Earned Wage Access: An Early Payday or Fintech Payday Lending?

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Abstract: Earned Wage Access (EWA) providers advertise their services as early access to earned wages. However, products vary significantly in design, fees, repayment, and risk to the consumer. In this paper, we summarize the arguments of EWA advocates and critics. Much of the controversy involves differences between employer-integrated and direct-to-consumer (D2C) EWA models. The former uses payroll data to limit draws to wages already accrued. No "repayment" is required since the funds advanced have already been earned. Users may pay subscription, transaction, and/or expediting fees. Some employers subsidize these costs. In contrast, D2C products do not access payroll data. They rely on consumers' bank account transaction histories. D2C firms impose subscription fees, coerced "tips," and/or expedited transfer fees. Firms recover their principal and fees by debiting the consumer's bank account. Our paper closes with a review of the unsettled legal landscape. At the federal level this includes the CFPB's problematic 2020 advisory opinion, its rescission of that opinion in January 2025, and their proposed, but never enacted, regulation of EWA products. We also summarize state legislative efforts. We argue legislators and regulators must differentiate between firms offering early paydays and those engaging in fintech payday lending.

Keywords: Earned Wage Access, Payday Lending, Fintech

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Earned Wage Access (EWA) programs, offered by providers like DailyPay, Dave, EarnIn, and others, have gained increasing attention from consumer advocates and policy experts. In this paper, we explain the positions of EWA advocates and critics. We describe why

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employer-integrated products are far better for consumers than direct-to-consumer (D2C) EWA products. The paper closes with a discussion of policy efforts at both the federal and state levels. Our primary recommendation is that employer-integrated models using accrued hours as the basis for advances, with a no-cost delivery option, transparent fees, and no-funds pulled from consumer bank accounts should be classified as true earned wage access. Firms using a credit score, charging upfront fees, and that later pull funds from the employee's bank account to cover the advance, should be considered loans subject to federal truth-in-lending statutes.

Earned Wage Access Advocates

In mainstream microeconomic theory individual consumers are assumed to be rational, have full information, and engage in utility maximizing behavior within an uncoerced free market exchange. EWA programs are seen as a market-generated solution to a world characterized by stagnant wage growth, irregular hours, and growing inequality. By smoothing the receipt of income and avoiding higher-cost payday lenders, consumers are empowered through this new form of financial inclusion. Employers offering EWA services may also be rewarded by finding it easier to recruit and retain employees and boost productivity.

Advocates of EWA can be persuasive. For instance, Hawkins (2021) sees EWA as providing workers with an affordable alternative to high-cost payday loans. This market disruption works because of new information. EWA firms have detailed access to information about an employee's hours worked and wage rate. The advantage Hawkins sees is that by using technology to gain more information, EWAs can provide a low-cost service to workers that is more affordable than a high-interest, high-fee payday loan. To his credit he advocates for greater legal certainty to clarify whether these are merely money transmissions or a form of credit.

Similarly, Jonathan M.V. Davis (2025, 12) sees EWA as giving workers "more control over when they are paid for their work." EWAs represent a low-cost tool for financial inclusion that empowers workers. He sees these programs as helping to alleviate poverty and providing a shrewd alternative to payday loans and high interest credit cards. Davis argues that EWA can improve worker well-being by reducing reliance on expensive credit, alleviating financial stress, and giving employees more control over pay timing. While concerns about impulsive spending exist, evidence suggests workers generally make informed financial decisions. In Davis's view, EWA users appear to be the embodiment of all we hope for in mainstream economic theory. They are rational, sophisticated, decision makers, with full information, avoiding high-cost lending products, who make their decisions in a non-coerced way.

Beasley (2023, 636) recognizes that employees see EWAs as a highly desired employee benefit. When offered as an employee benefit these new products may boost worker productivity and reduce employee turnover. However, one of her main concerns is that large firms are better able to manage the costs and risks associated with offering this service. Small firms are left at a competitive disadvantage because they are less able to manage costs and risks (2023, 657).

Earned Wage Access Critics

In contrast to the optimistic view summarized above, critics of EWA tend to avoid rational consumer assumptions. Instead, they see EWA as underregulated, high-cost credit instruments used to prey on distressed workers. For instance, New York Attorney General Letitia James has sued MoneyLion and Daily Pay for making "illegal loans" that take advantage of New York workers. She says this, "Promising New Yorkers financial freedom while pushing them into outrageously expensive loans is downright shameful. These are payday loans by another name."

