

Employment and Training Administration Advisory System U.S. Department of Labor Washington, D.C. 20210	CLASSIFICATION UC Debit Cards
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 34-09

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Best Practices for Payment of Unemployment Compensation (UC) by Debit Cards

1. Purpose. To provide guidance to states on best practices for payment of unemployment compensation by debit cards.
2. References. Sections 303(a)(1) and (5) of the Social Security Act (SSA); Sections 3304(a)(4) and 3306(h) of the Federal Unemployment Tax Act (FUTA); and Unemployment Insurance Program Letter (UIPL) No. 45-89.
3. Background. In recent years, the usual method of paying unemployment compensation (UC) benefits has changed from paper checks to direct deposit and/or debit cards. These practices give beneficiaries quicker access to their benefits and are cost effective for states. Based on information available to the Department of Labor (Department), about 31 states currently use debit cards to make some portion of their UC benefit payments.

Debit cards have advantages over paper checks for beneficiaries without bank accounts: they can avoid check-cashing fees and make purchases without having to carry large amounts of cash. Despite these advantages, the Department is concerned that fees associated with debit card use in some states are unfair and has concluded that states can significantly improve their practices to minimize costs to UC beneficiaries. This UIPL is issued to encourage states to adopt certain best practices related to payment of UC benefits by debit cards.

4. Use Direct Deposit for All Individuals with Bank Accounts. The Department recommends payment of benefits by direct deposit rather than debit cards for individuals with bank accounts. For individuals who have bank accounts, direct deposit offers a number of advantages over both paper checks and state issued debit cards:

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- A. It offers the convenience of having benefits deposited without a trip to the bank, and banks often waive monthly account maintenance fees for customers who use direct deposit. Research shows that 97 percent of people who use direct deposit are satisfied with it. (See www.electronicpayments.org for more information on the benefits of direct deposit.)
- B. Benefits may be withdrawn by the individual's usual means of paying bills or obtaining cash, e.g., check, debit card, or bank card; there is no extra card for the individual to carry; and the individual is already familiar with the bank's policies and its network of automated teller machines (ATMs).

The Department recommends that states offer individuals the opportunity to elect direct deposit as soon as possible during the claims process. In states with Internet claim filing, individuals should complete a direct deposit form before submitting their claims. In states with telephone claim filing, individuals should be advised during the claims interview of the availability and advantages of direct deposit, and a sign-up form should immediately be mailed to them.

States that use debit cards and do not yet offer direct deposit should, as an interim measure, offer a way for UC benefits to be automatically transferred from the debit card to the individual's bank account. At least one state already follows this practice.

5. Ensure that Individuals are Clearly Informed of Debit Card Fees and How to Avoid Them. Debit cards offer convenience and security to those individuals who are unable to take advantage of direct deposit because they lack a bank account. In making benefits available to beneficiaries by debit cards, states should communicate the terms and conditions of their use as clearly as possible.

The Department has found that all states offering debit cards as a method of payment notify individuals of debit card fees via the cardholder agreement that is mailed with the debit card. Some states provide additional brochures or fliers advising individuals of fee structures. This information is often also available on the state's website or on the debit card provider's website. While this information is helpful, it appears that individuals do not always read it, nor do they carry this information with them when they use their debit cards.

To ensure that individuals are informed of fees as quickly, clearly, and simply as possible, the Department recommends that states issue a wallet-sized card listing all fees associated with the debit card. In addition to providing a concise overview of fees, the card could be conveniently carried with the debit card. This will ensure that fee information is available at the time individuals are actually accessing their benefits.

Since using out-of-network ATMs and banks results in fees being imposed, states should also provide individuals with easily accessible lists of in-network ATMs and banks where benefits may be accessed for free. Debit card providers' websites often include links to ATM locators,

which allow individuals to enter their address or zip code and locate the nearest in-network ATMs and banks. For individuals without Internet access, state agencies should make printed lists of local in-network ATMs and banks available. States should notify individuals of these resources at the time of mailing the debit card. These lists could be mailed to individuals upon request, or kept in One-Stop Career Centers for individuals to pick up.

6. Negotiate with Debit Card Providers for Fee Schedules that are More Favorable to Individuals. Section 303(a)(1), SSA, requires that states have “methods of administration . . . reasonably calculated to insure full payment of unemployment compensation when due.” The “withdrawal standard” of Section 303(a)(5), SSA and 3304(a)(4), FUTA, prohibits withdrawals, with specified exceptions not germane to this discussion, from a state’s unemployment fund for purposes other than payment of “compensation.” Section 3306(h), FUTA, defines “compensation” as “cash benefits payable to individuals with respect to their unemployment.” The withdrawal standard plainly requires that all money withdrawn from a state’s unemployment fund be used solely in the payment of unemployment compensation, “exclusive of expenses of administration.” (Section 3306(f), FUTA.) UIPL No. 45-89 explains that UC may not be paid to any individual or entity other than the beneficiary, unless authorized by Federal law, and it provides detailed legal support for this determination. Federal law does not authorize payment of administrative expenses from the state’s unemployment fund. Instead, states receive administrative grants to pay for these expenses. Thus, money withdrawn from the unemployment fund as payment of UC may not be used, in any manner, to cover the state’s administrative cost related to the payment of UC, and the entire amount of UC must be made available to the individual without deductions other than those specifically authorized by Federal UC law. (Certain exceptions exist to this requirement, but they are not germane to this discussion.)

