Is Payday The New Groundhog Day? What Bill Murray Can Teach Employers About New Pay Apps

Insights

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Most are familiar with Bill Murray's classic comedy, "Groundhog Day," in which egotistical weatherman Phil Connors repeatedly re-lives the date of February 2, 1993. At first, Connors relishes replicating the same events each day, using the opportunity to gain valuable information about his peers, steal money, and woo ladies around small-town Punxsutawney, Pennsylvania. As the film progresses, however, Connors begins to view the time loop as a curse and dreads his perpetual existence stuck in Groundhog Day.

Thanks to a new trend of pay apps, employees around the country are having their own "Groundhog Day" experience, waking up each morning to the realization that every day is payday. Naturally, widespread use of these apps has generated new challenges and considerations for employers. Before signing up for this new technology, you should take a lesson from Phil Connors and determine whether the everyday payday would be a blessing or a curse for your business.

What Are Pay Apps And How Do They Work?

The concept behind pay apps is relatively simple; they allow hourly employees access to wages they have *already earned* before receiving a formally scheduled paycheck. To use the software, you would simply pair the app with your current scheduling and payroll system. Meanwhile, employees input information for the bank account they use for direct deposit. With this information, the app is able to confirm when an employee completes a scheduled shift and the amount of money earned for that time. At that point, the employee is able to access some—or all—of their earnings from that shift.

While the overall process is largely the same across apps, each one maintains its own stipulations pertaining to the frequency and amount of funds employees can withdraw. Companies like DailyPay, for example, allow employees access to 100 percent of their unpaid wages. Other providers, such as PayActiv, only provide access to 50 percent after every 30 hours worked.

Similarly, each app uses a different fee structure. Most providers currently charge <u>employees</u> $1 to $5 each time they access funds early, but some apps shift transactional costs to the <u>employer</u>. Instant Financial, for example, charges companies $1 per employee enrolled in the program each month.

While the merits of pay apps are up for debate, there is no doubt that these programs are becoming increasingly popular. Hundreds of thousands of employees are already using them on a daily basis,

serving as a staple in major corporations such as Uber and McDonalds and, most recently, Walmart provided its 1.4 million employees with access to its pay app. With such growing prevalence, payroll conglomerates such as ADP have no choice but to develop their own payday apps if they expect to remain competitive.

What Are The Advantages Of Pay Apps?

Just as Phil Connors used his time loop to befriend the townspeople of Punxsutawney, you can use pay apps to win over employees. According to PricewaterhouseCoopers, 70 percent of U.S. households live paycheck to paycheck. Forty-six percent of Americans don't even have the liquid funds to cover a $400 emergency. This lack of cash has resulted in approximately 12 million Americans turning to high-interest "payday loans" each year. Alternatively, employees may face credit card and overdraft fees as they await their next paychecks.

Combatting this lack of short-term cash is the major appeal behind pay apps. So far, employers using the apps have reported improvements in recruiting, retention, absenteeism, and morale. In fact, many employers report that their workers are willing to work longer hours and more shifts when they receive an immediate return on their efforts. In this regard, pay apps can serve as a simple benefit that can help you stand out from competitors when it comes to recruiting and retaining talent.

What Are The Disadvantages Of Pay Apps?

While early benefits of pay apps have been reported, employers also need to be mindful of potential disadvantages. Economists worry that early access to funds can lead to "mindless spending." If your employees elect for early payment too often, they can find themselves under the same financial duress that pay apps were designed to alleviate, and the underlying problems you were hoping to avoid would reappear.

Similarly, there are concerns that employees would not be able to keep up with preplanned deductions such as 401(k) contributions. One feature that makes these plans so effective is that the money is invested before employees ever see it. In fact, workers save three times more on average when 401(k) contributions are automated as compared to plans in which contributions are done manually. With these figures, there is concern that early access to paychecks could lead to employees coming up short on retirement and other significant contributions.

You can combat this issue by ensuring that all deductions (*i.e.* healthcare, life insurance, etc.) are accounted for prior to providing access to early payment of wages. Some apps already incorporate features that earmark funds for such obligations. Walmart's software is a great example, allowing employees to figure in all monthly expenses before accessing their paycheck.

Finally, your company can incur the costs associated with enrolling your workforce into a pay app service. Aside from programs like Instant Financial—which charges employers directly—there can also be overhead costs associated with integrating the company's existing payroll software with the

app. If you bear these costs instead of passing them along to your workforce, you are more likely to have a satisfied workforce.

What Legal Considerations Should Be Considered?

As these apps facilitate the payment of employee wages, you should consider legal ramifications before electing to participate. First, it is important to not confuse pay apps with "day rate" pay. These concepts are completely distinct under the Fair Labor Standards Act (FLSA) and state wage and hour laws. Pay apps merely allow employees early access to their wages; their pay is still based on an hourly wage, rather than a flat daily rate.

Nevertheless, employees still need to be paid in accordance with state and federal law. You should be sure that early debits from paychecks do not lead to employees receiving pay that is below their hourly wage or that they go uncompensated for overtime. As a precaution, you may consider allowing employees to access only a portion of their wages after each shift. By doing so, you can ensure that overtime pay and all other adjustments are accounted for in the remaining wages on the employee's paycheck.

In addition, you should ensure you are in compliance with state payroll and paycheck regulations before rolling out a pay app. Several states maintain laws preventing employers from mandating that employees be paid via direct deposit or a "pay card." If your business operates in any of these states, you must give each employee the option to use the pay app, rather than forcing them to do so.

Where operating under a collective bargaining agreement, you should carefully review the contractual language and consult with your labor counsel prior to implementing pay apps. Failure to do so could violate duties to bargain in good faith, as set forth by the National Labor Relations Act. Unions may be especially interested in your decision to implement a pay app, as they will want to ensure that membership dues are still accounted for despite early access to wages.

Finally, the mere use of pay apps generates additional records that can be used against you in a wage and hour charge or litigation. This is somewhat a minute point, however, as employee time and pay records are usually discoverable items. Moreover, the Department of Labor already maintains its own "Timesheet" app that allows employees to track their hours and pay to verify whether their employer is compliant. In this regard, pay apps do not add any significant new threat against employers.

Conclusion

With major corporations jumping on the pay app wave, it's hard to deny the increasing prevalence of this software. Just as Phil Connors learned to live in his time loop, you may soon have to decide whether you can manage paying employees every day. By weighing these advantages and disadvantages and maintaining compliance with applicable laws, you may avoid seeing the shadow of discouraged employees and, more importantly, another six weeks (or more) of litigation.

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