(New York State AG, April 14, 2025) She sees no ambiguity here. These are predatory lending products worthy of prosecution, not just an early payday.

Researchers at the Center for Responsible Lending (CRL 2024a, 2024b, 2024c) agree. They have self-published multiple reports documenting their concerns that EWA shares many characteristics with payday loans—they generate high APR equivalents, expediting fees and enforced "tips" are finance charges disguised as something else. Users often stack loans, escalate usage over time, and form habitual patterns of using these services much like payday loan customers. Their recent report, authored by Bamona and Constantine (September 2025), says as much in their title "Escalating Debt: The Real Impact of Payday Loan Apps Sold as Earned Wage Advances." These authors note that (1) borrowing escalates over time, (2) most users (53%) use multiple platforms to borrow and these increase in number over time, (3) heavy users pay far more in loan and overdraft fees than light users, and (4) the average APR for one- or two-week loans was 383%, a rate comparable to payday loans (391%).

Employer-Integrated or Direct-to-Consumer Models

The disagreement between advocates and critics requires a deeper understanding of how EWA products are offered to workers. EWA products come in a variety of delivery formats but can be broadly grouped into either employer-integrated models or direct-to-consumer (D2C). Functionally, both provide the consumer with funding. However, the way in which consumers interact with the platform, how eligibility for "funding" is determined, how the "advance" is resolved, and the fee structures applied, vary widely between the two types and vary somewhat even within each type.

Employer-Integrated delivery models are directly linked to an employer's payroll system and draw on its data. This allows EWA providers to know an employee's wage rate and to

determine how many hours an employee has accrued in the current pay period. Firms can easily compute how much the employer owes each of their employees at the end of each workday. This allows them to precisely determine a maximum advance amount that could be transferred to the employee. By contracting with the EWA firms and covering all or part of the monthly subscription fee, an employer can offer this service as a benefit (Christensen 2020). Some EWAs also charge a transaction fee and an additional fee if the employee needs instant cash rather than waiting for a few days for an ACH transfer (Christensen 2020, 432). Employees access the program through a phone app showing their accrued earnings. They may request a percentage of this balance.

According to Rain (nd, 6) Employer-Integrated EWA firms differ among themselves in two important respects. First, they differ in how employees receive funds. Some firms push early access wages to an employee's own bank account or card. Other firms, like Branch and Rapid, require employees to access funds through an account and card controlled by the EWA vendor. Second, firms use three different models to "reconcile and recoup" the early advance. Firms like Rain and PayActiv use a "payroll deduction" to debit the employer for the sum of advanced wages and any associated fees. The employer then debits that sum from their employee's paycheck before it is deposited. In contrast, DailyPay and MyFlexPay "intercept" an employee's paycheck through an account controlled by the vendor. This effectively reduces the employee's future deposit by the amount of the advance, plus any fee associated with it. Finally, Rapid and Instant may use either a payroll deduction or an intercept. However, since payment is controlled through their own card, they may also employ an "account pull" from that account to recoup the advances and associated fees.

The strengths of employer-integrated models are four-fold. First, they are based on actual work hours, wage rates, and accrued earnings. Second, employees' access to advances are restricted to those already earned. Third, fees (subscription, transaction, and/or instant cash) are often paid in advance by the customer. However, in most cases the subscription fee and any individual transaction fee may be paid in part or full by one's employer. An instant cash option, that utilizes the Real-Time Payments network to deliver the funds within minutes, may cost extra. However, a lower cost or free option is generally available if the consumer can wait a few days to accept funds through an ACH transfer. Thus, this EWA model lives up to its name. It is truly the early advance of already earned wages. The fact that in many cases employers subsidize the associated costs can make it a valuable employee benefit.

The D2C delivery model—used by firms such as Brigit, Chime, Dave, and EarnIn—differs from the Employer-Integrated model in at least four important ways (Christensen 2020, 432 and Rain nd, 6). First, in this D2C model, there is no check on the number of hours or earnings an employee has accrued. This expected income information is self-reported. Customers provide the EWA access to their transaction history on their main bank account. If the EWA provider can see that there are consistent and stable payroll deposits, then they can determine how much they are willing to advance. Second, D2C products are generally smaller in the amounts they provide because the decision is made with less information. The firm bases their decision entirely on the consumer's ability to pay. Third, the fee structure between the two product types also varies. D2C providers may charge a monthly subscription fee for consumers to access the EWA products. Some D2C providers solicit coercive "tips" from the consumer for their services which can be difficult to opt-out of based on the UI design (CRL, 2024b). Fourth, the principal is repaid by a direct draw from an employee's bank account.

