

August 26, 2009

Sabrina Reed  
Program Manager for Electronic Benefits  
California Employment Development Department  
Sacramento, CA

**Re: California Unemployment Insurance Card**

Dear Ms. Reed:

Consumers Union, the nonprofit publisher of *Consumer Reports*, ® the Legal Aid Society-Employment Law Center, Asian Law Alliance, the National Employment Law Project, and California Rural Legal Assistance Foundation write in response to reports that California seeks to provide unemployment insurance benefit payments on a payment card. We urge:

- Consumers be given a choice in the method in which they receive their benefits;
- Fees be kept at a minimum, with ample opportunities to withdraw cash without fees and no overdraft fees;
- All consumers have access to statements and other transaction information so that they can monitor unauthorized charges and be aware of fees; and
- Funds receive full protections under EFTA and are FDIC insured.

We are aware that California is planning on joining a growing number of states which provide unemployment insurance payments on payment cards. While plastic cards may offer convenience and cost savings to governments, consumers should retain choice, costs should not be shifted to consumers and funds should have full consumer protections.

The U.S. Department of Labor (DOL) recently issued guidelines in their Unemployment Insurance Program Letter No. 34-09 (UIPL No. 34-09) on August 21, 2009, which the EDD should require for any vendor who seeks to implement the unemployment insurance card (UI card) program for California. Several additional protections are also required to ensure that unemployment insurance recipients who obtain payments by card will not lose their funds unnecessarily to fees or lack of consumer protections.

Provide Payment Choice

We urge the EDD to ensure that unemployment insurance recipients in California have a choice in the manner in which they receive their unemployment insurance payments, whether by paper check, direct deposit or payment card. The DOL's UIP No. 34-09 recommends that direct deposit be used as the first choice for all consumers with bank accounts. Consumers should not automatically receive payments via UI card, but should be required to opt-in to receive benefits on cards if that choice is made. Consumers who do not have bank accounts and for whom UI cards would be a hardship (i.e. for reasons of disability or lack of nearby in-network ATMs or banks) should retain the option of receiving paper checks.

### Favorable Fee Schedules

For consumers who choose the California UI card, fees should be kept to a minimum when required. The RFPs should include the following:

- **Free Cash Withdrawal**  
Consumers should be able to withdraw funds from ATMs for free at all times at convenient locations in their communities as well as withdraw funds for no fee with bank tellers at all MasterCard or Visa member banks (depending on which network California chooses).
- **Free Point of Sale Transactions**  
There should never be a fee to make a purchase.
- **Free Balance Inquiries**  
Consumers should be able to make balance inquiries for free. Balance information should be accessible at ATMs, by telephone, email or text for free.
- **Low or No Fee Account Statements**  
Monthly statements with card activity are important in identifying and reporting unauthorized charges. Paper statements should be provided at no cost or a nominal cost, and online statements at no cost. Online account information alone is inadequate because many consumers do not have easy internet access or may think they have no reason to check their accounts.
- **No Overdraft Fees and No Declined Transaction Fees**  
Consumers should not be assessed any overdraft or overdraft type fees. They should also not be assessed fees for any declined transactions.
- **No Dormancy Fees**  
Consumers should not be assessed dormancy or inactivity fees.
- **No Customer Service Fees**  
Consumers should not be charged fees for contacting customer service, live or automated. Customer service should be provided in the consumer's primary language.
- **No additional fees other than those contracted should be permitted.**

### Fee Information

Consumers should be provided information about fees and other terms *before* signing up to receive payments by UI card. First, fee information should be provided in a simple, straightforward manner. We suggest a clear chart, in large readable font, similar to the "Schumer Box" provided for credit cards. Second, fee information should be made easily accessible. Consumers should receive a wallet-sized card with fee information with the card, and fee information and terms should also be provided in the consumer's primary language.

### Full Consumer Protections

Unemployment insurance funds directly deposited to bank accounts receive full protection under the federal Electronic Funds Transfer Act (EFTA). The EDD should ensure that consumers obtaining unemployment insurance by California's UI card will have no liability for unauthorized charges unless and until consumers have received statements or other account information revealing unauthorized charges. Thus, California should require in the RFP that "consumers who obtain payments by UI card have the same rights and remedies as those provided to debit cards linked to traditional bank accounts."

Consumers using UI cards should also have peace of mind that their money is safe if the vendor bank fails. California should require its vendor to provide full FDIC insurance coverage that will cover each UI cardholder's funds to each individual. Each UI cardholder's funds will be insured if the funds are held by FDIC member banks in individual accounts, or if they satisfy "pass through" requirements for pooled accounts. If multiple UI recipients' funds are held in a pooled account that satisfies FDIC's "pass through" requirements, individual UI cardholders will be able to recover all of their funds. This means each cardholder would be able to recover up to the depository cap as individuals instead of the possibility of dividing the deposit insurance cap among all the other individuals in the pooled account. Thus, the RFP should state that "all funds are either kept in individual accounts or in pooled accounts which satisfy pass-through requirements to qualify for deposit insurance to insure each cardholder on a per-cardholder basis."

Finally, we request a meeting with the EDD to discuss the details of an unemployment insurance card program before negotiations and implementation are finalized. We look forward to working with you in establishing a fair and successful California unemployment insurance card.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Jun", with a long, sweeping horizontal line extending to the right.

Michelle Jun  
Staff Attorney  
Consumers Union

Matthew Goldberg  
Staff Attorney  
The Legal Aid Society-Employment Law Center

Richard Konda  
Executive Director  
Asian Law Alliance

Maurice Emsellem  
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