and prevent a cycle of debt. A rush to encourage fee-based programs will simply result in a new form of payday loan.

Variants of Earned Wage Access Services

Earned wage access services have many differences. Some are more dangerous than others.

- **Employer-based or direct-to-consumer?** Employer-based services operate through a contract with the employer that allows the program to access time-and-attendance records to determine actual earned wages. Direct-to-consumer programs have methods of estimating earned wages but not with certainty, and they do not need employer approval.
- **Repayment method.** Employer-based services usually are repaid by payroll deduction or other mechanisms through the employer. Direct-to-consumer and some employer-based services debit bank accounts and can trigger nonsufficient funds (NSF) or overdraft fees when the timing or estimate of the paycheck is off.
- **Fees.** Some providers charge *no* fees to the worker. Fees in other programs range from $2.50 *per day* to $6 per month. Fees can be per advance, per pay period, or monthly for a package of services. Fees may be higher if workers want wages right away, as most probably will. Some direct-to-consumer models rely on purportedly voluntary “tips” but may make it difficult not to tip.
- **Frequency.** Many employer-based services limit access to once or twice a pay period, but others allow access daily.
- **Access limits.** Many services or employers limit access to 50% of gross or net earned wages, ensuring that the worker will receive at least half of their paycheck on payday. Others allow (and encourage) “use-it-or-lose-it” access up to 100% of wages earned in a given day.

Most Early Wage Access Services Are Loans

Early wage access services claim not to be loans and not to be subject to state or federal lending laws, including fee and rate limits and disclosures. What laws apply can be complicated, but conceptually any service that advances wages and expects to be repaid later should be viewed as a loan. The mere fact that a worker has unpaid wages (as many payday borrowers do) or that repayment is by payroll deduction does not mean that an advance is not a loan. A $100 advance taken out five days before payday with a $5 fee or “tip” is equivalent to an annual percentage rate of 365%.

Good for Workers or Just Paying to be Paid?

Early wage access services are rarely used occasionally. Workers typically fall into a cycle of repeat advances that merely to fill the gap in the prior paycheck. Fees can add up, and overdraft and NSF fees can increase the cost.

Company	Typical Frequency Of Use	Typical Advances Per Year*
Daily Pay	1.5 times per week	78
Even	1.4 accesses per month	17
FinFit	Limit of 1 access per pay period	24
FlexWage	1 to 4 accesses per month depending on employer settings	12 to 48
Instant Financial	4 to 5 accesses per pay period	96 to 120
Payactiv	1 to 4 accesses per pay period	24 to 96

Source: Aite.
*NCLC calculations assuming semi-monthly pay.

Recommendations for Employers and Policymakers

Employers can play a role in helping workers manage their finances. Free options for more frequent or early pay are growing, but policymakers and employers should not leap to endorse services that merely result in added fees for workers. Important considerations include:

- **Pay a living wage and offer regular work schedules.**
- **Regulate early wage advances as credit and supervise providers.**
- At most, exempt only the smallest fees from usury laws, and only if:
    - The fee is minimal, such as **$5/month**.
    - The service is employer-based and accesses **actual payroll records**. Direct-to-consumer models should not be exempt.
    - The advance is repaid from the **employer**, not the worker's bank account.
    - Access is limited to **50% of net unpaid income**, after deductions and garnishments.
- **Prevent a cycle of chronic use.** Limit to six advances per year, with no more than three back-to-back that step down in size (i.e., $150, $100, $50), then a 30-day cooling off period.
- **Employers should offer better options, such as tools for savings and affordable small dollar installment loans**.