D2C products are not a true earned wage access product. These are short-term loans. They require the borrower to pay the interest upfront in the form of a fee. The principal is repaid on payday with a withdrawal from the employee's bank account.

Legal Concerns and Efforts

EWA products stand in a legally gray area. Federal law neither classifies nor excludes these products from existing regulatory frameworks. In early 2024, H.R.7428: Earned Wage Access Consumer Protection Act sought to explicitly exclude EWA from the definition of "credit" under the Truth in Lending Act (TILA), require full disclosures of fees, and establish procedures for dispute resolution. The bill ultimately expired without passage (H.R.7428, 118th U.S. Congress 2024 see also Federal Register, 2024).

The U.S. Consumer Financial Protection Bureau (CFPB) issued a 2020 advisory opinion focused on "covered" EWA programs. If certain criteria were met, it designated them as "not credit." This included only allowing access to accrued wages, no fees of any kind, no customer-initiated repayment, no credit underwriting, and non-recourse. The rationale was that the advance was based on wages the worker had already earned and therefore does not create debt. However, this opinion only fit a narrow Employer-Integrated model and did not cover D2C. Lux and Chung (2023, 35) have stated that this opinion did not explicitly define "non-covered" programs as credit and "should be governed by the protections that apply to other forms of credit." The CFPB acknowledged this inconsistency and rescinded this advisory opinion in January 2025 stating that "it engendered substantial regulatory uncertainty" (U.S. Consumer Financial Protection Bureau 2025)

The CFPB's 2024 proposed interpretive ruling (U.S. Consumer Financial Protection Bureau 2024) sought to eliminate the ambiguity in its 2020 opinion by withdrawing it completely

and classifying all EWA products as consumer credit. The rationale was that wage advances create a repayment obligation regardless of the delivery model. As a credit product, EWA would be subject to TILA, and any sort of fees or tips would be included in APR calculations. While TILA itself does not impose APR caps, many states have an APR cap for small loans, and the U.S. Military Lending Act caps APR at 36% for servicemembers and their dependents. This would have had a major impact on EWA providers and created a fee system that varied by state as well as by customer. The proposed interpretative ruling was opened for comments in July 2024 but never went any further with the transition to the second Trump administration. Currently, there is no special carve-out for EWA federally and the responsibility falls to the states.

Without federal guidance, states have begun to develop their own guidance on EWA. As of December 2025, eleven states have established EWA policy statutorily.[2] California, through their Department of Financial Protection and Innovation, has taken a regulatory rather than statutory approach opting to classify EWA as income-based advances under California Consumer Financial Protection Law, which brings them under the department's regulatory authority. (California DFPI 2025). Twenty-two other states have introduced, but not passed, legislation. While each is distinct in their approach, there are common themes. To avoid the debt cycles or prevent predatory fees, consumer protection is a main point that is emphasized through transparency in fees, a no-fee option, full disclosures, and non-recourse for the consumer. States vary on whether they require EWA companies to register with the state or obtain a special license. Along with the registration comes mandatory reporting on customer usage for the state

[2] See references for full bill text citations from the 11 states that have passed EWA legislation. Those states include Arkansas, Connecticut, Indiana, Kansas, Louisiana, Maryland, Missouri, Nevada, South Carolina, Utah, and Wisconsin.

to monitor use patterns and detect harm. In many states, these EWA products may qualify as non-credit if they meet the criteria of having no interest, no fees, and non-recourse.

Connecticut has taken the most prescriptive measures by requiring verification through payroll data, placing aggressive caps on fees, requiring the default "tip" to be set to $0, and requiring consumers to attest they are not stacking their wage advance with other providers. The goal appears to be to provide a low (or no) cost way for consumers to access wages they have already earned.

In the absence of a federal policy, a patchwork of policy and regulation have emerged at the state level creating inconsistencies for providers and varying levels of consumer protection. With no clear framework for these products, EWA providers are currently required to adjust their products for the different states they operate in. When EWA products are classified as non-credit, these tend to favor the employer-integrated models which generally have a lower fee structure. When classified as a loan, these tend to put more constraints on the provider. How should federal and state legislators address EWA policy?