Because UC must be paid to eligible individuals in the full amount due, and moneys may not be withdrawn from a state’s unemployment fund to pay for administration of the state’s UC law, the Department interprets Federal law to require that all beneficiaries have reasonable access to the entire amount of each UC payment without cost to the individual. At a minimum, reasonable access means at least one opportunity for the individual to withdraw the entirety of each UC payment at no cost. Applied to debit cards, the state must allow the individual at least one opportunity to cash-out each UC payment, whether by ATM, over-the-counter teller transaction, or point-of-sale (POS) purchase, without incurring any fee.

In practice, most states using debit cards provide for more than one free withdrawal per UC payment. Also, some states have negotiated debit card fee structures that are more advantageous to UC beneficiaries than others. We have identified five areas where we recommend that states negotiate with their debit card providers to ensure fair and equitable fee schedules. Each area is discussed in detail below.

A. Allow more than one free ATM withdrawal per payment

States should negotiate with their debit card providers to allow for as many free in-network ATM withdrawals as possible. ATM transactions are more convenient and less

time-consuming than over-the-counter teller transactions, since individuals may visit an ATM at any time, without regard to business hours or the need to make a purchase.

The majority of states paying UC through debit cards offer some free ATM withdrawals. In some of these states, individuals may make unlimited free withdrawals at in-network ATMs; in others, individuals may make a specified number of free withdrawals at in-network ATMs before incurring fees.

In addition, states should consider the needs of individuals who reside in rural or underserved areas, where their ATM choices may be limited. Whenever possible, states should partner with a debit card company which has a wide array of ATMs in its network.

B. Allow unlimited free POS transactions

Since point-of-sale fees are paid by merchants, the Department sees no reason for charging beneficiaries a fee for any POS transaction. All except two states have already negotiated agreements with their debit card providers that allow unlimited free POS transactions. This should be the case for every state using debit cards.

C. Allow unlimited free ATM balance inquiries at in-network ATMs

States should negotiate with their debit card providers to allow unlimited free balance inquiries at in-network ATMs. Checking debit card balances regularly is one of the simplest ways for individuals to manage their accounts. Allowing unlimited free ATM balance inquiries promotes this end.

Since individuals are already using ATMs to withdraw their benefits, they should also be able to check their balances via ATM without incurring a fee. Although all states offer free online balance inquiries through the debit card provider's website, states should be mindful of the needs of individuals who are not computer literate or who have no Internet access. Also, although most states offer free automated telephone balance inquiries, states should be mindful of individuals who may have difficulty navigating automated telephone menus.

About fourteen states already offer unlimited free balance inquiries at in-network ATMs. Every state using debit cards for payment of UC should implement this approach as a best practice.

D. Eliminate overdraft charges and reduce or eliminate denial fees

A government-issued debit card should not put individuals at hazard for incurring debt. Therefore, it is the Department's position that debit card arrangements must eliminate the possibility of overdrafts and overdraft charges. In most cases, it is not possible for an individual to overdraw a debit card account. If an individual attempts to make a purchase

or withdraw cash and there are not enough funds in his or her account, the transaction is simply denied. In some states, however, it is possible for an individual to overdraw a debit card account and be charged overdraft fees ranging from \$10 to \$20. Overdrafts can result when a merchant puts a charge through without authorization, as in “pay at the pump” transactions and some Internet purchases. The Department recommends a procedure that denies individuals’ attempts to make purchases or withdraw cash when their accounts contain insufficient funds. States using this procedure charge denial fees ranging from \$.40 to \$1.50 per denied transaction, although some states allow a certain number of free denied transactions before the fee is imposed.

The Department understands that, in some states, the debit card provider deducts the amount of an overdraft, overdraft fee, or denial fee from future UC payments. This practice is inconsistent with Federal law, which prohibits withdrawals from the state’s unemployment fund for any purposes other than the payment of cash benefits to individuals with respect to their unemployment. As explained on page 2 of UIPL No. 45-89, UC may not be levied, attached or otherwise encumbered to satisfy any public or private debt. Thus, deducting and withholding a portion of the individual’s benefits to satisfy a debt to the debit card provider is inconsistent with the withdrawal standard.

We strongly urge states to negotiate with their debit card providers to eliminate overdrafts and reduce or eliminate denial fees. A substantial number of states have already done so. In states continuing to allow for such practices, any overdraft or denial fee may not be intercepted from UC. Any state’s debit card arrangement that allows for such an intercept must be immediately renegotiated.

E. Allow unlimited free telephone customer assistance

All states using debit cards offer unlimited free online customer service. However, not all individuals are computer literate and not all have access to the Internet. For these individuals, telephone customer service remains the only option, and they should not be penalized for relying on telephone customer service. Certain individuals who have difficulty with automated telephone menus may prefer to speak directly with a customer service representative. An individual may need to call several times to have debit card issues resolved, especially in the case of lost or stolen cards. The majority of states already allow unlimited free telephone customer assistance, and all should do so.

7. Action. State administrators should distribute this advisory to appropriate staff.
8. Inquiries. Questions should be addressed to your Regional Office.