Policy Recommendations

Returning to the CFPB's 2024 proposed interpretation—"wage advances create an obligation of payment regardless of delivery method"—we argue that the delivery method does impact whether a payment obligation has been created. In the case of most D2C models, the EWA provider is not basing their decision on income accrued. Instead, they use historical bank account data. The number of hours a consumer has accrued when an advance is requested is unknown. On payday, the EWA provider withdraws funds directly from the consumer's account. This process creates an obligation by the consumer to pay back the provider. These products also have higher fees and lower limits associated with them due to the uncertainty of available funds on

payday. Because they are not using accrued hours to make their advancement decision, D2C EWA should not be classified as an EWA product. They should be treated as loans.

In the case of employer-integrated models, we argue that this does not create an obligation to repay. When a person works for a day but does not get paid for another two weeks, the obligation to pay for that day of work lies with the employer. Why is it that the employer gets to withhold payment of wages for one, two, or even four weeks without paying the employee interest? In using an employer-integrated EWA product—based on wages accrued—the consumer is simply accessing wages already earned. In addition, the consumer is prohibited from withdrawing more than they have earned. It is therefore impossible for the employee to create an obligation to pay back the EWA. On payday, the consumer is not paying anything back to the employer or EWA provider. No debt is created on the consumer's end and therefore this should not be considered a consumer credit product.

Our recommendation is that employer-integrated models—using accrued hours, with a no-cost delivery option, transparent fees, and no recourse on consumers—should be classified as EWA. They are early paydays, not consumer credit products. Products that offer wage advances based on other data, fail to offer a no-cost option, and/or which pull funds directly from an employee's account to recoup the advance, should be classified as a loan product and subject to the Truth in Lending Act. Making this distinction clear will create legal certainty for consumers and end the charade of fintech payday lenders masquerading as early payday providers.

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Earned Wage Access offerings. MoneyLion is discussed in the article and treated the same as any other EWA firm in the study.

References

Arkansas General Assembly. Ark. H.B. 1517, Earned Wage Access Services Act. 2025. https://arkleg.state.ar.us/Home/FTPDocument?path=%2FBills%2F2025R%2FPublic%2FHB1517.pdf

Bamona, Christelle and Lucia Constantine. 2025. Center for Responsible Lending (CRL) Escalating Debt: The Real Impact of Payday Loan Apps Sold as Earned Wage Advances (EWA). Available at https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-payday-loan-apps-ewa-sep2025.pdf. Accessed October 9, 2025.

Beasley, Harper. 2023. "Earned Wage Access: Employee Perk or Small Business Killer?" Journal of Corporation Law 48 (3): 635-661.

California Department of Financial Protection and Innovation. Income-Based Advances (Earned Wage Access) Registration Requirements. Effective Feb. 15, 2025. https://dfpi.ca.gov/regulated-industries/covered-persons/income-based-advances/

Center for Responsible Lending (CRL). 2024a. Paying to Be Paid: Consumer Protections Needed for Earned Wage Advances and Other Fintech Cash Advances. Center for Responsible Lending. Available at https://www.responsiblelending.org/research-publication/paying-be-paid-consumer-protections-needed-earned-wage-advances-and-other. Accessed June 7, 2025.

Center for Responsible Lending (CRL). 2024b. A Loan Shark in Your Pocket: The Perils of Earned Wage Advance. Center for Responsible Lending. Available at

https://www.responsiblelending.org/research-publication/loan-shark-your-pocket-perils-earned-wage-advance. Accessed June 7, 2025.

Center for Responsible Lending (CRL). 2024c. EWA State Toolkit. Center for Responsible Lending. Available at https://www.responsiblelending.org/research-publication/ewa-state-toolkit. Accessed June 7, 2025.

Christensen, Alexis. 2020. "Early Wage Access Products: Twenty-First Century Innovations or Harbingers of Debt?" Georgetown Journal on Poverty Law & Policy 27: 429.

Connecticut General Assembly. Conn. H.B. 5007, Earned Wage Access Service. 2025. https://www.cga.ct.gov/2025/TOB/H/PDF/2025HB-05007-R00-HB.PDF

Davis, Jonathan M.V. 2025. "The Economics of Earned Wage Access: How Giving Workers More Control over Pay Timing Can Boost Financial Stability, Productivity, and Well-Being," June. University of Oregon. Unpublished Manuscript. https://drive.google.com/file/d/1w1W0n3HtasA87AVu97a2oz2iSUmTJTiW/view Accessed October 9, 2025.

The Federal Register. 2024. "Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation of Work." Federal Register / FIND 89 (147), July 31. Available at https://www.proquest.com/pqrl/reports/truth-lending-regulation-z-consumer-credit/docview/3086397435/sem-2?accountid=26351. Accessed June 7, 2025.

Hawkins, Jim. 2021. "Earned Wage Access and the End of Payday Lending." Boston University Law Review 101 (2): 705-759.

Indiana General Assembly. Ind. H.B. 1125, Earned Wage Access Act. 2025. https://legiscan.com/IN/text/HB1125/id/3219955/Indiana-2025-HB1125-Enrolled.pdf

Kansas Legislature. Kan. H.B. 2560, Earned Wage Access Services Act. 2024. https://www.kslegislature.gov/li_2024/b2023_24/measures/documents/hb2560_enrolled.pdf

Louisiana Legislature. H.B. 368: Earned Wage Access Services Act. 2025. https://www.legis.la.gov/legis/ViewDocument.aspx?d=1427687

Lux, Marshall, and Cherie Chung. 2023. Earned Wage Access: An Innovation in Financial Inclusion? Cambridge, MA: Mossavar-Rahmani Center for Business & Government, Harvard University. Available at https://dash.harvard.edu/entities/publication/57a215cc-8937-42c8-b9fa-13ea8796ac5b. Accessed June 7, 2025.

Maryland General Assembly. Md. H.B. 1294, Earned Wage Access and Credit Modernization. 2025. https://mgaleg.maryland.gov/2025RS/bills/hb/hb1294T.pdf

Missouri General Assembly. Mo. S.B. 103, Earned Wage Access Services Provisions. 2023. https://www.senate.mo.gov/23info/pdf-bill/tat/SB103.pdf

Nevada Legislature. Nev. S.B. 290, Regulation of Earned Wage Access Providers. 2023. https://legiscan.com/NV/text/SB290/id/2823292/Nevada-2023-SB290-Enrolled.pdf

New York State Attorney General, Letitia James, Press Release April 14, 2025, “Attorney General James Sues Payday Lending Companies for Exploiting Workers with Illegal Loans.” https://ag.ny.gov/press-release/2025/attorney-general-james-sues-payday-lending-companies-exploiting-workers-illegal Accessed October 9, 2025.

Rain.US. ND. “A Guide to Buying Earned Wage Access.” https://www.rainapp.com/ewa-provider-guide. Accessed December 11, 2025.

South Carolina Legislature. S.C. S.B. 700, Earned Wage Access Services. 2024. https://www.scstatehouse.gov/sess125_2023-2024/bills/700.htm

U.S. Congress. House. H.R. 7428, Earned Wage Access Act of 2024. 118th Cong., 2nd sess., 2024. https://www.congress.gov/bill/118th-congress/house-bill/7428

U.S. Consumer Financial Protection Bureau. Advisory Opinion: Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work. Docket No. CFPB-2024-0032. Jan. 15, 2025. https://files.consumerfinance.gov/f/documents/cfpb_ao-rescinding-earned-wage-access-2020_2025-01.pdf Accessed December 10, 2025

U.S. Consumer Financial Protection Bureau. Truth in Lending (Regulation Z); Earned Wage Access Programs. Advisory Opinion, 85 FR 79404, Nov. 30, 2020. https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinion_earned-wage-access_2020-11.pdf Accessed December 10, 2025

U.S. Consumer Financial Protection Bureau. Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work: Proposed Interpretive Rule. Docket No. CFPB-2024-0032. Proposed July 18, 2024. https://files.consumerfinance.gov/f/documents/cfpb_paycheck-advance-marketplace_proposed-interpretive-rule_2024-07.pdf Accessed December 10, 2025

Utah State Legislature. Utah H.B. 279, Earned Wage Access Services Act. 2025. https://le.utah.gov/~2025/bills/static/HB0279.html

Wisconsin State Legislature. Wis. A.B. 574, Earned Wage Access Services. 2023. https://docs.legis.wisconsin.gov/2023/related/proposals/ab574